

Information Note on the Court's case-law No.

October 1997

Johnson v. the United Kingdom - 22520/93

Judgment 24.10.1997

Article 5

Article 5-1

Lawful arrest or detention

Article 5-1-e

Persons of unsound mind

Continued detention of an individual no longer suffering from mental illness pending his placement in a hostel: *violation*

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I. ARTICLE 5 § 1 OF THE CONVENTION

Not disputed that applicant no longer suffering from mental illness which resulted in his confinement – however, this finding did not require authorities to order his immediate and unconditional discharge – review tribunal needed to have flexibility to assess in light of all relevant circumstances whether this course of action served interests of both applicant and community.

Review tribunal justified in proceeding cautiously in view of applicant's history of acts of unprovoked violence while at liberty – decision to make absolute discharge conditional on, inter alia, applicant undergoing a period of rehabilitation in a suitable hostel justified in circumstances – decision to defer release until suitable hostel found also justified in principle, provided that safeguards in place to ensure that release not unreasonably delayed – in instant case, applicant spent three and a half years in detention on account of authorities' failure to secure a placement – review tribunal lacked powers to ensure that a suitable hostel would be found within a reasonable time or to vary the terms of the hostel condition in view of difficulties encountered in finding a placement – no possibility to petition tribunal in between annual reviews or seek judicial review of terms of conditional discharge order.

Conclusion: violation (unanimously).

II. ARTICLE 5 § 4 OF THE CONVENTION

Arguments already raised and addressed under Article 5 § 1.

Conclusion: no separate issue arises (unanimously).

III. ARTICLE 50 OF THE CONVENTION

- A. Non-pecuniary damage: compensation awarded.
- B. Costs and expenses: reimbursement in part.

Conclusion: respondent State to pay applicant specified sums in respect of non-pecuniary damage and costs and expenses (unanimously).

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