HUMAN RIGHTS COMMITTEE

H. S. v. France

Communication No. 184/1984

10 April 1986

ADMISSIBILITY

Submitted by: H. S. (name deleted) on 4 September 1984

Alleged victim: The author

State party: France

Declared inadmissible: 10 April 1986 (twenty-seventh session)

Decision on Admissibility

1. The author of the communication (initial letter dated 4 September 1984 and further letters of 23 and 24 April, 24 June, 20 August and 21 November 1985) is H. S., who currently resides in France. He submitted the communication on his own behalf.

2.1. In his initial letter (dated 4 September 1984), the author alleged that he had been arbitrarily deprived of his French nationality. He stated that he had been born in Mauritania in 1944, at that time a French colony; that he had entered France in 1959 as a French national, and that he had lived there ever since. When Mauritania became independent in 1960, the author claimed to have requested that he retain his French nationality in accordance with the French Nationality Code (Law No. 60-752 of 28 June 1960). Many years later (the author claimed that this took place in 1979), he had allegedly been informed by the relevant French authorities that, pursuant to a decision of the Ministry of Justice, he was no longer regarded as a French national and that consequently he was required to return his French identity papers. In August 1979, the author initiated proceedings before the Tribunal de grande instance of Bobigny with a view to securing recognition of his French nationality. These proceedings were, however, still pending at the time of the submission of the communication.

2.2. The author stated that his wife (born in Mali) and his six children were suffering from the situation. He mentioned that on 18 November 1983, the authorities had declined to renew his wife's residence permit and that they had no place to live.

2.3. The author enclosed a copy of his French identity card (No. 3531769, issued by the Prefect of Police of Paris on 22 October 1973) and a copy of his card as reservist in the French army (issued on 5 December 1983).

3. By its decision of 17 October 1984, the Working Group of the Human Rights Committee transmitted the communication under rule 91 of the provisional rules of procedure to the State party concerned, requesting information and observations relevant to the question of admissibility of the communication. The Working Group also requested the State party to provide the Committee with copies of any court orders or decisions relevant to this case.

4.1. In a submission dated 26 March 1985, the State party provided information on the existing legislation and regulations concerning French nationality, in particular in respect of individuals from the former French overseas territories. It further submitted information, including a detailed chronology of legal decisions, concerning the author's legal status and objected to the admissibility of the communication on the ground that domestic remedies had not been exhausted. It also noted that the author had not invoked any specific provision of the International Covenant on Civil and Political Rights in support of his allegations and that his communication therefore did not meet the requirements of article 1 of the Optional Protocol.

4.2. Regarding the principles established by the French Nationality Code in respect of persons from former overseas territories (Mauritania had the status of an overseas territory of the French Republic on 31 December 1946 and became independent on 28 November 1960), the State party submitted that:

The Act of 28 July 1960 and the subsequent Act of 9 January 1973 make a distinction between persons who are automatically French and persons whose French nationality is subject to recognition in accordance with the criterion of geographical origin. To this end. the legislator differentiated between those who are from and those who are not from the territory of the French Republic.

(a) French persons from the territory of the French Republic, as it was constituted on 28 July 1960, and domiciled, on the date on which a State previously having the status of overseas territory of the French Republic attained independence, in the territory of that State retained French nationality (an. 152);

(b) French persons not from the territory of the French Republic, on the other hand, lost French nationality when their country of origin gained its independence.

However, persons were entitled to retain French nationality:

(a) Automatically, if on the date on which a former overseas territory became independent they were not domiciled in that territory. The solution derives e *contrario* from the new article 153. which sub-jeers to a formal procedure only persons who were not from the territory of the Republic and who were domiciled at the time of independence in the territory of the State that became independent;

(b) In other cases, by the making of a statement of recognition of French nationality after their domicile was transferred to France. The Act of 9 January 1973 subsequently removed this option and replaced it by an authorization for the making of a statement to restore French nationality, which is regulated by the new articles 153, 156 and 157. Restoration of nationality may be denied on the ground of unworthiness *(indignite)* or failure to be assimilated.

Minor children under 18 years of age on the date of independence of the territory where their parents were domiciled take the nationality of the parents.

Consequently, the persons to which these texts apply, in order to establish their French nationality, must:

(a) Prove that they were French prior to independence;

(b) Show that they have retained French nationality in the aforementioned conditions.

