



## D.G. v The Netherlands

Communication No. 52/2013; UN Doc. CEDAW/C/61/D/52/2013

**Country:** Netherlands

**Region:** Europe

**Year:** 2015

**Court:** Committee on the Elimination of All Forms of Discrimination Against Women

**Health Topics:** Poverty, Violence

**Human Rights:** Freedom from discrimination, Right to housing, Right to social security

### Facts

DG, arrived in the Netherlands from Bulgaria in 2007. She worked at a restaurant and then as a prostitute. She stated in her complaint that she left prostitution after a client held her hostage at gunpoint. Unable to pay her rent, DG became homeless in December 2008.

DG applied for shelter under the Social Support Act. The authority rejected DG's application on the grounds that she was able to sleep at friend's apartments and was working at a restaurant.

DG applied for social welfare benefits under the Work and Welfare Act. Her application was denied because she lacked a residence permit. DG made additional, unsuccessful claims, including under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) that the State was obliged to protect her as a woman likely to encounter serious violence.

DG appealed denials of her applications for access to shelter and for social welfare benefits. Her appeals were dismissed on the grounds that: she found temporary accommodation so there was no basis for her request for shelter; there was insufficient evidence that she still belonged to a vulnerable group of individuals; and that her lack of residence permit prevented her from qualifying for welfare benefits.

DG alleged to the Committee that the Netherlands violated her rights under articles 2 (condemn discrimination against women in all its forms), 5 (elimination of prejudice and ensuring family education), 11 (elimination of discrimination in field employment), 12 (elimination of discrimination in field of health care) and 16 (elimination of discrimination in marriage and family relations) of the CEDAW. She claimed that the State failed to protect her status as a vulnerable person and a victim of gender-based violence (human trafficking).

Netherlands countered that DG did not apply for a residence permit and did not exhaust available domestic remedies. It noted that DG did not submit a criminal complaint to police about any serious threats, nor did she refer to human trafficking in her initial applications.

### Decision and Reasoning

The Committee held that DG failed to sufficiently substantiate her claim that she had been a victim of gender-based violence and thus a victim of discrimination against women.

The Committee recalled that its general recommendation No.19 affirmed that gender-based violence constitutes discrimination against women under Article 1 of CEDAW. The Committee noted that DG's complaint was based on the allegation that she was a victim of gender-based violence because she was a victim of human trafficking. However, the Committee found that there was insufficient evidence that DG was a victim of human trafficking.

The Committee also found that the information on file contained no indication of specific claims of gender-based violence that had been raised with authorities or non-governmental organizations in the State party.

Therefore, the communication was inadmissible under article 4 (2) (c) of the Optional Protocol as "manifestly ill-founded or not sufficiently substantiated".

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## Decision Excerpts

“Before being able to consider the author’s claims relating to access to shelter and benefits, the Committee has to establish whether the author can be considered a victim of discrimination against women in view of her claim to be a victim of gender-based violence.” (para 9.4)

“The Committee notes that it was only in April 2010 that she contacted the Centre for Prostitution and Health in Amsterdam. From then on she had legal counsel, but she did not at any time apply for a residence permit in the State party.” (para 9.5)

“The information on file contains no indication of any specific claims of gender-based violence to which the author may have been subjected. While the Committee recognizes that the robbery was an episode of violence and could have had an element of gender-based violence, it notes that the author has never lodged complaints with the authorities or non-governmental organizations in the State party about the incident or about being a victim of violence and did not invoke that ground at the initial stages of the procedure concerning her eligibility for shelter and social benefits.” (para 9.5)

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