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HUMAN RIGHTS COMMITTEE
Fifty-fifth session

DECISIONS

Communication No. 657/1995

Submitted by: Gerrit van der Ent [represented by counsel]
Alleged victim: The author
State party: The Netherlands
Date of communication: 19 September 1994 (initial submission)
Documentation references: None
Date of present decision: 3 November 1995

[ANNEX]

*/ Made public by decision of the Human Rights Committee.
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ANNEX

Decision of the Human Rights Committee under the Optional Protocol
to the International Covenant on Civil and Political Rights

- Fifty-fifth session -

concerning

Communication No. 657/1995

Submitted by: Gerrit van der Ent [represented by counsel]

Alleged victim: The author

State party: The Netherlands

Date of communication: 19 September 1994 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 3 November 1995,

Adopts the following decision on admissibility:

1. The author of the communication is Gerrit van der Ent, a Dutch citizen, domiciled in Wageningen. He claims to be a victim of a violation by the Netherlands of articles 6, 7, and 18 of the Covenant. He is represented by counsel.

The facts as submitted by the author:

2.1 On 19, 20, 21 and 22 February 1990, the author repeatedly damaged the wire fences around military barracks in The Hague, in protest against the sale of war planes to Turkey. By decision of 13 March 1990, the district court in The Hague found him guilty of wilfully damaging public property and sentenced him to three weeks' imprisonment. On appeal, the Court of Appeal, by judgment of 27 December 1990, confirmed the author's conviction, but lowered the sentence to two weeks' imprisonment. The author's cassation appeal was rejected by the Supreme Court on 28 April 1992.

2.2 On 28 December 1990, the author participated in a protest against the alleged continuing militarization of the Netherlands and the involvement of the Netherlands economy, actively supported by the State, in the production and sale of weapons, resulting in wars elsewhere in the world. In the course of the protest the author, together with others, damaged the fence around the air base Volkel. By judgment of 25 September 1991, the district court of 's Hertogenbosch found him guilty of public violence, in contravention of

article 141 of the Dutch Penal Code, and sentenced him to a fine of Fl. 100,-. On appeal, the Court of Appeal of 's Hertogenbosch, by judgment of 28 December 1992, confirmed the conviction and raised the fine to Fl. 250,-. The author's appeal in cassation to the Supreme Court was rejected on 9 November 1993.

The complaint:

3. The author claims that his convictions by the Courts in the Netherlands constitute a violation of articles 6, 7 and 18 of the Covenant. In this context, he points out that he has already tried every legal means in order to draw attention to the fact that the Dutch Government is violating international law by its military policy. He therefore argues that he can denounce the indirect participation of the Netherlands in war crimes, such as the Turkish bombardments against the Kurdish population, only by breaking the law and that the Dutch courts should have recognised his conscientious objections by not convicting him.

Issues and proceedings before the Committee:

4.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee notes that the author claims that, because the Dutch policy with regard to the sale of weapons and warplanes allegedly is in violation of international law, he should not have been convicted for public violence and damaging public property. In this context, the Committee refers to its jurisprudence in communication No. 429/1990¹, where it observed that the procedure laid down in the Optional Protocol was not designed for conducting public debate over matters of public policy, such as support for disarmament and issues concerning nuclear and other weapons of mass destruction, or, as in the instant case, issues concerning arms sales.

4.3 Before the Committee can examine a communication, the author must substantiate, for purposes of admissibility, his claims that his rights under the Covenant have been violated. In the instant case, the Committee notes that the author merely refers to his conviction for public violence and wilfully damaging public property, but fails to substantiate, for purposes of admissibility, how this would entail a violation of his rights under articles 6, 7 and 18 of the Covenant. The communication is therefore inadmissible under article 2 of the Optional Protocol.

¹ E.W. et al. v. the Netherlands, declared inadmissible on 8 April 1993.

5. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible;

(b) that this decision shall be communicated to the author and, for information, to the State party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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