

NATIONAL ARCHIVES**IRELAND**

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IRELAND against THE UNITED KINGDOM

On 16 December 1971 the Government of Ireland filed with the European Commission of Human Rights an application in accordance with Art. 24 of the European Convention of Human Rights.

The Irish Government first refers to the Civil Authorities (Special Powers) Act, Northern Ireland 1922, and the connected Statutory Rules, Regulations and Orders and submits that this legislation is in itself a failure by the United Kingdom Government to comply with the obligation in Art. 1 of the Convention to secure to everybody within its jurisdiction the rights and freedoms defined in Section I of the Convention. It is also submitted that the methods employed or permitted by the United Kingdom Government in the implementation of the legislation constitutes an administrative practice in breach of Art. 1.

The application then refers to certain deaths in Northern Ireland in August and October 1971, and it is submitted that this constituted a breach of Art. 2 which guarantees the right to life.

The application further refers to the taking into custody of persons on or after 9 August 1971 under the Special Powers Act and alleges that they were subjected to treatment which constitutes torture and inhuman and degrading treatment and punishment contrary to Art. 3 of the Convention. In support of this allegation, and particularly as regards about 90 cases, the Irish Government has submitted statements, medical evidence and the text of the Compton Report.

The Irish Government also claims that internment without trial, as carried out in Northern Ireland subsequent to 9 August 1971, constitutes a violation of Art. 5 (which guarantees the right to liberty and security of person) and Art. 6 (which guarantees, inter alia, the right to a fair hearing by an independent and impartial tribunal) of the Convention.

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Finally, the application submits that the exercise by the United Kingdom Government, and by the security forces under its control, of its powers to detain and intern persons is carried out with discrimination on the grounds of political opinion and is thus a breach of Art. 14 of the Convention (which prohibits discrimination on various grounds) in connection with Arts. 5 and 6. Similar allegations are made in respect of the exercise of the powers to search homes and certain other matters.

The Irish Government also refers to three communications submitted by the United Kingdom Government under Art. 15 of the Convention in 1957, 1969 and August 1971. Art. 15 of the Convention allows a State, in time of war or other public emergency and under certain specific conditions, to take measures derogating from its obligations under the Convention. The Irish Government submits that the measures referred to in the said communications do not and could not constitute a derogation from Art. 2 of the Convention. As regards the alleged violations of Arts. 5 and 6, the Irish Government maintains that the scope and form of the measures taken by the United Kingdom are more extensive than permitted under Art. 15.

Un connection with each complaint the Irish Government submits that, as regards the rule requiring the exhaustion of domestic remedies (Art. 26 of the Convention), either there is no adequate remedy available or the rule is not applicable to the particular complaint.

Notice of the application has at once been given to the United Kingdom Government which has been invited to submit to the Commission written observations on its admissibility.

Under the provisions of the Convention the Commission will first have to decide on the admissibility of the application. If the application is declared admissible, the Commission will then, in accordance with Art. 28 of the Convention, establish the full facts of the case and at the same time will be available to the Parties with a view to securing a friendly settlement of the case on the basis of respect for human rights.

If no friendly settlement is reached, the Commission will make reports on the cases to the Committee of Ministers of the Council of Europe. It will then be for the Court of Human Rights, or if the cases are not brought before the Court, for the Committee of Ministers, to decide whether or not there have been violations of the Convention.