

APPLICATION/REQUÊTE N° 10978/84

Mary Catherine STOUTT v/IRELAND

Mary Catherine STOUTT c/IRLANDE

DECISION of 14 October 1986 on the admissibility of the application

DÉCISION du 14 octobre 1986 sur la recevabilité de la requête

Article 8 of the Convention : *Even if patrimonial rights fall within the scope of Article 8, it does not actually confer any right to inherit (reference to the Marckx judgment).*

An illegitimate child's lack of inheritance rights in the estates of his intestate father or of his parents' close relatives does not constitute an interference with the exercise of his right to respect for family life.

Article 14 of the Convention, in conjunction with Article 8 of the Convention : *Alleged discrimination between legitimate and illegitimate children with regard to the right to inherit from the father and from the parents' close relatives (Complaint declared admissible).*

Article 25 of the Convention : *The author of an application relating to a family life which has ceased to exist cannot claim to be a victim of a violation of Article 8 of the Convention.*

Article 26 of the Convention : *The obligation to exhaust domestic remedies requires only that an applicant make normal use of remedies likely to be effective and adequate.*

No effective remedy in Ireland for complaining that an illegitimate child is unable to inherit from its parents' close relatives, the Supreme Court having held the legislation at issue (Succession Act 1965) to be in conformity with the Constitution.

Article 8 de la Convention : *Même si les droits patrimoniaux relèvent de l'article 8, celui-ci ne confère pas un droit d'hériter (référence à l'arrêt Marckx).*

L'incapacité pour un enfant naturel d'hériter ab intestat de son père et des proches parents de ses père et mère ne constitue pas une ingérence dans l'exercice du droit au respect de sa vie familiale.

Article 14 de la Convention, combiné avec l'article 8 de la Convention : *Discrimination alléguée entre enfants légitimes et enfants naturels en ce qui concerne le droit d'hériter du père et des parents proches des père et mère (Grief déclaré recevable).*

Article 25 de la Convention : *Ne peut se prétendre victime d'une violation de l'article 8 de la Convention l'auteur d'une requête visant une vie familiale qui a cessé d'exister.*

Article 26 de la Convention : *L'obligation d'épuiser les voies de recours internes se limite à celle de faire un usage normal des recours vraisemblablement efficaces et suffisants.*

Pas de recours efficace en Irlande pour se plaindre qu'un enfant naturel ne peut hériter des proches parents de ses père et mère, la législation litigieuse (loi de 1965 sur les successions) étant jugée conforme à la constitution par la Cour suprême.

THE FACTS

(français : voir p. 157)

The applicant, Mrs. Mary Catherine Stoutt, born in 1937, is an Irish citizen, at present residing in England. She is represented in the proceedings before the Commission by Senator Mary Robinson, S.C., Mr. Ercus Stewart, S.C., and Mr. K. O'Brien of Bowler Geraghty & Co., solicitors, Dublin. It was established in evidence in a hearing before the High Court on 12 and 13 January 1982 that the applicant was born out of wedlock and that she was the daughter of Mr. William Walker who died intestate in 1975.

In or about 1935/1936 the applicant's mother, Mrs. Mary Palmer, whose husband had left her, established a relationship with Mr. Walker and lived with him until his death in 1975. The applicant was the first child of this relationship. Two other children died in 1949 and in 1966.

The applicant married in 1958 and settled in England. She has two children born in 1960 and 1963. She states that her father was a frequent visitor to their family home in England.

When her father died in 1975 he left an estate valued at approximately £ 1,600 and his sister, Florence O'Brien, applied to the Principal Probate Office as next-of-kin for the letters of administration to his estate. On 7 October 1975 a caveat to that application was entered by the applicant. Proceedings were issued by the sister as plaintiff, seeking *inter alia* an Order setting aside the caveat and granting her liberty to proceed with the application for a grant of administration. The applicant in her

defence claimed an Order and Declaration that she was the issue of Mr. Walker and entitled to claim a share of the estate. On the facts of the case, if the applicant were to be treated as "issue" for the purpose of Section 67 of the Succession Act 1965, she would take the whole estate, there being no surviving spouse of the deceased. In the alternative, it was claimed that the relevant sections of the Succession Act which govern the distribution of property on intestacy (Sections 67 and 69) were invalid, having regard to the provisions of the Constitution (1).

