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Communiqué issued by the Secretary
to the European Commission of Human Rights
INFORMATION NOTE No. 148
on the 276th Session of the
European Commission of Human Rights
(Strasbourg, Monday 2 March - Friday 13 March 1998)

The 276th Session of the European Commission of Human Rights (Council of Europe) was held at the Human Rights Building in Strasbourg from 2 to 13 March 1998. At the close of the session the Secretary gave the following information on matters dealt with in the Commission:

The Commission dealt with 715 applications under Article 25 of the Convention and also examined one application under Article 24 of the Convention. Among the applications examined by the Commission were the following:

A. EXAMINATION OF ADMISSIBILITY

I. 77 applications declared admissible

II. 371 applications declared inadmissible

III. 11 applications struck off the list of cases

IV. 95 applications communicated to Governments

B. EXAMINATION OF ADMITTED APPLICATIONS

I. 15 references to the European Court of Human Rights

II. 123 Reports adopted:

(i) 5 Reports under Article 28 para. 2 of the Convention (friendly settlement)

(ii) 3 Report under Article 30 of the Convention (striking off)

(iii) 115 Reports under Article 31 of the Convention (merits)

A. EXAMINATION OF ADMISSIBILITY

I. Applications declared admissible

(a) 6 applications were declared admissible by the *plenary Commission*, for examination on the merits:

- **T. v. the United Kingdom** (Application No. 24724/94)

- **V. v. the United Kingdom** (Application No. 24888/94)

These two applications concern the fairness of the trial of two 11-year old boys for murder, and in particular the fact that the trial was held in public in an adult court, and also the role of the Secretary of State in fixing the minimum period of their detention (Articles 3, 5, 6, 8 and 14 of the Convention).

- Sultan SABUKTEKIN v. Turkey (Application No. 27243/95)

The application concerns the murder of the applicant's husband by unidentified assailants who she believes were agents of the State (Articles 2, 3, 6, 13 and 14 of the Convention).

- Ernst BEYELER v. Italy (Application No. 33202/96)

The application concerns the exercise by the State in 1988 of a right of pre-emption over a Van Gogh painting which the applicant had acquired through an intermediary in 1977 without disclosing his identity (Article 1 of Protocol No. 1).

- Jean-Claude GUISSSET v. France (Application No. 33933/96)

The application concerns the length of proceedings and the absence of a public hearing before the *Cour de discipline budgétaire et financière* (Article 6 para. 1 of the Convention).

- Mahammad Rahim ASPICHI DEHWARI v. the Netherlands (Application No. 37014/97)

The application concerns the threatened expulsion of an Iranian national (Articles 2, 3 and 6 of the Convention, and Article 1 of Protocol No. 6).

(b) 71 applications were declared admissible by the Chambers set up pursuant to Article 20 para. 2 of the Convention, including:

- Hamdi SARI v. Turkey and Denmark (Application No. 21889/93)

The application concerns the length of criminal proceedings brought against a Turkish national in both Denmark and Turkey in respect of an offence committed in Denmark (Article 6 para. 1 of the Convention).

- Thomas and Jessica COSTER v. the United Kingdom (Application No. 24876/94)

- John and Catherine BEARD v. the United Kingdom (Application No. 24882/94)

- Jane SMITH v. the United Kingdom (Application No. 25154/94)

- Thomas LEE v. the United Kingdom (Application No. 25289/94)

- Joseph and Mary VAREY v. the United Kingdom (Application No. 26662/95)

- Sally CHAPMAN v. the United Kingdom (Application No. 27238/95)

These six applications concern the refusal of planning permission for gypsies to live in their caravans on land which they own (Articles 6, 8 and 14 of the Convention, and Articles 1 and 2 of Protocol No. 1).

- Sukhdev Sing JOHAL and others v. the United Kingdom (Application No. 27299/95)

The application concerns the threatened expulsion of an Indian national who is the wife of the first applicant and the mother of the other applicants, aged 18 months and 3 months (Article 8 of the Convention).

- Thomas William FAULKNER v. the United Kingdom (Application No. 28944/95)

The application concerns the refusal of legal aid for a criminal appeal in Scotland (Article 6 para. 3(c) of the Convention).

- Abdelaziz DOUIYEB v. the Netherlands (Application No. 31464/96)

The application concerns the alleged absence of a proper legal basis for the applicant's detention on remand (Article 5 paras. 1 and 4 of the Convention).

- Giovanni OREFICI v. Spain (Application No. 34109/97)

The application concerns the length of detention on remand (Article 5 para. 3 of the Convention).

- Mohamed BAGHLI v. France (Application No. 34374/97)

The application concerns the expulsion of the applicant, an Algerian national who has lived in France since he was two and the members of whose family reside there (Article 8 of the Convention).

