



UNITED NATIONS
GENERAL
ASSEMBLY

UN LIBRARY



Distr.
GENERAL

A/C.3/34/3
12 October 1979
ENGLISH
ORIGINAL: SPANISH

Thirty-fourth session
THIRD COMMITTEE
Agenda item 84

INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 12 October 1979 from the Permanent Representative of
Uruguay to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith notes Nos. DP/549/979 and DP/535/979 from the Permanent Mission of Uruguay at Geneva and to request you to circulate them as an official document of the General Assembly under item 84 of the agenda for the thirty-fourth session.

(Signed) Edmundo NARANCIO
Ambassador
Permanent Representative

DP/549/979

The Permanent Mission of Uruguay to the United Nations Office and the Specialized Agencies at Geneva presents its compliments to the Division of Human Rights, and informs it, with regard to note No. DP/535/979 dated 17 September from this Mission, that the Government of Uruguay was surprised to see the publicity given to the situations mentioned in that note, in articles in the New York Times and the International Herald Tribune, based on United Nations press releases.

The circumstances referred to in the note render the conclusion reached by the Committee very much open to objection. In view of these considerations, and in the light of the information provided by Uruguay in the above-mentioned note, it is requested that the note in question be transmitted to the General Assembly as a supplement to the decision adopted by the Committee on the cases under consideration.

Geneva, 17 September 1979

DP/535/979

The Permanent Mission of Uruguay to the United Nations Office and the Specialized Agencies at Geneva presents its compliments to the Secretary-General of the United Nations and has the honour to transmit the following comments and information provided by its Government.

With reference to your note G/SO 215/51 URUG dated 18 May 1979 and other communications concerning case R.1/5, the Government of Uruguay deeply regrets that the Human Rights Committee of the International Covenant on Civil and Political Rights should have adopted a decision on this case at its seventh session, despite the clear intention to co-operate expressed on various occasions by Uruguay and reiterated on that occasion, with a view to obtaining a reasonable extension of the time for replying to the communications pending which could, in any case, have been examined this year at the eighth session of the Committee, once the corresponding replies had been received.

In fact, situations occasionally make it difficult to meet the deadlines established, because of delays between the date of dispatch of the communications from the United Nations and their receipt in the Ministry of Foreign Affairs in Uruguay.

That is what happened in the case referred to here, in connexion with which it is considered appropriate to make the following comments:

As you were informed at the time, the case of Mr. José Luis Massera is being examined by the Inter-American Commission on Human Rights (Case 2011) and, despite the statement to the contrary in the decision adopted by the Committee on 10 February 1978, the Government of Uruguay has received no communication from that regional body along those lines.

Furthermore, corroborating this situation, it should be added that recently, in July of this year, the Uruguayan Government sent a reply to the Inter-American Commission on Human Rights regarding the situation of Mr. Massera following a communication from that Commission, the date of which was subsequent to the Committee's decision (October 1978), which assumed that the case had been dropped.

Despite this fact - which is sufficient in itself to remove all possibility of declaring the communication admissible (art. 5, para. 2 (a) of the Optional Protocol) - the Government of Uruguay, demonstrating yet again its intention of co-operating with the Committee in its work, then submitted, on 16 November 1978, a review of the rights of the accused and the domestic remedies available to him.

On this occasion, Uruguay intends to give the Committee a detailed account of the proceedings with respect to Mr. Massera and also details of his health.

In the first place, the libellous information contained in the plaintiff's communication concerning the alleged treatment of Mr. Massera is most strongly rejected. It is absolutely untrue that detainees are subjected to any kind of torture or degrading treatment in Uruguayan places of detention. This type of accusation is merely another example of the defamatory campaign against Uruguay undertaken by those who are trying to discredit its image in the eyes of international public opinion and whose activities have been exposed every time they have been asked to provide proof of their rash assertions.

Mr. Massera who, from 1974 onwards, was the First Secretary of the banned Communist Party, was arrested on 29 October 1975 and interned under the Prompt Security Measures in connexion with the clandestine activities carried out by that group. Brought before the court, he was tried by the Military Examining Judge of second sitting on the charge of committing the offence referred to in article 60 (V) of the Military Penal Code, namely, "subversive association".

Subsequently, after new evidence had been brought to light, he was also accused of the offences covered in article 60 (i), subparagraph 6, in relation to 60 (XII) of the Military Penal Code, namely, "attack on the Constitution in the degree of conspiracy followed by preparatory acts" committed in a "concurrent offence not involving recidivism", article 56 of the Ordinary Penal Code, and article 53, paragraphs 20 and 30, of the Military Penal Code, namely, "attack on the morale of the armed forces".

On 23 July 1979, he was sentenced in the first instance to 20 years' severe imprisonment. His case is now before the Supreme Military Court on appeal.

As regards the state of his health, the text of the corresponding medical report is given below:

"Patient, aged 63, suffered a fracture of the right hip, presumably intertrochanteric, which mended with exclusive medical treatment. Attacks of hypertension basically connected, in the patient's view, with very special states of mind. Currently being treated with: Diuserpina, one tablet three times per week, and Diazepam, 5 mg twice a day.

"The patient is lucid, his temperature is normal. Skin and mucous membranes of good colour. Tissues normal. Cardiovascular system: normal. Arterial blood pressure: 21/12. Pulse: 85 per minute. There is no cyanosis or oedema. Pleuropulmonary system: normal. Abdomen: scars from hernia operation, white lines as on the lower right-hand side and the 'lmac-burnez son continentes'.* Bone articulation: restricted movement in right hip.