Notice was served on the Attorney-General in November 1981 pursuant to Order 60 of the Rules of the Superior Courts and once it had been established in the High Court that the applicant was the deceased's daughter the proceedings became an issue between the defendant and the Attorney-General on the interpretation and constitutional validity of the relevant provisions of the 1965 Act.

Mr. Justice D'Arcy, in a decision of the High Court dated 19 April 1982, held that the defendant (the applicant) was not entitled to succeed on intestacy, not being "issue" within the meaning of Section 67 of the 1965 Act, and that Sections 67 and 69 were not invalid under the Constitution. An appeal was taken to the Supreme Court which upheld the decision of Mr. Justice D'Arcy on both issues. In the judgment of 20 January 1984 delivered by Mr. Justice Walsh on behalf of the Court, it was held that (a) the term "issue" as a matter of statutory construction referred only to issue born within marriage; and (b) Sections 67 and 69 of the 1965 Act did not infringe the principle of equality before the law guaranteed under Article 40, subsection (1) of the Constitution. The differential treatment between children born out of wedlock and children born in wedlock could not be regarded as unreasonable, unjust or arbitrary since its purpose is to maintain the primacy of the family which is the subject of special protection in Article 41 of the Constitution.

Following the judgment and Order of the Supreme Court there was no impediment to Florence O'Brien taking out the grant to administer the estate and divide it amongst the next of kin in the manner provided in Section 69 of the 1965 Act.

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- (1) 67. (1) If an intestate dies leaving a spouse and no issue, the spouse shall take the whole estate.
(2) If an intestate dies leaving a spouse and issue -
(a) the spouse shall take two-thirds of the estate, and
(b) the remainder shall be distributed among the issue in accordance with subsection (4).
(3) If an intestate dies leaving issue and no spouse, his estate shall be distributed among the issue in accordance with subsection (4).
(4) If the issue are in equal degree of relationship to the deceased the distribution shall be in equal shares among them; if they are not, it shall be *per stirpes*.
69. (1) If an intestate dies leaving neither spouse nor issue nor parent, his estate shall be distributed between his brothers and sisters in equal shares, and, if any brother or sister does not survive the intestate, the surviving children of the deceased brother or sister shall, where any other brother or sister of the deceased survives him, take in equal shares the share that their parent would have taken if he or she had survived the intestate.
(2) If an intestate dies leaving neither spouse nor issue nor parent nor brother nor sister, his estate shall be distributed in equal shares among the children of his brothers and sisters.

In addition to her inability to inherit on the intestacy of her father the applicant's rights to inherit from her mother's estate are also limited. She can only inherit from her mother's estate, on an intestacy, if there are no surviving legitimate issue (Legitimacy Act 1931, Section 9 (1)).

The applicant's father was survived by two sisters and her mother is still alive. Her mother has three sisters who are married and have children.

COMPLAINTS

Article 8

The applicant claims that the following aspects of Irish law are in breach of Article 8 of the Convention: (1) the lack of recognition of the family unit in which she grew up; (2) the failure to provide any procedure for the establishment of paternity which would facilitate the development of a normal parent-child relationship between a father and his "illegitimate" child; (3) her total exclusion from any rights of succession to the estate of her father; (4) the inferior nature of the rights of succession which the applicant has in relation to her mother and the absence of any right to succession to other relatives either of her father or mother.

