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HUMAN RIGHTS COMMITTEE
Forty-fifth session

DECISIONS

Communication No. 398/1990

Submitted by : A.M.
Alleged victim : The author's wife
State party : Finland
Date of communication : 24 January 1990 (initial submission)
Documentation references : Prior decisions - none
Date of present decision : 23 July 1992

Decision on admissibility

[See Annex]

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

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ANNEX **/

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

concerning

Communication No. 398/1990

Submitted by : A.M. (name deleted)
Alleged victim : The author's wife
State party : Finland
Date of communication : 24 January 1990 (initial submission)

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

Meeting on 23 July 1992,

Adopts the following:

Decision on admissibility

1. The author of the communication (initial submission dated 24 January 1990) is A.M., a Finnish citizen, born in 1924 and residing in Turku, Finland. He submits the communication on behalf of his wife, who claims to be the victim of a violation of articles 2, paragraph 2, and 5, of the International Covenant on Civil and Political Rights by Finland.

The facts as submitted by the author :

2.1 The author and his wife concluded a real estate deal in 1984. He claims that, in the context of this deal, the sum of 322,164 Finnish markkaa, of which he and his wife were the owners, should have been credited to their account in a Finnish commercial bank. However, this bank, which had financed the deal, allegedly appropriated the securities that had been handed

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over to it by the author and his wife to the debtor,
approximately 10 days after the conclusion of the deal.

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

2.2 The author indicates that he filed a civil suit against the bank with the City Court of Turku on 14 June 1988. The City Court dismissed the complaint and the author and his wife appealed to the Court of Appeal of Turku on 6 April 1989; the Court of Appeal has not yet adjudicated the appeal.

2.3 The author further indicates that he also reported the alleged fraud to the City Police of Turku; in this context, he claims to have documentary proof that the defendant misled the City Court. At the author's request, the criminal investigation branch of the Turku police carried out an investigation, but on 27 June 1989, the acting public prosecutor decided not to bring charges. This decision was in turn appealed to the Chancellor of Justice of Finland, who rejected the author's complaint as unfounded. Subsequently the author petitioned the Ministry of Justice, without results.

The complaint :

3. The author claims that his wife is a victim of a violation by Finland of articles 2 and 5 of the International Covenant on Civil and Political Rights.

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 The Committee has considered the author's allegations of a violation of articles 2 and 5 of the Covenant and notes that these are general undertakings by States and cannot be invoked by individuals under the Optional Protocol, without reference to other specific articles of the Covenant. The Committee has ex officio examined whether the facts submitted raise potential issues under other articles of the Covenant. It has concluded that they do not. The Committee therefore finds that the communication is incompatible with the provisions of the Covenant within the meaning of article 3 of the Optional Protocol.

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5. The Human Rights Committee therefore decides:

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

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

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