

II. STATEMENT OF ALLEGED VIOLATION, 14.6. COMPLAINT F.

Prior to the sentence by the Lower Court MH had been incarcerated for nearly three years in pre-trial detention, which according to the Danish parole practise of persons with long solitary confinement and custody during remand, would be subjected to release after 50% of the sentence had past. In other words, if the Lower Court had given MH a sentence of 6 years, he would have been freed at the time of judgment. In view that the judgment were 7 years, MH had "only" 9 months left before parole release the 1st of August 1983.

MH would have been subjected to the normal weekend release which would have meant that he for the first time for 3 years would have been with his family at Christmas 1982.

Since MH wanted to appeal any sentence, even a month, because he contests innocence, this could not have been unknown to the Danish authorities. The fact that MH appeal the sentence has resulted in additional hardship and suffering to MH and his family, furthermore MH is still deprived from proper facilities to work with his defence.

It has been estimated that the trial at the Higher Court could last for several years, during which the Danish authorities insist to keep MH incarcerated, although he prior to the proceeding at the High Court, would be subject to parole release, if he had not appealed.

In view that MH intended to leave Denmark with his family and indeed change nationality, and have in effect served the sentence by the Lower Court, it could be argued that an appeal is meaningless

There is clear evidence that the incarceration of MH during the appeal has solely been enforced in order that MH should be moved to withdraw the appeal. A meeting in camera held at the High Court in May 1983 confirm this contention; members of the Special Prosecution, the High Court and the defence reviewed the merits of the High Court proceedings.

By a series of decisions by the High Court and the Supreme Court, MH's rights have been taken away to have his sentence reviewed by a higher tribunal, without that MH at the same time will be exposed to incarceration an restriction of a proper defence.