Article 14

The applicant submits that the statutory discrimination in matters of intestate succession constitutes an unjustifiable discrimination on the ground of birth, contrary to Article 14. She has been excluded from any right to succeed solely because of her status as a person born out of wedlock. There not being any "legitimate" children to succeed as "issue" the estate then passed to the persons who were deemed to be her father's lawful next-of-kin under Irish law, namely, his sisters and children of a deceased brother.

She alleges a further head of discrimination as regards her inferior rights of succession under Irish law to her mother's estate and her total lack of inheritance rights on intestacy in relation to the estates of near relatives, either of her father or her mother.

She submits that the conclusions drawn in the *Marckx* case relating to the right of an "illegitimate" child to succeed on the intestacy of her mother, and her rights with regard to the near relatives of her mother, apply equally to a natural father where paternity has been established (see Eur. Court H.R., judgment of 13 June 1979, Series A no. 31, para. 59).

Object of the application

The applicant seeks just satisfaction in respect of the above violations and an amendment of the relevant law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 30 May 1984 and registered on 4 June 1984. It was examined by the Commission on 16 May 1985 when it was decided to communicate it to the respondent Government for observations on the admissibility and merits of the applicant's complaints. The observations of the Government were received on 26 September 1985 and the applicant's observations in reply were received on 13 November 1985.

The Commission again considered the application on 5 March 1986 and decided to hold an oral hearing on the complaints under Article 14 in conjunction with Article 8 concerning the absence of any right of succession on the intestacy of her father or that of her parents' near relatives. The hearing took place in Strasbourg on 14 October 1986 and the parties were represented as follows:

For the Government

Mrs. Jane Liddy,	Agent, Department of Foreign Affairs
Mr. Dermot Gleeson,	Senior Counsel
Mr. James O'Reilly,	Barrister-at-law
Mr. Matthew Russell,	Office of the Attorney General, Adviser

For the Applicant

Senator Mary Robinson,	Senior Counsel
Mr. Ercus Stewart,	Senior Counsel
Mr. Kieran E. O'Brien,	Solicitor

SUMMARY OF THE OBSERVATIONS

Respondent Government

Domestic Law and Practice

The Irish Constitution

Article 41 of the Constitution of Ireland (1937) provides that

— the State recognises the family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law;

— the State, therefore, guarantees to protect the family in its Constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and State;

— the State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

The Supreme Court, interpreting the above provisions, has held :

-- that the natural parents of an "illegitimate" child and the child itself are not a family for the purposes of Article 41 (The State (Nicolaou) v. An Bord Uchtala 1966 I.R. 367);

-- that an "illegitimate" child has unenumerated natural rights which will be protected under Article 40.3 (which deals generally with personal rights) such as the right to be fed and to live, to be reared and educated, to have the opportunity of working and of realising his or her full personality and dignity as a human being as well as the same natural rights under the Constitution as a "legitimate" child to religious and moral, intellectual, physical and social education (G. v. An Bord Uchtala 1980 I.R. 32).

Registration of Births

The law relating to registration of births of "illegitimate" children enables the Registrar to enter in the register the name of a person as father of the child at the joint request of the mother and of the person acknowledging himself to be the father of the child. In such cases the natural father and mother both sign the register. The law is set out in the Registration of Births and Deaths (Ireland) Act 1863 as amended by the Births and Deaths Registration (Ireland) Act 1880. Provision is also made for the issue of a short form of birth certificate omitting the information about the parents of the child.

Succession rights

The relevant law concerning succession rights is as follows :

-- "where the mother of an illegitimate child dies intestate and does not leave any legitimate issue the illegitimate child, or, if he is dead, his issue, shall be entitled to take any interest [in the estate] to which he or such issue would have been entitled if he had been born legitimate" (Legitimacy Act 1931, Section 9 (1));

-- an "illegitimate" child has no rights of inheritance on the intestacy of his or her natural father. The expression "issue" in the relevant Sections of the Succession Act 1965 has been held by the courts to refer to "legitimate" issue only. The Supreme Court in the case taken by the applicant has upheld the constitutionality of these provisions of the Succession Act holding that they do not infringe the principle of equality before the law and that such differential treatment between children is not necessarily unreasonable, unjust or arbitrary having regard to the constitutional guarantee relating to the marriage-based family;

-- a spouse guilty of desertion which has continued up to the death for two years or more is precluded from taking any share in the estate, which is distributed as if he had died before the deceased (Section 120 of the Succession Act 1965);

-- an "illegitimate" child has no statutory right to inherit on the intestacies of relatives of the natural parents.

