

T. Communication No. 378/1989, E. E. v. Italy
(Decision of 26 March 1990, adopted at the
thirty-eighth session)

Submitted by: E. E. [name deleted]
Alleged victims: The author and M. M.
State party concerned: Italy
Date of communication: 19 April 1988 (date of initial letter)

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

Meeting on 26 March 1990,

Adopts the following:

Decision on admissibility

1. The author of the communication (initial submission dated 19 April 1988 and subsequent correspondence) is E. E., a Bangladeshi citizen currently detained at the Regina Coeli Prison in Rome. He submits the communication on his own behalf and on that of his business associate, M. M., who is detained at the same institution. They claim to be victims of a violation of their human rights by Italy.

2.1 It is stated that the author and Mr. M. were engaged in business activities in Italy prior to their arrest on 23 January 1988 in Rome. The author indicates that on 24 December 1987, a suitcase belonging to himself and Mr. M., containing among other items \$US 4,500 in cash, was stolen by other Bangladeshi citizens then residing in Rome. These citizens were known to the author, who, together with Mr. M., sought to recover the suitcase and the money during the following month. On 23 January 1988, in a Rome market, the author claims they were attacked with a dagger by one of the thieves, one Mr. J. In the course of the struggle, Mr. J. was injured, and upon their return to their hotel, they were arrested. It appears that Mr. J. subsequently died of his injuries.

2.2 The author alleges that there has been a "conspiracy" by some Bangladeshi citizens, reportedly all criminal elements, against him and Mr. M. Some time during the spring of 1989 (no date is given), the Tribunal of Rome sentenced them to 16 years imprisonment, apparently on a conviction of manslaughter. It is claimed that in the course of the trial, the Italian police called a false witness and also produced evidence that the author and Mr. M. had intended to kill the men who had stolen the suitcase. It is submitted that there was no evidence on the basis of which the author and Mr. M. could have been convicted. The author accuses the Tribunal and the Italian judicial authorities of "racism" in this connection, without further specifying the charge.

2.3 By the time of the author's initial submission, the case had not been adjudicated by the Italian courts. By letters dated 21 July 1988 and 26 May 1989, the author was informed by the Secretariat about the conditions for submission of

communications under the Optional Protocol. In the author's latest submission, dated 23 June 1989, no mention is made of an appeal against the sentence pronounced by the Tribunal of Rome in the spring of 1989.

2.4 It is stated that the matter has not been submitted to another instance of international investigation or settlement.

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

3.2 The Committee has considered the material submitted by the author. On the basis of the information before the Committee, it appears that the author primarily claims bias on the part of the court, in particular in respect of the evaluation by the trial judge of the evidence presented, which is said to have been "fabricated". While article 14 of the Covenant guarantees the right to a fair trial, it is in principle for the appellate courts of States parties to the Covenant to evaluate facts and evidence in any particular case, unless it can be ascertained that the proceedings before the domestic courts were clearly arbitrary or amounted to a denial of justice. The Committee reiterates that the review of generalised claims of bias is beyond the scope of application of article 14. ^{a/} In the circumstances, the Committee considers that the author has no claim under article 2 of the Optional Protocol.

4. The Human Rights Committee therefore decides:

(a) The communication is inadmissible;

(b) This decision shall be transmitted to the authors and, for information, to the State party.

Notes

^{a/} See communication No. 369/1989 (G. S. v. Jamaica), inadmissibility decision of 8 November 1989, para. 3.2.