

THE FACTS

Whereas, the facts presented by the applicant may be summarised as follows:

The applicant is a German citizen, born in 1924 and at present detained in prison in Bremen. He is represented by Mr. S., a lawyer practising in Hanover and acting under a power-of-attorney dated .. September 1968.

From statements and from documents submitted, it appears that on .. January 1966 the applicant was convicted by the Regional Court (Landgericht) of Bielefeld for having committed fraud in fifteen cases and as being a recidivist and sentenced to three years' imprisonment. Subsequently, on .. December 1967 he was convicted by the Regional Court of Hanover for having committed fraud in sixty-four cases and as being a recidivist and sentenced to four and a half years' imprisonment.

The applicant's complaints under the Convention are concerned with the execution of his sentences. He states that, after having been in detention on remand at Bielefeld from .. July 1965 until .. January 1966 he was conditionally released.

His conditional release was revoked on .. June 1966 and he was arrested again on .. August 1966. He was detained at Luttringhausen, and subsequently in Bremen and Hamburg until .. October 1966 when he was again released on condition. On .. January 1967, he was re-arrested and committed to prison in Hanover.

It appears, however, that under Article 24, paragraph (1) of the Ordinance relating to the Execution of Sentences (Strafvollstreckungsordnung), Bremen and not Hanover is the proper place of detention in the applicant's case. Consequently, the authorities intended in December 1967 to transfer the applicant to the prison at Bremen Oslebshausen. The applicant who preferred to stay at Hanover prison where he took part in a special programme for the re-education of prisoners, made an application to the Attorney General (Generalstaatsanwalt) at Celle for the permission to remain at Hanover. This was refused on .. January 1968. The applicant then made an application to the Court of Appeal (Oberlandesgericht) at Celle under Article 23 of the Introductory Law to the Judiciary Act (Einführungsgesetz zum Gerichtsverfassungsgesetz) for a judicial decision on the Attorney General's refusal of permission to be detained at Hanover prison. This application was refused by decision of .. March 1968. Both authorities held that there were no special reasons which would justify a deviation from the normal execution of the applicant's sentence in accordance with the applicable law.

The applicant was transferred to Bremen on .. April 1968. However, the Bremen prison authorities considered that they were not competent to take him and sent him back to Hanover on .. April 1968. The next day, on .. April 1968 the Hanover authorities transferred him again to the prison in Bremen Oslebshausen.

On .. May 1968, the applicant complained again to the Attorney General at Celle of his transfer. By letter of .. June, 1968, from the Attorney General's office, he was informed that the authorities were bound by the Court of Appeal's decision of .. March 1968. The fact that he had been sent back to Hanover and again transferred to Bremen, was regrettable but it was the result of a failure on the part of the Bremen prison authorities to appreciate properly the legal and factual situation in the case for which this office was not responsible.

The applicant then petitioned the Minister of Justice of Lower Saxony (Der niedersächsische Minister der Justiz) whose office replied by

letter of .. August 1968 rejecting the petition.

The applicant now complains that his private and family life has been violated by reason of his transfer to Bremen. He explains that he had served a considerable part of his sentence at Hanover prison where he was allowed to participate in a social group programme calculated to re-educate prisoners and re-establish them in their normal life. Such a programme did not exist in the Bremen prison. The applicant further alleges that he was a particularly sensitive person and seriously ill and that, according to medical opinions, any excitement would put his life to danger. It was therefore irresponsible of the authorities to transfer him to Bremen, then back to Hanover and finally again to Bremen. Moreover, this transfer had not been necessary since he was serving a sentence which had been imposed on him by the Hanover Court. In any event, the provisions of the Act relating to the Execution of Sentences should not be the decisive factor for determining where a prisoner should serve his sentence. This question should rather be governed by principles concerning the well-being and the human dignity of the prisoner concerned as well as his re-establishment in normal life.

The applicant makes it clear that he is not complaining of the refusal by the authorities to be detained in a particular prison. He alleges that the facts in his case amount to a violation of his rights under Articles 8 and 13 of the Convention.

THE LAW

Whereas, in regard to the applicant's complaint relating to his detention in the prison at Bremen-Oslebshausen rather than in the prison at Hanover it is to be observed that the Convention, under the terms of Article 1 (Art. 1), guarantees only the rights and freedoms set forth in Section I of the Convention; and whereas, under Article 25, paragraph (1) (Art. 25-1), only the alleged violation of one of those rights and freedoms by a Contracting Party can be the subject of an application presented by a person, non-governmental organisation or group of individuals;

Whereas otherwise this examination is outside the competence of the Commission *ratione materiae*; whereas no right to be detained in a particular prison is as such included among the rights and freedoms guaranteed by the Convention; whereas in this respect the Commission refers to its previous decision No. 2412/65, Collection of Decisions, Vol. 23, pages 38, 40; whereas it follows that this part of the application is incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention.

Whereas, in regard to the applicant's complaint that his private and family life have been violated by reason of his transfer to another prison, the Commission finds that an examination of the case does not disclose any appearance of a violation of the rights and freedoms set forth in the Convention and, in particular, in Article 8, paragraph (1) (Art. 8-1);

Whereas it is true that under Article 8, paragraph (1) (Art. 8-1) of the Convention "everyone has the right to respect for his private and family life ...";

Whereas the Commission points out, however, that there is nothing in the facts of the case, as they have been presented, to suggest that the applicant's family life has in any way been affected by his transfer to Bremen;

Whereas, with regard to the alleged breach of the applicant's right to a private life, the Commission observes that it is an inherent feature of lawful imprisonment that a prisoner should be restricted in his

private life; whereas the Commission finds that the transfer of a prisoner from one prison to another with the consequence that he must give up certain privileges which are granted in one prison but not in the other, does not disclose any appearance of a breach of the right to private life;

Whereas it follows that this part of the application is manifestly ill-founded under the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, in regard to the remainder of the applicant's complaints an examination of the case as it has been submitted including an examination made ex officio, does equally not disclose any appearance of a violation of the rights and freedoms set forth in the Convention and in particular in Article 13 (Art. 13); whereas it follows that this part of the application is also manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Now therefore the Commission DECLARES THIS APPLICATION INADMISSIBLE