

APPLICATION/REQUÊTE N° 7547/76

X. v/the UNITED KINGDOM

DECISION of 15 December 1977 on the admissibility of the application

Article 1 of the Convention : The acts of State officials, including diplomatic or consular agents, bring persons and property under the jurisdiction of that State, to the extent that they exercise their authority in respect of these persons or that property.

Summary of the relevant facts

The applicant, a British national living in the United Kingdom, has married a Jordanian citizen by whom she had a daughter.

In Summer 1975 the father took the girl to his family in Jordan and returned without her to the United Kingdom.

At the outcome of contradictory proceedings an English Court granted the applicant custody of her daughter and issued a committal order against the father requiring him to return the girl to the United Kingdom within three weeks. The applicant also required a Jordanian Court to grant her custody of her child but her claim was dismissed in absentia.

In the meantime the father left for Jordan. He has not come back.

The applicant got in touch with the British Consulate in Amman asking it to obtain the custody of her daughter from the Jordanian Court. The

Consulate reported on the child's wellbeing, and provided her with a list of lawyers practising in Jordan and registered her daughter in her passport.

The various approaches undertaken by the applicant to the Jordanian authorities have led to no result.

THE LAW (Extract)

1. The applicant complains that the health of her daughter has not been protected due to the failure of the British Consul to intervene in her domestic dispute and help unite mother and child. She complains, therefore, that there has been a violation of the right to respect for her and her daughter's family life and home (Art. 8). She also claims that this attitude on behalf of the British Consul has deprived her of an effective remedy (Art. 13). Furthermore, she maintains that the refusal of the Government to ask their legal adviser to answer questions concerning local Jordanian law in order to help the applicant prepare her case for the S. Court is a violation of her right to a fair and public hearing under Article 6.

The applicant's complaints are directed mainly against the British consular authorities in Jordan. It is clear, in this respect, from the constant jurisprudence of the Commission that authorised agents of a State, including diplomatic or consular agents bring other persons or property within the jurisdiction of that State to the extent that they exercise authority over such persons or property. Insofar as they affect such persons or property by their acts or omissions, the responsibility of the State is engaged (cf. Applications No. 1611/62, Yearbook 8, p. 158 (168) ; Nos. 6780/74, 6950/75, *Cyprus v. Turkey*, Decisions and Reports 2, p. 125 (137)). Therefore, in the present case the Commission is satisfied that even though the alleged failure of the consular authorities to do all in their power to help the applicant occurred outside the territory of the United Kingdom, it was still "within the jurisdiction" within the meaning of Article 1 of the Convention.

However, the Commission has examined the facts of the present application and observes that according to the facts presented by the applicant the British consul in Amman did have a meeting with the X. family and managed to put the child's name on her passport. He also provided information concerning Jordanian lawyers that she could consult and went to the X. household in Jordan to see the child for himself, and talk in general with the family about the situation. The Consular Department of the Foreign and Commonwealth Office presented a report of this meeting to the applicant's lawyer in a letter dated ...February 1976.

In the circumstances, the Commission is satisfied that, in the present case, the consular authorities have done all that could be reasonably expected of them.

It follows therefore that the applicant's complaints under Articles 8, 6 and 13 are manifestly ill-founded within the meaning of Article 27 (2) of the Convention.