4.3. The State party further submitted that the following rules were applicable regarding proof and contentious proceedings:

French nationality is evidenced in cases of difficulty by a certificate issued by the *juge d'instance* of the place of domicile of the applicant. *The juge d'instance* draws up the certificate in the light of the applicant's civil status, which attests to the date and place of birth and the parentage (art. 149).

If *the juge d'instance* refuses to issue the certificate, the person concerned may apply in a non-contentious procedure to the Minister of Justice (art. 151).

He may also "institute proceedings before the Tribunal de grande instance with the primary and direct object of obtaining a judgement as to whether or not he possesses French nationality" (art. 129). The judgement of that court is appealable to the Cour d'appel, then to the Gout de Cassation.

Moreover, French persons who have lost their French nationality and who wish to recover it must, under the procedure established in 1973, make a statement before the *juge d'instance* of their place of domicile after receiving authorization to do so from the Minister responsible for naturalization {currently the Minister of Social Affairs and National Solidarity; in 1977, the Minister of Labour) {art. 153).

The Minister's refusal to authorize the making of a statement can be contested in non-contentious or contentious proceedings.

In the former case, the party concerned may request the Minister to reconsider his decision and to authorize the making of a statement for the restoration of nationality.

In the case of contentious proceedings. the party concerned may bring the matter of the

Minister's refusal before the *tribunal administratif,* and may subsequently appeal to the Conseil d'etat.

4.4. The State party observed that the determination of the author's nationality was a problem that had been rendered complex by the fact that he had given two different dates of birth:

Up until 1973, {H.S.] claimed to have been born in 1923. As he would thus have been 37 years of age when Mauritania became independent, and as he was domiciled in France in 1960, he could originally have been considered to be French.

From 1973 onwards, however, he has claimed that he was born in 1944. This would mean that he was a minor in 1960. If so, he could have retained French nationality only if his parents had themselves retained it btit he apparently has not submitted proof thereof.

Furthermore, the inquiries that were conducted during the various proceedings revealed that there were doubts, not only as to [H.S.'s] civil status (date and place of birth, parentage), but with regard to his actual identity in relation to other individuals having the same name. These questions had of necessity to be settled before a decision could be taken in respect of this applicant's nationality.

4.5. The State party lists the following decisions and other measures concerning the author's legal status:

23 February 1959. A decision having the legal validity of a birth certificate was issued by the Tribunal de premier degre at Selibaby, at the oral request of [H. S.]. stating that he had been born at Massi-Chaggor, Mauritania, in 1923.

21 February 1967. In the light of the above decision, a certificate of French nationality was issued to [H. S.] by the Tribunal d'instance du 20^{c} arrondissement de Paris on the ground that he had been domiciled in France in 1960 {an. 13, pard. 1, of the ordinance of 19 October 1945, in the 1960 version: ".. . persons domiciled in the ceded territories lose French nationality unless they effectively establish their domicile outside those territories").

3 March 1967. A French national identity card, No. 1513223-YN 7707, was issued by the Prefect of Police of Paris.

24 August 1973. At [H. S.] request, the Procureur de la Republique, in Paris, had the birth certificate mended to state that FI-'I. S.] was born in 1944, not 1923.

5 October 1973. The Juge d'instance du 19eme arrondissement de Paris issued [H. S.] a new certificate of French nationality in the light of the change in the date of his birth.

22 October 1973. A new identity card, No. 353 1769-BU 668 I-I, was issued by the Prefect of Police of Paris.

1975. [H. S.] again applied to the Juge d'instance du 19~me arrondissement for a certificate

of nationality.

23 March 1976. The Garde des Sceaux, Ministry of Justice, sent a notice to the Juge d'instance du 19eme arrondissement de Paris, stating that [H. S.] was to be considered a foreigner. In fact, if the party concerned had been born in 1944, as he claims, he would have been only 16 years old when Mauritania became independent and could not, under those circumstances, be considered domiciled in France for purposes of nationality. since his status was dependent on that of his father or surviving mother and he had at no time submitted evidence of their living in France at that time.

28 October 1976. At the request of the Ministry of Justice [H. S.] returned the two certificates which had been wrongfully issued, in accordance with the official statement prepared by the Tribunal d'instance at Aulnay-sous-Bois on 28 October 1976.