- E.E. v. France (Application No. 38212/97)

The application concerns the dismissal of a damages action brought by a haemophiliac infected with the

AIDS virus after blood transfusions, on the ground that he had accepted *ex gratia* compensation from a special fund (Article 6 para. 1 of the Convention).

The remaining 58 cases concern the length of court proceedings (53 against Italy, two against France and one each against Poland, Portugal and Sweden).

II. Applications declared inadmissible

(a) 6 applications were declared inadmissible by the *plenary Commission*, including:

- a case (No. 33830/96 v. Italy) concerning the refusal to release or to transfer to his home country an elderly prisoner suffering from a serious heart condition;
- a case (No. 36356/97 v. the United Kingdom) concerning the refusal by the Deputy Bailiff of Guernsey to certify that sufficient grounds of appeal existed after he had already refused leave to appeal;
- a case (No. 40080/98 v. Switzerland) concerning the threatened expulsion of a Yugoslav national of Kosovo origin, whose wife and child are entitled to remain in Switzerland;
- a case (No. 40136/98 v. Switzerland) concerning the expulsion of the applicant to Sudan, where he claims that he will be unable to procure the medication which he requires for the respiratory ailment from which suffers.

(b) 71 applications were declared inadmissible by the *Chambers*, including:

- a case (No. 34180/96 v. the Slovak Republic) concerning the eviction of the applicants from the house which they purchased from the State in 1989, following return of the property to the original owners;
- a case (No. 34615/97 v. Spain) concerning the refusal to recognise the applicant's right to a pension in respect of her deceased partner, with whom she lived for 65 years;
- a case (No. 34776/97 v. Sweden) concerning the right of Saamis to hunt on property belonging to the applicant;
- a case (No. 35274/97 v. Slovenia) concerning difficulties encountered by a father in enforcing his right of access to his child, and the length of proceedings before the Constitutional Court;
- a case (No. 36283/97 v. Germany) concerning the publication by the Bavarian Ministry of Education in a school magazine of information warning pupils about Scientology;
- a case (No. 36374/97 v. France) concerning the fairness of proceedings brought against the publishers of a magazine in respect of an invasion of privacy.

(c) 294 applications were declared inadmissible by the *Committees set up pursuant to Article 20 para. 3 of the Convention*.

III. Applications struck off the list of cases

11 applications were struck off the Commission's list of cases, including:

- a case (No. 30535/96 v. the United Kingdom) concerning the strip-search and alleged degrading treatment of a prisoner [compensation of £500 plus legal costs];
- a case (No. 33180/96 v. Sweden) concerning expulsion to Algeria [expulsion order quashed and permanent residence permit granted];
- a case (No. 38964/97 v. France) concerning expulsion to Lebanon [residence order issued, precluding expulsion].

IV. Applications communicated to Governments

[NB. No further information about these cases is public at this stage]

(a) The *plenary Commission* decided to bring 7 applications to the notice of the respondent Governments:

- an application (No. 31865/96 v. Turkey) concerning alleged ill-treatment in police custody;
- an application (No. 33310/96 v. Poland) concerning detention at a sobering-up centre;
- an application (No. 35221/97 v. Bulgaria) concerning the decrease in the value of a contractual claim due to the length of court proceedings and the refusal of the courts to take inflation into account;
- an application (No. 35995/97 v. Italy) concerning medical care of a prisoner confined to a wheelchair because of a slipped disc;
- an application (No. 38361/97 v. Bulgaria) concerning the death of the applicant's son after being taken into police custody;
- an application (No. 39187/98 v. Switzerland) concerning the placement of an elderly lady in an old folks' home on the ground that she was being neglected and was unable to care for herself;
- an application (No. 40229/98 v. Turkey) concerning threatened expulsion to Iran.

(b) The *Chambers* decided to bring 88 applications to the notice of the respondent Governments, including:

- an application (No. 27312/95 v. Hungary) concerning the lawfulness and length of detention on remand;
- an application (No. 32387/96 v. Italy) concerning the use in a criminal trial of recorded telephone conversations, and in particular the alleged absence of an opportunity for the accused to contest the evidence;
- an application (No. 33274/96 v. the United Kingdom) concerning the confiscation of the proceeds of criminal activity, on the basis of a law which entered into force after commission of the offences;
- an application (No. 34471/97 v. Norway) concerning the presence of a journalist and a photographer during a search of the applicant's apartment by police officers;
- a case (No. 36790/97 v. the United Kingdom) concerning the conditions of detention pending deportation;
- an application (No. 37784/97 v. Spain) concerning the refusal, following the applicant's separation from her cohabitee, to transfer the home which they had shared to her, on the ground that such a claim could only arise out of a marriage.