Proposed Amendment of the Law

In September 1982 the Law Reform Commission published a report on Illegitimacy under Irish law, recommending the elimination of discrimination between "legitimate" and "illegitimate" children and other reforms of the law. On 24 October 1983 the Government announced its intention to implement most of the reforms proposed. In May 1985 the Minister for Justice laid before each House of the Oireachtas a Memorandum entitled "The Status of Children". Its purpose was to inform interested persons of the nature and scope of the main changes in the law which the Government proposed to make. The Government invited comments on the proposals. The text of a draft Status of Children Bill, annexed to the Memorandum, proposed *inter alia* that, for the purposes of the Succession Act 1965, the relationship between every person and his father and mother would, subject to Section 27A, be determined irrespective of whether the father and mother are or have been married to each other, and that all other relationships should be determined accordingly, the word "issue" to be construed accordingly. In circumstances where the spouse or children (whether children of the marriage or otherwise) have made a substantial contribution to the deceased's estate the proposals provided that the High Court could make extra provision where application of the normal rules would result in injustice. The proposals included provisions whereby the father of a non-marital child could be granted full guardianship rights. The Government expect to review the draft Bill in October 1986 in the light of comments received in the meantime from interested persons, prior to its introduction in the Dáil.

Admissibility and Merits

Article 8

The Government submit that the Commission lacks competence *ratione temporis* to examine this complaint. It is not open to the Commission to examine an allegation concerning legal safeguards in the field of family life in Ireland thirty or forty years ago. Nor is it open to the Commission to apply principles developed by the European Court of Human Rights in the Marckx case in 1979 to a legal regime which obtained in Ireland thirty years ago (judgment of 13 June 1979).

Furthermore, insofar as the applicant's complaints relate to the effect on her private and family life of her inferior rights of succession to her mother and her parents' near relatives, she has not exhausted domestic remedies. In this respect she has not attacked these disabilities before the domestic courts invoking her fundamental personal rights as developed under Irish law.

In the alternative, the applicant lacks the status of a victim as required by Article 25. It is clear from the transcript of the proceedings before the High Court that her only concern in bringing the proceedings was to seek a declaration of paternity. She disclaims any interest in the small amount of money that her father left. Against this background the Commission is, in effect, being asked to examine *in abstracto*

the provisions of the Succession Act 1965. Moreover, the proceedings before the High Court resulted in her obtaining a declaration of paternity. Further, the Status of Children Bill which is at present before the Irish Parliament amends the Succession Act 1965 by putting marital and non-marital children on the same footing for succession purposes and treating non-marital children as "issue". In addition, the applicant's father was registered on her birth certificate and in the domestic proceedings the Supreme Court directed that the costs of all of the proceedings should be borne by the State.

As regards the merits, the Government submit that Article 8 does not contain an absolute right to inherit property. In this respect reference is made to paragraph 53 of the judgment of the Court in the *Marckx* case (*loc. cit.*).

Article 14

The applicant's mother is aged 75 and has no children apart from the applicant. The applicant can thus inherit from her mother according to Section 9 of the Legitimacy Act 1931. Accordingly she cannot claim to be a victim in this respect.

It is not known whether any effort was made by the applicant's mother to regularise her marital status while William Walker was still alive, notwithstanding the possibility that her husband could have obtained a divorce in England which could be recognised in Ireland. It is submitted, with reference to the Commission's decision in Application No. 9519/81 (Dec. 15.3.84, unpublished), that there can be no breach of Article 14 where steps could have been taken to regularise the situation, thus avoiding the impact of the legislative provisions complained of.

