EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 31576/19
Peter ROTH
against Germany

The European Court of Human Rights (Third Section), sitting on 5 July 2022 as a Committee composed of:

Georgios A. Serghides, *President,*
Anja Seibert-Fohr,
Peeter Roosma, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 31576/19) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 4 June 2019 by a German national, Mr Peter Roth, who was born in 1960 and is detained in Straubing ("the applicant");

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints mainly under Articles 8 and 6 of the Convention about the domestic authorities' refusal to authorise him to use a computer in prison in order to draft his submissions to courts and for rehabilitation purposes.

2. The applicant has been serving a life sentence for murder since 1997. In 2017 he requested that he be allowed either to purchase a computer of his own or to use the computer room in the prison (normally reserved for vocational training) in order to write, save and print his extensive submissions to authorities and courts concerning various measures by the prison authorities. To date, the applicant has produced such correspondence on a manual typewriter, keeping carbon copies for his files. He stressed that he was not requesting access to the internet and agreed to any necessary security

measures on the computer concerned. He had completed a computer course in prison in 2003.

3. In 2018 the courts responsible for the execution of sentences confirmed the prison authorities' refusal to grant the request, based on the Bavarian Execution of Sentences Act. They found that the use of computers in prison would generally entail considerable security risks as information concerning escape routes, prohibited contacts outside prison, sales of drugs to other prisoners or other prohibited contacts between prisoners could be saved on the computers and then exchanged between prisoners or with persons outside the prison. These risks could not be removed through checks by the prison authorities as such checks would be very time-consuming and thus not possible in practice. It had to be taken into account that checks would have to be carried out also in respect of all other prisoners in a situation comparable to that of the applicant who would equally have to be allowed to use a computer.

4. On 27 March 2019 the Federal Constitutional Court declined to consider the applicant's constitutional complaint. It found that the courts' assessment that computers posed a security risk in prison was not arbitrary. In view of these legitimate security concerns, prisoners could not demand access to a computer for rehabilitation purposes. The applicant had a weighty interest in defending his rights in court, but his access to court had not been unreasonably impeded by the refusal to allow him to use a computer and he had failed to explain why he did not wish to use an electric typewriter as proposed by the prison authorities.

5. The applicant complained, in particular, that the prohibition on using a computer in prison in order to handle his voluminous correspondence with courts to defend his prisoner's rights and to allow for his reintegration into modern society had breached his right to access to court and equality of arms under Article 6 of the Convention and his rights under Article 8 of the Convention.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

6. The applicant's complaint about the prohibition on using a computer in prison in order to conduct his numerous court proceedings falls to be examined, in the first place, under Article 8 § 1, which protects the right to respect for his correspondence.

7. Whereas a problem arises if a prisoner's correspondence has been seriously impeded, Article 8 does not guarantee prisoners the choice of writing materials for their communication with courts (see *Cotleț v. Romania*, no. 38565/97, § 61, 3 June 2003). Article 8 further cannot be interpreted as guaranteeing prisoners the right to communicate with the outside world by

particular devices (notably online devices), particularly where facilities for contact via alternative means are available and adequate (see *Ciupercescu v. Romania (no. 3)*, nos. 41995/14 and 50276/15, § 105, 7 January 2020).

8. Even assuming that, in the light of this case-law, the prohibition on using a computer constituted an interference with the applicant's right to respect for his correspondence, the Court finds that such interference was in accordance with the law for the purposes of Article 8 § 2, namely with the applicable provisions of the Bavarian Execution of Sentences Act. It served to prevent disorder or crime in prison.

9. As to whether the prohibition was necessary in a democratic society, the Court observes that there was no right under domestic law for prisoners, including the applicant, to use a computer for correspondence with authorities and courts. The domestic courts set out in detail why the possibility to store data on the computer itself led to security risks, given that information on illegal activities or escape routes could be exchanged between persons within and outside prison. They explained that necessary checks of the prisoners' computers would not be feasible in practice. They further examined the alternative means available or offered to the applicant to correspond with authorities and courts, namely the use of a manual or electric typewriter. They recognised in this regard the applicant's weighty interest in access to court, but found that despite the prohibition on using a computer he had in practice been able to conduct numerous proceedings before the domestic courts. The Court therefore considers that the domestic courts gave relevant and sufficient reasons for the prohibition on using a computer and that this prohibition was proportionate to the legitimate security aims pursued in the circumstances of the applicant's case.

10. The applicant further complained under Article 8 that the refusal to allow him to use a computer prevented his reintegration into a society in which computers were indispensable. Even assuming that the prohibition on using a computer constituted an interference with the applicant's right to respect for his private life in this regard, that interference was in accordance with the law and pursued the legitimate aim of crime prevention (compare paragraph 8 above). In view of the security risks related to the use of a computer in prison set out by the domestic courts (see paragraph 9 above) and the fact that the applicant had been given the opportunity, of which he availed himself, to take a computer course in prison, the Court is satisfied that the prohibition was proportionate to the legitimate security aims pursued in the circumstances of the applicant's case also in this regard.

11. It follows that this part of the application must be rejected as manifestly ill-founded, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

12. The applicant further complained under Article 6 of the Convention that he had been denied access to court and equality of arms in the present and future court proceedings concerning the defence of his rights as a prisoner owing to the refusal to allow him to use a computer for drafting his submissions in these proceedings.

13. The general principles on access to court for the determination of one's civil rights have been set out, *inter alia*, in *Ashingdane v. the United Kingdom* (28 May 1985, § 57, Series A no. 93) and *Lawyer Partners a.s. v. Slovakia* (nos. 54252/07 and 14 others, § 52, ECHR 2009). The Court observes that, despite the fact that he had been obliged to draw up his submissions on a typewriter, which was more burdensome and time-consuming than drawing up submissions on a computer, the applicant was able to lodge his request and submissions with the courts in the proceedings here at issue. His access to court in these proceedings was therefore not limited by operation of law or in fact. As regards respect for the principle of equality of arms in these proceedings (for the applicable principles see *Kress v. France* [GC], no. 39594/98, § 72, ECHR 2001-VI, and *Regner v. the Czech Republic* [GC], no. 35289/11, § 146, 19 September 2017), the applicant failed to substantiate that he was not afforded a reasonable opportunity to present his case under conditions that did not place him at a substantial disadvantage *vis-à-vis* the other party. It follows that this part of the application must equally be rejected as manifestly ill-founded, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

14. In so far as the applicant complained of a breach of Article 6 in future court proceedings, he failed to exhaust domestic remedies submitting that, as a result of the cumbersome method of drafting submissions, he had been unable to bring and present a particular case to the courts. This part of the application must be rejected for non-exhaustion of domestic remedies, in accordance with Article 35 §§ 1 and 4 of the Convention.

III. OTHER COMPLAINTS

15. The applicant also raised other complaints under various Convention provisions. The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

16. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 July 2022.

Olga Chernishova Deputy Registrar	Georgios A. Serghides President