

AS TO THE ADMISSIBILITY OF

Application No. 21447/93
by N.H.
against the United Kingdom

The European Commission of Human Rights (Second Chamber) sitting in private on 30 June 1993, the following members being present:

MM. S. TRECHSEL, President of the Second Chamber
G. JÖRUNDSSON
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G.H. THUNE
MM. F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
M.A. NOWICKI
I. CABRAL BARRETO

Mr. K. ROGGE, Secretary to the Second Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 20 June 1992 by N.H. against the United Kingdom and registered on 1 March 1993 under file No. 21447/93;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen born in 1958 and resident in D. The facts as submitted by the applicant may be summarised as follows.

From 1981 to 1987, the applicant was serving a prison sentence for robbery. On 19 March 1986, the applicant was transferred to Wandsworth prison for a 28 day period. During this period he was detained in the punishment block.

For the first seven days, the applicant was kept in a "normal" punishment cell. He was then moved to a "punishment cell" because he had been talking out of the window. In this cell, the window had been blocked in with bricks of thick opaque glass. It was virtually soundproof. It contained no toilet or running water and the applicant had to "slop out" three times a day at which time he also had to clean his cleaning utensils and collect drinking and washing water, which the applicant describes as a humiliating and unhygienic procedure. He received his entitlement of one hour's exercise per day and apart from that was removed from normal association with other prisoners.

During the 21 day period the applicant suffered recurrent nausea and headaches which he believes was caused by the lack of natural light and fresh air.

The applicant instituted proceedings against the Home Secretary for false imprisonment in relation to his detention in the punishment cell. He was granted legal aid but the case was stayed pending the decision of the House of Lords in the Hague and Weldon cases. Following the House of Lords judgment which found that no action lay for false imprisonment on the ground of unlawful deprivation of residual liberty or on the ground of subjection to intolerable conditions, the applicant's case was struck out on 10 June 1992 as disclosing no reasonable cause of action.

COMPLAINTS

The applicant complains that he was subject to treatment contrary to Article 3 of the Convention while in the punishment cell. He submits that the cells inflict sensory deprivation and torture the inmates. Further the process of slopping out is inhuman and degrading.

THE LAW

The applicant complains that the conditions of his detention in the punishment cell were in violation of Article 3 (Art. 3) of the Convention which provides:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The Commission recalls that "ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3" (Art. 3), and that the "assessment of this minimum is, in the nature of things, relative ..." (Eur. Court H.R., Ireland v. the United Kingdom judgment of 18 January 1978, Series A no. 25, p. 65, para. 162). As regards degrading treatment the Court was of the view that "in order for a punishment to be 'degrading' and in breach of Article 3 (Art. 3), the humiliation or debasement involved must attain a particular level and must in any event be other than the usual element of humiliation" associated with imprisonment after a criminal conviction. An examination of such matters, being relative, "depends on all the circumstances of the case and, in particular, on the nature and context of the punishment itself and the manner and method of its execution" (Eur. Court H.R., Tyrer judgment of 25 April 1978, Series A no. 26, p. 15, para. 30).

The Commission also recalls in this context that the segregation of a prisoner from the prison community does not in itself constitute a form of inhuman or degrading treatment. Whilst prolonged removal from association with others is undesirable, whether such a measure falls within the ambit of Article 3 (Art. 3) of the Convention depends on the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned. Complete sensory isolation coupled with complete social isolation can ultimately undermine the personality and could in certain circumstances amount to inhuman treatment which could not be justified by the requirements of security (No. 10263/83, R. v. Denmark, Dec. 11.3.85, D.R. 41 p. 149, at p. 153 with further references).

The Commission recalls that the applicant complains of his detention in a punishment cell for a period of 21 days. During this period while segregated he continued to receive his exercise entitlement. Moreover though he alleges that he suffered headaches and nausea, the Commission finds no indication that his segregation amounted to complete sensory and social isolation which could have undermined his personality.

The Commission further recalls that the general conditions of detention in Wandsworth Prison were considered in the previous case of Delazarus (No. 17525/90, Dec. 16.2.93, to be published in D.R.) where it was noted that they had come under strong criticism by the Government's own Chief Inspector of Prisons and by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Commission commented as follows :

"The Commission does not doubt that the conditions in Wandsworth Prison, involving overcrowding, a lack of activity, a lack of integral sanitation and poor hygiene, were extremely unsatisfactory and that they were in urgent need of improvement. The Government recognise this and informed the Commission of a rebuilding scheme to include in-cell sanitation. This is to be welcomed. However, the Commission is only competent to deal with the case it has before it, not the general situation of prisoners at Wandsworth. The applicant in the present case cannot complain of overcrowding because throughout his stay at Wandsworth he was in a single cell. This fact must have reduced the difficulties created by the lack of integral sanitation in the cell."

The Commission went on to find that the applicant's complaints under Article 3 (Art. 3) of the Convention in the Delazarus case concerning his isolation in the Segregation Block for a period of 14 weeks were manifestly ill-founded.

Consequently, having regard to the circumstances of the present case as a whole, the Commission finds that the treatment the applicant received during the 21 days in which he was detained in the punishment cell did not amount to the inhuman or degrading treatment proscribed by Article 3 (Art. 3) of the Convention.

It follows that the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission unanimously

DECIDES TO DECLARE THE APPLICATION INADMISSIBLE.

Secretary to the Second Chamber

(K. ROGGE)

President of the Second Chamber

(S. TRECHSEL)