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HUMAN RIGHTS COMMITTEE  
Forty-third session

DECISIONS

Communication No. 367/1989

Submitted by : J.J.C.  
Alleged victim : The author  
State party : Canada  
Date of communication : 18 May 1989 (initial submission)  
Documentation references : - Special Rapporteur's transmittal  
under rule 91 to State party, dated 9  
August 1989 (not issued in document form)  
Date of present decision : 5 November 1991

Decision on admissibility

[Annex]

\*/ All persons handling this document are requested to respect and observe its confidential nature.

DEC367.43

ANNEX \*/

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights - Forty-third session -

concerning

Communication No. 367/1989

Submitted by : J.J.C. (name deleted)

Alleged victim : The author

State party : Canada

Date of communication : 18 May 1989 (initial submission)

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

Meeting on 5 November 1991,

Adopts the following:

Decision on admissibility

1. The author of the communication is J.J.C., a Canadian citizen residing in Montréal, Canada. He claims to be a victim of a violation by Canada of article 14 of the International Covenant on Civil and Political Rights.

The facts as presented by the author :

2.1 The author states that, in 1987, the "Régie du Logement" of Québec rejected his request for a reduction of his rent; he submits that the reason for this request was his desire to obtain compensation for the continuous harassment he allegedly had been subjected to by his neighbours. He appealed against the decision of the Régie du Logement to the provincial court (Cour Provinciale)

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\*/ Made public by decision of the Human Rights Committee.

in the district of Montréal, which confirmed the decision of the Régie and rejected his appeal. According to the author, this judgment cannot be appealed pursuant to article 102 of the "Loi sur la Régie du Logement".

2.2 The author states that he asked the provincial court to retract its judgment and further filed a complaint with the Conseil de la Magistrature of the Province of Québec about the judge's alleged failure to comply with his professional duties. He was subsequently heard by a Committee of Enquiry (Comité d'Enquête) set up by the Conseil de la Magistrature, composed of two judges and one lawyer. He complains that none of the Committee members displayed any interest in his case, and that the Committee's report was the product of "bad faith and partiality". He adds that, in any case, there is no true supervision and scrutiny of the judiciary's actions, as judges cannot be expected to sanction the actions of their colleagues. Finally, he notes that his complaint to the Committee has prompted the Conseil de la Magistrature of Québec not to make available any longer the report of the Committee of Enquiry to citizens who have seized the Conseil.

2.3 Early in 1989, the author lodged another complaint with the Ministry of Justice, protesting against the decision of the Committee of Enquiry not to entertain his complaint against the judge.

2.4 With respect to the requirement of exhaustion of domestic remedies, the author states that, although it would be open to him to file a petition to the Superior Court of the District of Montréal, this step would be inappropriate since (a) he cannot afford the legal fees involved and (b) the Superior Court allegedly does not deal with disputes concerning the Régie du Logement.

The complaint :

3. J.J.C. contends that he was denied equality before the law and a fair trial before the provincial court of Montréal, in violation of article 14. The judge allegedly displayed a hostile attitude towards him and "clearly favoured" the other party. In particular, he submits that the judge did not comply with the requirements of the "Code de déontologie des Juges" and, accordingly, with his professional obligations, in that: (a) he refused the author's request to have the witnesses leave the courtroom; (b) he denied the author the possibility to cross-examine witnesses; and (c) he denied him the right to plead his case at the very end of the hearing.

The State party's information and observations :

4. The State party submits that the communication should be declared inadmissible on the grounds that it has not been sufficiently substantiated and/or that it constitutes an abuse of the right of submission, pursuant to article 3 of the Optional Protocol. The State party bases itself on the imprecise manner in which the author's submissions have been formulated and documented, the factual circumstances advanced in support of his claim, and the author's express acknowledgement that available domestic remedies have not been exhausted.

Issues and proceedings before the Committee :

5.1 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.

5.2 The Committee has noted that the author generally complains that the Canadian judiciary is not subject to any supervision and, more particularly, that he charges bias and misconduct on the part of the judge of the provincial court of Montréal and the Committee of Enquiry of the Conseil de la Magistrature. These allegations are of a sweeping nature and have not been substantiated in such a way as to show how the author qualifies as a victim within the meaning of the Optional Protocol. This situation justifies doubts about the seriousness of the author's

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submission and leads the Committee to conclude that it constitutes an abuse of the right of submission, pursuant to article 3 of the Optional Protocol.

6. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible under article 3 of the Optional Protocol;

(b) that this decision shall be communicated to the State party and the author of the communication.

[Done in English, French, Russian and Spanish, the English text being the original version].