Late 1976. [H. S.] applied to the Ministry of Labour for the state-merit of restoration of French nationality provided for in article 153 of the Nationality Code.

8 March 1977. The Ministry of Labour rejected the application on the ground that [H. S.] had provided false information.

1979. [H. S.] applied to the Juge d'instance at Aulnay-sous-Bois for a new certificate of nationality.

25 May 1979. [H. S.] returned his national identity card to the Blanc-Mesnil police station.

26 June 1979. The Minister of Justice sent a notice identical to that of 23 March 1976 to the Juge d'instance, stating that the certificate of nationality should be withheld.

3 July 1979. [H. S.} was notified of the refusal to issue a certificate of nationality.

August 1979. [H . S.] applied to the Tribunal de grande instance of Bobigny with a view to securing recognition of his French nationality {arts. 128-136 of the Nationality Code).

9 August 1979. As required under the Code of Civil Procedure [H. S.'s] lawyer forwarded a copy of the summons to the Ministry. of Justice.

12 October 1979. The lawyer again notified the Chancellerie. the form or the first summons having been irregular.

19 December 1979. The Ministry of Justice gave the following instructions to the Procureur of the Tribunal de grande instance of Bobigny:

(a) The lawyer was to be informed that the new and currently prepared summons had been filed with the Ministry of Justice:

(b) Since [H. S.] had successively provided two birth dates in the documents which he had

submitted for the proceedings, the court was to be requested to rule on the applicant's civil status.

29 January 1980. [H. S.] was given a hearing by the Procureur at Bobigny concerning the authenticity of the documents that he had placed in the file. It became apparent that the testimony submitted to the Parquet de Paris in support of the change of date of birth under the decision of 24 August 1973 had been prepared by {H. S.] himself because the witnesses were unable to write. This renders spurious the certificate issued on 5 October 1973.

12 March 1980. The Minister of the interior consulted the Minister of Justice with regard to the status of an individual named [A. S.], who purportedly was born at Sokodiandi. Mali, in 1936. but whose birth certificate had never been transmitted.

14 August 1980. Since comparison of the files of [H. S.] and [A. S.] gave ground for assuming that these two individuals were using the same certificates and documents, the Minister of Justice then asked the Minister of the Interior to order a thorough inquiry in order to identify each of the persons concerned and to investigate if they were making use of certificates or documents belonging to another person.

2 December 1980, 30 January 1981, 6 and 17 February 1982. Several telegrams were sent to INTERPOL (Nouakchott) about the identity of [H. S.].

9 December 1982. Request by the Ministry. of Justice for an inquiry into a third individual, also called [A. S.]. In this connection, INTERPOL (Bamako) was likewise asked several times to state whether this third individual was a twin brother of the previous one.

14 September 1983. Hearing of the detainee [H. S.], by an investigator of the Poissy police department.

10 October 1983. Application by the wife of [H . S.] , born in Mall, for permission to stay in France.

18 November 1983. Notification to Mrs. [H. S.] that her application was refused.

29 March 1984. Preparatory hearing. The judge responsible for preparing the proceedings of the Bobigny tribunal ordered Maltre Eugene B. Yesse, [H. S.'sl new lawyer, to establish his client's physical identity with the individual said to have entered France in 1959 and to have been there on 28 November 1960, the date on which Mauritania attained independence.

2 June 1984. [H. S. 's} application for the restoration of his French nationality addressed to the President of the French Republic. This application was transmitted to the Minister of Social Affairs and National Solidarity for action.

28 August 1984. Request by the Ministry. of Social Affairs and National Solidarity to the Prefect of Seine and Marne (where [H. S.] was detained) for an inquiry under article 153.

7 August 1984. Report of the inquiry by the Ministry of the Interior communicated to the Ministry of Justice.

13 August 1984. Transmission of the above report to the Procureur at Bobigny.

16 October 1984. Transmission of the report of the inquiry by the Prefecture of Seine and Marne to the Ministry of Social Affairs.

7 November 1984. New 'preparatory hearing for the case before the Tribunal de grande instance of Bobigny.

9 November 1984. Order to [H. S. 's] lawyer renewed.

6 February 1985. Further preparatory hearing at the request of [H. S.] who had chosen another counsel; postponement until 24 April 1985. Order renewed.

4.6. The State party also mentioned that since May 1980, the author had been serving a seven-year term of imprisonment for a breach of the legislation on narcotic drugs.

