

J. Communications Nos. 324 and 325/1988, J. B. and H. K. v. France
(Decision of 25 October 1988, adopted at the thirty-fourth
session)

Submitted by: J. B. and H. K. [names deleted]

Alleged victim: The authors

State party concerned: France

Date of communications: 28 July 1988

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

Meeting on 25 October 1988,

Adopts the following:

A. Decision to deal jointly with two communications

The Human Rights Committee,

Considering that communications Nos. 324 and 325/1988 concerning J. B. and H. K. refer to closely related events affecting the authors, said to have taken place in Morlaix, France, in March 1985,

Considering further that the two communications can appropriately be dealt with together,

1. Decides, pursuant to rule 88, paragraph 2, of its provisional rules of procedure, to deal jointly with these communications;

2. Further decides that this decision shall be communicated to the State party and the authors of the communications.

B. Decision on admissibility

1. The authors of the communications (two identical letters dated 28 July 1988) are J. B. and H. K., two French citizens resident in Ploufragan, Brittany, France. They claim to be victims of a violation of articles 2, 19, 26 and 27 of the International Covenant on Civil and Political Rights by France.

2.1 The authors, two teachers, state that they had to appear, on 15 March 1985, before the Tribunal Correctionnel of Morlaix, Brittany, on charges of having sprayed and rendered illegible a road sign. in the context of a campaign to obtain the installation of bilingual road signs in Brittany. The Tribunal refused to make available to them the services of an interpreter, allegedly on the grounds that two teachers should be deemed to understand French.

2.2 With respect to the requirement of exhaustion of domestic remedies, the authors state that the pursuit of such remedies as are available is absolutely futile (totalement inefficace) and even risky, because the competent Court of Appeal at Rennes systematically refuses to hear cases in Breton and allegedly tends to aggravate, in cases such " are under examination, the penal sanctions.

3.1 Before considering any claims contained in a communication, the Human Rights Committee must, 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.

3.2 The Committee has ascertained, as it is required to do under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

3.3 With respect to the requirement of exhaustion of domestic remedies under article 5, paragraph 2 (b), of the Optional Protocol, the Committee notes that the authors do not intend to appeal the judgement of the Tribunal Correctionnel of Morlaix, because they believe that an appeal would be futile and fear that the Court of Appeal might increase the penal sanctions. The Committee finds, however, that, in the particular circumstances disclosed by the communication, the authors' contentions do not absolve them from the obligation to pursue remedies available to them. The Committee is of the view that the further pursuit of the available remedies cannot be deemed a priori futile and that mere doubts about the success of such remedies do not render them ineffective and cannot be admitted as a justification for non-compliance. Unable to find that the application of domestic remedies in this case has been unreasonably prolonged, the Committee concludes that the requirement of article 5, paragraph 2 (b) of the Optional Protocol has not been met.

4. The Human Rights Committee therefore decides:

(a) That the communications are inadmissible;

(b) That this decision shall be communicated to the authors and, for information, to the State party.