

HUMAN RIGHTS COMMITTEE

R.T.Z. v. The Netherlands

Communication No. 245/1987

5 November 1987

ADMISSIBILITY

Submitted by: R. T. Z. (name deleted) on 1 October 1987

Alleged victim: The author

State party: The Netherlands

*Declared inadmissible: 5 November 1987 (thirty-first session)**

Decision on Admissibility

1. The author of the communication dated 1 October 1987 (2-page letter and 22 pages of enclosures, all in Dutch) is a citizen of the Netherlands, born in 1960, residing in Haarlem, the Netherlands. He claims to be the victim of a violation by the Government of the Netherlands of article 26 of the International Covenant on Civil and Political Rights. He is represented by counsel.

2.1. The author states that he was summoned to appear before a military court because of his refusal to obey orders in the course of his military service. In the Netherlands, it is possible for citizens to object to a summons. If they do so, the judge is required to decide on the objection before the court proceedings begin. A person who is subject to military jurisdiction during the period of compulsory military service does not have this right, because military penal procedures do not envisage the possibility of an appeal against a summons. Thus, the author is unable to appeal against the summons before the military court.

2.2. The author claims that this constitutes a violation of article 26 of the Covenant since he is being treated differently from civilians who are given the possibility to appeal against a summons before the start of court proceedings.

2.3. With respect to the requirement of exhaustion of domestic remedies, the author states that he took his case to the highest administrative organ in the Netherlands, the Administrative Rechtspraak Overheidsbeschikkingen (AROB), which declared his appeal inadmissible.

2.4. The Committee has ascertained that the author's case has not been submitted to another procedure of international investigation or settlement.

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

3.2. The Committee observes that, in the case at issue, the author has not claimed to be the victim of discrimination on any grounds prohibited under article 26 of the Covenant. He merely alleges that he is being subjected to different treatment during the period of his military service because he cannot appeal against a summons like a civilian. The Committee observes that the Covenant does not preclude the institution of compulsory military service by States parties, even though this means that the rights of individuals may be restricted during military service, within the exigencies of such service. The Committee notes, in this connection, that the author has not claimed that the Netherlands military penal procedures are not being applied equally to all Netherlands citizens serving in the Netherlands armed forces. It therefore concludes that the author has no claim under article 2 of the Optional Protocol.

4. 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.

*/ Pursuant to rule 85 of the provisional rules of procedure. Committee member Mr, Joseph Mommersteeg did not take part in the adoption of the decision.