4.7. The State party contended that the author had not exhausted all available domestic remedies before the competent French administrative and judicial authorities, not only with regard to the issuing of a certificate of French nationality by the juge d'instance (art. 149 of the Nationality Code), but also with regard to the procedure for the restoration of French nationality (art. 153 of the Nationality Code), because, first, the author had failed to pursue certain courses of action within the time-limits allowed to him and, secondly, because several remedies were still available to him. In that connection, the State party gave the following details:

(a) With regard to the issuing of a certificate of French nationality by the juge d'instance (art. 149), H. S. was refused the certificate on 3 July 1979. He started legal proceedings in August 1979 before the Tribunal de grande instance of Bobigny. The proceedings proved to be extremely complicated because of the doubts concerning the author's person and civil status. In the course of 1984, the judge responsible for preparing the case at Bobigny ordered H. S. 's lawyer, without success, to establish his client's identity {orders dated 29 March 1984, 9 November 1984 and 6 February 1985). The matter was subsequently postponed until the hearing on 24 April 1985. at the request of the applicant himself. In these circumstances, the prolongation of the procedural period was the responsibility of the author. In any event, it was for the Tribunal de grande instance of Bobigny to pronounce on the application of H. S. for recognition of French nationality. H. S. would be able to appeal against the judgement and then, if there was occasion, to submit his case to the Cour de cassation.

(b) With regard to the procedure for the restoration of French nationality (art. 153 of the Nationality Code): first, H. S. neither applied to the competent Minister, nor instituted proceedings before the administrative tribunals with a view to the overturning of the negative decision of the Minister of Labour. dated 8 March 1977. Those remedies could have been sought simultaneously. as mentioned above. Secondly, a new application was currently

under examination at the Ministry of Social Affairs and National Solidarity, H. S. having again, in 1984, requested authorization to make a declaration of French nationality before the competent juge d'instance. Should the Minister of Social Affairs and National Solidarity turn down the application, again all of the aforementioned remedies could be sought by H. S. by contentious and non-contentious means alike.

5. I. In further submissions dated 23 and 24 April 1985 the author commented on the State party's submission and reiterated that he had been arbitrarily deprived of his French nationality in 1979 and that since then, despite all his efforts and the procedures to which he had applied, he remained in the same situation.

5.2. Concerning his date of birth, the author stated that he had been born in Mauritania in 1944, that his father had died during the Second World War fighting for France, that his mother had died in 1958, that in 1959 he had decided to travel to France. In order to obtain a birth certificate, he had gone to the Tribunal de premier degre at Selibaby, Mauritania. A decision, having the legal validity of a birth certificate, had been issued by the tribunal on 23 February 1959 stating that he had been born at Massi-Chaggor, Mauritania, in 1923. The author further stated that the Haut Commissariat de l'Afrique occidentale francaise, on the basis of that decision, had issued to him an identity card with which he had traveled to France. He had used the card for employment purposes, to pay his social insurance, etc.; until 21 February 1967. On that day he had been issued a certificate of French nationality by the Tribunal d'instance du 20eme arrondissement de Paris and on 3 March 1967, he had been given a French national identity card by the Prefect of Police of Paris. He stressed that at no time had he submitted false information and that he could not be held responsible for an error (concerning his date of birth) made in the decision taken by the tribunal of Selibaby. The author mentioned, however, that in 1983 he had requested a change in his date of birth because he had been born in 1944 and not in 1923. On 5 October 1973, he had been issued a new certificate of French nationality by the competent judge and on 22 October 1973 he had received a new identity card.

5.3. The author contested the whole process by which he had been deprived of his French nationality. In particular he contested the reasoning of the Garde des Sceaux on 23 March 1976 (see para. 4.5) because he had been domiciled in France since 1959. He argued that even if, in 1960, he had been a minor, his status could not have been dependent on that of his parents. He recalls that they both died prior to the independence of Mauritania in 1960. Therefore, he saw himself as a victim of discrimination. The author claimed that the State party's assertions that "the proceedings have proved to be extremely complicated because of the doubts concerning the author's person and civil status" (see above para. 4.7 (a)) were not valid and that the application of domestic remedies in that regard had been unreasonably prolonged within the meaning of article 5, paragraph 2 (b) of the Optional Protocol. He argues that there could be no doubt about his person and status, since he had lawfully lived and worked in France since 1959, he had no brothers and he did not know of any person having his name. He added that there were approximately 1 million individuals with his family name in West Africa. With regard to the procedure for the restoration of French nationality (art. 153 of the Nationality Code), he argued that he had never applied to the competent minister nor initiated proceedings before the administrative tribunals for the

simple reason that he was French and had always been French. In particular, he denied that on 2 June 1984 he had written to the President of the French Republic "for the restoration of his French nationality" (see para. 4.5). He had written a letter merely to request due process of law in his case.

