



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eightieth session
15 March - 2 April 2004

DECISION

Communication No. 1138/2002

Submitted by: Arenz, Paul(deceased); Röder, Thomas and Dagmar
(represented by William C. Walsh)

Alleged victim: The authors

State party: Germany

Date of communication: 26 September 2002 (initial submission)

Document references: Special Rapporteur's rule 91 decision, transmitted to
the State party on 22 November 2002 (not issued in
document form)

Date of adoption of decision: 24 March 2004

[ANNEX]

* Made public by decision of the Human Rights Committee.

ANNEX

DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER
THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT
ON CIVIL AND POLITICAL RIGHTS

Eightieth session

concerning

Communication No. 1138/2002**

Submitted by: Arenz, Paul; Röder, Thomas and Dagmar (represented
by William C. Walsh)

Alleged victim: The authors

State party: Germany

Date of communication: 26 September 2002 (initial submission)

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

Meeting on 24 March 2004

Adopts the following:

DECISION ON ADMISSIBILITY

1. The authors of the communication are Paul Arenz (first author) and Thomas Röder (second author), as well as his wife Dagmar Röder (third author), all German citizens and members of the “Church of Scientology” (Scientology). They claim to be victims of violations by Germany¹ of articles 2, 18, 19, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights. They are represented by counsel. Mr. Arenz passed away in February 2004.

** 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. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Ms. Ruth Wedgwood, Mr. Roman Wieruszewski and Mr. Maxwell Yalden.

¹ The Covenant and the Optional Protocol to the Covenant entered into force for the State Party on 23 March 1976 and 25 November 1993 respectively. Upon ratification of the Optional Protocol, the State Party entered the following reservation: “The Federal Republic of Germany

The facts as submitted by the authors

2.1 On 17 December 1991, the Christian Democratic Union (CDU), one of the two major political parties in Germany, adopted resolution C 47 at its National Party Convention, declaring that affiliation with Scientology is not “compatible with CDU membership”. This resolution still continues to operate.

2.2 By letter of 22 September 1994, the chairman of the municipal branch of the CDU at Mechernich (Northrhine-Westphalia), with the subsequent support of the Federal Minister of Labour and regional party leader of the CDU in Northrhine-Westphalia, asked the first author, a long standing CDU member, to terminate his membership in the CDU with immediate effect by signing a declaration of resignation, stating that he had learned of the first author’s affiliation with Scientology. When the latter refused to sign the declaration, the Euskirchen CDU District Board decided, on 17 October 1994, to initiate exclusion proceedings against him, thereby stripping him of his rights as a party member until the delivery of a final decision by the CDU party courts.

2.3 By letter of 24 October 1994, the President of the Euskirchen District Party Court informed the first author that the Board had decided to expel him from the CDU because of his membership in the Scientology Church and that it had requested the District Party Court to take a decision to that effect after providing him with an opportunity to be heard. After a hearing was held on 2 December 1994, the District Party Court, on 6 December 1994, informed the first author that it had confirmed the decision of the District Board to expel him from the party. On 2 October 1995, the Northrhine-Westphalia CDU State Party Court dismissed the first author’s appeal. His further appeal was rejected by the CDU Federal Party Court on 18 December 1996.

2.4 In separate proceedings, the second author, a long standing member and later chairman of the Municipal Board of the CDU at Wetzlar-Mitte (Hessia), as well as the third author, who had also been a CDU member for many years, were expelled from the party by decision of 29 January 1992 of the CDU District Association of Lahn-Dill. This decision was preceded by a campaign against the second author’s party membership, culminating in the organization of a public meeting attended by approximately 1.000 persons, in January 1992, during which the second author’s reputation and professional integrity as a dentist were allegedly slandered because of his Scientology membership.

formulates a reservation concerning article 5 paragraph 2 (a) to the effect that the competence of the Committee shall not apply to communications

a) which have already been considered under another procedure of international investigation or settlement, or

b) by means of which a violation of rights is reprimanded having its origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany

c) by means of which a violation of article 26 of the [said Covenant] is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant.”