V. Decision to hold an oral hearing

The First Chamber decided to hold an oral hearing in the following case:-

- T.O.A. v. the United Kingdom (Application No. 27559/95)

The case concerns the proposed deportation of the applicant's mother, a Ghanian national. The applicant, who is 13 years old, has always lived in the United Kingdom and has British nationality. He invokes Article 8 of the Convention.

B. EXAMINATION OF ADMITTED APPLICATIONS

I. Reference to the European Court of Human Rights

The Commission decided to refer 15 cases to the Court:

- Hüseyin KARATAS v. Turkey (Application No. 23168/94)

- [Günay ARSLAN v. Turkey](#) (Application No. 23462/94)
- [E.P. v. Turkey](#) (Application No. 23500/94)
- [Münir CEYLAN v. Turkey](#) (Application No. 23556/94)
- [Ahmet Zeki OKÇUOĞLU v. Turkey](#) (Application No. 24246/94)
- [Haluk GERGER v. Turkey](#) (Application No. 24919/94)
- [Ümit ERDOĞDU and Selami INCE v. Turkey](#) (Applications Nos. 25067/94 and 25068/94)
- [Kamil Tekin SUREK v. Turkey](#) (Application No. 26682/95)

These eight cases concern criminal convictions in respect of various forms of statement made or published by the applicants, which were considered to constitute separatist propaganda. The applicants complain that their convictions violated their right to freedom of expression, and invoke Article 10 of the Convention. The applicants also invoke other provisions of the Convention, and in particular certain invoke Article 6 para. 1 in respect of the alleged lack of independence and impartiality of State Security Courts.

- [Józef Michal JANOWSKI v. Poland](#) (Application No. 25716/94)

The case concerns the conviction of a journalist for insulting civil servants in carrying out their duties after he intervened in an altercation between the police and fruit and vegetable street vendors. The applicant complains that his conviction violated his right to freedom of expression, and invokes Article 10 of the Convention.

- [Ahmed SELMOUNI v. France](#) (Application No. 25803/94)

The case concerns the alleged ill-treatment of the applicant while he was in police custody, and the length of subsequent proceedings which he joined as a *partie civile*. The applicant invokes Articles 3 and 6 para. 1 of the Convention.

- [Richard WAITE and Terry KENNEDY v. Germany](#) (Application No. 26083/94)

- [Karlheinz BEER and Philip REGAN v. Germany](#) (Application No. 28934/95)

These two cases concern access to court in respect of employment disputes with the European Space Agency. The applicants complain that the immunity enjoyed by the Agency deprived them of access to a court in order to have their rights determined. They invoke Article 6 para. 1 of the Convention.

- [Léon DUMONT and others v. France](#) (Application No. 28331/95)

- [Joséphine MONTION v. France](#) (Application No. 28443/95)

These two cases concern the obligation imposed on certain owners of small areas of land to belong to the local hunting association and permit hunting on their property. The applicants, who are opposed to hunting, complain that this obligation violates their right to peaceful enjoyment of their possessions and their negative right to freedom of association, as well as their right to freedom of conscience. They also maintain that the obligation is discriminatory. They invoke Article 1 of Protocol No. 1 and Articles 9 and 11 of the Convention, separately and in conjunction with Article 14 of the Convention.

- [Roger FRESSOZ and Claude ROIRE v. France](#) (Application No. 29183/95)

The case concerns the conviction of the applicants in respect of the publication in *Le Canard Enchaîné* of extracts from photocopies of tax declarations submitted to the tax authorities by the chief executive of a major company. The applicants complain that their conviction violated their right to freedom of expression, and invoke Article 10 of the Convention. They also complain that the principle of the presumption of innocence was breached, and invoke Article 6 para. 2 of the Convention.

II. Reports adopted

(i) Reports adopted under Article 28 para. 2 of the Convention (*friendly settlement*)

(a) One Report was adopted by the *plenary Commission* under Article 28 para. 2 of the Convention, concluding that a friendly settlement had been secured:

- [KHRISTIANSKO SDRUZHENIE "SVIDETELI NA IEHOVA" \(CHRISTIAN ASSOCIATION JEHOVAH'S WITNESSES\) v. Bulgaria](#) (Application No. 28626/95)

The case concerned the refusal to re-register the applicant association pursuant to a 1994 law, and the alleged suppression of its activities and those of its members. In settlement, the Government agreed to introduce legislation as soon as possible to provide for civilian service for conscientious objectors, as an alternative to military service, and to register the applicant association as a religion. The applicant undertook with regard to its stance on blood transfusions to draft a statement for inclusion in its statute providing that members should have free choice in the matter for themselves and their children, without any control or sanction on the part of the association.

(b) 4 Reports were adopted by the *Chambers* under Article 28 para. 2 of the Convention:

- [Anthony REDFERN and others v. the United Kingdom](#)

(Applications Nos. 24842/94, 25276/94, 25278/94, 25282/94, 25284/94 and 26063/94)

The case concerned the committal of the applicants to prison for non-payment of the poll tax, and the absence of legal aid for the proceedings. In settlement, the Government agreed to pay the applicants respectively £4,000, £1,250, £4,000, £2,500, £3,000 and £1,750, and also to pay a total of £15,700 in respect of the legal costs relating to the six applications.