It is further submitted that since there is no right to inherit property as such under Article 8, no issue of discrimination under Article 14 can arise.

The Government maintain that the applicant seeks to apply the principles developed by the Court in the *Marckx* case retrospectively. The Court has recognised that the different treatment of "legitimate" and "illegitimate" children was, for many years, regarded as "permissible and normal" in a large number of Contracting States. It is submitted that the difference in patrimonial rights between "legitimate" and "illegitimate" children is proportionate and historically justified for reasons of public policy which include the requirement of legal certainty, and the aim of protecting the marriage-based family.

Finally, the Government point out, with reference to the judgment of the Court in the *Rasmussen* case, that Contracting States enjoy a margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment in law (see Eur. Court H.R., judgment of 28 November 1984, para. 40). In the present case the Government have not exceeded the margin of appreciation. Notwithstanding the *Marckx* judgment, it cannot be said that the position legislated for in 1965 was not then tenable.

The applicant

Article 8

Although the scope of protection of family life under Article 8 is normally considered within the existing unit of the family, consisting of parents and dependent children, there are circumstances when the protection of family life can extend beyond this factual situation. It is broad enough to encompass the relationship of an extended family. In this respect although the applicant was a married woman before her father died she had not severed her connection with her original family. She remained in close contact with her mother and father following her own marriage and the establishment of her matrimonial home in England. Her father was a frequent visitor to her home in England and had established a close relationship with his grandchildren.

Article 14

The applicant submits that under Irish law she would have no *locus standi* to bring constitutional proceedings before the courts challenging her rights over her mother's estate or that of her parents' relatives. Such proceedings could only lead to an examination of her claims, if these relatives had died.

As regards the merits, the applicant submits, with reference to paragraph 45 of the Marckx judgment, that the concept of family life, within the meaning of Article 8, "includes at least the ties between near relatives, for instance those between grandparents and grandchildren, since such relatives may play a considerable part in family life." If such ties can extend to grandparents and grandchildren, they must also apply to the relationship between a father and daughter even though the daughter is now mature and may have married. Furthermore, the Court in the Marckx case also expressly accepted the contention that patrimonial rights fall within the reach of family life (*loc. cit.*, paras. 51-52).

The Court has also concluded in the Marckx case that the discrimination in relation to succession rights affecting the "illegitimate" child lacked any objective and reasonable justification and violated Article 14 taken in conjunction with Article 8. This finding was not grounded on the circumstances of the dependency of a young child within a family unit but on the nature of the discrimination based on birth which had no reasonable or objective justification.

The Government, in the present case, have advanced no arguments seeking to justify the difference in treatment which the applicant suffered. The reference to Application No. 9519/81 (*loc. cit.*) is irrelevant since the applicant's parents did not exercise a choice to remain unmarried as they had no remedy open to them under Irish law which would enable the applicant's mother to dissolve her existing marriage and to remarry.

It cannot be claimed that the discrimination is effective in the sense that it deters relationships outside marriage since the evidence shows an increase in the number of children born out of wedlock in Ireland. In any event the Court has made it clear in the Marckx judgment that, while encouragement of the traditional family is in itself a legitimate aim, the measures taken to achieve this must not injure or prejudice the "legitimate" family (para. 40).

Moreover, if the purpose of the discriminatory provisions is to protect the marriage-based family the measure must be regarded as disproportionate in the present case since there are no "legitimate" children to be protected.

Finally, the exclusion of the applicant from rights of succession is fundamentally unjust since it is tantamount to a punishment for the actions of others. To exclude innocent children, or, as in the case of the present applicant, innocent children who have reached maturity, merely because of the status of their parents at the time of their birth is arbitrary, unreasonable, and unjustified.

