AS TO THE ADMISSIBILITY OF

Application No. 15341/89
by Sandra WATTS
against the United Kingdom

The European Commission of Human Rights sitting in private on 6 September 1990, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
F. ERMACORA
G. SPERDUTI
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 29 November 1988 by Sandra WATTS against the United Kingdom and registered on 2 August 1989 under file No. 15341/89;

Having regard to the report provided for in Rule 40 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

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

The applicant is a British citizen born in 1952 and resident in Runcom. She is represented by George Albert Watts, her father.

The applicant's daughter S. (born on 13 November 1975) and son D. (born on 25 February 1985) were taken into care in March and April 1987 by Knowsley Borough Council (the local authority) who were investigating allegations of sexual abuse in respect of the children and the children, M. and T., of the applicant's sister.

On 15 March 1988, both children were made wards of court.

Following a hearing before the High Court on 6 March 1989, at which the applicant was represented by counsel and solicitor, the High

Court gave the local authority leave to place the children for long-term foster-parents with a view to adoption. Access to D. was terminated and further access to S. is to be at the discretion of the local authority. In his judgment, the judge stated that having regard to the interviews with the children of the applicant and those of the applicant's sister, the revelations of M. to his foster mother and the evidence of the social workers, he was convinced that S. and D. had been involved in sexual abuse and that the applicant must have known of and in all probability took part in that sexual abuse.

COMPLAINTS

The applicant complains of being deprived of justice and of the custody of her children. She does not invoke any particular provision of the Convention.

THE LAW

1. The applicant has complained of being deprived of the custody of her children. The Commission has examined her complaint under Article 8 (Art. 8) of the Convention which provides:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Commission finds that, in accordance with its established case-law, the decision to take S. and D. into care and terminate the applicant's custody constituted an interference with the applicant's right to respect for her family life protected by Article 8 para. 1 of the Convention (see e.g. Eur. Court H.R., W. v. the United Kingdom judgment of 8 July 1987, Series A no. 121, p. 27, para. 59). The Commission must therefore examine whether this interference is justified under Article 8 para. 2 (Art. 8-2) of the Convention, namely whether it is "in accordance with the law", pursues one or more of the legitimate aims enumerated in Article 8 para. 2 (Art. 8-2) and whether it is "necessary in a democratic society" for one or more of those aims.

The Commission recalls that S. and D. were taken into care following suspicion of sexual abuse. The High Court ordered the children to remain in the care of the local authority since it had found the children had been victims of sexual abuse. The Commission finds that these decisions were taken in accordance with the wardship jurisdiction and made for the aim of protecting S.'s and D.'s health and rights. Consequently, the decisions were "in accordance with the law" and pursued a legitimate aim under Article 8 para. 2 (Art. 8-2), i.e. "the protection of health or morals" and "the protection of the rights and freedoms of others".

The question remains whether the decisions were "necessary" within the meaning of Article 8 para. 2 (Art. 8-2) of the Convention. The case-law of the Commission and the Court establishes that the notion of necessity implies that the interference corresponds to a pressing social need and that it is proportionate to the aim pursued. Further, in determining whether an interference is necessary the Commission and the Court will take into account that a margin of appreciation is left to the Contracting States, who are in principle in a better position to make an initial assessment of the necessity of a given interference.

When determining whether or not the placing of S. and D. in care and the refusal of custody to the applicant were necessary in the interest of S. and D., the Commission observes that it is not its task to take the place of the competent national courts and make a fresh examination of all the facts and evidence in the case. The Commission's task is to examine whether the reasons adduced to justify the interference at issue are "relevant and sufficient" (Eur. Court H.R., Olsson judgment of 24 March 1988, Series A no. 130, p. 32, para. 68).

The Commission recalls that the decisions to place S. and D. in care and terminate the applicant's custody were taken in light of the suspicion of sexual abuse, which was confirmed after a hearing by the High Court which found that the applicant must have known of and in all probability participated in the sexual abuse.

The Commission also recalls that the applicant was present during the proceedings and was represented by solicitor and counsel. The applicant therefore had the possibility of putting forward any views which in her opinion would be decisive for the outcome of the case. With regard to these facts, the Commission finds that the procedural requirements implicit in Article 8 (Art. 8) were satisfied since the applicant was involved in the decision-making process to a degree sufficient to provide her with the requisite protection of her interest (see e.g. Eur. Court H.R., W. v. the United Kingdom judgment, loc. cit., pp. 28-29, paras. 63-65).

The Commission therefore finds that, bearing in mind the margin of appreciation accorded to the domestic authorities, the interference in the present case was justified under the terms of Article 8 para. 2 (Art. 8-2) of the Convention as being "necessary in a democratic society" for the protection of the health and for the protection of the rights of S. and D. Consequently, this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant has also complained that she did not receive justice in the proceedings. The Commision has examined this complaint under Article 6 (Art. 6) of the Convention, which inter alia guarantees to everyone a fair hearing before an independent and inpartial tribunal in the determination of his civil rights and obligations.

The Commission recalls that the applicant received legal aid and was represented by counsel in the hearing before the High Court. The Commission finds on the facts as presented by the applicant no indication that the applicant did not receive a fair hearing within the meaning of Article 6 para. 1 (Art. 6-1) of the Convention.

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

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Commission	President of the Commission
(H.C. KRÜGER)	(C.A. NØRGAARD)