

NOTE OF A MEETING HELD ON 23 APRIL 1981

NORTHERN IRELAND: HUNGER STRIKE IN THE MAZE PRISON AND
THE EUROPEAN COMMISSION ON HUMAN RIGHTS

Present: Home Secretary
Secretary of State for Northern Ireland
Sir Kenneth Stowe (NIO)
Mr. Blelloch (NIO)
Mr. Fifoot (FCO)
Mr. Whitmore (No.10)
Mr. Boys Smith

The Secretary of State for Northern Ireland referred to Mr. Haughey's conversation with the British Ambassador in Dublin, reported in Dublin telegram No. 116 of 22 April. Mr. Haughey seemed ready to be helpful and had suggested that progress could be built on the involvement of representatives of the European Commission on Human Rights. The Government had considered and rejected the possibility of facilitating the informal involvement of the ECHR. The ECHR could claim a formal locus only if it received a complaint. None had so far been made. The ECHR could act speedily if it received a complaint and could ask that nothing should be done to prejudice an investigation for which it would seek the Government's co-operation. The Government should be ready in these circumstances to facilitate an investigation. Although it would be helpful if there was an investigation prompted in this way, it was important that the Government was not seen to be party to engineering a complaint.

2. The following points were noted in discussion about the ECHR and the complaints procedure:

- (i) a complaint could be accepted by the ECHR only if it clearly came from an aggrieved person or somebody acting on his behalf, such as a lawyer or member of his family. It could not properly be made by an organisation or party seeking to act in his interests. A complaint could be submitted by telegram and did not in the first instance have to be accompanied by formal or extensive documentation;
- (ii) the ECHR could not receive and investigate a complaint on a matter which it had already determined. Thus a complaint about general conditions in the H blocks would not be admissible;
- (iii) a complaint might possibly be formulated along the lines that the treatment the hunger strikers were receiving by its restrictive nature was degrading and interfered with their right to privacy. Such a formula might provide the basis on which to found a complaint but there was a risk that it would be seen as contrived and so perhaps as something to which the Government was some way party;

- (iv) there was not judged to be a great risk that the Government would be seen to have engineered a complaint. For some weeks it had been put about that the ECHR should be involved only if it received a complaint and took its own initiative to act upon it. This was thought to be understood by those concerned with the welfare of the hunger strikers and, for example, by Mr. Hume. The Government's tactic was judged likely to help generate a complaint and not to stop one being made. There had been reference to consultation between the Government and the ECHR in order to establish that a complaint would be needed before there could be an investigation, but there was no suggestion that consultation had gone further;
- (v) if the ECHR sought to investigate a complaint the Government could make it known that it was co-operating with the Commission to ascertain the circumstances giving rising to the complaint. This approach would make it less likely that the Government's policies alone would be seen to be under investigation;
- (vi) the Home Secretary judged that it would be helpful if the ECHR was represented by at least two people in any investigation. This would lessen the risk of its becoming involved in an attempt at mediation. It was noted that the ECHR had two people available.

3. The following further points were noted.

- (a) Sands would be moved to an outside hospital only if he gave up his hunger strike, if he asked for treatment, or if his medical needs could not be met in the prison hospital. It was likely that the prison hospital would be able to provide the necessary standard of care. He was not yet medically beyond saving although he might well be in the frame of mind in which he would allow himself to die.
- (b) It was assumed that the IRA would not in the final event wish the hunger strikers to die. If they did and the Government had made no concessions they would have lost what they saw as a major source of leverage. They might also feel Sands could exert more influence as an M.P. But they might hope that the Government would in the event finally give way and that it would still be possible to prompt an informal intervention from the ECHR rather than to have to make a formal complaint. There could still be a complaint if that was thought to be the only option.

4. Summing up the discussion, the Home Secretary said it was agreed that the Government should continue to take its robust line and insist on a formal complaint followed by an initiative

from the ECHR before it could countenance the Commission's involvement. It should facilitate a properly based investigation. The Government could not accept the informal involvement of the ECHR or that the Commission should act as a mediator. It must be assumed that matters would be pushed to the limit and the Government should be ready to accept that Sands might die. He noted that the Secretary of State for Northern Ireland judged it more dangerous that the Protestant community should feel that the Government had bought off Sands' death than that others should criticise the Government for allowing him to die. The Government should not be seen to have engineered a complaint or to have given ground. He noted the possibility that whatever happened Sands was more likely than not to die and that his death would create a new situation in which further thought would need to be given to the remaining hunger strikers. The British Ambassador in Dublin should tell Mr. Haughey that, sharing his wish to end the hunger strike without loss of life, the Government's position remained broadly unchanged. He should set out the circumstances in which the Government felt it could co-operate with the ECHR. The Government could offer no concessions on prison regimes in Northern Ireland, as Mr. Haughey recognised. The Prime Minister should be consulted about these conclusions.

S. W. Boys Smith

Private Office
24.4.81.

S. W. BOYS SMITH
Private Secretary

c.c. P.S. to the Prime Minister ✓
P.S. to the Foreign & Commonwealth Secretary
P.S. to the Secretary of State for Northern Ireland
P.S. to the Lord Privy Seal
P.S. to Sir Kenneth Stowe
Mr. Blelloch
Mr. Fifoot
Mr. L.P. Wright
Mr. Andrew
Mr. Heaton