

HUMAN RIGHTS COMMITTEE

E.C.W. v. The Netherlands

Communication No. 524/1992

3 November 1993

CCPR/C/49/D/524/1992*

ADMISSIBILITY

Submitted by: E.C.W. (name deleted) [represented by counsel]

Alleged victim: The author

State party: The Netherlands

Date of communication: 22 October 1992 (initial submission)

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

Meeting on 3 November 1993,

Adopts the following:

Decision on admissibility

1. The author of the communication (dated 22 October 1992) is E.C.W., a medical doctor, residing in The Hague, the Netherlands. He claims to be a victim of a violation of articles 6 and 7 of the International Covenant on Civil and Political Rights. He is represented by counsel.

The facts as submitted by the author:

2.1 On 1 June and again on 6 July 1987, the author participated in a sit-down demonstration on a road leading to the Woensdrecht military base, to protest the preparation for the deployment of cruise missiles on that base. On both occasions, the author was arrested and charged with the offence of obstructing the free flow of traffic on a public road. On 11 February and again on 7 April 1988, the Bergen op Zoom Magistrate's Court

(**Kantonrechter**) found him guilty as charged; he was fined f51,- and f120,- respectively.

2.2 The author appealed the judgments; on 17 October 1988, the Breda Court (**Arrondissementsrechtbank**) rejected the appeals against conviction, but decided not to impose a penalty. The author then appealed to the Supreme Court (**Hoge Raad**), arguing that his convictions should be quashed, since he had acted out of conscience and under necessity. The Supreme Court, on 30 January 1990, rejected the appeals, stating that the absence of legal means to protest the deployment of the cruise missiles had not been shown, and that the Breda Court therefore had lawfully rejected the author's appeal on the ground of necessity.

The complaint:

3. The author claims that he had no choice but to protest by all possible means against the deployment of cruise missiles on the Woensdrecht base. He argues that the possession of nuclear weapons and the preparation for the use of nuclear weapons violates public international law and amounts to a crime against peace and a conspiracy to commit genocide. In this context, he submits that the Dutch military strategy violates not only international norms of humanitarian law, but also articles 6 and 7 of the International Covenant on Civil and Political Rights.

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 military strategy allegedly violates articles 6 and 7 of the Covenant, he should not have been convicted for violating the law while protesting the deployment of cruise missiles. 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.

4.3 Moreover, before the Committee can examine a communication, the author must substantiate, for purposes of admissibility, his claims that his rights have been violated. In the present case, the Committee considers that the author's conviction for obstructing the free flow of traffic on a public road, cannot be seen as raising issues under articles 6 and 7 of the Covenant. The communication is therefore inadmissible under article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible;

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

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

Footnotes

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

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

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