

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

### RESOLUTION (78) 39

#### CONCERNING THE JUDGMENT OF THE EUROPEAN COURT OF HUMAN RIGHTS OF 25 APRIL 1978 ON THE "TYRER" CASE

*(Adopted by the Committee of Ministers on 13 October 1978  
at the 293rd meeting of the Ministers' Deputies)*

The Committee of Ministers.

Having regard to Article 54 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as "the convention") ;

Having regard to the judgment of the European Court of Human Rights in the "Tyrer" case, delivered on 25 April 1978 and transmitted the same day to the Committee of Ministers ;

Recalling that the case had its origin in an application against the United Kingdom lodged with the European Commission of Human Rights under Article 25 of the convention by a United Kingdom citizen, Mr Anthony M. Tyrer, resident in the Isle of Man, alleging a violation of the convention because of a judicial corporal punishment inflicted upon him on the basis of legislation in force in the Isle of Man, a dependency of the British Crown, to which the convention was extended by a declaration of the United Kingdom made in pursuance of Article 63 of the convention ;

Recalling that the case had been brought on 11 March 1977 before the Court by the European Commission of Human Rights ;

Whereas in its judgment, the Court held

— by six votes to one that the judicial corporal punishment inflicted on Mr Tyrer amounted to degrading punishment within the meaning of Article 3 ;

— unanimously that in the case there were no local requirements within the meaning of Article 63, paragraph 3, which could affect the application of Article 3 ;

— by six votes to one that the said punishment accordingly violated Article 3 ;

— unanimously that it was not necessary to examine the question of a possible violation of Article 3 taken together with Article 14 ;

— unanimously that it was not necessary to apply Article 50 in the present case ;

Having regard to the "Rules concerning the application of Article 54 of the convention" ;

Having invited the Government of the United Kingdom to inform it of the measures which it had taken in consequence of the judgment, having regard to its obligation under Article 53 of the convention to abide by the judgment ;

Whereas during the examination of this case by the Committee of Ministers the Government of the United Kingdom informed the Committee of certain measures taken in consequence of the judgment, which information appears in the Appendix to this resolution,

Declares, after having taken note of the information supplied by the Government of the United Kingdom, that it has exercised its functions under Article 54 of the convention in this case.

**Information provided by the Government of the United Kingdom**

No measure of execution is required in respect of the individual applicant, Mr Tyrer. However, in so far as the decision of the Court raises a general issue because of the risk of further applications in the event of further sentences of birching being inflicted, the Committee may like to be informed of the measures taken by the United Kingdom Government. As soon as the decision of the Court was known, the United Kingdom Government communicated it to the Government of the Isle of Man and thereafter, on 13 June, they informed the Lieutenant Governor of that island that, having studied the judgment of the Court, it was their view that judicial corporal punishment in the Isle of Man must now be held to be in breach of the European Convention on Human Rights.

Subsequently the Chief Justice of the Isle of Man (the First Deemster) took action to bring the judgment of the Court to the attention of the High Court, the High Bailiffs and the Magistrates, that is to the attention of all persons who under existing legislation could pass a sentence of birching. He has informed them that the effect of the judgment is that judicial corporal punishment must now be held to be in breach of the European convention.