

**THE COMMITTEE ON THE
ADMINISTRATION OF JUSTICE**

**PLASTIC
BULLETS
AND
THE LAW**

C.A.J. PAMPHLET NO. 8

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THE COMMITTEE ON THE ADMINISTRATION OF JUSTICE

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PLASTIC BULLETS AND THE LAW

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Foreward

This is an updated version of a document issued by the Committee on the Administration of Justice prior to its Annual Conference in May 1983. Its purpose is to provide straightforward factual and legal information to ordinary members of the public about the use of plastic bullets in Northern Ireland. We have not included elaborate data concerning the situations in which plastic bullets have been used, nor have we examined the legal position in intricate detail. Our modest aim has been to provide a comparatively short and readable account of the topic so that public awareness of the issues involved might be increased.

In publishing this pamphlet the C.A.J. wishes to acknowledge assistance it derived from writings in the field by Sean Doran, Garry Duffy, Patricia Kelly, Dan Warren and Steve Wright.

1. The Nature of the Weapon

Plastic bullets - or P.V.C. baton rounds as they are officially called - were first used in Northern Ireland in February 1973. By the end of 1974 only 258 had been fired but in 1975 some 3,500 were fired and the weapon completely replaced rubber bullets.

The weapon comes in two varieties: the 45 grain bullet, for use at a long distance and with a muzzle velocity of 75 metres per second and the 25 grain bullet, for use at a shorter distance and with a muzzle velocity of 60 metres per second. The Royal Ulster Constabulary claims that it uses only the 25 grain bullet, but the British Army seems to use both.

A 25 grain plastic bullet is 3.875 ins long and 1.5 ins in diameter. It weighs 4.75 ounces and is white in colour. It is flat at both ends whereas the rubber bullet was pointed. It leaves the muzzle of the firing gun at over 160 miles per hour. It is designed to be fired directly at selected persons, not bounced off the ground like the rubber bullet, even though the impact energies of the two bullets are very similar.

When the Government of the United Kingdom was debating whether to introduce the weapon in Northern Ireland it had access to the results of American Army research which showed that an impact energy of greater than 90 foot/pounds would cause severe damage. Plastic bullets, even when fired at a distance of 50 yards, have an impact energy of over 110 foot/pounds - the energy which a 7 lb weight would have if dropped from a height of 55 feet.

The Government still claims that plastic bullets are more accurate and more effective than rubber bullets, while not being significantly more hazardous. But Lord Brockway has pointed out that while one person was killed from every 18,000 rubber bullets fired, the figures for plastic bullets

are one person from every 5,000 fired.

The following are the British Army's Rules for Engagement for P.V.C. Baton Rounds (as of August 1980):

General

1. Baton rounds may be used to disperse a crowd whenever it is judged to be minimum and reasonable force in the circumstances.
2. The rounds must be fired at selected persons and not indiscriminately at the crowd. They should be aimed so that they strike the lower part of the target's body directly (i.e. without bouncing).
3. The authority to use these rounds is delegated to the commander on the spot.

Additional Rules for the 25 Grain P.V.C. Baton Round:

4. Rounds must not be fired at a range of less than 20 metres except when the safety of soldiers or others is seriously threatened.
5. The baton round was designed and produced to disperse crowds. It can also be used to prevent an escape from HM Prisons if it is, in the circumstances, still considered to constitute the use of minimum and reasonable force. If a prisoner can be apprehended by hand, the baton must not be used.

2. Justifications for the Weapon

Government Ministers say that if plastic bullets were not available to the security forces something more lethal would need to be used instead. They believe that there is no other viable alternative. Water canon are allegedly too cumbersome and run out of "ammunition" too quickly; their appearance raises the temperature of a riot and they can be easily over-run by rioters. A Home Office Report in October 1981 concluded that neither "The Special Water Dispenser" nor "The Pig Squirter"

was suitable. CS smoke cannisters are another alternative and are seen as an adequate riot control weapon in other European countries. But the security forces here view them as unreliable because the wind can blow back the smoke into their own faces. Moreover scientific research has indicated that under certain circumstances CS gas can kill; it can also produce highly unpleasant (though not fatal) injuries to human lungs and cause violent vomiting. People with breathing ailments or with heart complaints are particularly at risk.

