AS TO THE ADMISSIBILITY OF

Application No. 18787/91
by T.M.
against the United Kingdom

The European Commission of Human Rights (Second Chamber) sitting in private on 2 April 1992, the following members being present:

MM. S. TRECHSEL, President of the Second Chamber
G. JÖRUNDSSON
A. WEITZEL
J.-C. SOYER
H. G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
MM. F. MARTINEZ
L. LOUCAIDES
Sir Basil HALL
Mr. A.V. ALMEIDA RIBEIRO

Mr. K. ROGGE, Secretary to the Second 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 2 September 1991 by T.M. against the United Kingdom and registered on 11 September 1991 under file No. 18787/91;

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 British citizen. He was born in 1956. He is currently detained in H.M.Prison Maze, Belfast.

He is represented in the proceedings before the Commission by Mr. K. Winters of Messrs. Madden and Finucane, solicitors practising in Belfast.

The facts, as submitted by the applicant and as may be determined from the statements lodged with the application, may be summarised as follows.

On 19 March 1991 the applicant was convicted at Belfast Crown Court of a number of offences and was sentenced to 16 years imprisonment.

The applicant had been arrested by the police in connection with these offences on 12 December 1989. He had been detained in police custody until 19 December 1989. Thereafter, the applicant was remanded in custody under the authority of the court.

The applicant was arrested under Section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989.

COMPLAINTS

The applicant complains that his rights under Article 5 para. 3 of the Convention have been violated in that he was not brought promptly before a judge or other officer authorised by law to exercise judicial power.

The applicant complains that his rights under Article 5 para. 1 of the Convention have been violated in that under the law applicable in Northern Ireland the length of the sentence imposed upon him is not reduced by the period during which he was in police detention in connection with the offences for which the sentence was pronounced. The applicant contends that to the extent this period is disregarded his detention is unjustified.

The applicant also complains that, contrary to Article 14 of the Convention, the enjoyment of his rights under Article 5 have not been secured without discrimination. In this respect the applicant refers to the fact that had he been convicted in England or Wales the period during which he was in police detention would have been deducted from his sentence.

The applicant also complains that, although his detention was unlawful, he has no enforceable right to compensation in respect of the said alleged violations of Article 5. He invokes Article 5 para. 5.

The applicant submits that, contrary to Article 13 of the Convention, there is no effective remedy before a national authority in respect of the alleged violations of the Convention.

THE LAW

1. The applicant complains that he was arrested under Section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 and held for seven days without being brought before a judicial authority. He invokes Article 5 para. 3 (Art. 5-3) of the Convention in this respect.

However, the Commission is not required to decide whether or not the facts alleged by the applicant disclose any appearance of a violation of this provision, as Article 26 (Art. 26) of the Convention provides that the Commission "may only deal with the matter ... within a period of six months from the date on which the final decision was taken". In the absence of any relevant decision, the period runs from the date of the act complained of.

In the present case the detention complained of occurred from 12 to 19 December 1989, whereas the application was submitted to the Commission on 2 September 1991, that is, more than six months after the end of this period of detention. Furthermore, an examination of the case 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 this part of the application has been introduced out of time and must be rejected under Article 27 para. 3 (Art. 27-3) of the Convention.

2. The applicant also complains that the period of seven days in police custody was not deducted from his sentence after conviction. He invokes Article 5 para. 1 (Art. 5-1) in this respect.

The Commission considers however that no right to deduction of pre-trial detention is guaranteed under Article 5 para. 1 (Art. 5-1) of the Convention. It finds no indication on the facts of this case that the applicant was thereby deprived of his liberty in violation of this provision.

It follows that this complaint is manifestly ill-founded within

the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

3. The applicant complains that he has been discriminated against since had he been convicted in England or Wales the week spent in police custody would have been deducted from his sentence. The Commission has examined this complaint as relating to Article 5 in conjunction with Article 14 (Art. 5+14) of the Convention.

Article 14 (Art. 14) of the Convention provides :

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The applicant complains in effect of the different rules applying between Northern Ireland, on the one hand, and England and Wales,on the other, with respect to the deduction of pre-trial detention from sentences of imprisonment.

The Commission notes in this regard that in many of the Contracting States, different legal jurisdictions exist in different geographical areas within the State (e.g. cantons, Länder, etc.). The Commission considers that Article 14 (Art. 14) does not require a State to operate a uniform system throughout its national territory. Thus the mere existence of variations between such jurisdictions within a State does not constitute discrimination within the meaning of Article 14 (Art. 14) of the Convention. Moreover, there is no indication that the implementation of the different rules as to the deduction of pre-trial detention is based on any discriminatory ground.

It follows that this complaint is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

4. The applicant has also invoked Article 5 para. 5 (Art. 5-5) of the Convention which provides that:

> "Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

However, in light of the Commission's findings above, there is no indication that the applicant has been a victim of arrest or detention contrary to the provisions of Article 5 (Art. 5) of the Convention. In these circumstances, the claim made under Article 5 para. 5 (Art. 5-5) of the Convention is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

5. The applicant lastly invokes Article 13 (Art. 13) of the Convention. Article 13 (Art. 13) however does not require a remedy under domestic law in respect of any alleged violation of the Convention. It only applies if the individual can be said to have an "arguable claim" of a violation of the Convention (Eur. Court H.R., Boyle and Rice judgment of 27 April 1988, Series A No. 131, p.23, para. 52).

The Commission has found the applicant's complaints above to be inadmissible either for non-exhaustion of domestic remedies or as manifestly ill-founded. In these circumstances, the Commission finds that the applicant cannot be said to have an "arguable claim" of a violation of his Convention rights.

It follows that this part of the application must be dismissed as 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.

Secretary to the Second Chamber | President of the Second Chamber

(K. ROGGE) | (S. TRECHSEL)