

Application No. 13714/88
by Matthias GROSS
against Austria

The European Commission of Human Rights sitting in private
on 7 December 1990, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
E. BUSUTTIL
G. JÖRUNDSSON
A. WEITZEL
J. C. SOYER
H. G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO
M.P. PELLONPÄÄ

Mr. H.C. KRÜGER, Secretary to the Commission

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

Having regard to the application introduced on 22 October 1987
by Matthias GROSS against Austria and registered on 29 March 1988
under file No. 13714/88;

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, an Austrian citizen born in 1957 who resides in
Linz, complains of disciplinary sanctions imposed on him when he was
serving a two years' sentence in the prison of Garsten.

He had fled from the prison on 27 July 1987 and was
re-arrested on 2 August 1987. By a penal order (Straferkenntnis) of
19 August 1987 the prison governor found him guilty of a disciplinary
offence and ordered his detention in house arrest for 21 days. During
the house arrest the light was switched out at 19.00 hours, the
applicant was not allowed to write to or receive visits from his
family, or to buy tobacco, coffee and tea in the prison shop.
Afterwards he was returned to a more stringent prison regime.

Moreover, the prison governor requested the Regional Court
(Kreisgericht) of Steyr to make an order under Section 115 of the
Criminal Law Enforcement Act (Strafvollzugsgesetz) whereby the period
of house arrest should not be counted as part of the applicant's
sentence. The order was granted on 4 September 1987 and confirmed by
the Linz Court of Appeal (Oberlandesgericht) on 7 October 1987. The
courts noted in particular that by his flight the applicant had

deliberately evaded his duty to work in prison and that his submission that he had only wanted to visit his seven children had not been proven.

As a consequence of the above decisions the time which the applicant spent in prison was prolonged by 21 days.

COMPLAINTS

The applicant complains that his additional detention was not justified under Article 5 para. 1 (a) of the Convention. He further alleges that Article 8 of the Convention has been violated by the refusal to allow him to correspond with and receive visits from his family during his house arrest, which he describes as an inhuman treatment or punishment.

PROCEEDINGS

The application was introduced on 22 October 1987 and registered on 29 March 1988.

On 14 December 1989 the Commission decided to give notice of the application to the respondent Government and invite the Government, pursuant to Rule 42 para. 2 (b) of the Rules of Procedure (former version), to submit before 23 March 1990 observations in writing on the admissibility and merits of the application.

The Government submitted their observations on 23 March 1990. On 9 April 1990 they were transmitted to the applicant who was invited to submit observations in reply before 18 May 1990.

The applicant has not replied despite reminders of 4 July 1990 and of 17 October 1990, by a registered letter, in which he was also informed that the Commission might interpret his silence as an indication that he had lost interest in pursuing the case.

REASONS FOR THE DECISION

The Commission notes that the applicant has not replied to its letters of 9 April, 4 July and 17 October 1990. It concludes from the applicant's silence that he has lost interest in pursuing the application. The conditions of Article 30 para. 1 (c) of the Convention are therefore met as there are no reasons of a general character affecting the respect for human rights as defined in the Convention which would require a further examination of the present application.

For these reasons the Commission, unanimously

DECIDES TO STRIKE THE APPLICATION OFF ITS LIST OF CASES.

Secretary to the Commission

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)