AS TO THE ADMISSIBILITY OF

Application No. 26618/95
by Martti JARONEN
against Finland

The European Commission of Human Rights (First Chamber) sitting in private on 9 April 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. MARXER
B. CONFORTI
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

Mrs. M.F. BUQUICCHIO, Secretary to the 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 5 July 1994 by Martti JARONEN against Finland and registered on 3 March 1995 under file No. 26618/95;

Having regard to the information provided by the Government on 11 August 1995 and the applicant's comments in reply of 26 September 1995;

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 Finnish citizen, born in 1946. He is a building worker residing at Rautalampi.

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant served a prison sentence from January 1993 to September 1994. Most of it was served in the Central Prison of Sukeva. According to the applicant, he was not allowed to leave his cell for exercise and certain other purposes. On about twenty occasions he was allegedly refused meals. In the County Prison of Northern Carelia he was allegedly assaulted by fellow prisoners.

According to the Government, the applicant was placed on the safety ward of the Central Prison of Sukeva at his own request due to his difficulties in getting along with fellow prisoners. This placement

implied that he was unable to participate in the normal prison activities in the company of fellow prisoners. However, according to the daily programme of the security ward he was entitled to one hour's exercise outdoors and a shower.

The applicant was placed on the security ward from February to March 1993 and from August 1993 to September 1994, i.e. a period of some fifteen months.

In July 1993 the applicant complained to the Police Department of Joensuu about thefts of certain of his possessions, suspecting certain prison guards. This investigation was apparently closed. He also complained to the Prison Administration of the Ministry of Justice (oikeusministeriön vankeinhoito-osasto, justitieministeriets fångvårdsavdelning) about, among other things, the refusal of meals and the suspected stopping of a letter addressed to the Commission.

In a decision of 15 November 1993 the Director General of the National Prison Administration stated, as regards the alleged refusal of meals, that it was the duty of the guard serving the meals into the cells to ensure that every prisoner received his meal.

On 29 November 1993 the Director General of the National Prison Administration refused the applicant's request to be transferred from the Sukeva Central Prison.

On 16 December 1993 the Director General of the National Prison Administration stated that, as a rule, letters to, for instance, the Commission were neither screened nor stopped. On the other hand, since such letters were not registered anywhere by the prison officials, their fate could not subsequently be verified.

While placed on the security ward of the Central Prison of Sukeva in August 1994 the applicant was ordered to be transferred to a prisoners' labour colony at Käyrä. The decision was withdrawn following his own objections to the transfer.

In a decision of 16 February 1995 the Director General of the National Prison Administration found no evidence in support of the applicant's allegation that he had not been served a sufficient amount of food.

COMPLAINTS

1. The applicant complains under Article 3 of the Convention that he was subjected to inhuman treatment during his imprisonment. He was allegedly assaulted by fellow prisoners, not having been offered sufficient protection by the prison guards. Instead of being transferred to another prison he was isolated on a security ward. He was allegedly refused meals because he had been complaining about his treatment. Because of his complaints he was allegedly also threatened with detention in the mental hospital for prisoners.

2. The applicant also complains that a letter which he addressed to the Commission in 1993 was stopped by the prison authorities. He invokes no particular Convention provision in this respect.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 5 July 1994 and registered on 3 March 1995.

On 11 July 1995 the Rapporteur of the Commission decided, in accordance with Rule 47 para. 2 (a) of the Rules of Procedure, to request certain factual information from the respondent Government. This information was submitted on 11 August 1995. On 26 September 1995

the applicant submitted comments in reply.

THE LAW

1. The Commission recalls that under Article 26 (Art. 26) of the Convention it may only deal with a matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.

The application was introduced on 5 July 1994. Insofar as it concerns isolated incidents which took place more than six months earlier and were examined by the Prison Administration in decisions preceding 5 January 1994, an examination of the application does not disclose the existence of any special circumstances which might have interrupted or suspended the running of the six months' period.

It follows that in these respects the application has been introduced out of time and must be rejected under Article 27 para. 3 (Art. 27-3) of the Convention.

2. Insofar as the application concerns the applicant's overall treatment during his imprisonment lasting until September 1994, the Commission recalls that the assessment of the minimum level of severity of treatment contrary to Article 3 (Art. 3) of the Convention is relative and must take account of all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc. (see, e.g., Eur. Court HR, Ireland v. the United Kingdom judgment of 18 January 1978, Series A no. 25, p. 65, para. 162).

In the present case the Commission finds no indication that the implementation of the applicant's prison sentence amounted to treatment proscribed by Article 3 (Art. 3) of the Convention.

It follows that in this respect the application must be rejected as being manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

M.F. BUQUICCHIO
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber