



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF WILLIAM FAULKNER v. THE UNITED KINGDOM

(Application no. 37471/97)

JUDGMENT

STRASBOURG

4 June 2002

FINAL

04/09/2002

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of William Faulkner v. the United Kingdom,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, *President*,

Sir Nicolas BRATZA,

Mr L. LOUCAIDES,

Mr C. BÎRSAN,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs W. THOMASSEN, *judges*,

and Mr T.L. EARLY, *Deputy Section Registrar*,

Having deliberated in private on 18 September 2001 and 14 May 2002,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 37471/97) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Irish national, William Faulkner (“the applicant”), on 8 August 1996.

2. The applicant, who had been granted legal aid, was represented by Mr P. Macdermott, a lawyer practising in Belfast. The United Kingdom Government (“the Government”) were represented by their Agent, Mr H. Llewellyn, Foreign and Commonwealth Office.

3. The applicant alleged, in particular, that the prison authorities had interfered with a letter from him to the Scottish Minister of State.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11). It was originally allocated to the Third Section of the Court, which declared it partly admissible on 18 September 2001.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). The application was allocated to the new Second Section of the Court. Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court. The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 2 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant, who was born in 1947, was released from detention in February 1999. Prior to that he was detained at HMP Magilligan, County Derry, Northern Ireland, on temporary transfer from a Scottish prison while serving a seven year sentence for a drug offence.

7. On 1 July 1996 a sealed letter sent by him to the Scottish Minister of State was returned to him by the prison authorities. Following the Court's admissibility decision, the Government informed the Court that the Prison Service was unable to explain why the letter had not been sent, since there was nothing untoward in its content.

II. RELEVANT DOMESTIC LAW AND PRACTICE

8. The relevant domestic legislation is the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 ("the Rules"), which came into effect on 1 March 1995.

9. Rule 67(1) allows the Secretary of State to impose restrictions on communications between a prisoner and others, either generally or in a particular case, with a view to securing discipline and good order or the prevention of crime or in the interests of any persons. Under Rule 67(4), except as provided by the Rules, every letter or communication to or from a prisoner may be read or examined by the Governor who may, at his discretion, stop any such letter on the grounds that it is not permitted under paragraph (1) or that it may undermine the prison's security.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

10. The applicant alleged that the failure to send his letter amounted to a violation of his right to respect for his correspondence, under Article 8 of the Convention, the relevant part of which provides as follows:

"1. Everyone has the right to respect for ... his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society ... for the prevention of disorder or crime,”

11. The Court observes that the prison authorities’ failure to post the applicant’s letter constituted an interference by a public authority with the exercise of the applicant’s right to respect for his correspondence. Such an interference entails a violation of Article 8 if it does not fall within one of the exceptions provided for in paragraph 2 (see the *Silver and Others v. the United Kingdom* judgment of 25 March 1983, Series A no. 61, § 84). To comply with Article 8, the interference must be “in accordance with the law”, pursue a legitimate aim and be “necessary in a democratic society” (*ibid.*).

12. The Court notes that Rules 67(1) and (4) of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 (“the Rules”), which applied at the time of the incident in question, permitted a prison governor to put a stop on a letter from a prisoner if necessary to secure discipline and good order or for the prevention of crime or in the interests of any persons, or on the grounds that it may undermine the prison’s security (see paragraph 9 above).

13. In the present case, the Government have accepted that the letter in question, to a Scottish Minister of State, was quite unexceptional and that it was not necessary to stop it for one of the above reasons (see paragraph 7 above).

14. It would appear, therefore, that the interference was not “in accordance with the law”, or “necessary in a democratic society” for any reason envisaged by the second paragraph of Article 8 of the Convention. It follows that there has been a violation of this provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

16. The applicant claimed compensation for pecuniary and non-pecuniary damage in the amount of GBP 1,000.

17. The Government submitted that a finding of violation would be sufficient just satisfaction.

18. The Court accepts that the applicant may have been caused some annoyance and frustration by the authorities’ failure to send his letter, but it

does not consider that this can of been of such intensity to justify an award of compensation for non-pecuniary damage. The applicant has not provided any information or evidence to support his claim that he was caused pecuniary damage by the failure to send the letter.

In these circumstances, the Court considers that the finding of violation is sufficient just satisfaction (see the *Silver and Others v. the United Kingdom* (Article 50) judgment of 24 October 1983, Series A no. 67, § 10 and the *Campbell v. the United Kingdom* judgment of 25 March 1992, Series A no. 233, § 70).

B. Costs and expenses

19. The applicant claimed legal costs and expenses of GBP 1,500. The Government did not comment on this claim.

20. The Court considers that the applicant's claim for costs is reasonable, and awards it in full, less the amount received by way of legal aid from the Council of Europe – 823.22 euros (EUR) – plus any value added tax which may be payable.

C. Default interest

21. According to the information available to the Court, the statutory rate of interest applicable in the United Kingdom at the date of adoption of the present judgment is 7.5% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 8 of the Convention;
2. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any pecuniary or non-pecuniary damage sustained by the applicant;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, GBP 1,500 (one thousand five hundred pounds sterling) in respect of costs and expenses, less 823.22 EUR (eight hundred and twenty three euros and twenty two cents) to be converted into pounds sterling at the rate applicable on the date of delivery of the present judgment, plus any value added tax that may be chargeable;

(b) that simple interest at an annual rate of 7.5% shall be payable from the expiry of the above-mentioned three months until settlement;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 4 June 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Deputy Registrar

J.-P. COSTA
President