2.5 On 16 July 1994, the Middle Hestia District Party Court decided that the expulsion of the second and third authors from the party was in conformity with the relevant CDU statutes. The authors' appeals to the Hestia CDU State Party Court and to the Federal Party Court at Bonn were dismissed on 26 January 1996 and, respectively, on 24 September 1996.

3.1 On 9 July 1997, the Bonn Regional Court (*Landgericht Bonn*) dismissed the authors' legal action against the respective decisions of the CDU Federal Party Tribunal, holding that these decisions were based on an objective investigation of the facts, were provided by law, and complied with the procedural requirements set out in the CDU statutes. As to the substance of the complaint, the Court limited itself to a review of arbitrariness, owing to the fundamental principle of party autonomy set out in article 21, paragraph 1², of the Basic Law.

3.2 The Court considered the decisions of the Federal Party Tribunal not to be arbitrary, given that the authors had acted in a manner contrary to resolution C 47, which spelled out a party principle of the CDU, within the meaning of article 10, paragraph 4³, of the Political Parties Act. The resolution itself was not arbitrary or inconsistent with the party's obligation to a democratic internal organization under article 21, paragraph 1, of the Basic Law, because numerous publications of Scientology and, in particular, its founder Ron Hubbard objectively indicated a conflict with the CDU's principles of free development of one's personality, tolerance and protection of the socially disadvantaged. This ideology could, moreover, be personally attributed to the authors, based on their self-identification with the Organization's principles and their considerable financial contributions to it.

3.3 Although the CDU was bound to respect the authors' basic rights to freedom of expression and religious freedom, by virtue of its obligation to a democratic internal organization, the restriction of these rights was justified by the need to protect the autonomy and proper functioning of political parties, which by definition could not represent all political and ideological tendencies and were thus entitled to exclude opponents from within the party. Taking into account that the authors had considerably damaged the public image of the CDU and thereby decreased its electoral support at the local level, the Court considered that their expulsion was not disproportionate since it was the only means to restore party unity, the authors being at liberty to found a new party. Lastly, the Court considered that the authors could not invoke their

² Article 21, paragraph 1, of the Basic Law reads: "Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles. They must publicly account for their assets and for the sources and use of their funds."

³ Article 10, paragraphs 4 and 5, of the Political Parties Act read: "(4) A member may only be expelled from the party if he or she deliberately infringes the statutes or acts in a manner contrary to the principles or discipline of the party and thus seriously impairs its standing. (5) The arbitration court competent in accordance with the Code on Arbitration Procedure shall decide on expulsion from the party. The right to appeal to a higher court shall be granted. Reasons for the decisions shall be given in writing. In urgent and serious cases requiring immediate action, the executive committee of the party or a regional association may exclude a member from exercising his rights pending the arbitration court's decision."

rights under the European Convention on the Protection of Human Rights and Fundamental Freedoms or under the International Covenant on Civil and Political Rights vis-à-vis the CDU, which was not bound by these treaties as a private association.

3.4 By judgment of 10 February 1998, the Cologne Court of Appeals dismissed the authors' appeal, endorsing the reasoning of the Bonn Regional Court and reiterating that political parties, by virtue of article 21, paragraph 1, of the Basic Law, had to balance their right to party autonomy against the competing rights of party members. In addition, the Court found that political parties were entitled to adopt resolutions on the incompatibility of their membership with parallel membership in another organization, in order to distinguish themselves from competing parties or other associations pursuing opposite objectives, unless such decisions are arbitrary. However, Resolution C 47, as well as the decision of the Federal Party Tribunal that the teachings of Scientology were incompatible with basic CDU principles, was not considered arbitrary by the Court.

3.5 The Court emphasized that the authors had violated CDU principles, as defined in resolution C 47, not merely because of their convictions, but through the manifestation of these beliefs, as reflected by their membership in Scientology, their adherence to the Organization's principles, the first author's achievement of the status "clear" within Scientology, and the second and third authors' substantial donations to the Organization.

3.6 The authors' constitutional rights to protection of their dignity, free development of their personality, freedom of faith, conscience and creed, freedom of expression and freedom of association, read in conjunction with the constitutional principle of non-discrimination, as well as the requirement of a democratic internal organization within political parties, were superseded by the constitutionally protected interest of the party in its proper functioning and the principle of party autonomy. The authors' rights under the European Convention and the Covenant, both of which had been transformed into domestic law, could offer no higher level of protection.

