

COUNCIL OF EUROPE

EUROPEAN COMMISSION OF HUMAN RIGHTS

PARTIAL

DECISION OF THE COMMISSION

AS TO THE ADMISSIBILITY

of Application No. 3019/67
by S G O
against Denmark

The European Commission of Human Rights sitting in private on 5th October, 1967, under the presidency of Mr. C. Th. Eustathiades, (Mr. M. Sørensen had relinquished the presidency in accordance with Rule 9, para.(1), of the Commission's Rules of Procedure), and the following members being present:

MM. M. SØRENSEN
A. SUSTERHENN
S. PETREN
F. ERMACORA
F. CASTBERG
G. SPERDUTI
J. E. S. FAWCETT
M. TRIANTAFYLIDIS
F. WELTER
T. BALTA
W. F. DE GAAY FORTMAN
P. P. O'DONOGHUE
P. O. DELAHAYE
T. B. LINDAL
E. BUSUTTI

Mr. A. B. McNULTY, Secretary to the Commission

Having regard to the Application lodged on 27th October, 1966 by S G O against Denmark and registered on 16th January, 1967 under file No. 3019/67;

Having regard to the report provided for in Rule 45, paragraph 1, of the Rules of Procedure of the Commission;

Having deliberated,

THE FACTS

Whereas the facts as presented by the Applicant may be summarised as follows:

The Applicant is a Danish citizen, born in 1908 and living in Copenhagen.

He has lodged two previous Applications (Nos. 665/59 and 874/60) which were declared inadmissible by the Commission on 2nd April, 1960 and 11th April, 1961 respectively. It appears from these Applications that, following a conviction in 1951, the Applicant had been interned at a mental hospital; that, by a court order of 2nd July, 1959, he had been conditionally discharged from the hospital; and that his release had been made final and unconditional by a new order of 4th November, 1960.

1. It appears from the present Application that on 5th July, 1961 the District Court (birkeret) of Frederiksberg convicted the Applicant on a charge of defamation of a certain doctor and ordered his renewed internment in a mental hospital. This judgment was subsequently upheld, on appeal, by decision of the High Court for Eastern Denmark (Østre Landsret) dated 10th October, 1961.

By decision of 21st October, 1963, the District Court of Frederiksberg authorised the Applicant's release on certain conditions. In particular, it was indicated that he should remain under supervision; that he should follow certain instructions regarding his work and place of residence; and that, in certain circumstances, he should be again interned in a mental hospital.

It seems that in fact the Applicant was again interned in a hospital from 8th April, 1965 to 3rd May, 1965.

On 3rd February, 1966, the District Court revoked the special rules laid down in regard to the Applicant's release from hospital.

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Nevertheless, it appears that, when writing to the Commission in October, November and December, 1966, the Applicant was again in a mental hospital, but he has not explained the circumstances in which he had been interned during that period.

The Applicant submits that his conviction on 5th July, 1961 was unjustified and that, therefore, he had been wrongly interned in a hospital during the following years. Moreover, he contests that he suffered from mental illness.

2. It appears that the Applicant wished to institute legal proceedings against the City of Copenhagen claiming compensation in respect of his internment, as the City was responsible for the particular hospital in which he had been interned.

By decision of 21st February, 1966, the High Court for Eastern Denmark (Østre Landsret) refused to accept the Applicant's claim. The Applicant appealed to the Supreme Court (Højesteret) which, on 24th June, 1966, refused to accept his appeal. In its decision, the Supreme Court referred to an expert opinion produced by the Legal Medical Council (Retslaegerådet) in regard to the Applicant's mental state and to the contents of various letters written by him. On the basis of this material, the Supreme Court concluded that the Applicant suffered from delusions in regard to the background of his internment in hospital; that, by reason of his mental state, he should not be allowed to institute proceedings in respect of the legal basis of his internment; and that consequently, his claim should not be admitted for an examination as to its substance.

The Applicant tried to obtain a reconsideration of the decision of the Supreme Court, but the Committee of Appeals of the Supreme Court (Højesterets anke- og kaeremålsudvalg) informed him, on 18th August, 1966, that the matter had been finally dealt with by the Supreme Court. The Special Court of Revision (saerlige Klageret) to which he had also addressed himself replied, on 21st October, 1966, that it was not competent to deal with the matter.

The Applicant then apparently asked the Frederiksberg District Court (Frederiksberg birks skifteret) to appoint a guardian ad litem who should take care of his interests in the proceedings which he wished to introduce against the City of Copenhagen. Subsequently, a lawyer informed the Court that he was willing to be appointed guardian ad litem.

However, by letter of 30th December, 1966, the Court informed the Applicant that, after consulting the Ministry of Justice, it had decided not to appoint a guardian.

The Applicant apparently complains that he had not been given the possibility of having his civil claim examined by a court, since the courts have refused both to let him present a claim himself and to appoint a guardian to represent him in these proceedings.

3. The Applicant's further complaints are directed against a doctor of the Institute for General Pathology of the University of Copenhagen. He calls this doctor a criminal and seems to consider him responsible for various actions taken against the Applicant. His particular allegations are not quite clear, but he repeats that, although by the order of the District Court of 3rd February, 1966 he should no longer be subject to any measures of supervision or control, there have been various interferences with his right to respect for his private life and his home. He states that the "secrecies of his private life" have been disclosed; that the doctor concerned has used "psychological methods" against him; and that there has been some control of his correspondence with the Commission. Already during his internment, "psychological methods" were used on him, and this amounts in his opinion to a degrading penalty and an inhuman treatment.

It appears that the Applicant has repeatedly submitted complaints to various Ministries and other authorities in Denmark, but without success.

In his application form, he invokes Articles 5, 8, 9, 10, 15 and 25 of the Convention. In subsequent correspondence, he also refers to other provisions of the Convention, in particular Articles 3 and 6.

THE LAW

Whereas the Applicant complains of having been denied access to courts following the refusal by the Danish courts not only to examine the claim which he wished to bring against the City of Copenhagen but also to appoint a guardian ad litem to represent him in these proceedings; whereas this complaint raises an issue under Article 6, paragraph (1), of the Convention; whereas the Commission finds that an examination of the file in its present state does not give the information required for deciding on the admissibility of this complaint; whereas, therefore, the Commission decides, in accordance with Rule 45, paragraph 3(b), of its Rules of Procedure, to give notice of this part of the Application to the respondent Government and to invite it to submit its observations on the question of admissibility; whereas, in the meanwhile, the Commission decides to adjourn its examination of the complaint concerned;

Whereas, in regard to the remainder of the Application, an examination of the case as it has been submitted does not disclose any appearance of a violation of the rights and freedoms set forth in the Convention and in particular in the Articles invoked by the Applicant; whereas it follows that these parts of the Application are manifestly ill-founded within the meaning of Article 27, paragraph (2), of the Convention.

Now therefore the Commission

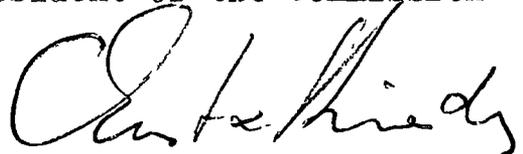
1. Adjourns the examination of the Applicant's complaint concerning denial of access to courts (Article 6, paragraph (1), of the Convention);
2. Declares the remainder of the Application to be inadmissible.

Secretary to the Commission

Vice-President of the Commission



(A. B. McNULTY)



(C. Th. Eustathiades)