

HUMAN RIGHTS COMMITTEE

Waksman v. Uruguay

Communication No. 31/1978

24 April 1979

ADMISSIBILITY

Submitted by: Guillermo Waksman on 25 May 1978

Alleged victim: The author

State party: Uruguay

Date of decision on admissibility: 24 April 1979 (sixth session)

Decision on Admissibility

The author of the communication, dated 25 May 1978, is a 33-year-old Uruguayan citizen, journalist and translator, who was residing in Switzerland at the time of submission of the communication. He submits the communication on his own behalf.

The author states that from 1965 to 1972 he was an official in the judicial system in Uruguay, during which time he also worked as a journalist for three Uruguayan periodicals, subsequently banned by the military Government. In 1972, he left Uruguay for Chile, where he worked for a journal that supported the Government of Salvador Allende. He sought asylum in the Embassy of Argentina in September 1973, following the coup d'etat in Chile, and travelled to Switzerland where he was later (18 April 1978) granted refugee status. On 27 September 1977, the author claims to have submitted an application for renewal of his Uruguayan passport at the Consulate in Geneva, and states that he was subsequently informed that, after consultation with the Uruguayan Government, the Consulate was not authorized to renew his passport. He states in this connection that he was never been declared "wanted", arrested or charged with any offence in Uruguay, and that he has never belonged to a political party.

The author alleges that the State party has refused to renew his passport, in order to punish him for the opinions which he holds and has expressed concerning alleged violations of human rights in Uruguay. He maintains that this constitutes a violation of articles 12 (2) and 19 of the International Covenant on Civil and Political Rights.

The author claims that under article 12 (2) of the Covenant, the Government of Uruguay is obliged to respect not only his right to leave Uruguay, but also his right to leave any country. To that effect, he maintains, Uruguayan authorities are obliged to furnish him with a passport, without which his right to leave and enter a country may become more or less meaningless. The author further claims that by refusing to renew his passport, Uruguayan authorities have restricted his ability to cross frontiers in the course of seeking, receiving and imparting information and ideas, in violation of article 19 of the Covenant. He states that he has not submitted the matter under any other international procedure.

Under rule 91 of the provisional rules of procedure of the Committee, the communication was transmitted to the State party on 28 September 1978, with the request that the State party submit, by 9 November 1978 at the latest, information or observations which it might deem relevant to the question of the admissibility of the communication, in particular as regards the fulfilment of the conditions set out in article 5 (2) (a) and (b) of the Optional Protocol. No reply has been received from the State party in this connection.

The Committee finds, on the basis of the information before it, that it is not precluded by article 5 (2) (a) of the Optional Protocol from considering the communication. The Committee is also unable to conclude that in the circumstances of his case, there are effective domestic remedies available to the alleged victim which he has failed to exhaust. Accordingly, the Committee finds that the communication is not inadmissible under article 5 (2) (b) of the Optional Protocol.

The Human Rights Committee therefore decides:

1. That the communication is admissible;
2. That, in accordance with article 4 (2) of the Protocol, the State party shall be requested to submit to the Committee, within six months of the date of the transmittal to it of this decision, written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by it;
3. That the State party be informed that the written explanations or statements submitted by it under article 4 (2) of the Protocol must primarily relate to the substance of the matter under consideration, and in particular the specific violations of the Covenant alleged to have occurred;
4. That any explanations or statements received from the State party shall be communicated by the Secretary-General to the author of the communication under rule 93 (3) of the provisional rules of procedure of the Committee, with the request that any additional observations which he may wish to submit should reach the Human Rights Committee, in care of the Division of Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;
5. That this decision be communicated to the State party and to the author of the communication.