5.4. Regarding his detention, the author reiterated that in 1979 he had been obliged to return his national identity card. He stated that at that time he had become afraid that he might be dismissed from his job at Air France because of lack of legal documents. Believing that his situation was precarious, he had felt that he had no choice but to agree, when approached in the presence of his supervisor, to be involved in drug trafficking. That had brought about his arrest in March 1980. He alleged discrimination because his supervisor, a white man, had never been tried while he himself and three other black colleagues had been sentenced to several years of imprisonment. He mentioned that he had been sentenced by a French tribunal as "French" and that during his trial for drug trafficking the question of his nationality had not been put into question. However, subsequently--as shown in a copy of a letter dated, it appears, in June 1983, addressed by the Prefecture des Yvelines (Foreigners Department) to the Director of the Poissy prison--the prison authorities were informed that H. S., "who has declared that he is a French national, is in fact Mauritanian", and that the criminal record of this "foreigner" should be forwarded to the Prefecture.

5.5. Regarding his family, the author enclosed copies of birth certificates of his six children (one born in Mall, the others in France). It appears that he has three wives (two from Mall, one from Senegal). He submitted copies of certificates of French nationality regarding three of his children. His wife, M. M., mother of these three children, was allowed, in January 1985, to stay in France, but according to the author, she is not allowed to work or to receive social security allowances. He recalled that in 1983 she had been requested to leave France and enclosed a copy of a letter dated 18 November"1983 from the Prefecture de Police to that effect.

6. At the twenty-fifth session of the Human Rights Committee in July 1985, the State party was requested to submit further information concerning the author's legal situation and, in particular, the State party was asked to indicate when a final decision concerning the author's nationality might be expected, if he pursued the matter in a timely fashion. At the same time, the author was requested to specify which provisions of the Covenant had allegedly been violated in his case.

7.1. By a further letter dated 20 August 1985, the author claimed to be a victim of violations of the following provisions of the International Covenant on Civil and Political Rights: articles 2, paragraphs l and 3 (b); 5, paragraph 2; 7; 9, paragraph 4; 15, paragraph 1; 16; 17, paragraphs 1 and 2; 23; 24 and 26. He offered the following clarifications in substantiation of his claims:

(a) That articles 2, paragraph 3 (b); 9, paragraph 4; and 16 had been violated because a complaint which he had lodged against two judges of the Bobigny jurisdiction in February 1985, for allegedly acting against his interests and rights, had not been properly considered;

(b) That articles 7; 9, paragraph 4; and 15, paragraph 1, had been violated because he had been allegedly unjustly convicted and sentenced to seven years of imprisonment in 198 I, and because the French authorities, in general, and the judges, in particular, were bent on harming him;

(c) That articles 2, paragraph 1; 5, paragraph 2; 17; 23; 24 and 26 had been violated because he has suffered discrimination in the sense that. despite all his efforts, the case concerning his nationality has been pending before the courts since 1979 and because his honour and reputation had been undermined, his family had not received social security allowances and his children had been deprived of proper education.

7.2. By a further letter dated 21 November 1985, the author transmitted to the Human Rights Committee a copy of submissions dated 15 and 23 October 1985 from his lawyer, Maitre Tourrette, to the Tribunal de grande instance of Bobigny. In his submissions, the lawyer, after a lengthy description of his client's case, requested that the court:

(a) Take note that his client had proven that he was the H. S. born in 1944 and present in France before 28 November 1960, the date when Mauritania had acceded to independence;

(b) State that H. S., born in 194,4, orphaned in 1959, the date of his arrival in France, retained nationality by filiation and also because of his presence on the territory in the Republic of France prior to the independence of Mauritania;

(c) Recognize that H. S. had possessed French status for more than 10 years. He considered it of lesser importance that, if the Court considered the application to be insufficiently well-rounded, it should order any additional information or any hearing of witnesses ready to furnish information both on the family of H. S. and his presence in France before the independence of Mauritania.

