

COUNCIL OF EUROPE

EUROPEAN COMMISSION OF HUMAN RIGHTS

APPLICATION No. 2013/63

145 Inhabitants of Mol and the surrounding areas
against
BELGIUM

REPORT OF THE COMMISSION

(adopted on 7 December 1977)

STRASBOURG

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REPORT

THE PARTIES

1. This Report, which is drawn up by the Commission in accordance with Rule 54 of its Rules of Procedure, relates to the application brought against Belgium by 145 inhabitants of Mol and the surrounding area and registered under file No. 2013/63.

The applicants were represented before the Commission by Mr. Victor Laloux, a barrister practising in the Brussels Court of Appeal.

The Belgian Government was initially represented by its Agent, Mr. A. Gomree, a member of the legal service attached to the Ministry of Justice. On his death in 1967 the Government's representation was taken over by the Permanent Representative of Belgium to the Council of Europe; and as from 1972 by Mr. J. Niset of the Legislation Department of the Ministry of Justice.

INTRODUCTION AND SUMMARY OF THE FACTS

2. The application lodged against Belgium by 145 inhabitants of Mol and the surrounding area is one of the so-called "Belgian linguistic" cases which were brought before the European Commission of Human Rights between 1962 and 1964.

Six applications on similar questions were dealt with in a Report by the Commission prepared pursuant to Article 31 of the Convention for the Protection of Human Rights and Fundamental Freedoms and adopted on 24 June 1965. These cases were later referred to the European Court of Human Rights as "the case relating to certain aspects of the law on the use of languages in education in Belgium", which was finally disposed of by the Court's judgment of 23 July 1968.

Another similar application, lodged by the inhabitants of Les Fourons, was dealt with in a Report by the Commission adopted on 30 March 1971, again under Article 31 of the Convention, and subsequently by a Resolution of the Committee of Ministers (DH (74) 1) of 26 November 1974.

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The application by the inhabitants of Mol dealt with in this Report has taken a different course, partly on account of certain statements made by the parties' representatives during the attempt to reach a friendly settlement (Article 28 (b) of the Convention) and partly owing to the prolonged inactivity of the applicants. After adjourning examination of the application on several occasions the Commission decided to strike it off the list.

3. The present application was lodged on 5 October 1963 by 145 inhabitants of Mol, a town in the Province of Antwerp, acting both on their own behalf and on behalf of their 288 children under age. They were represented before the Commission by a barrister, Mr. Victor Laloux.

All the applicants, who stated that their mother tongue and usual language was French, worked for the Study Centre for Nuclear Energy in Mol though they did not belong to an international organisation. Up to the end of the school year 1962 - 1963 they were able to have their children educated in the language of their choice in the European school at Mol, established in connection with the European Communities.

4. Under the linguistic legislation passed by the Belgian Parliament in 1962 and 1963, in particular the Acts of 8 November 1962 and 30 July 1963, the town of Mol is in a unilingual Flemish area and the children who live there are required to be educated in Dutch-speaking classes. The only exception is for children of members of an embassy or consulate or those whose parents (whether Belgians or aliens) belong to an international organisation.

5. The applicants, who do not come within one of the above-mentioned categories, complained to the Commission that, as from the school year 1963 - 1964, they were required to send their children to Dutch-speaking classes although their mother tongue and usual language was French.

They rely on the following provisions:

- Article 2 of the First Protocol which guarantees the right to education and the parents' right to ensure the education of their children in conformity with their own religious and philosophical convictions;
- Article 8 of the Convention, which guarantees inter alia the right to respect for private and family life;
- Article 9 of the Convention, which guarantees freedom of thought, conscience and religion;
- Article 10 of the Convention, which guarantees freedom of expression;
- Article 14 of the Convention, which forbids all discrimination in the enjoyment of the guaranteed rights and freedoms.

6. Further details on the facts of the case and the arguments put forward by the parties may be found in the decision on the admissibility of the application appended to this Report.

PROCEDURE

7. The application was registered on 10 October 1963 under file No. 2013/63.

8. By an Order of 15 October 1963, made at the request of the applicants, the President of the Commission decided that the application should be given priority (Rule 38 (1) in fine of the Commission's former Rules of Procedure).

9. After a preliminary examination by a group of three members of the Commission on 29 October 1963, the application was brought to the attention of the respondent Government which was requested to submit written observations on its admissibility (Rules 34 and 45 (1) of the Commission's former Rules of Procedure). The Government's observations reached the Secretariat on 3 January 1964 and were sent to the applicants, who replied by a memorial received by the Secretariat on 6 February 1964.

10. At a hearing in Strasbourg on 5 March 1964 the Commission heard the representatives of the parties.

There appeared:

For the applicants: Mr. V.. Laloux, barrister;

For the respondent Government: Mr. A. Gomree, a member of the legal service attached to the Ministry of Justice, as Agent,
and Mr. A. Bayart, a barrister, as counsel.

11. By a decision given on the same day (see Appendix) the Commission declared the application inadmissible with respect to the complaints based on Articles 9 and 10 of the Convention and admissible in respect of the complaints based on Articles 8 and 14 and Article 2 of the First Protocol. Then, acting under the former Article 29 of the Convention, it referred the application to the Sub-Commission already established to examine four other "Belgian linguistic" applications, consisting of Mrs. Janssen-Pevtschin (appointed by the respondent Government), Mr. Welter (appointed by the applicants) and MM. Petrén, Beaufort, Castberg, Triantafyllides and Sigurjonsson.

12. The Sub-Commission met from 17 to 19 June 1964, on 17 and 18 September 1964 and 17 and 18 December 1964.

On 21 December 1964 the President of the Commission held conversations with five members of the Belgian Government, the Ministers Spaak, Fayat, Vermeylen, Janne and Van Elslande, in the course of an attempt to reach the friendly settlement provided for in Article 28 (b) of the Convention.

