



**International Covenant  
on Civil and Political Rights**

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HUMAN RIGHTS COMMITTEE  
Eightieth session  
15 March - 2 April 2004

**DECISION**

**Communication No. 1214/2003**

Submitted by: Adrian Vlad (not represented by counsel)  
Alleged victim: The author  
State party: Germany  
Date of communication: 3 June 2003 (initial submission)  
Date of adoption of decision: 1 April 2004

[ANNEX]

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\*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. 1214/2003\*\***

Submitted by: Adrian Vlad (not represented by counsel)

Alleged victim: The author

State party: Germany

Date of communication: 3 June 2003 (initial submission)

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

Meeting on 1 April 2004

Adopts the following:

**Decision on admissibility**

1. The author of the communication, dated 3 and 10 June and 22 July 2003, is Mr. Adrian Vlad, a German national, born on 28 October 1962 in Craiova/Romania. He claims that he and his family are victims of violations by Germany<sup>1</sup> of articles 2, paragraphs 1 and 3, 14, paragraph 1, 16, 17, 23, paragraph 1, and 26 of the Covenant. He is not represented by counsel.

**The facts as submitted by the author:**

2.1 From 1995 until 2001, the author rented an apartment from the construction company GBO in Offenbach. In 1998, he discontinued payments for charges additional to rent, claiming a right to withhold payments (Zurückbehaltungsrecht), on the basis that the GBO

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

<sup>1</sup> The International Covenant on Civil and Political Rights and the Optional Protocol entered into force for the State party respectively on 23 March 1976 and 25 November 1993.

had failed to comply with its obligation to grant him access to the receipts upon which the additional charges for running costs had been calculated. On 6 September 1999, when overdue charges ran to 3.364, 52 DM, the GBO unilaterally terminated the tenancy and brought a court action for eviction and payment of the arrears against the author and his wife, Kerstin Vlad.

2.2 By judgments of 9 May 2000, the District Court of Offenbach ordered the author and his wife to quit the apartment and to pay the overdue charges, with costs. Their appeals to the Regional Court of Darmstadt were dismissed on 14 December 2000, with costs. No constitutional complaint was lodged against the dismissals within the one-month period following the delivery of the judgments on 3 January 2001.

2.3 On 7 January 2001, the author brought criminal charges against the sitting judges of the District Court of Offenbach as well as the Regional Court of Darmstadt, alleging that their failure to interpret and apply the relevant laws and regulations on rent control in conformity with the jurisprudence of the Federal Court of Justice (Bundesgerichtshof) and the Federal Constitutional Court (Bundesverfassungsgericht) amounted to “perversion of justice”, and threatening to resort to self justice. On 10 and 29 January 2001, the Federal Attorney General declared himself not competent to deal with the matter. In a personal letter dated 22 January 2001, a high ranking official of the police directorate of Southeastern Hesse advised the author not to aggravate his own situation and to consider costs and prospects of a constitutional complaint carefully.

2.4 On 1 March 2001, the President of the Higher Regional Court of Frankfurt rejected the author’s claim for damages for his legal costs, his out-of-pocket expenses and the costs related to his eviction, on the alleged ground that the judgments of the Regional Court of Darmstadt manifestly violated the law. He informed the author that Hesse was not liable for the judgments of its courts, unless the administration of justice constituted a criminal offense in a specific case.

2.5 On 27 March 2001, the Darmstadt public prosecutor’s office decided not to investigate the charges brought by the author, in the absence of any indication of a criminal offense committed by the sitting judges of the Darmstadt Regional Court. Similarly, the author’s application for legal aid, to appeal the decision of the public prosecutor, was rejected on 29 March 2001 for lack of reasonable prospect of success of this remedy. His appeal against the public prosecutor’s decision was dismissed on 9 July 2001, and a further appeal on 4 January 2002.

2.6 On 20 April 2001, the author petitioned the Federal Minister of Justice and the Federal President to intervene in his case. When both petitions were rejected, the author engaged in exhibitionism in front of the Federal Ministry of Justice and threatened the office of the Federal President to set fire to himself. On 12 December 2001, the District Court of Berlin-Tiergarten convicted the author of trespassing for having climbed over the fence of the premises of the office of the Federal President. However, following a motion by the author, the penal order was set aside, after the District Court had ordered his psychiatric examination, to determine whether he could be held criminally responsible for the offense, and criminal proceedings were eventually discontinued.

2.7 Meanwhile, the author had lodged a disciplinary complaint with the Ministry of Justice of Hesse in relation to the public prosecutor’s decision of 27 March 2001 to

discontinue his case. On 30 July 2001, the chief prosecutor rejected the complaint. The author's appeal to the Higher Regional Court of Frankfurt was not accepted, in the absence of representation by a lawyer with capacity to conduct proceedings before that Court.

2.8 An arrest warrant was issued against the author on 4 August 2001, based on his failure to comply with the judgments of the Darmstadt Regional Court. By inter-agency mail dated 8 February 2002, the District Court of Offenbach instructed the police directorate of Offenbach to arrest the author, if he were not sent to a closed psychiatric institution. In November 2002, the author was arrested after he had thrown various documents at the Federal President, during the latter's visit to Offenbach. Subsequently, the author unsuccessfully petitioned the Federal and the Hessian Parliaments, as well as the Federal Chancellor.

2.9 On 8 September 2003, the author lodged a constitutional complaint against the Hessian Attorney General's decision of 1 August 2003 to reject a further appeal against the dismissal of his criminal charges against judges of the District Court of Offenbach and the Regional Court of Darmstadt. In particular, the author alleged that the requirement of legal representation for appealing this decision before a court was in violation of his constitutional right to access to the courts. On 17 November 2003, the Registry of the Federal Constitutional Court informed the author that it had registered his complaint, after it had already informed him on 24 October 2003 that the complaint would have to be declared inadmissible for lack of substantiation and for failure to exhaust judicial remedies and to comply with the prescribed time limit for submitting a constitutional complaint.

### **The complaint:**

3.1 The author alleges violations of his rights under articles 2, paragraph 3, 14, paragraph 1, 16, 17, 23, paragraph 1, and 26 of the Covenant, arguing that most of the proceedings initiated by him have been unduly prolonged, that his complaints were not seriously investigated, that his mail and telephone calls are being observed, and that his family's eviction from the apartment had adverse effects on his and his family's health.

3.2 The author claims that he was denied access to the courts and that he was prevented from exhausting domestic remedies, since he only had one month for lodging a constitutional complaint against the judgments of the Darmstadt Regional Court of 3 January 2001. During this time, he was unable to find a lawyer, partly due to the holiday period following New Year's. Moreover, he was allegedly threatened with execution by the police, and with psychiatric as well as regular detention by the municipal hospital of Offenbach and, respectively, by the Offenbach District Court. Similarly, the author claims that none of the more than 40 lawyers contacted by him was willing to pursue his criminal complaint for perversion of justice, which reflects the *de facto* impunity of German judges.

3.3 The author claims compensation for his material damages and for the deterioration of his state of health.

### **Issues and proceedings before the Committee:**

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

4.2 The Committee considers that, even assuming that the author's claims would not be inadmissible due to non-exhaustion of domestic remedies, they are inadmissible as the author has not been personally affected by an alleged violation of any provision of the Covenant and because they fall outside the scope of any of the provisions of the Covenant that he invokes, or because his claims have not been substantiated for purposes of admissibility.

5. The Human Rights Committee therefore decides:

a) That the communication is inadmissible under articles 1, 2, 3 and 5, paragraph 2 (b), of the Optional Protocol;

b) That this decision shall be communicated to the author and, for information, to the State Party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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