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I. S. (name deleted) v. Hungary, Communication No. 389/1989, U.N. Doc. CCPR/C/40/D/389/1989 (1990).

Communication No. 389/1989 : Hungary. 12/11/90.

CCPR/C/40/D/389/1989. (Jurisprudence)

Convention Abbreviation: CCPR

Human Rights Committee

Fortieth session

DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL
PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL
AND POLITICAL RIGHTS - FORTIETH SESSION
concerning

Communication No. 389/1989

Submitted by: I. S. (name deleted)

Alleged victim: The author

State party concerned: Hungary

Date of communication: 4 December 1989 (date of initial letter)

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

Meeting on 9 November 1990;

Adopts the following:

Decision on admissibility

1. The author of the communication (initial submission dated 4 December 1989 and subsequent correspondence) is I. S., an Hungarian citizen, presently imprisoned at Budapest. He claims to be the

victim of a violation of his human rights by Hungary. The Optional Protocol entered into force for Hungary on 7 December 1988.

2.1 The author was arrested on 4 January 1986 and charged with attempted homicide. On 30 September 1986, he was sentenced to 12 years' imprisonment by the Metropolitan Court; by decision of 11 February 1987, the Supreme Court of Hungary, confirmed the sentence. In October 1988, the author sought to have the case re-opened, but the court of first instance found that the grounds he had submitted were insufficient and rejected his application.

2.3 As to the facts of the case, the author states that he and his former girlfriend had been quarrelling for several months and that on 27 December 1985 they decided to separate. The author felt depressed because of the separation and was given sedatives on prescription. In an effort at reconciliation, the author and his friend decided to spend New Year's eve together. Since during that evening they quarrelled incessantly, the author decided to commit suicide with a knife, which he had found in the kitchen. The author admits that at this stage, he was unbalanced already under the influence of sedatives and alcohol he had consumed. He left the apartment but almost immediately decided to return, so as to commit suicide in front of his friend and the other guests. When the mother of his friend refused to let him in, he forced his entry, upon which he was allegedly assaulted by the guests. The author claims that it was during his attempts to fight off the attack that he accidentally injured his friend with the knife, which he had held in his hand all the time.

2.4 The author claims that the trial against him was unfair and biased, noting that the evidence against him was contradictory; in particular the mother of his ex-girlfriend is said to have committed perjury. Furthermore, he submits that his friend should not have been discharged of her obligation to testify during the trial on the ground that they had been cohabiting, since, at the time of the offence, they were in fact no longer living together. The author states that her testimony would have supported his; i. e. that the injuries were inflicted accidentally.

3.1 Before considering any claims contained in a communication, the Human Rights Committee shall, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

3.2 The Committee has considered the material submitted by the author. It notes that the author's claims relate primarily to the evaluation of evidence by the Hungarian courts. It reaffirms that while article 14 of the Covenant guarantees the right to a fair trial, it is for the appellate courts of States parties to the Covenant to evaluate the facts and the available evidence in a particular case. From the information submitted by the author, the Committee has no evidence that the Hungarian courts did not properly evaluate the evidence against him or that they otherwise acted in ways that would amount to arbitrariness or to a denial of justice. In the circumstances, the Committee concludes that the communication is inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

4. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible;

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