A report made to the United States National Science Foundation in 1972 listed 34 different weapons for controlling crowds - assuming that crowd dispersal is the best way of maintaining peace in a locality. The UK Government has directed few resources to finding an acceptable riot-control alternative and has not heeded the social science research which suggests that if crowd-containing weapons are used persistently they make conflicts more intense by increasing the likelihood of retaliatory aggression. An empirical study into anti-Vietnam War demonstrations in the United States indicates a link between the mere appearance on the scene of riot police and outbreaks of disorder. A more sophisticated method of deploying personnel, or the use of snatch squads to arrest rioters, are further possibilities open to the police. Such alternatives are less risky to the general public than the firing of plastic bullets, not necessarily more dangerous from the point of view of the security forces and less likely to give the terrorists in Northern Ireland a chance to make propaganda out of casualties.

The Police Federation of England and Wales has called for all police forces there to be equipped with and trained in the use of plastic bullets. By the end of 1984, 13 forces stocked plastic bullets and 31 did not; at least five police authorities had refused to supply Chief Constables with the necessary funds to purchase the bullets. On no occasion has a plastic bullet yet been fired on the mainland of Britain.

3. The Deaths and the Injuries

The 12 people who have been fatally injured by plastic bullets in Northern Ireland (all Catholics) are:

Stephen Geddis	10	30 August 1975	Belfast
Brian Stewart	13	10 October 1976	Belfast
Michael Donnelly	21	9 August 1980	Belfast
Paul Whitters	15	25 April 1981	Derry
Julie Livingstone	14	13 May 1981	Belfast
Carol Ann Kelly	12	22 May 1981	Belfast
Henry Duffy	45	22 May 1981	Derry
Nora McCabe	30	9 July 1981	Belfast
Peter Eoherty	33	31 July 1981	Belfast
Peter Magennis	41	9 August 1981	Belfast
Stephen McConomy	11	16 April 1982	Derry
Sean Downes	22	12 August 1984	Belfast

It is only in the last of these cases that the Director of Public Prosecutions has decided that criminal charges should be brought against the member of the security forces who fired the fatal bullet. No prosecutions have taken place in the other 11 cases even though in many of them there are witnesses to challenge the course of events as described by the security forces.

Four of the most worrying cases are those involving Paul Whitters, Carol Ann Kelly, Nora McCabe and Stephen McConomy. The Whitters case was the subject of an independent investigation in 1982 by Lord Gifford, who concluded that the boy was murdered. The coroner in the Kelly case found, a year after her death, that the girl was innocently returning from a nearby shop when she was killed. In the McCabe case the R.U.C. eventually admitted in 1984 that the victim was an innocent passerby and when they were sued for compensation by her husband and

children, they agreed to pay substantial damages. A coroner's jury inquiring into the death of Stephen McConomy found in 1983 that the bullet which killed him had been fired by a soldier at a distance of only 17 feet and without due cause because the boy was not involved in rioting at the time.

An internal F.U.C. inquiry into the policing of the demonstration at which Sean Downes was killed in August 1984, found "errors of judgement and insufficiently firm control on the ground". The Secretary of State told the House of Commons in May 1985 that disciplinary action against a number of F.U.C. men was being considered. For the first time in a plastic bullets case the Director of Public Prosecutions has brought criminal charges against specific police officers in connection with events on the day Mr Downes was killed. These officers are still awaiting trial.

Apart from the deaths, many people have been seriously injured by the plastic bullets. Common injuries are partial paralysis, fractured skulls, personality disorders, fractures to facial bones and loss of eyes. Such injuries are more likely when the weapon is aimed at above the waistline, so such aiming must occur frequently. Of the seven people who died in 1981, five died from head injuries, one from a chest injury and one from combined head and chest injuries.

There can be no doubt that plastic bullets have a far greater wounding potential than rubber bullets. The medical research of Dr. Laurence Roche, senior registrar in Accident and Emergency Medicine at Belfast's Royal Victoria Hospital, and of Mr William Rutherford, a surgeon at the same hospital, confirms this conclusion. They have found that a plastic bullet causes more damage to a smaller area of the body and is more likely to impart a shearing force, thereby causing more lacerations, especially to skin overlying bone. They recommend that if the weapon is to continue to be used to control rioters it should be modified in design to make it more safe.

