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International Covenant
on Civil and Political Rights

Distr.
RESTRICTED */

CCPR/C/54/D/583/1994
24 July 1995

Original : ENGLISH

HUMAN RIGHTS COMMITTEE
Fifty-fourth session

DECISIONS

Communication No. 583/1994

Submitted by :	Ronald Herman van der Houwen [represented by counsel]
Alleged victim :	The author
State party :	The Netherlands
Date of communication :	27 July 1993 (initial submission)
Documentation references :	Prior decisions - none
Date of present decision :	14 July 1995

[See ANNEX]

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

ANNEX

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights
- Fifty-fourth session -

concerning

Communication No. 583/1994

Submitted by :	Ronald Herman van der Houwen [represented by counsel]
Alleged victim :	The author
State party :	The Netherlands
Date of communication :	27 July 1993 (initial submission)

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

Meeting on 14 July 1995,

Adopts the following:

Decision on admissibility

1. The author of the communication, dated 27 July 1993, is Ronald Herman van der Houwen, citizen of the Netherlands, at the time of submission of the communication detained in a penitentiary in Utrecht. He claims to be a victim of a violation by the Netherlands of article 9, paragraph 3, of the Covenant. He is represented by counsel.

The facts as submitted by the author :

2.1 The author was arrested on 12 February 1993, at 11.45 p.m., after police officers had entered his apartment where he was selling cocaine to visitors. On 13 February 1993, at 12.30 p.m., he was charged with the possession and selling of cocaine, and placed in detention. On 16 February 1993, the author was brought before the examining magistrate (rechter commissaris).

2.2 At the hearing, counsel argued that since his client was brought before the magistrate more than three days after he was detained, his detention was unlawful and he should be released. The examining magistrate rejected this argument and ordered the author's further detention for 10 days.

2.3 The author then requested the Utrecht Regional Court (Arrondissementsrechtbank) to quash the detention order. On 24 February 1993, the Court rejected the author's request and ordered his continuing detention for another 30 days. It considered that the detention of three days and one hour was not unlawful, since the Prosecutor had filed the request for further detention within the three-day period prescribed by law. It further considered that grounds existed to order the author's continuing detention. The author appealed the order of the Court to the Court of Appeal in Amsterdam, which dismissed the appeal on 31 March 1993, while setting aside the Regional Court's first consideration. No further appeal against this decision is possible.

2.4 On 25 May 1993, the author was found guilty of the charges against him and sentenced to 25 months' imprisonment, of which 5 months suspended, and confiscation of the money found in his possession at the time of his arrest.

The complaint :

3.1 The author claims that 73 hours of detention without being brought before a judge is in violation of the State party's obligation under article 9, paragraph 3, to bring anyone arrested or detained on a criminal charge promptly before a judge.

3.2 The author states that the same matter has not been submitted to any other procedure of international investigation or settlement.

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 has claimed that his detention was unlawful under domestic law, because he was not brought before the investigating magistrate within three days. The Committee recalls that the interpretation of domestic law is essentially a matter for the courts and authorities of the State party concerned. It is not for the Committee to examine whether the courts applied the domestic law correctly, unless the application by the courts would violate the State party's obligations under the Covenant.

4.3 The Committee observes further that the information before it shows that the author, who claims to be a victim of a violation of article 9, paragraph 3, of the Covenant, was in fact promptly brought before a judge or other officer authorized by law to exercise judicial power. The

Committee considers that the facts as presented do not raise any issue under article 9, paragraph 3, of the Covenant and that the communication is therefore inadmissible under article 3 of the Optional Protocol, as incompatible with the provisions of the Covenant.

5. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the author, to his counsel 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.]

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