3.7 In order to preserve its unity as well as its credibility, the CDU was entitled to expel the authors who had exercised their constitutional rights in a manner contrary to the party's principles and aims, thereby undermining its credibility and persuasiveness. The Court concluded that the authors had seriously impaired the public image of the CDU and that their expulsion was therefore covered by article 10, paragraph 4, of the Political Parties Act and was, moreover, proportionate to the aim pursued.

3.8 The authors' constitutional complaint was dismissed as manifestly ill-founded by the Federal Constitutional Court on 28 March 2002. The Court held that the lower courts were justified in limiting their review to the question of whether the authors' expulsion from the CDU was arbitrary or whether it violated their basic rights, as the autonomy of political parties required State courts to abstain from interpreting and applying party statutes or resolutions.

3.9 The Court was satisfied that the lower courts had struck an adequate balance between the constitutionally guaranteed autonomy of the CDU and the authors' constitutional rights. In particular, it observed that the authors' rights to freedom of opinion and to political participation had been lawfully restricted by resolution C 47, which implemented the statutory limitation

contained in section 10, paragraph 4, of the Political Parties Act. Similarly, the lower courts' decision to give the higher priority to the autonomy of the CDU than to the authors' right to freedom of faith, conscience and creed was not considered arbitrary by the Court.

The complaint

4.1 The authors allege violations of their rights under articles 2, paragraph 1, 18, 19, 22, 25, 26 and 27 of the Covenant, as a result of their expulsion from the CDU, based on their affiliation with Scientology, and as a result of the German courts' decisions confirming these actions. In the authors' view, they were deprived of their right to take part in their communities' political affairs, as article 25 of the Covenant protected the right of "every citizen", meaning that "[n]o distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."⁴ Their expulsion from the CDU amounted to an unreasonable restriction of that right, in the absence of any reference to a right of party autonomy in article 25.

4.2 The authors recall the Committee's interpretation that the right to freedom of association under article 22 of the Covenant is an essential adjunct to the rights protected under article 25, since political parties and membership in parties play a significant role in the conduct of public affairs and the election process. This right and the authors' right to freedom of expression under article 19, paragraph 2, of the Covenant had been arbitrarily restricted by their expulsion from the CDU, given that the Church of Scientology had not been banned by the Federal Constitutional Court, and that none of its organs was subject to criminal proceedings or had ever been convicted of any crime in Germany. Consequently, the authors' activities as Scientologists were entirely lawful and, in fact, compatible with CDU standards of conduct.

4.3 The authors submit that their exclusion from the CDU, upheld by the German courts, also violated their rights under article 18 of the Covenant, which had to be interpreted widely as encompassing freedom of thought on all matters, personal conviction and the commitment to religion or belief⁵. According to the Committee, the right to freedom of religion or belief was not limited to traditional religions, but also protected newly established and minority religions and beliefs. The authors outline the teachings of the founder of the Church of Scientology, Ron Hubbard, and argue that the CDU declaration form requiring them to publicly denounce their affiliation with Scientology in order not to be excluded from the party operated as a restriction, based on their religion or belief, on their right under article 25 to participate in public affairs and, as such, constituted coercion designed to compel them to recant their beliefs, in violation of article 18, paragraph 2, of the Covenant.

4.4 By way of analogy, the authors refer to the Committee's concluding observations on the fourth periodic report of Germany, where the Committee expressed its concern "that membership in certain religious sects as such may in some Länder of the State party disqualify individuals

⁴ The authors quote the Committee's General Comment 25, at para. 3.

⁵ The authors refer to the Committee's General Comment 22, at para. 1.

from obtaining employment in the public service, which may in certain circumstances violate the rights guaranteed in articles 18 and 25 of the Covenant.”⁶

4.5 The authors contend that their expulsion from the CDU amounts to discrimination, within the meaning of articles 2, paragraph 1, and 26 of the Covenant, since no other religious group had been singled out for exclusion. Moreover, they submit that in a 1992 position paper justifying the adoption of resolution C 47, the CDU blatantly mischaracterized the Church of Scientology as being opposed to democracy and social outreach programmes, while in reality Scientology promoted such values.

