

HUMAN RIGHTS COMMITTEE

M. F. v. The Netherlands

Communication No. 173/1984

2 November 1984

ADMISSIBILITY

Submitted by: M. F. (name deleted) on 13 April 1984

Alleged victim: The author

State party: The Netherlands

Declared inadmissible: 2 November 1984 (twenty-third session)

Decision on Admissibility

1. The author of the communication, dated 13 April 1984, is M. F., a national of Chile, born 1960, at present residing in the Netherlands. He is represented before the Committee by a Dutch lawyer.

2.1. The author states that after political persecution and detention in Chile, he left the country on 26 July 1981 on a valid passport and flew to Spain, where he resided until March 1981, when he traveled to Belgium and subsequently to Den Heider, in the Netherlands. On 1 June 1981, he filed an application for political asylum in the Netherlands. On 15 September 1982, his requests for a residence permit and refugee status were turned down by administrative decree on the grounds that he had not belonged to an opposition party, had been able to leave Chile without objection from the authorities, and has sojourned in Spain and Belgium prior to entering the Netherlands. The author's lawyer appealed against the administrative decree on 22 October 1982, contending that the author had been a member of a resistance group and that the Chilean Government had a practice of inducing "undesirable elements" to leave the country. On 16 June 1983, a hearing took place before a Standing Consultative Committee for Alien Affairs of the Ministry of Justice, and on 16 September 1983, the Deputy Minister of Justice by administrative decree rejected the request for asylum. An appeal was lodged against the decree on 14 October 1983, before an "independent judge" (name of court not given), but it appears that this procedure has not been concluded. The Deputy Minister of Justice, bypassing the appeal, ordered the expulsion of the author by, 3 November 1983 at the latest. Thereupon, the author initiated a separate court procedure against the Court in The Hague against the decision of the Court of The Hague

(of 15 March 1984) that the author's claim that he suffers from a mental illness does not constitute a ground barring his expulsion.

2.4. The author does not indicate whether the same matter is being examined by another procedure of international investigation or settlement.

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

4. A thorough examination of the communication has not revealed any facts in substantiation of the author's claim that he is a victim of a breach by the State party of any rights protected by the Covenant. In particular, it emerges from the author's own submission that he was given ample opportunity in formal proceedings, including oral hearings, to present his case for sojourn in the Netherlands. The Committee, accordingly, concludes that the author has no claim under article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

The communication is inadmissible.