"Post-traumatic shortening compensated for orthopaedically by increasing the height of the heel of his right shoe. With this device his limp is slight. The patient uses a stick to move any distance and to go up and down stairs. On occasions he has a pain in his right hip, for which he takes ordinary pain-killers. The rest of the clinical examination: normal.

"The doctor on duty in EMRI (Libertad)

Luis E. Crespo".

* Translator's note: There is a typing error in the original telex which makes this quite unintelligible.

The following is the text of a certified record containing statements by the detainee:

"Report: on 14 January 1977, a person appeared before me who proved to be: José Luis Massera Lerena, a nationalized Uruguayan, born in Genoa, Italy, identity card No. 235.542, an engineer by profession. He was questioned as follows:

Question: What is the state of your health?

Answer: At the time of my arrest, I was unfortunate enough to have an accidental fall which resulted in a fracture of the pelvis; but I have now recovered completely. I am using a stick because I am following the advice of the doctor, a very eminent specialist, although other doctors have told me that I have no need to use a stick even to walk long distances. I am using it on the advice of the specialist.

Question: Do you consider this fracture was caused by a malicious blow with a blunt instrument or by a kick, or could it have been caused by a treacherous act against your person?

Answer: Not at all, it was, as I said, an unlucky fall.

Question: Were you transferred to a hospital for diagnosis?

Answer: Yes, I received appropriate medical attention for my injury, x-rays were taken in the Central Hospital of the Armed Forces and I was visited by specialists.

Question: Did you subsequently have another fracture?

Answer: No. The only one is that I referred to earlier.

Question: Have you any other ailment?

Answer: Yes, hypertension: in the unit where I was previously, I was provided with medicines for that purpose. The treatment is currently being continued as are, of course, the periodic checks.

Question: Have you had access to visits from family members and lawyers?

Answer: I have received periodic visits from my sister and my lawyer.

Question: Have you been given the opportunity of carrying out any work in your own field during your detention?

Answer: Yes, I have completed four mathematical papers and, in the unit where I was previously, I was carrying out a study on pre-Socratic philosophy and mathematics, using documentation brought to me by my sister.

Question: Why were you arrested?

Answer: For being a member of the Executive Party of the Uruguayan Communist Party, two years after it had been declared illegal, when the Party was working underground. For this work, I used the alias of Aurelio Machi and 'A.M.' and I was aware of the existence of the Party's clandestine military apparatus.

The above having been read to me, I confirm its contents and place on record that the statement was made of my own free will, without physical or psychological pressure of any kind, in witness whereof I sign an original and five copies on the date indicated above.

José Luis Massera Lerena
Identity Card No. 235.542"

He was visited in March 1978 by Nobel Prize winner Dr. Anfinsen and other members of the United States Academy of Sciences and was subsequently interviewed, in April of that year, by members of the American Bar Association.

On 30 August 1979, during a visit to detention establishments by accredited diplomatic representatives in our country, the Ambassadors of Belgium, Italy and the United States encountered Mr. Massera.

Lastly, it should be added that the Government of Uruguay can certainly not be accused of unwillingness to supply information on Mr. Massera's situation since, in addition to the information already referred to which was duly dispatched to the Inter-American Commission on Human Rights, information has also been provided to other bodies, international institutions (UNESCO, Inter-Parliamentary Union), Governments, and even to private individuals who have shown an interest in this case.

As for Mr. Luis Mariano Bazzano, he was arrested on 6 April 1975 on the grounds that he was taking part in clandestine propaganda activities for the banned Communist Party.

On 25 June 1975, he appeared before the Military Examining Judge of second sitting charged with the offence referred to in article 60 (VI) of the Military Penal Code, in the degree determined by article 62 of the Regular Penal Code, namely "complicity in assistance to the subversive association". Subsequently, when new evidence was brought to light, he was also charged with the offence of "subversive association", article 60 (V) of the Military Penal Code, and, under article 60 (i), subparagraph 60, in relation to 60 (XII), with the offence of "attack on the Constitution in the degree of conspiracy followed by preparatory acts."

On 17 April 1978, he was sentenced in the first instance to four years and six months' imprisonment.

Mr. Bazzano has at all times enjoyed appropriate legal assistance; his defence counsel being Dr. Amílcar Perea. With regard to the medical treatment received, it should be noted that medical attention is available at all times in detention establishments in Uruguay and consists of:

A doctor and a medical assistant permanently on duty;

A dentist attending for eight hours daily;

Three male nurses permanently on duty;

Intensive medical care, specialist treatment and surgery at the Central Hospital of the Armed Forces;

Provision of all necessary medication.

As for the accommodation and food provided in the detention establishments, they bear comparison with the best in the world. The general situation of the right to physical integrity is fully and perfectly protected by the provisions and guarantees of the domestic legal order and by the normal functioning of the competent national bodies.

Mrs. Marta Valentini de Massera was arrested on 5 March 1976 and accused of the offence referred to in article 60 (VI) of the Military Penal Code, namely, "Assistance to the association". When new evidence was brought to light, she was subsequently accused of the offence referred to in article 60 (V) of the Military Penal Code, namely, "Subversive association".

She was sentenced on 1 November 1978 to three years and six months' severe imprisonment to include the period during which she was held pending trial, and her release was recently decreed, in August 1979.

Geneva, 17 September 1979