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PS/PUS

PUS 29M
24 APR 1981
N.I.O. LONDON

cc PS/S of S (L&B) M
PS/Mr Alison (L&B) M
Mr Blelloch M
Mr Ranson M
Mr Wyatt M
Mr Burns M
Mr Moriarty
Mr Abbott

BOBBY SANDS AND ECHR

I attach a copy of a telex message received by the Foreign and Commonwealth Office from Mr Raymond, Deputy Secretary of the ECHR. The telex rehearses the full text of the application made by Marcella Sands and also constitutes a request to HMG "to take the necessary steps to enable a delegation from the Commission" to meet Sands in prison "with a view to obtaining his confirmation that he intends to make an application, and further details concerning his complaint". I have agreed with the FCO that no immediate reply will be sent, but that we should aim to send a reply later today. We are trying to arrange to see the two Commissioners in London this afternoon.

In the meantime the ECHR in Strasbourg will in the next hour be putting out a press statement indicating that they have received this application and that they have requested HMG to facilitate the visit to Mr Sands. The press line I have agreed for the FCO press office is that HMG has only just received this request and is giving it urgent and sympathetic consideration.

J. Burns
pp J A MARSHALL
24 April 1981

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TEL 3253 OF 24.4.1981

FOR MR. D. M. EDWARDS
ROOM W.44/1
FOREIGN AND COMMONWEALTH OFFICE
LONDON

FROM MR. J. RAYMOND

APPLICATION NO. 9338/81, ROBERT SANDS V. THE UNITED KINGDOM

SIR,

I HAVE THE HONOUR TO INFORM YOU THAT MS. MARCELLA SANDS INTRODUCED ON BEHALF OF HER BROTHER, MR. ROBERT SANDS, MP, THE ABOVE APPLICATION WITH THE EUROPEAN COMMISSION OF HUMAN RIGHTS PURSUANT TO ARTICLE 25 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS ON 23 APRIL 1981. THE APPLICATION WAS REGISTERED ON THE SAME DAY.

THE TEXT OF THE APPLICATION AS RECEIVED BY TELEX AT 23.23 HOURS, IS AS FOLLOWS :

ON BEHALF OF MY BROTHER, ROBERT SANDS, MP, I WISH TO APPLY TO THE COMMISSION UNDER ARTICLE 25 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS. MY BROTHER IS A VICTIM OF A VIOLATION OF THE CONVENTION BY THE BRITISH GOVERNMENT. HIS STATE OF HEALTH IS SUCH THAT HE IS UNABLE HIMSELF TO MAKE AN APPLICATION DIRECTLY.

THE GROUNDS FOR MY CLAIM FOR INTERVENTION BY THE COMMISSION ARE : f

1) THE BRITISH GOVERNMENT IS IN BREACH OF ARTICLES 2 AND 3 OF THE CONVENTION. MY BROTHER'S LIFE IS IN DANGER. HE IS NOW IN THE 54TH DAY OF A HUNGER STRIKE WHICH HE HAD NO CHOICE BUT TO UNDERTAKE AS A MORE CONVENTIONAL DOMESTIC REMEDY WAS NOT OPEN TO HIM TO PROTEST AGAINST PRISON CONDITIONS WHICH HE REGARDED AS INTOLERABLE.

NO DOMESTIC REMEDIES ARE AVAILABLE TO HIM TO HAVE HIS PRESENT CIRCUMSTANCES DECLARED INHUMAN OR DEGRADING. THERE IS NO FUNDAMENTAL RIGHTS CHARTER JUSTICIABLE IN NORTHERN IRELAND ON

NO DOMESTIC REMEDIES ARE AVAILABLE TO HIM TO HAVE HIS PRESENT CIRCUMSTANCES DECLARED INHUMAN OR DEGRADING. THERE IS NO FUNDAMENTAL RIGHTS CHARTER JUSTICIABLE IN NORTHERN IRELAND ON WHICH HE CAN RELY.

2) THE CONDITIONS OF MY BROTHER'S IMPRISONMENT ARE IN BREACH OF ARTICLE 10 IN THAT HE IS UNABLE TO GIVE EXPRESSION TO THE OPINIONS OF HIS CONSTITUENTS, DESPITE THE FACT THAT HE IS A DEMOCRATICALLY ELECTED MEMBER OF THE BRITISH PARLIAMENT.

