

NORTHERN IRELAND OFFICE

GREAT GEORGE STREET,

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Michael Alexander Esq 10 Downing Street S W 1

Dear Michael, World you be content for me to speak along the lines of this letter to the wally? Think

You telephoned me yesterday and reported a conversation you had with Dermot Nally in the Taoiseach's office about the hunger strike in the Maze prison. I understand that in addition Nally has since been in touch with Robert Armstrong.

The possibility that we should ourselves try to involve the European Commission of Human Rights (ECHR) is one that we thought of, and investigated, before the death of Bobby Sands. As far as solving the Northern Ireland prison problem is concerned, we should be more than willing, if it were possible, to find some way in which by our initiative the Commission could be brought in, whether to consider, as the Taoiseach has suggested, the accusation that we failed to honour undertakings alleged to have been given at the end of the last hunger strike, or to examine how far the British authorities have or have not responded to the Commission's own observations in their Report last year that we had been unduly inflexible in dealing with the developing protest in the prisons.

There might, on broader grounds, be objections to seeking to widen the scope of the Commission's functions, even informally, in this way; but in the event such objections have not had to be weighed. Our understanding is that there is no way, under the Convention, in which the Commission can be activated save by the receipt by them of a complaint alleging that someone's rights under the Convention have been infringed by a signatory Government; and as we saw in the case of Sands, an application made by someone other than the injured party immediately fails if that party declines to "adopt" the complaint.

However, since Nally's telephone calls, we have had further Min (Cinum strictly private contact with the Commission to see whether any way forward can be found. There appears to be one possibility.

You will recall that the Decision issued in June 1980 by the Commission on the admissibility of the case brought by four prisoners in the Maze was a partial one because it left two elements in the original complaints unsettled. One of these, relating to correspondence, is not relevant for the present purpose. The other was a complaint under Article 13 that the

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prisoners had no "effective remedy before a national authority"; and this the Commission left open for further consideration because it raised wider issues, and was less urgent. The formal position on that part of the complaint is that the Commission are awaiting observations on admissibility from the applicants. It is just possible that a way may be found, using this unfinished part of the Commission's business as a hook, for the Commission to be reactivated. We are looking at this urgently but cannot be sure that it will work.

We have also looked at the possibility of action under Article 57 of the Convention (copy attached). This envisaged action being initiated by the Secretary-General of the Council of Europe; but it does not involve the Commission in any way, and it would not appear to be particularly apt for this purpose — it has, we understand, only been used perhaps three times in the last twenty years, and then only for the purpose of obtaining information from all member states, not just one. We understand that the Secretary-General of the Council would not favour its use in relation to a single country. It offers only a question—and—answer procedure, not the kind of on—the—spot investigation which a complaint to the Commission might involve. We doubt very much whether it would be likely to have any impact at all on the current position at the Maze.

You may wish to clear this line with the Prime Minister. Subject to her views, you should speak to Dermot Nally in this sense as soon as possible.

I am sending copies of this letter to Roderick Lyne (FCO), and to David Wright (Cabinet Office).

Yours sincerely Inte Jophins

M W HOPKINS

SECTION V

ARTICLE 57

ON RECEIPT OF A REQUEST FROM THE SECRETARY-GENERAL OF THE COUCIL OF EUROPE ANY HIGH CONTRACTING PARTY SHALL FURNISH AN EXPLANATION OF THE MANNER IN WHICH ITS INTERNAL LAW ENSURES THE EFFECTIVE IMPLEMENTATIONS OF ANY OF THE PROVISIONS OF THIS CONVENTION.