4. Public Perceptions

Quite apart from what the law says about the use or misuse of plastic bullets, there is a definite feeling within certain sections of the community that the use of this weapon is (a) ineffective and (b) morally repulsive. It is thought to be ineffective because the nature of rioting has altered over the years: it is not so common now for large groups of rioters to confront the security forces in the middle of the street - instead they tend to hurl missiles from sidestreets as the forces pass by; when the police or army take up positions at street corners the rioters hide behind walls or try to get round the back of the forces. The use of the weapon is morally repulsive because it constitutes unreasonable force - force which is often out of proportion to the dangers presented by the rioters; to continue using it is to play into the hands of those who argue that it is the British security forces who are the real perpetrators of violence in this community.

The list of organisations which oppose the use of plastic bullets is now very extensive: the Irish Congress of Trade Unions, the New Ireland Group, the Northern Ireland Civil Rights Association, Derry City Council, the Fabian Society, the Social Democratic and Labour Party, the English Labour Party, the English Liberal Party and the National Council for Civil Liberties have all called for the weapon's withdrawal. The Peace People and the Alliance Party have expressed concern about the level of deaths. The Belfast Telegraph has commented that the use of the weapon is sometimes questionable.

In 1981 the Association for Legal Justice organised an International Commission to study the use of plastic bullets in Northern Ireland. Its conclusion seemed to the Commission to be "inescapable": "... the Northern Ireland authorities were knowingly allowing widespread, indiscriminate and illegal use of a weapon whose lethal potential is well

known."

In May 1982 the European Parliament voted by 100 votes to 43 (i.e. the 42 Conservative M.E.P.s and the Rev. Ian Paisley) to ban the use of plastic bullets throughout the countries of the Common Market. In Switzerland the weapon was banned after two children were blinded by it.

In August 1984, following the death of Sean Downes, a broadbased campaign was launched with the sole aim of getting plastic bullets withdrawn. Within one month the following civil liberty groups had affiliated to this United Campaign Against Plastic Bullets: the Association for Legal Justice, the British Society for Social Responsibility in Science, Concerned Community Organisations, the Labour Committee on Ireland, Peoples Democracy and R.V.F. Trade Unionists Against Repression.

The Report of an International Lawyers' Inquiry into the Lethal Use of Firearms by the Security Forces in Northern Ireland (published 1985) also concluded that plastic bullets should be withdrawn from use forthwith. The Inquiry was persuaded that the weapon had frequently been used in violation of the British Army's rules for engagement and it described the evidence for banning the weapon as overwhelming.

5. The Criminal Law

Offences

The Government security forces - the British Army, the U.D.P. and the R.U.C. - are subject to the rules of the ordinary criminal law as well as to their own disciplinary codes. The crimes which may be committed when a person is killed or injured by a plastic bullet are as follows:

(1) Murder:

If the firing of the bullet is an operating and substantial cause of death then the firer is guilty of murder if he had either of these intentions:

- to kill any person
- to cause really serious injury to any person.

Even if he did not have either of these intentions he is guilty of murder if the jury (or if there is no jury in the case, the judge) infers such an intention from the accused's knowledge or foresight of what would naturally result from his actions. Whether this inference will be drawn depends on all the evidence in the case and juries/judges are entitled to take into account the social utility of the accused's act when deciding what degree of risk-taking is legally acceptable.

(2) Manslaughter

Voluntary manslaughter is murder committed under provocation (see below under defences). Involuntary manslaughter (the crime with which the firer of a fatal plastic bullet is most likely to be charged) is the causing of death with any of the following intentions:

- to do an act which, whether the accused knows it or not, is unlawful and dangerous in the sense that it is likely to cause personal injury,
- to do an act being grossly negligent as to whether death or serious injury would be caused,
- to do an act being reckless as to whether death or serious injury would be caused.

"Unlawful acts" in this context include the use of a degree of force which is unreasonable in the circumstances. That is dangerous, grossly negligent or reckless is objectively ascertained, i.e. regardless of the actual state of mind of the accused.

