

COUNCIL
OF EUROPE



CONSEIL
DE L'EUROPE

Or. English

**EUROPEAN COMMISSION
OF HUMAN RIGHTS**

Application No. 9466/81

**Peter SEALE
against
UNITED KINGDOM**

Report of the Commission

(Adopted on 15 May 1986)

**STRASBOURG
1986**

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INTRODUCTION

1. This Report relates to Application No. 9466/81 introduced by Peter Seale against the United Kingdom on 9 June 1981, under Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

2. The applicant was represented before the Commission by Mr Alastair Logan, Solicitor with Messrs George E. Baker & Co., Solicitors, Guildford. The Government were represented by their Agent, Mrs Audrey Glover, succeeded respectively by Mr Martin Eaton and Mr Michael Wood, all of the Foreign and Commonwealth Office.

3. On 13 March 1984 the European Commission of Human Rights declared admissible the applicant's complaints concerning family visits and the stopping of four of his letters by the prison administration. The Commission then proceeded to carry out its task under Article 28 of the Convention which provides as follows:

"In the event of the Commission accepting a petition referred to it:

(a) it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;

(b) it shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention."

4. The Commission found that the parties had reached a friendly settlement of the case and on 15 May 1986 it adopted this Report which, in accordance with Article 30 of the Convention, is confined to a brief statement of the facts and of the solution reached.

The following members of the Commission were present when the Report was adopted:

MM. C.A. NØRGAARD, President

J.A. FROWEIN

E. BUSUTTIL

G. JÖRUNDSSON

G. TENEKIDES

S. TRECHSEL

B. KIERNAN

A.S. GÖZÜBÜYÜK

A. WEITZEL

J.C. SOYER

H.G. SCHERMERS

H. DANELIUS

H. VANDENBERGHE

Mrs G.H. THUNE

Sir Basil HALL

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PART I

STATEMENT OF THE FACTS

5. The applicant is a United Kingdom citizen, born in 1953. At the time of lodging his application he was detained in H.M. Prison Parkhurst, Newport. He is serving a ten year prison sentence for stabbing a prison Governor and an officer at H.M. Prison Liverpool, whilst serving an earlier ten year prison sentence for offences of robbery. The applicant is classified as a top security risk, a Category "A" prisoner.

6. The part of the application retained by the Commission concerns the applicant's visits from his family, who, because of his frequent prison transfers for reasons of security, may not always be aware of his whereabouts. The case subsidiarily concerns the censorship of four of the applicant's letters.

7. In accordance with Section 12 (2) of the Prison Act 1952, the Secretary of State has directed that prisoners may be temporarily transferred from one prison to another to avoid a troublesome or potentially troublesome situation. Such transfers are sometimes made at short notice, without consulting the prisoner.

8. The applicant has been transferred frequently without notice, for "cooling off" periods, in the interests of good order, and in view of his various escape attempts. For example, over the period February 1979 to October 1980 he was transferred as follows:

24 February 1979	- 11 April 1979	to Winchester
19 April 1979	- 21 May 1979	to Leeds
22 August 1979	- 27 September 1979	to Durham
11 August 1980	- 8 September 1980	to Wandsworth
10 September 1980	- 7 October 1980	to Wandsworth.

9. Prisoners arrange their own visits by sending Visiting Orders, which are valid for 28 days, during which time the so authorised visitor may visit on any day during normal prison visiting hours. The background of the visitors of Category "A" prisoners like the applicant is investigated by the police before any Visiting Order may be sent to them. The applicant's mother and sister are authorised visitors. They have, however, made certain abortive visits to the applicant because, for security reasons, they were not informed of his prison transfers.

10. One such wasted visit was made on 11 August 1980 when the applicant's mother and sister travelled from Manchester to London to visit the applicant at H.M. Prison Wormwood Scrubs. He was, however, in transit for H.M. Prison Wandsworth, but the relatives were not speedily informed of his new place of detention. Another such

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incident occurred on 2 December 1981. The applicant, whilst detained in H.M. Prison Leicester, had sent his mother a Visiting Order on 24 November 1981, but he was transferred without notice to H.M. Prison Wandsworth on Friday, 27 November 1981. The prison authorities did not notify the applicant's mother of his new whereabouts and failed to post speedily the applicant's letter to his mother, which he had written at the first permitted opportunity on 30 November 1981. The applicant's mother claims to have telephoned H.M. Prison Leicester on 1 December 1981 to enquire whether her son was still there and whether she could visit him the next day. This was allegedly confirmed and the visit agreed. When the applicant's mother arrived at H.M. Prison Leicester on 2 December 1981 she was informed that he had been transferred five days earlier.

11. As regards the censorship of the applicant's correspondence, three letters to his Member of Parliament were stopped by the prison authorities (letters dated 26 January, 6 and 9 February 1981) as well as a letter dated 4 February 1981 to Mr Tom Sargent, all of them for making complaints about prison treatment.