3) IN THE PARTIAL DECISION OF THE EUROPEAN COMMISSION OF HUMAN RIGHTS ON APPLICATION NO. 8317/78 BY T. MCFEELEY ET AL AGAINST THE UNITED KINGDOM THE COMMISSION AT PARAGRAPH 64 EXPRESSED ITS CONCERN AT THE INFLEXIBLE APPROACH OF THE STATE AUTHORITIES "WHICH HAS BEEN CONCERNED MORE TO PUNISH OFFENDERS AGAINST PRISON DISCIPLINE THAN TO EXPLORE WAYS OF RESOLVING SERIOUS DEADLOCKS" IN THE NORTHERN IRELAND PRISON SYSTEM. THIS INFLEXIBILITY CONTINUES.

MY BROTHER IS THE VICTIM OF A CONTINUING DENIAL OF HIS RIGHTS. BECAUSE OF THE URGENCY OF THIS SITUATION IT IS NOT POSSIBLE IN THIS TELEX TO EXPAND UPON THE LEGAL BASIS OF THIS APPLICATION AND TO RELY ON, AND DISTINGUISH WHERE APPROPRIATE, OTHER RELEVANT CASES BEFORE THE COMMISSION.

I AM MAKING THIS PLEA FOR THE COMMISSION TO TAKE NOTE OF DEVELOPMENTS FOLLOWING THE DECISION TO WHICH I HAVE REFERRED AND I WOULD ASK THEM TO EXAMINE URGENTLY, ON A FORMAL OR INFORMAL BASIS, THE EXTENT TO WHICH THE MEASURES TAKEN BY THE RELEVANT AUTHORITIES SINCE THE PARTIAL DECISION WAS INITIATED CONSTITUTES AN ADEQUATE RESPONSE TO THE COMMISSION'S COMMENTS AND SUGGESTIONS AND TO OTHER BASIC HUMAN RIGHTS REQUIREMENTS WHICH I WILL UPON IF I AM AFFORDED THE OPPORTUNITY.

IN PARTICULAR, I WOULD REFER TO RULE 41 OF THE COMMISSION'S RULES OF PROCEDURE AND WOULD ASK THAT A SPECIFIC ON-THE-SPOT INVESTIGATION BE UNDERTAKEN IMMEDIATELY UNDER THAT OR ANY OTHER APPROPRIATE RULE.

MARCELLA SANDS

MARCELLA SANDS
11 LABURNUM WAY
TWINBROOK
BELFAST BT 70
NORTHERN IRELAND

TELEPHONE: (BELFAST) 613 675.11

I SHOULD FURTHER INFORM YOU THAT THE ACTING PRESIDENT OF THE COMMISSION, MR. NORGAARD, HAS UNDER RULE 36 OF THE COMMISSION'S RULES OF PROCEDURE, DECIDED THAT YOUR GOVERNMENT SHOULD BE REQUESTED TO TAKE THE NECESSARY STEPS TO ENABLE A DELEGATION FROM THE COMMISSION, CONSISTING OF MM. NORGAARD AND OPSAHL AND ASSISTED BY THE COMMISSION'S SECRETARY, MR. KRUGER, TO MEET THE APPLICANT IN PRISON WITH A VIEW TO OBTAINING HIS CONFIRMATION THAT HE INTENDS TO MAKE THE APPLICATION, AND FURTHER DETAILS CONCERNING HIS COMPLAINTS.

I SHOULD ACCORDINGLY BE GRATEFUL IF YOU WOULD INFORM ME AT YOUR EARLIEST CONVENIENCE OF THE MEASURES TAKEN BY YOUR GOVERNMENT IN ORDER TO ENABLE THE COMMISSION'S DELEGATION TO ACCOMPLISH THEIR VISIT.

I HAVE THE HONOUR TO BE, SIR, YOUR OBEDIENT SERVANT,

JEAN RAYMOND,
DEPUTY SECRETARY TO THE
EUROPEAN COMMISSION
OF HUMAN RIGHTS

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EUROPA A STRBGO