8.1. By way of additional observations, submitted under cover of a letter from the Permanent Representative of France to the United Nations dated 2 December 1985, the State party noted that, in the legal proceedings instituted before the Tribunal de grande instance of Bobigny (Court of Major Jurisdiction) by the author with a view to securing recognition of his French nationality, he had recently changed his lawyer once again. He had also applied for full legal aid, which had been granted to him. The State party confirmed that Maitre Tourrette, the author's new lawyer, had made his written submission on 23 October 1985, and it stated that the pre-trial judge at Bobigny had been obliged to refer the papers in the case for final consideration on 4 December 1985. The State party added that following this hearing, the case could be brought before the Tribunal on 19 December 1985 (see para. 8.7).

8.2. The State party reiterated that the prolongation of time-limits continued to be, as was the case earlier, the responsibility of the author and that he had not exhausted all the remedies available under domestic law. For the State party it seemed obvious that his communication ought to be rejected in accordance with the provisions of article 5, paragraph 2 (b), of the Optional Protocol.

8.3. The State party observed that the author, in his further letter of 20 August 1985 (see para. 7.1), had referred to proceedings instituted by himself after he had submitted his communication relating to the question of his nationality to the Human Rights Committee and it stated that those proceedings concerned other issues than that of his nationality. It further stated that the proceedings consisted of an interim relief procedure instituted following imprisonment for non-payment of a customs fine and of complaints filed against judges of the Tribunal de grande instance of Bobigny. Those proceedings, according to the State party, could be summarized as follows:

(a) The proceedings concerning imprisonment for debt

On 15 July 1985, [H. S.] made an application to the President of the Tribunal de grande instance of Bobigny challenging the imprisonment for debt.

On 31 July 1985, the President issued an interim relief order referring the case to the competent criminal court for a final decision.

On 13 September 1985, the order was served on him by a bailiff. On 30 August 1985, a declaration of lack of jurisdiction was issued, after the author had made a further application to the President of the Tribunal which virtually repeated the arguments adduced in his application of 15 July 1985.

In conclusion, since the Customs Administration is currently considering a settlement with [H. S.], he might be released.

(b) Complaints against judges

On 27 March 1985, [H. S.] filed a complaint against the senior examining magistrate of Bobigny together with a proposed civil action for damages, couched in terms that did not specify the precise nature of the grievances he intended to develop and that he refused to clarify. The Public Prosecutor of Bobigny nevertheless made an application to the Criminal Chamber of the Cour de Cassation for a court to be appointed to investigate the matter, since the Bobigny tribunal did not have jurisdiction to investigate a case against one of its own judges.

On 3 August 1985, the Court de Cassation made an order stating that there was no ground for appointing such a court, since it was not in a position to determine whether one or several persons were liable to be charged.

H. S. was notified of this decision on 24 September 1985.

On 6 October 1985 [H. S.I made further complaints to the senior examining magistrate of the Tribunal de grande instance of Bobigny concerning one of the examining magistrates of that court. The latter magistrate had on 29 March 1980 charged [14. S.] with breaking the law on narcotics and smuggling in contraband goods, then ordered that he should be detained provisionally. On 10 February 1981. he had referred him, with three co-accused, to the

Correctional Court to be tried on those above-mentioned counts.

8.4. With regard to the author's allegations that his family had not received social security allowances, the State party observed that his children had been taken into care by the departmental Social Assistance Office of Bobigny and placed in a home, their mother being of no fixed abode; that Act No. 75-551 of 2 July 1975 protected the families of prisoners in respect of sickness benefits and maternity and that thus far H. S.'s wife had not applied to the Caisse primaire d'assurance maladie for social benefits. The State party further observed that:

All these grievances thus invoked by the applicant are not only tardy, but do not fall within the scope of the consideration of this communication, which is concerned solely with existing legal and administrative procedures relating to the question of his nationality. They should therefore be kept separate.