(3) Assault and Battery

Simple assault is the intentionally or recklessly causing of someone to apprehend immediate and unlawful personal violence; battery is the intentional or reckless infliction of personal injury. In addition, assault

causing actual bodily harm is an offence under section 47 of the Offences Against the Person Act 1861; under section 18 it is an offence to wound someone unlawfully and maliciously with intent to do grievous bodily harm (wounding usually implies a breaking of the skin), and under section 20 it is an offence simply to unlawfully and maliciously wound someone or to inflict on them grievous bodily harm.

Defences:

There are three important defences open to anyone accused of the crimes of murder, manslaughter or assault and battery. These are (1) self-defence, (2) mistake and (3) the use of such force as is reasonable in the circumstances in the prevention of crime.

(1) Self-defence

To take advantage of this defence the accused must show:

- that he honestly believed that the person killed (or aimed at) was mounting an unjustified and immediate attack against the accused, against someone else or against someone's property; and
- that the amount of force used was reasonable in the circumstances.

If these points are proved the accused person is completely exonerated: he or she must be acquitted of all criminal charges.

(2) Mistake

This too is a complete defence to the accused, provided he shows that his mistake was one of fact (e.g. that X was about to attack him) rather than one of law (e.g. that he was entitled to kill any thief).

(3) Use of reasonable force

This is a special defence enshrined in section 3(1) of the Criminal Law Act (1967) (and in legislation applying elsewhere in the United Kingdom):

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large."

A form of this defence existed in the common law before 1967 and there is a dispute among lawyers over whether the old defence has now been completely replaced. The issue is important because the old defence was more restrictive in scope: it was available only if the use of such force in the circumstances was necessary.

The impression of section 3 has been criticised on many occasions but the courts have done little to clarify matters. In their most recent Annual Report (1 February 1985) the Standing Advisory Commission on Human Rights in Northern Ireland has called on the Secretary of State urgently to set in hand an independent review of section 3 with a view to defining more closely the situations in which plastic and real bullets may legitimately be used by the police and Army.

(4) Provocation

This is a defence to a charge of murder. If proved it has the effect of reducing the charge to one of voluntary manslaughter.

It is to be noted that the law of Northern Ireland (as well as the law of England) does not make provision for a doctrine of excessive defence. That is to say, it does not lay down that an accused person who uses excessive force in defending himself can be guilty of any crime other than murder. In such circumstances the accused person must either be convicted of murder or acquitted. There is no half-way house solution whereby he can be convicted of manslaughter. The law in Australia and in the Republic of Ireland, and to a lesser extent in Scotland, has catered for just such mid-way solution, but in England and Northern Ireland it seems that the only way in which the accused's action might be characterised as manslaughter is by leaving it to the jury (or judge sitting alone) to label it as grossly negligent (even though also intentional).

6. The civil law

(1) Claims for negligence or trespass

Civil proceedings in respect of plastic bullets are likely to be based on the law of negligence and/or trespass to the person. The Ministry of Defence and the Chief Constable of the R.U.C. will usually be vicariously liable for the wrongs committed by soldiers and police officers.

To prove negligence in law the plaintiff must show:

- (1) that the defendant(s) owed the plaintiff a "duty of care",
- (2) that the standard of care required by that duty was not met, and
- (3) that the breach of that standard caused the plaintiff injury.

The required standard of care varies with the circumstances: a lower standard is owed in "emergencies" but a higher standard is owed in relation to young children. Whatever is normally practice is not always enough to comply with the legally required standard of care, but it is notoriously difficult to have policy or design decisions condemned by the courts in this context.

To prove trespass to the person (the civil law equivalent to assault and battery) no actual damage need be proved but intention or negligence on the part of the defendant must be shown.

To be able to hold the M.O.D. or the Chief Constable of the R.U.C. vicariously liable, the plaintiff must prove that the individual soldier or police officer was acting "in the course of his or her employment". The commander on the spot is not vicariously liable because all Crown servants are fellow servants and do not stand with respect to one another in the relationship of employer and employee.