THE LAW

1. The applicant, who was born out of wedlock in 1937, complains that the following aspects of Irish law are in breach of Article 8 of the Convention:

- (a) that Irish law does not recognise the family unit in which she grew up;
- (b) that there is no procedure under Irish law for the establishment of paternity in order to facilitate a normal parent/child relationship between a father and his child born out of wedlock;
- (c) the absence of any right of succession on intestacy in respect of her late father's estate;
- (d) the inferior nature of the rights of succession which she has in relation to her mother;
- (e) the absence of any inheritance rights on intestacy over the estates of her parents' near relatives.

She further complains that the absence of inheritance rights on intestacy over the estates of her father and her parents' near relatives constitutes an unjustifiable discrimination on the ground of birth contrary to Article 14 of the Convention.

The respondent Government submit *inter alia* that the Commission has no competence to examine the application since it concerns a legal regime relating to the applicant's family life which predates the entry into force of the Convention. It is further argued that the applicant has failed to exhaust domestic remedies before the Irish courts since she made no constitutional complaint concerning her rights over her mother's estate or that of her parents' near relatives. Finally, the Government contend that it is not open to the applicant to complain about the present legal situation in Ireland in respect of a family life which no longer exists and that she cannot be regarded as a victim in this respect.

The applicant contends that the protection afforded by Article 8 encompasses not only the family relationships which existed when she was growing up but also the relationships involved in the extended family. She also claims that she would have no *locus standi* to institute constitutional proceedings in respect of her complaints concerning her inheritance rights over her mother's estate and that of her parents' near relatives.

a. *As regards Article 25 para. 1*

The relevant part of this provision reads as follows:

"The Commission may receive petitions addressed to the Secretary General of the Council of Europe from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention ..."

The Commission considers that the applicant's complaints, under (a) and (b) above, relate to the legal regime in Ireland which was in force when the applicant was growing up and which concerns the family relationship during that period between herself and her late father. Since such a complaint relates to a family life which has long since ceased to exist, she can no longer be considered to be a victim as required by Article 25 para. 1 of the Convention.

The applicant has also complained, under (d) above, of her inferior rights of succession to her mother's estate. The Commission recalls, in this respect, that the applicant can only inherit on the intestacy of her mother if there are no surviving "legitimate" issue (Section 9 (1), Legitimacy Act 1931).

In the present case, however, there is no impediment to the applicant's succeeding to her mother's estate since there are, in fact, no surviving "legitimate" issue. It follows that the applicant cannot be considered to be a victim in respect of this complaint since she will suffer no prejudice from the legislative provision complained of.

The Commission considers therefore that the above complaints, under (a), (b), and (d) above, must be rejected as incompatible *ratione personae* with the Convention within the meaning of Article 27 para. 2 of the Convention.

b. *As regards exhaustion of domestic remedies*

The Government have submitted in this respect that it would have been open to the applicant to bring a constitutional action in respect of complaint (c) above, concerning the absence of any inheritance rights over the estates of her parents' near relatives.

The applicant has replied that such a remedy would not be open to her since she would not satisfy the requirement of *locus standi* under Irish law.

Under Article 26 of the Convention the Commission may only deal with a complaint "after all domestic remedies have been exhausted, according to the generally recognised rules of international law ...". In accordance with the Commission's case-law an applicant must make "normal use" of remedies which are likely to be effective and adequate to remedy the matters of which he complains (see e.g. *Donnelly and others v. United Kingdom*, D.R. 4 pp. 4, 64).

In the present case the Supreme Court of Ireland has upheld the constitutionality of Sections 65 and 69 of the Succession Act 1965, finding *inter alia* that the differential treatment between children did not infringe the constitutional principle of equality since its purpose was to protect the primacy of the marriage-based family.

In the light of this decision the Commission does not consider, even if it is assumed that the applicant would have *locus standi*, that the respondent Government have shown the existence under Irish law of remedies which are likely to be effective to remedy this complaint (see, *mutatis mutandis*, *R. Johanson and others v. Ireland*, No. 9697/82, Comm. Report 5.3.85, pp. 61-63).

