

H. Communication No. 300/1988, J. H. v. Finland (Decision of 23 March 1989, adopted at the thirty-fifth session)

Submitted by: J. H. [name deleted]

Alleged victim: The author

State party concerned: Finland

Date of communication: 31 May 1988

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

Meeting on 23 March 1989,

Adopts the following:

Decision on admissibility

1. The author of the communication (letter dated 3 May 1980; subsequent submission dated 13 December 1988) is J. H., a Finnish citizen born in 1954, currently serving a prison sentence in Finland. The author claims to be the victim of a violation by the Government of Finland of articles 7 and 14, paragraphs 1 and 3 (g), of the International Covenant on Civil and Political Rights.

2.1 The author states that on 5 May 1986 the Municipal Court of Helsinki found him guilty of having smuggled and sold in Finland 15 kilos of drugs (hashish) and sentenced him to seven years' imprisonment and to pay a fine of 399,000 Finnish markkaa. On 17 September 1987, the Court of Appeal modified the sentence to six and a half years and reduced the fine to 378,000 Finnish markkaa. On 21 January 1988, the Supreme Court refused the author's application for leave to appeal. The author thus claims to have exhausted domestic remedies available to him.

2.2 The author also claims that he did not smuggle any drugs and that he merely sold 4.6 kilos of hashish. He further alleges that the Municipal Court admitted into evidence against him the testimony of a mentally disturbed co-defendant who during the trial had retracted his testimony. This person's testimony was allegedly obtained under duress, in the course of an interrogation said to have lasted from 3 p.m. until midnight. Moreover, he contends that the court based its judgement on the hearsay evidence produced by some of the co-defendants in the case. Lastly, he claims that the court used his earlier confession against him, so as to be able to convict him on additional charges.

3. By its decision of 8 July 1988, the Working Group of the Human Rights Committee transmitted the communication to the State party, requesting it, under rule 91 of the rules of procedure, to provide information and observations relevant to the question of the admissibility of the communication. It further requested the State party to provide the Committee with the English translations of the judgements of the Municipal Court of Helsinki and of the Court of Appeal.

4.1 In its submission under rule 91 dated 8 November 1988, the State party confirms that the author has exhausted all the domestic remedies available to him. It does, however, contest the admissibility of the communication on the ground that the facts of the case do not reveal any breach of the author's rights. The State party submits that the author's allegation that article 7 has been violated is completely unfounded, since his submission contains no evidence to support his claim. Nor has he adduced any facts which could substantiate a violation of article 14, paragraph 3 (g), of the Covenant.

4.2 With regard to the alleged violation of article 14, the State party observes that the Human Rights Committee is not a further instance of appeal and, therefore, is not competent to pronounce on the proper weighing of evidence or the measurement of sentences. In this connection, the State party objects that the author is submitting his communication to the Committee as an appeal to a fourth instance for a further review of his case.

5. Commenting on the State party's submission, the author, in a letter dated 13 December 1988, reiterates his initial allegations with respect to the lack of incriminating evidence against him. He further argues that, although the Human Rights Committee is not a further instance of appeal with respect to the measurement of sentences, nevertheless it should be deemed competent to pronounce on the proper weighing of the evidentiary material by domestic courts.

6.1 Before considering any claims contained in a communication, the Human Rights Committee shall, 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.

6.2 The author of the communication claims that there have been breaches of articles 7 and 14, paragraphs 1 and 3 (g), of the Covenant.

6.3 A thorough examination by the Committee of all the material submitted by the author has not revealed any facts in substantiation of the claim that he is a victim of a violation by the State party of his rights set forth in article 7.

6.4 The Committee observes that the assessment of evidentiary material is essentially a matter for the courts and authorities of the State party concerned. The Committee further notes that it is not an appellate court and that allegations that a domestic court has committed errors of fact or law do not in themselves raise questions under the Covenant unless it also appears that some of the requirements of article 14 may not have been complied with. J. H.'s complaints relating to the alleged violations of article 14 do not appear to raise such issues.

6.5 The Human Rights Committee considers that the author has failed to provide evidence to substantiate his claims.

7. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible;

(b) That the decision be communicated to the author and to the State party.