

Huber v. Austria

On 16 June 1970, Mr. Herbert Huber, Austrian national, introduced an application before the European Commission of Human Rights complaining of violation of several articles of the Convention on Human Rights alleged to have taken place during his detention.

In its decision of 14 July 1971, the European Commission of Human Rights declared admissible the complaint alleging violation of Article 6 (1) of the Convention by reason of the length of the criminal proceedings against the applicant. Paragraph 1 of Article 6 of the Convention provides that:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Having examined the merits of the case and considered all the available information, the Commission concluded by eight votes to two that the total period required to determine the criminal charges against the applicant was not reasonable within the meaning of Article 6 (1) of the Convention and that there had therefore been a breach of that provision in this case.

When this case was considered by the Committee of Ministers, the Austrian Government submitted a memorandum in which it was stated that in view of the complexity of the proceedings, of the difficulties resulting from the rogatory commissions requested from various countries and of the obstructive conduct of the applicant, Article 6 (1) of the Convention had not been violated.

The Committee of Ministers, having voted in accordance with the provision of Article 32 (1) of the Convention but without the majority of two-thirds of the members entitled to sit having been attained, has decided that no further action is called for in this case.

The Committee of Ministers has also decided to publish for information the Report of the European Commission of Human Rights on this case and the Resolution which it has adopted.

The Resolution follows:

RESOLUTION DH (75) 2
Herbert HUBER *against* AUSTRIA

(adopted by the Committee of Ministers on 15 April 1975*)

The Committee of Ministers,

Having regard to Article 32 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as "the Convention");

Having regard to the report drawn up by the European Commission of Human Rights in accordance with Article 31 of the Convention, relating to the application lodged by Mr. Herbert HUBER against Austria;

Whereas on 12 April 1973, the Commission transmitted the said report to the Committee of Ministers and whereas the period of three months provided for in Article 32 (1) of the Convention has elapsed without the case having been brought before the Court, in pursuance of Article 48 of the Convention;

Whereas in his application introduced on 16 June 1970 the applicant complained of violation of several articles of the Convention alleged to have taken place during his detention;

Whereas the Commission, after having declared inadmissible certain parts of the application, declared on 14 July 1971 admissible the complaint alleging violation of Article 6 (1) by reason of the length of the criminal proceedings against him;

Whereas the Commission, in its report adopted on 8 February 1973, has underlined the fact that in the course of its examination of the present case it had regard to the judgement of the European Court of Human Rights in the "Neumeister Case"; it being of the opinion, however, that although there is an essential similarity in the two cases, there are nevertheless, substantial differences;

Whereas the Commission has expressed the opinion, by eight votes to two, that the total period required to determine the criminal charges against the applicant was not reasonable within the meaning of Article 6 (1) of the Convention and that there had therefore been a breach of that provision in the present case;

Having regard to the memorandum of 1 October 1974 from the Austrian Government, where reference has been made to the judgment of the European Court in the "Neumeister Case," and having regard to the view of the Austrian Government expressed in the course of the proceedings under Article 32 (1) of the Convention that in view of the complexity of the proceedings, of the difficulties resulting from the rogatory obstructive conduct of the applicant, Article 6 (1) had not been violated;

Voting in accordance with the provisions of Article 32 (1) of the Convention, but without attaining the majority of two-thirds of the members entitled to sit;

Decides therefore that no further action is called for in this case.

*Published 29 April 1975.