

## HUMAN RIGHTS COMMITTEE

### Neefs v. Netherlands

Communication No. 425/1990

26 July 1993

CCPR/C/48/D/425/1990 \*/

### ADMISSIBILITY

*Submitted by:* A.M.M Doesburg Lannooij Neefs

*Alleged victim:* The author

*State party:* The Netherlands

*Date of communication:* 15 August 1990 (initial submission)

*Documentation references:* Prior decisions - Special Rapporteur's rule 91 decision, transmitted to the State party on 15 July 1992 (not issued in document form)

*Date of present decision:* 26 July 1993

### Decision on admissibility

1. The author of the communication (dated 15 August 1990) is Mr. A.M.M. Doesburg Lannooij Neefs, a Dutch citizen, born in 1958, and presently residing in Naarden, the Netherlands. He claims to be the victim of a violation of article 26 of the International Covenant on Civil and Political Rights by the Netherlands.

#### The facts as submitted by the author

2.1 In 1983, the author concluded a sublet contract with his mother, with whom he shared a house. On 29 September 1986, being unemployed, he applied for a benefit under the Social Security Act (Algemene Bijstandswet), since his allowance under the Unemployment Benefits Act (Wet Werkloosheidsvoorziening) would expire on 1 October 1986.

2.2 Under the Social Security Act, a person can receive a benefit if he does not have sufficient means to provide for his cost of living. The amount of the benefit depends on the specific circumstances of the applicant; differentiation is made, inter alia, between single persons and

persons who share a household with others. Under article 1(4)(a) of Royal Decree of 13 March 1985, implementing the Act., a subtenant or boarder is considered to be a single person, living alone, and thus entitled to a full benefit under the Act. However, the Decree limits the application of this article by declaring that a person who shares a household with a close relative cannot be considered a single subtenant or boarder unless the relative is a brother or a sister and the household is shared on a commercial basis.

2.3 On 28 October 1986, the Naarden municipality decided to grant the author a reduced benefit under the Social Security Act, based on the fact that he was sharing a household with his mother. The author sought review of this decision on 10 November 1986, and after receiving no reply within the established one-month time-limit, he appealed under article 41 of the Act to the North Holland provincial authorities, arguing, *inter alia*, that the distinction in the Decree between boarders and subtenants who share a house with a non-relative and those who share a house with a relative amounted to unlawful discrimination. On 24 April 1987, the Provincial Appeal Commission (Commissie Beroepszaken Administratieve Geschillen) rejected the author's appeal.

2.4 On 9 August 1990, the Council of State, Division for Administrative Litigation, (Raad van State, Afdeling Geschillen van Bestuur) rejected the Author's subsequent appeal. It considered that the distinction was based on the presumption that close relatives sharing a household did so on a joint account. The Division was of the opinion that this presumption was not unreasonable and that it provided a sufficient justification for the distinction between subtenants or boarders and close relatives sharing a household.

### The complaint

3. The author contends that the differentiation in standards applied amounts to discrimination within the meaning of article 26 of the Covenant. He argues that the distinction between close relatives and others, while both are sharing a household on a commercial basis and live in the same circumstances, is unreasonable.

### The State party's observations

4. By its submission dated 4 September 1992, the State party concedes that the author has exhausted the domestic remedies available to him. Although it considers the communication ill founded, it does not raise any objections to the admissibility of the communication.

### Issues and proceedings before the Committee

5.1 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.

5.2 The author's claim in the present case is based on the fact that he was sharing a household with his mother and on that basis received a lower level of benefit under the Social Security Act than he would if he had shared it with a non-relative or with a relative in respect of whom the regulations under the Act allow evidence of a commercially shared household. He contends that this difference

in treatment amounts to prohibited discrimination under article 26 of the Covenant.

5.3 The Committee finds that there are no objections to the admissibility of the communication and that the communication may raise issues under article 26 of the Covenant that need to be examined on the merits.

6. The Human Rights committee therefore decides:

(a) That the communication is admissible inasmuch as it may raise issues under article 26 of the Covenant;

(b) That, in accordance with article 4(2) of the Optional Protocol, the State party shall be requested to submit to the Committee, within six months of the date of transmittal to it of the present decision, written explanations or statements clarifying the matter and the measures, if any, that may have been taken by it;

(c) That any explanations or statements received from the State party shall be communicated by the Secretary-General under rule 93, paragraph 3, of the rules of procedure to the author, with the request that any comments which he may wish to submit thereon should reach the Human Rights Committee, in care of the Centre for Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;

(d) That this decision shall be communicated to the State party and to the author.

[Done in English, French and Spanish, the English text being the original version.]

---

a/ All persons handling this document are requested to respect and observe its confidential nature.