

THE FACTS

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

The Applicant is a German national, born in 1922 and at present detained in prison at Duisburg.

From his statements and from the documents submitted by the Applicant it appears that a warrant for arrest was issued against him on .. August, 1964 and he was detained on remand on .. August, 1964. He states that on .. September, 1964 he lodged an application with the Regional Court (Landgericht) at Duisburg to have the reasons for his detention examined (Haftprüfungsverfahren). It appears that his lawyer later withdrew this application upon receiving an undertaking from the presiding judge of the Criminal Chamber of the Regional Court that the Applicant would be brought to trial within 3 weeks. On .. November, 1964, however, the Applicant lodged a second such application with the Regional Court of Duisburg which was rejected on .. November, 1964. An appeal (Beschwerde) from this decision to the Court of Appeal (Oberlandesgericht) of Düsseldorf was dismissed on .. December, 1964. On .. January, 1965, the Applicant lodged a third application with the Regional Court of Duisburg to have the reasons for his detention examined but this was rejected on .. February, 1965. He states that he lodged an appeal (Beschwerde) from this decision on .. February, 1965.

On .. May, 1965, the Applicant was convicted on charges of fraud by the Regional Court of Duisburg and sentenced to 4 years' penal servitude.

The Applicant complains that he was wrongly detained on remand in that he had never intended to abscond from the jurisdiction of the Court and that this suspicion had been the reason for his detention. He further complains that on account of the fact that letters from prison had to be approved by the prison authorities, his letters were delayed and that, while in the State Hospital at Bedburg-Hau for observation, three letters to his lawyers were opened, read and held back for 8 days before they were forwarded.

The Applicant also complains that his sentence was too severe.

He alleges a violation of Articles 5, 6 and 8 of the Convention.

THE LAW

Whereas, in regard to the Applicant's complaints concerning his conviction and sentence, it is to be observed that, under Article 26 (Art. 26) of the Convention, the Commission may only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law; and whereas the Applicant failed to show that he appealed from the Regional Court's decision of .. May, 1965 to the competent court; whereas, therefore, he has not exhausted the remedies available to him under German law;

Whereas, in regard to the Applicant's complaints concerning the length of his detention on remand, it appears that he failed to lodge a constitutional appeal (Verfassungsbeschwerde) with the Federal Constitutional Court (Bundesverfassungsgericht); whereas, therefore, in this respect also he has not exhausted the remedies available to him under German law;

Whereas, moreover, an examination of the case as it has been submitted,

including an examination made ex officio, does not disclose the existence of any special circumstances which might have absolved the

Applicant according to the generally recognised rules of international law, from exhausting in either case the domestic remedies at his disposal;

Whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Articles 26 and 27, paragraph (3) (Art. 26, 27-3) of that Convention has not been complied with by the Applicant;

Whereas, in any event, in regard to the above complaint concerning the length of the Applicant's detention on remand, an examination of the case as it has been submitted, including an examination made ex officio, does not, in the particular circumstances of the present case, disclose any appearance of a violation of the rights and freedoms set forth in the Convention and in particular in Article 5, paragraph (3) (Art. 5-3);

Whereas it follows that this part of the Application is also manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas the Applicant complains that the prison authorities at Duisburg and the hospital authorities at Bedburg-Hau opened, read, and delayed the transmission of several letters to his lawyers, the delay in one case amounting to eight days; whereas in this respect the Commission has had regard to Article 8 (Art. 8) of the Convention which guarantees to everyone the right to respect for his correspondence and authorises interference with the exercise of this right only under certain conditions set out in paragraph (2) of this Article (Art. 8-2); whereas the question arises whether the authorities concerned, by the acts described, interfered with his freedom of correspondence; whereas it is to be observed that an ordinary control of correspondence is considered to be an inherent feature of imprisonment; whereas, having regard to the very short delay in the transmission of the letters concerned, the Commission finds that the conduct of the prison or hospital authorities does not amount to an interference with the Applicant's freedom of correspondence within the meaning of Article 8 (Art. 8) of the Convention; whereas it follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2), of the Convention.

Now therefore the Commission declares this Application inadmissible.