
V.H. vs. The Czech Republic

Facts

The author's family, who opposed the communist regime, was forced by the authorities to let a cooperative possess parts of a building owned by the author's mother. The cooperative did not pay rent and consequently the costs of the building became higher than the income. Therefore, the mother gave the building to the State in 1960. Because this donation happened under political and material pressure, the author claims it can be characterized as "forced donation" under Czech law.

The author moved to Austria in 1966 and was granted Austrian citizenship in 1971. When his mother died in 1986, the author became the sole successor with respect to his mother's rights and he also inherited the claim for restitution of her property. He argues that he could not complain under the special restitution laws because he had lost the Czech nationality. He brought his case under all instances at national level and they all recognized the coercive character of the donation. The author was, however, not granted restitution because the validity of the donation had to be contested within three years and this time-limit had elapsed.

The author argues that the Czech government has violated his rights under article 26 of the Covenant because, although it recognizes that the expropriation of the property of his family was discriminatory on grounds of political opinion and social origin, it has prevented him from obtaining the same kind of restitution, as has been granted in thousands of similar cases, based on "narrow formal requirements".

He further states that he was not able to file an application for restitution according to the domestic special restitution laws because of the lack of Czech citizenship that obliged him to assert his claims under civil law before ordinary courts. The author argues that the time limit of three years was unconceivable in the political circumstances, and that he therefore should be granted a suspension with respect to his claim.

Consideration of admissibility

Art. 5 §2(b) of Optional Protocol: The Committee concluded that the author did not exhaust all domestic remedies, as he never raised the issue of discrimination against him based on political opinion, social background or other grounds before national authorities in relation to the restitution of his mother's property (No. 1575/2007, *Herman Aster v. Czech Republic*, 2009, §6.2). Accordingly the Committee declared the communication inadmissible.

Conclusions

The Committee decides that the communication is inadmissible for failure to exhaust

Key words

- Equality before the law

Relevant Provisions

- Article 26
- Article 5 §2(b) of OP

Violated Provisions

- Communication found inadmissible

domestic remedies, pursuant to Art. 5 §2 (b) of OP.

Dissent/Concurrence

N/A