4.6 The authors claim that their exclusion from the CDU caused them serious personal and economic injury. Thus, in the first author’s case, the District Administration of Euskirchen had denied him a business license on the ground that he was a Scientologist and therefore “unreliable”, whereas his bank had cancelled his business account without stating any reasons. As a consequence of the damage caused to his business, he had to sell his company to his son who was not affiliated to Scientology. In the case of the second author, the public campaign against him had severely injured his private dental practice, which had moreover been “S-marked” by the Federal Labour Office, thereby falsely identifying it as a “Scientology company”.

4.7 The authors claim that they have exhausted all available domestic remedies and that the same matter is not being and has not been examined under another procedure of international investigation or settlement.

The State party’s observations on the admissibility of the communication

5.1 By note verbale of 21 January 2003, the State party challenged the admissibility of the communication, arguing that it is inadmissible *ratione temporis*, on the basis of the German reservation concerning article 5, paragraph 2 (a), of the Optional Protocol, since the alleged violations of the authors’ rights had their origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany on 25 November 1993.

5.2 Although the decisions of the District Party Courts confirming the authors’ expulsion from the CDU dated from July and, respectively, December 1994, these decisions were based on resolution C 47, which had been adopted by the National Party Convention on 17 December 1991. The State party argues that, pursuant to its reservation, the decisive point of time for determining the applicability of the Optional Protocol was not the alleged violation as such but rather its origin “within the meaning of material or perhaps also indirect cause(s)”. This could be seen when comparing the German reservation with the different wording of reservations entered by other States parties to the Optional Protocol such as France, Malta and Slovenia, which explicitly referred to violations resulting from acts, omissions, developments or events which occurred after the entry into force of the Optional Protocol for these States or from related decisions. Furthermore, the authors’ claims essentially focused on resolution C 47, in the absence

⁶ Concluding Observations on the fourth report of Germany, UN Doc. CCPR/C/79/Add.73, at para. 16.

of any additional objections regarding the individual decisions on their exclusion from the CDU, which merely implemented that resolution.

5.3 The State party submits that the communication is also inadmissible *ratione personae* under article 1 of the Optional Protocol, since it failed to address violations by a State party, and argues that it cannot be held responsible for expulsions of members from political parties, as these were freely organized associations under private law. By reference to the jurisprudence of the former European Commission of Human Rights⁷, the State party submits that the only exception to this caveat would consist in a violation of its obligation to protect the authors' rights under the Covenant against unlawful interference by a third party. However, the authors had failed to substantiate such a violation. In particular, the State party argues that it had complied with its obligation under article 25 to protect the authors' right to take part in the conduct of public affairs, through the enactment of article 10, paragraph 4, of the Political Parties Act, which significantly restricted the autonomy of political parties to expel members. The authors' rights under article 25 had not been unduly restricted by their expulsion from the CDU, taking into account the German courts' examination of whether the requirements set out in article 10, paragraph 4, of the Political Parties Act, had been met, as well as the authors' freedom to found a new party.

5.4 Lastly, the State party submits that the authors' claim under article 18 of the Covenant is inadmissible *ratione materiae*, because the "Scientology Organi[z]ation" cannot be considered a religious or a philosophical community, but an organization aimed at economic gains and acquisition of power.

The authors' comments on the State party's admissibility observations

6.1 On 7 April 2003, the authors responded to the State party's submissions on admissibility, submitting that the communication is admissible *ratione temporis*, *ratione personae* and *ratione materiae*. They argue that their claims relate to events which occurred after the entry into force of the Optional Protocol for the State party in 1993, namely their expulsion from the CDU, rather than to the adoption in 1991 of resolution C 47, which had not been applied to initiate exclusion proceedings against them until 1994. Subsidiarily, and by reference to the Committee's jurisprudence, the authors claim that, in any event, the adoption of that resolution had continued effects, resulting in their expulsion from the CDU in 1994.

6.2 The authors submit that the alleged violations are attributable to the State party, because the State party (1) had failed to comply with its obligation to ensure and to protect the authors rights under the Covenant; (2) had interfered with those rights through official statements and actions encouraging, directly or indirectly, the authors' expulsion from the CDU; and (3) was responsible for the failure of the German courts properly to interpret the extent of the authors' rights, as well as the State party's corresponding obligations, under the Covenant.

