

II. STATEMENT OF THE FACTS, 14.2. COMPLAINT B.

Mogens Hauschildt was first charged and indicted on the 4th February 1981, more than a year after the arrest for alleged tax evasion, furthermore 3 of the charges related to acts which MH had committed during the pre-trial solitary confinement.

During the summer of 1980, the Special Prosecution stated to the court that the indictment was going to be finished in the autumn of that year, later it became Christmas and finally it was ready on 4th February 1981.

Although the delay was already evident in the summer, the Special Prosecution made specific reference to this point in the Court and during the appeal at the High Court and used this fact as an excuse for the incarceration since the trial would "soon start". Such statements were frequent during the various stages of the proceedings, not only in the Court, but to the media, from the Special Prosecution. It was constantly a matter that the end of the trial was in sight and soon finished.

By making the Court and public aware that it was only a question of "a short time", the incarceration was justified.

When the defence argued that MH should be released, possibly on bail according to the Danish Law during a notice of appeal at the High Court in December 1980, the Special Prosecution told the Court that the case would be finished before the summer recess (1981) However at a Court hearing on the 17th June 1981, the Special Prosecution blatantly ignored the facts and maintained that "the case will be finished by the end of the year".

In January the following year the prosecution told the Court that the proceedings would take much longer, not only due to the witnesses requested but also because of the considerable amount of work connected with the defence, work which was made more difficult by the fact that the defence did not really know the content of the alleged violations. The alternative for the defence was to lay down their work or reduce it in order that MH could be released from his incarceration, thereby forfeiting his right of a defence.

During the almost 50 times that the Court considered the question of continued pre-trial incarceration (prior to any judgement), the defence told the court the likelihood of prejudice in connection with holding MH incarcerated for such a long period since it would be "committing" for the Courts at a later stage in the proceedings.

The Special Prosecution contended from the start that MH had made plans to escape from his incarceration; however there is no evidence of this at all during MH's first 10 months in solitary confinement and indeed up until June 1981.

During a period of a 55 day hunger strike at the prison hospital, MH was approach in the autumn of 1980 by a person who offered him help to a possible escape. Alone, due to MH's mental condition, and after the long solitary confinement, hunger strike and general circumstances, MH did take steps for a planned escape. However, when he recovered from his hunger strike he made an attempt to withdraw from such plans and in fact no attempt of escape ever took place. Despite these escape plans being extremely imaginative and preposterous and without any reality; the Special Prosecution exploited the situation and provided the media and Court with a total incorrect picture in order to enhance their contention and prejudicial approach. Eight months after MH had considered escaping letters were found which clearly showed that such plans were not in any way brought into action in fact they were cancelled by MH.

Neither the defence nor MH has been heard by the Court despite of serious arguments and available evidence. When complaints were brought forward as to the element of time involved for a proper defence the Court has constantly endorsed the Prosecution's contention.

From the start of the trial at the Lower Court in late April 1981 until the judgement on the 1st November 1982, a total of 100 days of hearing were involved. In other words the 450 other days were wasted and during the full period the Court had recess for many weeks and the hearing was cancelled due to bad planning on the prosecutions part without any consideration as to MH's incarceration.

The trial first commenced on the 27th April 1981, 15 months after the arrest, although MH had changed his defence at the time, the Court did not grant the defence any additional period to prepare required evidence, apart from a few weeks in May, 1981, therefore only a little delay was caused by the defence.

MH became the first person in Denmark, who, during the last 300 years of history, had been incarcerated so considerably before the first sentence (2 years and 10 months).