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The Sub-Commission met again from 18 to 20 January 1965, on 13 February 1965 and from 18 to 20 February 1965.

13. In answer to a question by the Sub-Commission, the applicants' representative wrote on 2 April 1965: "the threat to expel the children from the French section of the European school has not been carried out in the case of the children of any of the 145 applicants".

After receiving this letter the Sub-Commission decided on 28 April 1965 to separate this application from the other "Belgian linguistic" applications on which it was preparing a draft report. Meeting again on 15 July 1965 it decided to continue in its attempt to reach a friendly settlement.

On 23 November 1965 the President of the Commission had an interview with two members of the Belgian Government, the Ministers Spaak and Wigny, after which, on 17 December 1975, the Sub-Commission confirmed its intention to continue in its attempt to reach a friendly settlement.

14. On 24 October 1966 the President of the Commission had a further interview with three members of the Belgian Government, the Ministers Harmel, Wigny and Toussaint, at which they stated that the children of French-speaking parents working at the Mol Nuclear Energy Study Centre were still attending the French section of the European school, that their school-leaving certificates would be confirmed in the usual way and that there was no reason to believe that this state of affairs would be altered.

In April 1967 the Sub-Commission accordingly confirmed its decision to adjourn consideration of the application.

15. In a letter of 19 December 1967, addressed to the President of the Commission, Mr. Wigny, Belgian Minister of Justice wrote (inter alia): "Ever since the school was opened in 1960 the Belgian Government has undertaken to permit the French-speaking children whose parents are "technicians" employed by the Centre of Nuclear Studies to remain in the French section".

On receiving this letter the Sub-Commission again confirmed in December 1967 its decision to adjourn consideration of the application. This decision was in due course confirmed by the Commission on 4 February 1971 (1).

16. At its 127th Session (9-19 May 1977) the Commission instructed its Secretary to resume contact with the applicants' representative to discover whether in view of the passage of time the applicants' children were still attending the European school in Mol. In his letter of 23 September 1977 Mr. Laloux stated that he had no news of the applicants.

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- (1) Following the entry into force of Protocol No. 3 on 21 September 1970 the former Article 29 of the Convention prescribing the establishment of sub-commissions was no longer in force.

17. On 7 October 1977, on the instructions of the Rapporteur (Rule 45 of the Commission's Rules of Procedure) the Secretary to the Commission requested the parties to state their position with respect to a possible striking of the application off the Commission's list, before 31 October 1977, at the same time informing the Government that this constituted the consultation provided for in Rule 49 (2) of the Commission's Rules of Procedure. By letter of 21 October 1977 Mr. Laloux replied that he was still without news of the applicants and that he left the question of striking the application off the list to the Commission's discretion. By letter of 22 November 1977 the Government likewise stated that it left the question of striking the application off the list to the Commission's discretion.

18. On 7 December 1977 the Commission took note of a memorandum prepared by the Rapporteur (Rule 45 (3) of the Rules of Procedure), decided to strike the application off the list (Rules 43 (1) and 49 of the Rules of Procedure), adopted this Report (Rule 54 of the Rules of Procedure) and decided to send it to the Committee of Ministers and parties for information and also to publish it. The following were present:

MM. C.A. NØRGAARD, Second Vice-President, Acting President
B. DAVER
T. OPSAHL
C.H.F. POLAK
J.A. FROWEIN
G. JØRUNDSSON
G. TENEKIDES
B. KIERNAN
N. KLECKER

DECISION OF THE COMMISSION

19. The application was lodged on 5 October 1963 shortly after the beginning of the first academic year after the entry into force of the Belgian Acts of 1962 and 1963 determining the linguistic regions and prescribing the rules governing the use of languages in education.

Eighteen months later, in April 1965, the applicants' representative stated that none of the applicants' children had been expelled from the French section of the European school in Mol. From statements made at a later period by members of the Belgian Government, which have never been contradicted by the applicants, it appears that the situation has remained unchanged. Moreover, the latest news received from the applicants dates back to a letter from their lawyer of 10 May 1965.

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20. More than fourteen years have passed since the application was lodged, from which it may be supposed that none of the applicants' children who were attending the European school in Mol at the end of 1963 is still there.

21. The fact that the applicants have addressed no further submissions to the Commission since May 1965 and in particular that they have not requested the resumption of the consideration of their application since that date and furthermore the fact that their lawyer stated in October 1977 that he had lost all contact with the applicants allows it to be presumed that the latter have lost interest in their application and do not intend to pursue it further.

22. Finally the rules governing the use of languages in education in Belgium, in particular with respect to the position of French speakers residing outside the French linguistic area have already been thoroughly examined by the Commission (Applications Nos. 1474/62, 1677/62, 1691/62, 1769/63, 1994/63 and 2126/64, Report of 24 June 1965; Application No. 2209/64, Report of 30 March 1971), by the European Court of Human Rights (case relating to certain aspects of the law governing the use of languages in education in Belgium, judgment of 23 July 1968) and by the Committee of Ministers (the Fourons case, Resolution DH (74) 1 of 26 November 1974). The Commission therefore considers that no reason of a general nature relating to the observance of the Convention justifies continuing the consideration of the present application.

Now, therefore, the Commission,

Having regard to Rules 43 (1), 49 and 54 of its Rules of Procedure,

- decides to strike Application No. 2013/63 off its list;
- adopts the present Report;
- decides to send the present Report to the Committee of Ministers and to the parties for information and to publish it.

Secretary to the Commission

Acting President of the Commission

(H.C. KRUGER)

(C.A. NØRGAARD)