⁷ See European Commission of Human Rights, Application No. 34614/1997, *Church of Scientology v. Germany*, decision of 7 April 1997.

6.3 In particular, the authors argue that the State party's violation of its duty to protect their Covenant rights by failing to take any effective measures to prevent their exclusion from the CDU constitutes an omission attributable to the State party. In accordance with the Committee's interpretation of article 25 of the Covenant, the State party was under a duty to take positive steps to ensure that the CDU, in its internal management, respects the free exercise by the authors of their rights under the applicable provisions of article 25. Similarly, under articles 18, 19 and 22, the State party was required to adopt positive and effective measures to protect the authors against discrimination by private persons or organizations such as the CDU, either because of the close link between those rights and the right under article 25 to take part in the conduct of public affairs, or based on the general applicability of the principle of non-discrimination contained in articles 2, paragraph 1, and 26 of the Covenant. The authors conclude that, despite the State party's broad discretion regarding the implementation of these obligations, the adoption of general legislation in form of the Political Parties Act, which failed to prohibit discrimination based on religion or belief, falls short of meeting these obligations.

6.4 In addition, the authors argue that the State party has supported and encouraged the adoption by the CDU of resolution C 47 through numerous statements and actions which were allegedly biased against Scientology, such as a letter by the Federal Minister of Labour supporting the first author's exclusion from the CDU, or by false statements and official publications regarding the Church of Scientology.

6.5 In the authors' view, the limited review by the German courts of the decisions of the CDU party courts failed to ensure respect for the authors' rights under the Covenant. Thus, it was obvious that, while manifestations of religion or beliefs, as well as the exercise of the right to freedom of expression, may be subject to limitations, the "core" right to hold beliefs or opinions was protected unconditionally and may not be restricted. Since the CDU, throughout the domestic proceedings, presented no evidence to the effect that the authors had made any statements or had engaged in any activities in violation of the law or the party's standards of conduct, the German courts had failed to apply these principles, thereby triggering the State party's responsibility under the Covenant, which applied to all State organs including the judiciary.

6.6 The authors stress the need to distinguish their case from the decision of the European Commission of Human Rights in *Church of Scientology v. Germany* (Application No. 34614/97), where the applicant had failed to exhaust domestic remedies and to demonstrate that it had received specific instructions from its members to act on their behalf. While conceding that the Commission found that it could not entertain claims regarding violations by private persons, including political parties, they emphasize that the application did not involve any decisions rendered in domestic proceedings and that certain rights, in particular the right to take part in public affairs, were not protected under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

6.7 The authors dismiss the State party's argument that they could found a new party, stating that in most cases of discrimination a similar solution can be proposed by the State, e.g. the foundation of an own company or of a private school in cases of termination of employment or, respectively, of non-admission to a school based on prohibited grounds of discrimination.

However, what the authors were seeking was not to engage in another party representing their personal and, indeed, apolitical beliefs, but to enjoy their right to join and participate in the political party of their choice on an equal footing with any other German citizen.

6.8 Lastly, the authors reiterate that, according to the Committee, article 18 of the Covenant also applies to newly established religious groups and to minority religions which may be the subject of hostility by a predominant religious community. Moreover, the European Commission of Human Rights had recognized the Church of Scientology as a religious community entitled to raise claims under article 9, paragraph 1, of the European Convention in its own capacity and as a representative of its members. In addition, Scientology was officially recognized as a religion in several countries⁸ and as a religious or philosophical community in numerous judicial and administrative decisions including decisions by German courts. Similarly, the Federal Constitutional Court had held that the authors' exclusion from the CDU was compatible with article 4, paragraph 1⁹, of the Basic Law: "This holds true also when in favour of the plaintiffs it is assumed that the Church of Scientology is, in any event, a philosophical community (*Weltanschauungsgemeinschaft*) [...]."

