

M'Boissona (on behalf of Bozize)

v.

Central African Republic

Human Rights Committee, 1994

Communication 428/1990

Decided at the 50th session, 7 April 1994, CCPR/C/50/D/428/1990

1. The author of the communication is Yvonne M'Boissona, a citizen of the Central African Republic residing at Stains, France. She submits the communication on behalf of her brother, François Bozize, currently detained at a penitentiary at Bangui, Central African Republic. She claims that her brother is a victim of violations of his human rights by the authorities of the Central African Republic, but does not invoke any provisions of the International Covenant on Civil and Political Rights.

The facts as submitted by the author

2.1. The author states that her brother was a high-level military officer of the armed forces of the Central African Republic. On 3 March 1982, he instigated a coup d'état; after its failure, he went into exile in Benin. On 24 July 1989, the author's brother was arrested at a hotel in Cotonou, Benin, together with 11 other citizens of the Central African Republic; all were presumed members of the political opposition, the Central African Movement of National Liberation (Mouvement centrafricain de libération nationale). On 31 August 1989, Mr Bozize and the other opposition activists were repatriated by force, allegedly with the help of a Central African Republic military commando allowed to operate within Benin; this extradition' is said to have been negotiated between the governments of Benin and the Central African Republic. The forced repatriation occurred without a formal extradition request having been issued by the government of the Central African Republic.

2.2. Upon his return to Bangui, Mr Bozize was imprisoned at Camp Roux, where he allegedly suffered serious maltreatment and beatings. The author claims that her brother was not allowed access to a lawyer of his own choosing, nor to members of his family. Allegedly, not even a doctor was allowed to see him to provide basic medical care. Furthermore, the sanitary conditions of the prison are said to be deplorable and the food allegedly consists of rotten meat mixed with sand; as a result, Mr Bozize's weight dropped to 40 kilograms by the summer of 1990.

2.3. During the night of 10 to 11 July 1990, the prison authorities of Camp Roux reportedly stage-managed a power failure in the sector of town where the prison is located, purportedly to incite Mr Bozize to attempt an escape. As this practice is said to be common and invariably results in the death of the would-be escapee, Mr Bozize did not leave his cell. The author contends that in the course of the night, her brother was brutally beaten for several hours and severely injured. This version of the events was confirmed by Mr Bozize's lawyer, Maître Thiangaye, who was able to visit his client on 26 October 1990 and who noticed numerous traces of beatings and ascertained that Mr Bozize had two broken ribs. The lawyer also reported that Mr Bozize was kept shackled, that his reading material had been confiscated and that the prison guards allowed him out of his cell only twice a week. Allegedly, this

treatment is known to, and condoned by, President Kolingba and the Ministers of Defence and of the Interior.

2.4. The authorities of the Central African Republic consistently maintain that Mr Bozize indeed attempted to escape from the prison and that he sustained injuries in the process. This is denied by the author, who points to her brother's weak physical condition in the summer of 1990 and argues that he could not possibly have climbed over the three-metre-high prison wall.

2.5. Mr Bozize's wife, who currently resides in France, has requested the good offices of the French authorities. By a letter of 29 October 1990, the President of the National Assembly informed her that the French Foreign Service had ascertained that Mr Bozize was alive and that he had been transferred to the Kassai prison at Bangui.

2.6. As to the issue of exhaustion of domestic remedies, it is submitted that criminal proceedings against Mr Bozize were to have been opened on 28 February 1991, allegedly in order to profit from the momentary absence, owing to a trip abroad, of his lawyer. However, the trial was postponed for technical reasons'. Since then, the trial has apparently been postponed on other occasions. Mrs Bozize complains that in the months following his arrest, her husband was denied access to counsel; later, the family retained the services of a lawyer to defend him. The lawyer, however, was denied authorisation to visit his client; the lawyer allegedly also suffered restrictions of his freedom of movement on account of his client.

The complaint

3. It is submitted that the events described above constitute violations of Mr Bozize's rights under the Covenant. Although the author does not specifically invoke any provisions of the Covenant, it transpires from the context of her submissions that her claims relate primarily to articles 7, 9, 10, 14 and 19 of the Covenant.

The Committee's decision on admissibility

4.1. During its 45th session, in July 1992, the Committee considered the admissibility of the communication. It noted with concern that in spite of two reminders addressed to the state party, in July and September 1991, no information or observations on the admissibility of the communication had been received from the state party. In the circumstances, the Committee found that it was not precluded from considering the communication under article 5(2)(b) of the Optional Protocol.

4.2. On 8 July 1992, the Committee declared the communication admissible in so far as it appeared to raise issues under articles 7, 9, 10, 14(1) and (3), and 19 of the Covenant.

Examination of the merits

5.1. The state party did not provide any information in respect of the substance of the author's allegations, in spite of two reminders addressed to it in June 1993 and February 1994. The Committee notes with regret and great concern the absence of cooperation on the part of the state party in respect of both the admissibility and the substance of the author's allegations. It is implicit in article 4(2) of the Optional Protocol and in rule 91 of the Committee's Rules of Procedure that a state party to the Covenant must investigate in good faith all the allegations

of violations of the Covenant made against it and its authorities and furnish the Committee with the information available to it. In the circumstances, due weight must be given to the author's allegations, to the extent that they have been substantiated.

5.2. The Committee decides to base its views on the following facts, which have not been contested by the state party. Mr François Bozize was arrested on 24 July 1989 and was taken to the military camp at Roux, Bangui, on 31 August 1989. There he was subjected to maltreatment and was held incommunicado until 26 October 1990, when his lawyer was able to visit him. During the night of 10 to 11 July 1990, he was beaten and sustained serious injuries, which was confirmed by his lawyer. Moreover, while detained in the camp at Roux, he was held under conditions which did not respect the inherent dignity of the human person. After his arrest, Mr Bozize was not brought promptly before a judge or other officer authorised by law to exercise judicial power, was denied access to counsel and was not, in due time, afforded the opportunity to obtain a decision by a court on the lawfulness of his arrest and detention. The Committee finds that the above amount to violations by the state party of articles 7, 9, and 10 in the case.

5.3. The Committee notes that although Mr Bozize has not yet been tried, his right to a fair trial has been violated; in particular, his right to be tried within a reasonable time' under article 14(3)(c), has not been respected, as he does not appear to have been tried at first instance after over four years of detention.

5.4. In respect of a possible violation of article 19 of the Covenant, the Committee notes that this claim has remained unsubstantiated. The Committee therefore makes no finding of a violation in this respect.

6. The Human Rights Committee, acting under article 5(4) of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose violations of articles 7, 9, 10 and 14(3)(c) of the Covenant.

7. The Committee is of the view that Mr François Bozize is entitled, under article 2(3)(a) of the Covenant, to an effective remedy, including his release and appropriate compensation for the treatment suffered. The state party should investigate the events complained of and bring to justice those held responsible for the author's treatment; it further is under an obligation to take effective measures to ensure that similar violations do not occur in the future.

8. The Committee would wish to receive prompt information on any relevant measures taken by the state party in respect of the Committee's views.