8.5. With regard to the alleged violations of articles 7 and 17 of the Covenant, the State party noted that the author had offered no justification in support of his allegations. It further noted that it failed to see how the author could have been subjected to inhuman and degrading treatment or subjected to attacks on his honour and reputation in connection with the legal proceedings before the Tribunal de grande instance of Bobigny, the purpose of which was to resolve the complex legal problem of his nationality and to do so at his own request. In alleging violations of articles 7 and 17 of the Covenant in this respect, the State party affirmed, he was in error.

8.6. Finally, the State party emphasized that, contrary to what the author would appear to maintain, no provision of the International Covenant on Civil and Political Rights obliged a State to confer nationality on individuals who applied for it. It reiterated that the right of every State to determine who were its nationals so far as its international obligations were concerned was an uncontested principle of public international law.

8.7. By a letter dated 28 March 1986, the author informed the Committee that the Tribunal de grande instance of Bobigny had handed down a decision in the case on 13 March 1986, denying him recognition of French nationality; that he had filed an appeal against that decision and that he intended, as a last resort, to bring his case before the Cour de cassation, if so warranted.

9.1. Before proceeding to the merits of the case, the Committee' must determine whether the same matter was being examined under another procedure of international investigation. or settlement. There is no indication that that is the-case. The Committee must also determine whether the communication fulfils other admissibility criteria under the Optional Protocol, including the condition relating to exhaustion of domestic remedies, set out in article 5, paragraph 2 (b), of the Optional Protocol. In this connection, the Committee has endeavoured to elicit from the State party clarifications regarding the apparent prolonged delays in the court proceedings related to the question of the author's nationality.

9.2. The Committee notes that the State party has maintained that the inquiries that were

conducted during the various proceedings revealed that there were doubts not only as to the author's civil status (date and place of birth and parentage), but also with regard to his actual identity in relation to other individuals having the same name and that these questions had of necessity to be settled before a decision could be taken in respect of the author's nationality (see para. 4.4). The Committee further notes the State party's assertion that the author has not exhausted all the domestic remedies available before the competent French administrative and judicial authorities, not only with regard to the issuing of a certificate of French nationality by the juge d'insrance (art. 149), but also with regard to the procedure for the restoration of French nationality (art. 153 of the Nationality Code) (see para. 4.7).

9.3. The Committee observes that the present case concerns solely Mr. H. S.'s efforts to have his nationality, as that of a French citizen, recognized anew by the French authorities. H. S. maintains that his nationality was not in dispute when he entered France. Later, on 23 March 1976, the Ministry of Justice made it known that H. S. should be regarded as a foreigner. He was required to surrender two certificates of French nationality, issued to him in 1967 and 1973, respectively, and to hand in his national identity card. After unsuccessful attempts to persuade the Ministry of Justice to "restore" his French nationality and to obtain a new "certificate of nationality" from the competent judge, H. S., in August 1979, applied to the Tribunal de grande instance of Bobigny' for "recognition" of his French nationality. Upon completion, those proceedings are appealable, first, to the Cour d'appet and. secondly, to the Cour de cassation.

9.4. The Committee is aware that the proceedings before the Tribunal de grande instance de Bobigny lasted for more than six and a half years. However, the Committee finds that the delays in the proceedings in 1984 and 1985 were caused by the author himself. For that reason the Committee is unable to conclude that the domestic remedies, which, according to both parties, are in progress, have been unduly prolonged in a manner that would exempt the author from exhausting them under article 5, paragraph 2 (b), of the Optional Protocol.*

9.5. In the light of the observations set out in paragraphs 9.3 and 9.4 above, the Committee is obliged to conclude that. even assuming that the facts of the case might have raised issues under the Covenant. the requirement of exhaustion of domestic remedies, under article 5, paragraph 2 (b), of the Optional Protocol, had not been met by the author at the time of the submission of the communication in September 1984 and that this requirement has still not been met.

9.6. H.S. has introduced other issues in the case, mostly after the communication was transmitted to the State party for observations on the question of admissibility. These issues are either unsubstantiated or fall outside the scope of the International Covenant on Civil and Political Rights and will, therefore, not be examined by the Committee.

10. The Human Rights Committee therefore decides:

(1) That the communication is inadmissible;

(2) That the decision shall be communicated to the author and to the State party.

* The Committee notes that although there is agreement between the parties that the court proceedings for the "recognition" of the author's nationality were initiated in 1979 and are still in progress. the parties do not agree on the question of whether the separate administrative procedure for the "restoration" of the author's nationality was invoked by him in 1984.