- [H.D. v. France](#) (Application No. 26928/95)

The case concerned the length of criminal proceedings. In settlement, the Government agreed to pay the applicant 60,000 francs.

- [Maria Virgínia RODRIGUES DIAS v. Portugal](#) (Application No. 31201/96)

The case concerned the length of civil proceedings. In settlement, the Government agreed to pay the applicant 600,000 escudos, including 200,000 escudos in respect of costs.

- [Roger JACOB v. France](#) (Application No. 32162/96)

The case concerned the length of civil proceedings. In settlement, the Government agreed to pay the applicant 40,000 francs.

(ii) Reports adopted under Article 30 of the Convention (*striking off*).

3 Reports were adopted by a *Chambers* under Article 30 of the Convention, striking the applications off the list of cases:

- [E.C. v. Italy](#) (Application No. 22891/93)

The case concerned the length of enforcement proceedings. The applicant informed the Commission that she no longer wished to pursue the application.

- [Mesut and Göker GÜMÜSKAYA v. Austria](#) (Application No. 22782/93)

The case concerned the applicants' expulsion to Turkey following criminal convictions. The residence prohibition imposed on the applicants has been lifted and the validity of the visa permitting the applicants to re-enter Austria for an unlimited period has been renewed.

- [Josef STETTNER v. Austria](#) (Application No. 27096/95)

The case concerned the applicant's expulsion to Hungary following his conviction for robbery. The residence prohibition imposed on the applicant has been lifted.

(iii) Reports adopted under Article 31 of the Convention (*merits*).

[NB. These reports are confidential for the time being]

(a) 7 Reports were adopted by the *plenary Commission* under Article 31 of the Convention, expressing an opinion on the merits of the cases:

- [Izzet ÇAKIÇI v. Turkey](#) (Application No. 23657/94)

The case concerns the disappearance of the applicant's brother after he had allegedly been taken into custody.

- ÖZDEP (PARTY FOR LIBERTY AND DEMOCRACY) v. Turkey (Application No. 23885/94)
The case concerns the dissolution of a political party by the Constitutional Court.

- W.R. v. Austria (Application No. 26602/95)
The case concerns the length of disciplinary proceedings against a lawyer.

- Alain ESCOUBET v. Belgium (Application No. 26780/95)
The case concerns the temporary withdrawal of a driving licence following a road traffic accident.

- TROME S.A. v. Spain (Application No. 27781/95)
The case concerns the refusal to allow the applicant company to participate in proceedings relating to the interpretation of a judgment ordering return of certain property, which it had acquired in the meantime.

- M.K. v. France (Application No. 30148/96)
The case concerns the opening by prison authorities of a letter addressed to a detainee by the Commission.

- B.B. v. France (Application No. 30930/96)
The case concerns the threatened expulsion of a foreign national suffering from AIDS.

(b) 108 Reports were adopted by the *Chambers* under Article 31 of the Convention, including:

- Domenico MELISE v. Italy (Application No. 17360/90)
The case concerns the applicant's conviction in his absence.

- Jacques ISCACHE v. France (Application No. 23050/93)
The case concerns the absence of a procedure whereby the applicant could have the lawfulness of his detention reviewed speedily, and the absence of a legal basis for interception of telephone calls.

- CABLE and others v. the United Kingdom (Applications Nos. 24436/94, 24582/94, 24583/94, 24584/94, 24895/94, 25937/94, 25939/94, 25940/94, 25941/94, 26271/95, 26525/95, 27341/95, 27342/95, 27346/95, 27357/95, 27389/95, 27409/95, 27760/95, 27762/95, 27772/95, 28009/95, 28790/95, 30236/96, 30239/96, 30276/96, 30277/96, 30460/96, 30461/96, 30462/96, 31399/96, 31400/96, 31434/96)

These thirty two cases, in which separate reports were adopted, concern the independence and impartiality of courts martial.

- Zbigniew MUSIAL v. Poland (Application No. 24557/94)
The case concerns the length of time taken to review the applicant's psychiatric detention.

- Andreas WABL v. Austria (Application No. 24773/94)
The case concerns an injunction issued against a Member of Parliament, prohibiting him from repeating accusations of "Nazi journalism" against a newspaper.

- Joseph AQUILINA v. Malta (Application No. 25642/94)

- Thomas WIFFEN v. Malta (Application No. 25644/94)

These two cases concern the procedure for bringing before a judge persons arrested on suspicion of having committed an offence.

The remaining 70 cases concern the length of court proceedings (63 against Italy, six against France and one against Portugal).