Accordingly it does not consider that the above complaint (e) can be rejected for failure to exhaust domestic remedies.

2. *As regards Article 8*

The applicant contends that her remaining complaints, (c) and (e) above, concerning the absence of inheritance rights on intestacy over the estates of her father and her parents' near relatives constitute an interference with her right to respect for family life as protected by Article 8 of the Convention.

Article 8 para. 1 provides as follows:

"Everyone has the right to respect for his private and family life, his home and his correspondence."

The Commission first observes that while the European Court of Human Rights in the *Marckx* case considered that patrimonial rights fell within the scope of Article 8 of the Convention, it did not consider that this provision actually conferred any right to inherit.

The Court stated as follows:

"Matters of intestate succession — and of disposition — between near relatives prove to be intimately connected with family life. Family life does not include only social, moral or cultural relations, for example in the sphere of children's education; it also comprises interests of a material kind, as is shown by, amongst other things, the obligations in respect of maintenance and the position occupied in the domestic legal systems of the majority of the Contracting States by the institution of the reserved portion of an estate (*réserve héréditaire*). Whilst inheritance rights are not normally exercised until the estate-owner's

death, that is at a time when family life undergoes a change or even comes to an end, this does not mean that no issue concerning such rights may arise before the death: the distribution of the estate may be settled, and in practice fairly often is settled, by the making of a will or of a gift on account of a future inheritance (*avance d'hoirie*); it therefore represents a feature of family life that cannot be disregarded.

53. Nevertheless, it is not a requirement of Article 8 that a child should be entitled to some share in the estates of his parents or even of other near relatives: in the matter of patrimonial rights also, Article 8 in principle leaves to the Contracting States the choice of the means calculated to allow everyone to lead a normal family life (see paragraph 31 above) and such an entitlement is not indispensable in the pursuit of a normal family life. In consequence the restrictions which the Belgian Civil Code places on Alexandra Marckx's inheritance rights on intestacy are not of themselves in conflict with the Convention, that is if they are considered independently of the reason underlying them." (judgment of 13 June 1979, Series A no. 31, paras. 52-53).

Having regard to these principles, the Commission does not consider that the succession disabilities under (c) and (e) above constitute an interference with the applicant's right to respect for family life.

Accordingly the applicant's remaining complaints under Article 8 must be rejected as manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

3. *As regards Article 14 in conjunction with Article 8*

In addition, the applicant complains that the absence of inheritance rights over the estates of her father and her parents' near relatives, under (c) and (e) above, constitutes an unjustified discrimination against her on the ground of birth contrary to Article 14 of the Convention. She contends that such discrimination under Irish law pursues no legitimate aim and has no reasonable or objective justification.

The Government maintain *inter alia* that Article 14 cannot apply to the applicant's complaint since there is no right under Article 8 to inherit property from relatives. It is also submitted that the Commission should not examine the provisions of the Succession Act 1965 in the light of the principles subsequently developed by the Court in the Marckx case in 1979.

The Commission first notes, from the above-cited paragraphs of the decision of the Court in the Marckx case, that the scope of the concept of family life extends to inheritance rights and that accordingly Article 14 can apply to differential treatment of succession on intestacy. Accordingly it does not consider that this complaint can be rejected as incompatible *ratione materiae* with the Convention as submitted by the respondent Government.

The Commission considers, in the light of the parties' submissions, that the above complaints of discrimination raise complex issues of fact and law under the Convention, the determination of which should depend on examination of the merits of the case.

It concludes, therefore, that this part of the application cannot be rejected as manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission

1. DECLARES ADMISSIBLE, without prejudging to the merits of the case, the applicant's complaints under Article 14 in conjunction with Article 8 concerning the absence of inheritance rights on intestacy over the estates of her father and her parents' near relatives
2. DECLARES INADMISSIBLE the remainder of the application.