7. On 15 March 2004, counsel informed the Committee that the first author, Mr. Paul Arenz, had died on 11 February 2004. However, it was his explicit will that his communication be pursued after his death. Counsel submits a document signed by the heirs authorizing him "to continue the representation of the pending communication on behalf of our late husband and father Mr. Paul Arenz with our knowledge and consent before the United Nations Human Rights Committee." In addition to the explicit intent of the deceased, his heirs declare their own interest in seeking rehabilitation and just satisfaction, since the entire family had to suffer from the climate of suspicion and intolerance among the population of their village resulting from the first author's expulsion from the CDU. By reference to the Committee's Views in Henry and Douglas v. Jamaica¹⁰, counsel further submits that his original, broad authorization to act on behalf of the first author gives him standing to continue his representation in the present proceedings.

Issues and proceedings before the Committee

8.1 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 the communication is admissible under the Optional Protocol to the Covenant.

8.2 The Committee has noted the author's allegations, as well as the State party's challenge to the admissibility of the communication, namely that the events complained of by the authors had their origin in the adoption by the CDU National Party Convention of resolution C 47 on 17 December 1991, prior to the entry into force of the Optional Protocol for Germany on 25 November 1993, and that the Committee's competence to examine the communication was

⁸ Australia, New Zealand, South Africa, Sweden, Taiwan and the United States of America.

⁹ Article 4, paragraph 1, of the Basic Law reads: "Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable."

¹⁰ See communication No. 571/1994, *Henry and Douglas v. Jamaica*, Views adopted on 25 July 1996, para. 6.2.

therefore precluded by virtue of the German reservation to article 5, paragraph 2 (a), of the Optional Protocol.

8.3 The Committee observes that the authors had not been personally and directly affected by resolution C 47 until that resolution was applied to them individually through the decisions to expel them from the party in 1994. The origin of the violations claimed by the authors cannot, in the Committee's view, be found in the adoption of a resolution generally declaring CDU membership incompatible with affiliation with Scientology, but must be linked to the concrete acts which allegedly infringed the authors' rights under the Covenant. The Committee therefore concludes that the State party's reservation does not apply, as the alleged violations had their origin in events occurring after the entry into force of the Optional Protocol for Germany.

8.4 The Committee notes that the heirs of Mr. Arenz have reaffirmed their interest in seeking rehabilitation and just satisfaction for the late first author as well as for themselves, and concludes that they have locus standi, under article 1 of the Optional Protocol, to proceed with the first author's communication.

8.5 With regard to the State party's argument that it cannot be held responsible for the authors' exclusion from the CDU, this being the decision not of one of its organs but of a private association, the Committee recalls that under article 2, paragraph 1, of the Covenant, the State party is under an obligation not only to respect but also to ensure to all individuals within its territory and subject to its jurisdiction all the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Where, as in the present case, the domestic law regulates political parties, such law must be applied without consideration. Furthermore, States parties are thus under an obligation to protect the practices of all religions or beliefs from infringement¹¹ and to ensure that political parties, in their internal management, respect the applicable provisions of article 25 of the Covenant.¹²

8.6 The Committee notes that although the authors have made some references to the hardship they have more generally experienced due to their membership in the Church of Scientology, and to the responsibility of the State party to ensure their rights under the Covenant, their actual claims before the Committee merely relate to their exclusion from the CDU, an issue in respect of which they also have exhausted domestic remedies in the meaning of article 5, paragraph 2(b), of the Optional Protocol. Consequently, the Committee need not address the broader issue of what legislative and administrative measures a State party must take in order to secure that all citizens may meaningfully exercise their right of political participation under article 25 of the Covenant. The issue before the Committee is whether the State party violated the authors' rights under the Covenant in that its courts gave priority to the principle of party autonomy, over their wish to be members in a political party that did not accept them due to their membership in another organization of ideological nature. The Committee recalls its constant jurisprudence that it is not a fourth instance competent to reevaluate findings of fact or reevaluate the application of domestic legislation, unless it can be ascertained that the proceedings before

¹¹ Cf. CCPR, 48th Sess. (1993), General Comment No. 22, at para. 9.

¹² See CCPR, 57th Sess. (1996), General Comment No. 25, at para. 26.

the domestic courts were arbitrary or amounted to a denial of justice. The Committee considers that the authors have failed to substantiate, for purposes of admissibility, that the conduct of the courts of the State party would have amounted to arbitrariness or a denial of justice. Therefore, the communication is inadmissible under article 2 of the Optional Protocol.

9. 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 to the authors.

[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.]