12. Before the Commission the applicant complained principally of the failure to give adequate information to his family as to his whereabouts and, subsidiarily, of an unjustified interference with his correspondence. He invoked his rights to respect for family life and correspondence, ensured by Article 8 of the Convention.

13. The application was introduced on 9 June 1981 and registered on 11 August 1981. The Commission decided on 13 May 1982 to give notice of the application to the respondent Government, pursuant to Rule 42 (2)(b) of the Rules of Procedure, and to invite the parties to submit their observations on admissibility and merits.

14. The Government submitted their observations on 16 July 1982, to which the applicant replied on 16 February 1983, delays having been caused by further prison transfers of the applicant and prison administrative error. Legal aid had been granted to the applicant on 25 November 1982 by the President of the Commission.

15. On 13 March 1984 the Commission declared admissible the applicant's complaints concerning family visits and the stopping of four of his letters. It declared inadmissible other complaints which the applicant had originally made concerning delays in posting his outgoing correspondence and the withholding of recorded delivery slips, as well as complaints concerning certain conditions of his detention.

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PART II

SOLUTION REACHED

16. Following its decision on the admissibility of the application, the Commission placed itself at the disposal of the parties with a view to securing a friendly settlement, in accordance with Article 28 (b) of the Convention, and invited the parties to submit any proposals they wished to make.

17. After an exchange of correspondence between the parties, which exchange was channelled through the Commission, a meeting of the parties was arranged with the Secretary to the Commission on 25 April 1986 in London, with a view to discussing the possibilities of securing a friendly settlement. During this meeting the parties reached agreement to settle the case on the basis of an amendment to prison administrative practice and the payment of compensation, expenses and reasonable legal costs, the latter in respect of the proceedings before the Commission.

18. In a letter of 30 April 1986 the Agent of the United Kingdom Government, Mr Wood, confirmed the agreement in the following terms:

"The Government recall that they have already made an amendment to Circular Instruction 45/84 which obliges the staff of a prison to which a prisoner is transferred at short notice, if asked, to telephone the prisoner's prospective visitors to inform them of his new whereabouts. A prisoner who knows he is to be transferred is already entitled to inform prospective visitors by 1st class letter, sent at public expense. As the Commission have identified, there may nevertheless be a difficulty in the case of prisoners transferred at short notice, whose visitors cannot, under the present arrangements, be contacted until after the transfer has taken place.

To meet this difficulty, the Government propose to issue a Circular Instruction directed at the staff of the prison from which the prisoner is transferred. In the case of a prisoner transferred with less than 24 hours' warning, staff will, if asked, be obliged to telephone any visitor in respect of whom there is a valid Visiting Order outstanding. Attempts will be made to obtain the telephone number, if the prisoner does not know it himself.

However, in the case of Category A prisoners, and those in relation of whom prior notice of the transfer could pose a threat to security or control, the following procedure will apply. The staff of the prison from which the prisoner is transferred will hand the prisoner a piece of paper informing him that the staff of the prison to which he is transferred will, if asked, be obliged to telephone any visitor in respect of whom there is a valid Visiting Order outstanding. The prisoner should complete details of any such visitor on the piece of paper, and hand it in

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upon arrival. The staff will then be obliged to telephone any such visitor unless, after checking with the prison from which the prisoner is transferred, they discover that no such Visiting Order is in effect.

This system is intended to minimize the risk of visitors arriving at a prison only to find that the prisoner to be visited has been transferred elsewhere at short notice. Chiefly because of security considerations, there may still be a few cases in which it is not possible for a message to reach a prospective visitor before a transfer has taken place. Where an abortive visit is made in such circumstances, the Government undertake to refund the visitor's travelling expenses and, where appropriate, to pay overnight subsistence.

The Government are further prepared to make a payment of £80 to the applicant's mother in respect of her travelling expenses on the two wasted visits to the applicant and a further payment of £800 for inconvenience caused, as well as a statement of regret.

The Government are further prepared to pay £40 to the applicant's sister in respect of her travelling expenses on the one wasted visit to the applicant.

The Government are further prepared to pay the applicant's solicitor's reasonable costs."

19. In a letter of 8 May 1986, the applicant's representative, Mr Logan, stated as follows:

"We acknowledge to have received a copy of the letter addressed to you by the Foreign and Commonwealth Office dated 30 April 1986.

On behalf of the applicant we confirm that the applicant regards the proposals as satisfactory and his application as having been settled on those terms."

20. At its session on 15 May 1986, the Commission noted that the parties had come to an agreement regarding the terms of a settlement. It found, having regard to Article 28 (b) of the Convention, that a friendly settlement of the present application had been secured on the basis of respect for human rights, as defined in the Convention.

For these reasons, the Commission adopted the present Report.

Secretary to the Commission

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)