The defences open to a defendant in a civil case would be:

- (a) contributory negligence by the plaintiff,
- (b) "ex turpi causa non oritur actio", i.e. a wrongdoing plaintiff cannot take advantage of the law to claim compensation,

- (c) "volenti non fit iniuria", i.e. the plaintiff consented to the risks he was running, and
- (d) the Criminal Law Act (N.I.) 1967, section 3(1).

All of the last three, if proved, operate as total defences, but contributory negligence is only a partial defence. All of them, except the one provided by the 1967 Act, are not often upheld by the courts, especially in cases involving child plaintiffs. The House of Lords (sitting as a court of law) has recently decided that even the 1967 Act can be no defence to the negligent planning of an operation.

As yet it appears that only two claims for compensation for negligent injuries inflicted by plastic bullets have been successful in the courts. Other claims have been settled out of court, with the M.O.D. or Police Authority not admitting liability. Nor have the courts exercised their special power to award compensation to the victims of crimes whenever the perpetrators of these crimes (who may be rioters or members of the security forces) have been convicted. Coroners' inquests are not empowered to award compensation or to pinpoint civil or criminal liability.

(2) Criminal injury claims

A third type of civil claim can be made under the Criminal Injuries (Compensation) (N.I.) Order 1977. To succeed, the plaintiff must show that he or she sustained injury as a result of the violent offence or another person; it is not necessary that some person be first convicted of committing the violent offence. The offence must have been an intended or a reckless one. The plaintiff may be denied relief if his or her provocative or negligent behaviour contributed directly or indirectly to the injury, if he or she has ever been a member of an unlawful organisation, or if he or she has ever been engaged in acts of terrorism. In these cases the plaintiff would be better advised to bring an action for negligence or for trespass.

6. International Law

There are several international conventions which the use of plastic bullets may well contravene. Some are concerned with the use of force within countries, others with the use of force between countries. The latter are more specific: for example, the 1899 Hague Convention for the Pacific Settlement of International Disputes (as amended) prohibits the use of weapons which are of a nature to cause superfluous injury, and of arms, projectiles or missiles which are calculated to cause unnecessary suffering. There is even an 1899 Declaration on Expanding Bullets, which bans bullets that expand or flatten easily in the human body.

Conventions dealing with the use of force within countries tend to be worded very generally. Various articles on the U.N.'s Universal Declaration of Human Rights 1948 guarantee the right to life, the right to be free from torture and cruel, inhuman or degrading treatment or punishment, and the right to freedom of expression and peaceful assembly. Article 6(1) of the U.N.'s International Covenant on Civil and Political Rights, which has been ratified by the United Kingdom, provides that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." The United Kingdom, however, has not recognised the competence of the U.N.'s Human Rights Committee to consider complaints from individuals in the U.K. concerning alleged violations of the International Covenant.

Several articles in the European Convention on Human Rights provide protections similar to those in the United Nation's documents. By Article 2(1) everyone's right to life shall be protected by law, but by Article 2(2):

"Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;

- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purposes of quelling a riot or insurrection."

By Article 13:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

These provisions are fully binding on the United Kingdom Government but to date no judgment concerning the use of force in Northern Ireland has been pronounced against that Government by the European Court of Human Rights. In 1983 the Government avoided a confrontation in the European Court by agreeing to pay damages out of court to the widow of a man shot dead by the Army in Newry. The details of the European Commission's decision in the case involving the death of Brian Stewart are given in the next section.

In 1983 the issue of plastic bullets in Northern Ireland was considered by the U.N.'s Sub-Commission on Prevention of Discrimination and Protection of Minorities. The U.K. Government submitted its views to that inquiry but the C.A.J. has yet to see a final report from the Sub-Commission.

Apart from being able to argue that these provisions of public international law may have been breached, the person injured by a plastic bullet may conceivably be able to sue the manufacturers of the bullets in the country where they were made. As many of them are made in the United States, and as most of the states there have a fairly plaintiff-orientated products liability law, the Northern Ireland plaintiff might stand a decent chance of recovering compensation. He or she would still have to prove, though, negligent design or inadequate testing/warning. If the fault lay in the gun rather than in the bullet, the manufacturers of the

gun could be sued instead. (There have been allegations that the cap in the gun which is meant to hold the bullet in place sometimes becomes dislodged and embeds itself in the victim.) In a few states in America, however, there is not even a need to prove negligence: a manufacturer's liability is strict. The issue is a complex legal one, but it is likely that if an action were brought in America it would be American rather than Northern Irish law which would be applied to determine the rights and liabilities of the parties.

