H.K. v. Norway

No violation of article 14 for a Court of Appeal decision denying leave to appeal

Substantive Issues
- Right to have one’s criminal conviction and sentence reviewed by a higher tribunal

Relevant Articles
- Article 14 (5)

Violations
- N/A

Facts
The author is a national of Canada who claims to be a victim of a violation by Norway of his rights under article 14 (5) of the Covenant. As a Chair of Olympia Holding AS the author was convicted by the Oslo District Court for VAT evasion and tax fraud. He was sentenced to three years and six months’ imprisonment and had a monetary sum confiscated. The author claimed that his rights under 14 (5) of the Covenant were violated as the Court of Appeal did not provide sufficient reasoning in its decision to deny him leave to appeal against his conviction and sentence.

Committee’s View

Considerations of admissibility
The Committee considered that the author’s allegations regarding the decision of the Court of Appeal of 2009 denying leave to appeal was sufficiently substantiated. It therefore decided to proceed to the examination of the author’s claim on the merits.

Consideration of merits
The Human Rights Committee recalled that in the present case the decision to deny leave to appeal has been taken unanimously by three professional judges. The Committee considered that the Court of Appeal relied on the “thorough and sound assessment of the evidence and the facts” by the lower courts in first instance. It further considered that the Court of Appeal indicated concisely and with sufficient clarity that there has been sufficient incriminating evidence to rule out any chance of success of the author’s appeal against his conviction. Therefore, the Human Rights Committee was of the view that there was no breach of article 14.5 and of any other provision of the Covenant.