



Tshishimbi v. Zaire

Communication No 542/1993

Country: Congo, DRC

Region: Africa

Year: 1996

Court: Human Rights Committee United Nations Human Rights Committee

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to liberty and security of person

Facts

Tshishimbi (T) had been a military adviser and bodyguard for the prime minister in a government politically opposed to the president. Members of the government and their advisors had been subjected to constant surveillance, harassment and bullying from military and paramilitary groups loyal to the president. T was abducted in March 1993, although the exact circumstances remain unknown, and his whereabouts cannot be ascertained. It is believed that he is or was detained at the headquarters of the intelligence service where ill-treatment of detainees was said to be common. T's wife complained about his detention and treatment and the Committee, having regard to Zaire's lack of cooperation and the impossibility of T's family having access to him or obtaining reliable information about his whereabouts and state of health, found the communication admissible insofar as it raised issues under Arts 7 and 9. It requested Zaire under ROP r86 to avoid any action which might cause irreparable harm to T.

[Adapted from INTERIGHTS summary, with permission]

Decision and Reasoning

The Committee held:

(1) that, while there was no evidence that T was actually detained or arrested, Zaire had not responded to the request to clarify the issue

(2) that in the circumstances there had been a failure to ensure T's right to liberty and security of the person and a violation of Art 9(1)

(3) that, as the removal of T and the prevention of contact with his family and with the outside world constituted cruel and inhuman treatment, there was a violation of Art 7

(4) that Zaire should investigate thoroughly the circumstances of T's abduction and unlawful detention, bring those responsible to justice and grant him and his family adequate compensation.

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Decision Excerpts