



## M.H. v. United Kingdom

Application No. 22162/93

**Country:** United Kingdom

**Region:** Europe

**Year:** 1994

**Court:** European Commission on Human Rights European Commission of Human Rights

**Health Topics:** Prisons, Public safety

**Human Rights:** Freedom from discrimination, Freedom from torture and cruel, inhuman or degrading treatment, Right to due process/fair trial, Right to liberty and security of person, Right to privacy, Right to property

### Facts

The applicant was serving a sentence of life imprisonment in HM Prison Stocken. He had been convicted of the murder of an elderly man in 1972 and received a mandatory sentence of life imprisonment. The applicant's sentence was reviewed by the Parole Board in or about 1984. A release date was apparently set and he was transferred to a pre-release hostel under supervision. Following a minor motoring offense, for which he was conditionally discharged by the court, he was recalled to prison.

The applicant's case was reviewed by the Parole Board in January 1986, which deferred the case until 1988 as a result of police investigations involving the applicant. In 1987 the applicant was charged with three offenses of incest and sentenced to four years imprisonment. In 1988 the Parole Board set the next review for 1990. At that review his case was set for further review in 1994.

The applicant made a complaint under Article 3 (Prohibition of torture) of the European Convention on Human Rights (the "Convention") in relation to the mental distress caused by the length of his detention and the delays between his Parole Board reviews; Article 5 (Right to liberty and security) of the Convention regarding the procedure for determining the continued lawfulness of his detention and Article 6 (Right to a fair trial) of the Convention in relation to the alleged absence of a fair trial, the length of the proceedings, the presumption of innocence and the right to a proper defense. He also made claims under Articles 7 (No punishment without law), 8 (Right to respect for private and family life) and 14 (Prohibition of discrimination) of the Convention and Article 1 of Protocol No. 1 to the Convention relating to serving an unduly heavy penalty, interruption of his family life, discrimination, and interruption of the peaceful enjoyment of his possessions. Finally, the applicant relevant articles of the Convention relating to the alleged lack of effective remedy before a national authority.

### Decision and Reasoning

Regarding the applicant's claim that Article 3 (Prohibition of torture) had been breached, the Commission noted that, in order to fall within the scope of Article 3 the treatment complained of must attain a minimum level of severity. Here, the Commission did not find that the applicant's treatment reached such minimum threshold and therefore determined that this claim was ill-founded.

Regarding the applicant's claim that Article 5 (Right to liberty and security) had been breached, the Commission referred to prior precedent which had set out that for a mandatory life sentence (as opposed to a discretionary life sentence) the Article 5 guarantees were satisfied by the original trial and appeal proceedings such that a prisoner did not enjoy an additional right to challenge the lawfulness of a continuing detention or re-detention following the revocation of the life sentence. The Commission further determined that this finding was also dispositive with respect to the applicant's Article 6 claim (Right to a fair trial) regarding the Parole Board reviews and that the application had not otherwise raised any matter that demonstrated a violation of Article 6.

With respect to the applicant's claims under Article 7, 8 and 14 and Article 1 of Protocol No. 1 of the Convention, the Commission found no element of retro-activity in the sentences imposed on the applicant for his crimes, nor interference with his right to respect for private and family life which was not justified for the prevention of crime, nor evidence of discrimination or unjustified interference with his property rights. The Commission further dismissed the remainder of the applicant's claims on the basis that it had no competence

to deal with such aspects of the case as the United Kingdom had not ratified the Protocols in question and that the applicant did not have a colorable claim to breach of rights which would warrant a remedy.

### **Decision Excerpts**

“The Commission has examined all of the submissions of the applicant but does not consider that, in the circumstances of this case, the treatment of which the applicant complains reaches the threshold of severe ill-treatment prohibited by Article 3 (Art. 3) of the Convention. The Commission therefore finds the applicant's complaint under Article 3 (Art. 3) of the Convention manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.” Paragraph 1

“Accordingly, the Commission concludes that the guarantees provided by Article 5 para. 4 (Art. 5- 4) of the Convention were satisfied by the original trial and appeal proceedings (if any) of the applicant. It finds that no new issues of lawfulness arose in relation to the applicant's detention which entitled the applicant to a review under Article 5 para. 4 (Art. 5-4) of the Convention.” Paragraph 2.

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