8. The Stewart Case

A Decision of the European Commission on Human Rights, October 1984

The Facts:

In October 1976 Erian Stewart, aged 13, died after being struck on the head by a plastic bullet fired by a British soldier serving in Northern Ireland. At a coroner's inquest held 14 months later, in December 1977, an open verdict was returned. In May 1979 the County Court Judge for Belfast rejected a claim by Erian's mother, Mrs Kathleen Stewart, alleging negligence and assault against the Ministry of Defence. The Judge found that there had been a riot in progress, that the lives of the army patrol were in peril and that the firing of the baton rounds was justified in the circumstances. Mrs Stewart appealed to the High Court in Belfast, but in March 1982 her appeal was dismissed: the Judge held that the firing of the plastic bullet was reasonable for the prevention of crime in accordance with section 3(1) of the Criminal Law Act (P.L.) 1967.

The claim:

In August 1982 Mrs Stewart applied to the European Commission of Human Rights for a decision that under the European Convention on Human Rights she had an admissible case against the U.K. Government. She was represented by Barbara Cohen (of the National Council for Civil

Liberties in London) and by Lord Gifford C.C. The claim was based on Articles 2, 3 and 14 of the European Conventions

under Art. 2 ("Everyone's right to life shall be protected by law ...")

- the widespread use of plastic bullets as a method of crowd control infringed this right;
- the right is infringed even when a person is killed unintentionally;
- in the circumstances of this case the force used was more than was absolutely necessary to defend the army patrol or to quell a riot;
- in the circumstances of this case there was no riot at the time.

under Art. 3 ("No one shall be subjected to torture or to inhuman or degrading treatment or punishment")

- Brian Stewart was subjected to inhuman treatment or punishment.

under Art. 14 ("The enjoyment of the rights in this Convention shall be secured without discrimination ...")

- plastic bullets have been used wholly or predominantly against Roman Catholics or people with republican opinions.

The defence:

The U.K. Government denied all the claims just mentioned and also alleged that Mrs Stewart had no right to bring a case in Europe because she had not first exhausted the remedies available to her in Northern Ireland. In particular she had not adduced any evidence in the Northern Irish courts to show a failure on the Government's part to provide means of quelling a disorderly crowd apart from the use of plastic bullets.

The decision:

Mrs Stewart's application was held to be inadmissible, i.e., she lost.

The reasons given were these:

- Mrs Stewart had exhausted her remedies in Northern Ireland, but the point at issue here was not the use of plastic bullets in general but their use in this particular case;
- Art. 2 does cover unintentional killings, but in this case the force used was no more than absolutely necessary;

- this meant that Art. 3 was not breached;
- there was no evidence to support a breach of Art. 14.

The international protection of human rights

(1) The European Convention on Human Rights

1. The European Convention on Human Rights was drawn up by the Council of Europe (not by the E.E.C.) in 1950. Cases alleging that the Convention has been breached are considered first by the European Convention on Human Rights. If that Commission decides that the case is "admissible" it will then usually be considered by the European Court of Human Rights. Both of these bodies sit at Strasbourg in France. The Commission is staffed by 21 Commissioners and the Court by 21 judges - one from each member state of the Council of Europe. The Commissioners and judges are not always judges in their own countries. It is not uncommon for cases to be settled before they reach the European Court. This happened in the Farrell case (1984) which cannot therefore stand as a precedent for any future case.

2. The U.K. ratified the Convention in 1953, which meant that from then on the Convention was binding on the U.K. in international law. Any other state on which the Convention is binding can take a case against the U.K. if it believes that the U.K. has laws or procedures which are in breach of the Convention. This is what Ireland did in 1976 when it complained that the use of the so-called five techniques by the security forces in Northern Ireland (wall standing, hooding, subjection to noise, restricted diet and deprivation of sleep) was contrary to Art. 3 of the Convention ("No one shall be subjected to torture or to inhuman or degrading treatment or punishment"). The ultimate decision was that the five techniques amounted to inhuman or degrading treatment, but not to torture.