

A. M. v. Denmark, Communication No. 121/1982, U.N. Doc. CCPR/C/OP/1 at 32 (1984).

Submitted by: A. M. on 9 March 1982

Alleged victim: The author

State party: Denmark

Date of decision on inadmissibility: 23 July 1982 (sixteenth session)

State party's reservation to article 5 (2) (a) of Optional Protocol--Case already considered under other procedure of international investigation--European Commission of Human Rights Decision on admissibility'

1. The author of the communication (initial letter dated 9 March 1982 and further letters dated 20 April and 9, 29 and 30 June 1982) is a 39-year-old Pakistani national at present serving a prison term in Denmark. He submits the communication on his own behalf.

2.1 The author states that he has been residing in Denmark since 1970, that in 1977 he married in Pakistan a citizen of that country, that his wife has since then lived with him in Denmark and that they have two children. He describes the facts of the case as follows:

2.2 On 31 July 1980, he was involved in a violent fight in Odense, Denmark, with several other men from Pakistan, Morocco and Algeria. At least four people were severely injured and one of them died. The author subsequently stood trial on charges including "bodily injuries with death as a result" and on 30 January 1981 he was convicted by the Eastern Court of Appeal (Oestre Landsret), sitting with a jury, and sentenced to three and a half years' imprisonment. The author applied to the Special Court for Revision (Den saerlige klageret) for a new trial. The Court rejected the request on 4 December 1981.

2.3 On 21 April 1981, A. M. was informed by the Danish immigration authorities that he would have to leave Denmark after serving his sentence. This decision was upheld by the Ministry of Justice and A. M. was so informed on 23 October 1981. He states that he is due to be released from prison on 15 August 1982 and that he will be deported on that date.

3.1 The author claims before the Human Rights Committee that he has been unjustly treated because he is a foreigner. He alleges that the police were dishonest in the conduct of pro-trial investigations into the matter and that the Court denied him a fair trial by giving undue weight to evidence against him, including testimony allegedly obtained from his Pakistani enemies in Denmark. He believes that a fair assessment of the evidence would have led to his acquittal. The author further claims that the decision of the Danish authorities to deport him upon release from prison constitutes degrading treatment and punishment.

3.2 In particular he claims to be a victim of breaches by Denmark of articles 5, 7 and 10 of the Universal Declaration of Human Rights as regards the right not to be subjected to degrading treatment or punishment, the right to equality before the law and the right to a fair trial. He also invokes article 11 (a) of the Universal Declaration of Human Rights concerning

the presumption of innocence. These articles correspond, in substance, to articles 7, 14 and 26 of the International Covenant on Civil and Political Rights.

4. It appears from the communication that the author has submitted the same matter to the European Commission of Human Rights. His application before that body was declared inadmissible on 1 March 1982 as manifestly ill-founded.

5. Before considering any claims contained in a communication, the Human Rights Committee must decide whether the communication is admissible under the Optional Protocol to the Universal Covenant on Civil and Political Rights. The Committee observes in this connection that, when ratifying the Optional Protocol and recognizing the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction, the State party Denmark made a reservation, with reference to article 5 (2) (a) of the Optional Protocol, in respect of the competence of the Committee to consider a communication from an individual if the matter has already been considered under other procedures of international investigation.

6. In the light of the above-mentioned reservation and observing that the same matter has already been considered by the European Commission of Human Rights and therefore by another procedure of international investigation within the meaning of article 5 (2) (a) of the Optional Protocol to the International Covenant on Civil and Political Rights, the Committee concludes that it is not competent to consider the present communication.

7. The Human Rights Committee, accordingly, decides:

That the communication is inadmissible.

8. This decision shall be communicated to the author of the communication and, for information, to the State party concerned.

1. The text of an individual opinion submitted by a Committee member is appended to the present decision.
