



**International Covenant
on Civil and Political Rights**

Distr.
RESTRICTED */

CCPR/C/51/D/497/1992

27 July 1994

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Fifty-first session

DECISIONS

Communication No. 497/1992

Submitted by:	Mr. Odia Amisi
Alleged victim:	The author
State party:	Zaire
Date of communication:	11 July 1991 (initial submission)
Documentation references:	<u>Prior decisions:</u> none
Date of present decision:	19 July 1994

[Annex]

*/ Made public by decision of the Human Rights Committee.
DEC497.51e cb

ANNEX

**Decision of the Human Rights Committee under the Optional Protocol
to the International Covenant on Civil and Political Rights
- Fifty-first session -**

concerning

Communication No. 497/1992

Submitted by: Mr. Odia Amisi

Alleged victim: The author

State party: Zaire

Date of communication: 11 July 1991

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

Meeting on 19 July 1994,

Adopts the following:

Decision on admissibility

1. The author of the communication is Odia Amisi, a Zairian citizen, born on 4 March 1953, currently residing in Bujumbura, Burundi. He claims to be a victim of violations by Zaire of articles 14, paragraphs 1 and 5, and 26 of the International Covenant on Civil and Political Rights.

The facts as submitted by the author:

2.1 Since 1979, the author was employed as a teacher at the school for children of Zairian diplomats in Bujumbura, Burundi. On 28 April 1988, he was suspended from his duties by decision of the then Zairian ambassador to Burundi and regional chairman of the Government's Movement for the Revolution (Mouvement pour la Révolution - MPR). This was allegedly attributable to the publication, in the journal "Jeune Afrique", of an article criticizing the non-payment of salaries for the personnel of the Zairian Embassy in Burundi; the author observes that he had nothing to do with this article, which was signed K.K., Bujumbura, Burundi. He also refers to the written confirmation from the Chief Editor of "Jeune Afrique" in Paris, S.A., that he did not write this article.

2.2 The author contends that, while responsible for the situation in his embassy, the ambassador felt humiliated by the article and looked for a scapegoat. Mr. Amisi claims that the ambassador arbitrarily turned on him, by calling him a "subversive element".

2.3 Since his suspension, the author has complained to the competent authorities about his situation, maintaining his innocence, and has unsuccessfully sought reinstatement in his post, payment of salary arrears and compensation by way of damages; he did not receive any reply to his letters. The only result was a promise to intercede on his behalf, made by the Zairian ambassador to Zambia. His intercession, however, produced no result. Instead, the author learned that some administrative decisions had been taken against some members of the staff of the school, allegedly in the interest of the school management. Among those affected was the author, said to have "deserted" his post.

2.4 The author indicates that, on 8 December 1990, he submitted a communication to the Secretariat of the Organization of African Unity, which took no action on his case. Therefore, the author affirms to have exhausted all available domestic remedies.

The complaint:

3.1 The author seeks reinstatement in his former post, payment of the outstanding salaries, and damages for the violations of his rights.

3.2 It is submitted that the decision to dismiss the author was discriminatory and arbitrary. The author believes that he is the victim of a "political plot". He further alleges that the decision to dismiss him was illegal, as it was not in conformity with the disciplinary action procedures that may lead to the suspension of government employees; this apparently is considered to violate his rights under article 14.

Issues and proceedings before the Committee:

4.1 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.

4.2 At its 48th session in July 1993, the Committee considered the author's complaint and requested him to provide clarifications about steps taken to exhaust domestic remedies before Zairian tribunals. A detailed request for clarifications was sent, accordingly, on 3 August 1993; there has been no reply from the author.

4.3 The Committee has further considered the material placed before it by the author. As to his claims that the decision of the administrative authorities to dismiss him constituted discrimination prohibited under article 26 and that he was denied a fair hearing under article 14 of the Covenant, the Committee finds that these allegations have not been substantiated, for purposes of admissibility; therefore, the author has failed to advance a claim within the meaning of article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

- (a) that the communication is inadmissible;
- (b) that this decision shall be communicated to the author of the communication and, for information, to the State party.

[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.]

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