

HUMAN RIGHTS COMMITTEE

Kruyt-Amesz et al. v. The Netherlands

Communication No. 664/1995*

25 March 1996

CCPR/C/56/D/664/1995

ADMISSIBILITY

Submitted by: Gesina Kruyt-Amesz, Hendrik Gerrit Schraa, Hendrikus Gerardus Maria Karis and Maria Johanna Josephina Moors [represented by counsel]

Alleged victims: The authors

State party: The Netherlands

Date of communication: 30 January 1995 (initial submission)

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

Meeting on 25 March 1996,

Adopts the following:

Decision on Admissibility

1. The authors of the communication are Gesina Kruyt-Amesz, Hendrik G. Schraa, Hendrikus G.M. Karis and Maria J.J. Moors, Dutch citizens. They claim to be victims of a violation by the Netherlands of article 15 of the Covenant. They are represented by counsel.^{1/}

Facts as submitted:

2.1 On 16 July 1989, the authors in cooperation with others removed part of the wire fence and illegally gained access to the naval air base Valkenburg in order to plant trees as a protest against the continuing militarization of the Netherlands and especially against the nuclear strategy of the Netherlands defence policy. As a justification for their action, they

refer to the Nuremberg judgment where it was found that individuals have international duties that transcend the national obligations of obedience imposed upon them by States. They emphasize that the action of 16 July 1989 was openly prepared and that a statement was given to the press, signed by the participants, that the action was going to take place. The protest was carried out according to the principles of non-violence against persons and the activists remained on the air base until captured by the police.

2.2 By judgment of 25 January 1991, the district court of The Hague found the authors guilty of membership of a criminal organization, in contravention of article 140 of the Dutch Penal Code, and sentenced them to a fine of respectively Fl. 1,000, Fl. 750, Fl. 750 and Fl. 1,500 and to suspended sentences of four weeks' imprisonment for Mrs. Moors and of two weeks' imprisonment for the others. On appeal, the Court of Appeal of The Hague, by judgment of 9 June 1992, sentenced the authors to two weeks' imprisonment. The authors' appeal in cassation to the Supreme Court was rejected on 11 May 1993.

The complaint:

3. The authors submit that their conviction is in violation of article 15 of the Covenant, since article 140 of the Penal Code is so broad that it could not have been foreseen that it was applicable to their participation in the protest.

Issues and proceedings before the Committee:

4.1 Before considering any claim 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 authors claim to be victims of a violation of article 15 of the Covenant, because they could not have foreseen that article 140 of the Criminal Code, on the basis of which they were convicted, was applicable to their case. The Committee refers to its established jurisprudence 2/ that interpretation of domestic legislation is essentially a matter for the courts and authorities of the State party concerned. Since it does not appear from the information before the Committee that the law in the present case was interpreted and applied arbitrarily or that its application amounted to a denial of justice, the Committee considers that the communication is inadmissible under article 3 of the Optional Protocol.

5. The Committee therefore decides:

(a) that the communication is inadmissible;

(b) that this decision shall be communicated to the authors of the communication 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.]

Footnotes

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

1/ See also communication No. 578/1994 (De Groot v. the Netherlands), declared inadmissible by the Committee on 14 July 1995.

2/ See inter alia the Committee's decision in communication No. 58/1979 (Anna Maroufidou v. Sweden), paragraph 10.1 (Views adopted on 9 April 1981).