CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 49297/99
by Jerker and Barbro ANDERSSON and
Lars-Göran ISAKSSON
against Sweden

The European Court of Human Rights (Second Section) sitting on 28 October 1999 as a Chamber composed of

Mr C. Rozakis, *President*,
Mr M. Fischbach,
Mrs E. Palm,
Mr G. Bonello,
Mrs V. Strážnická,
Mr P. Lorenzen,
Mr A.B. Baka, *judges*,

and Mr E. Fribergh, *Section Registrar*;

Having regard to Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 23 February 1999 by Jerker and Barbro Andersson and Lars-Göran Isaksson against Sweden and registered on 2 July 1999 under file no. 49297/99;

Having regard to the report provided for in Rule 49 of the Rules of Court;

Having deliberated;

Decides as follows:

THE FACTS

The applicants are Swedish nationals, born in 1935, 1939 and 1949 respectively and living in Skattkärr and Grundsund, Sweden.

The facts of the case, as submitted by the applicants, may be summarised as follows.

On 10 September 1992 the Building Committee (*byggnadsnämnden*) of Lysekil granted the owner of a piece of real property known as Skaftö-Backa 3:129 at Skaftö a building permit for rebuilding a residential house situated on that property. On 4 October 1992 some neighbours to the relevant property, including the applicants, appealed against the decision to the County Administrative Board (*länsstyrelsen*) of the County of Gothenburg and Bohus. On 22 October 1992 the Board rejected the appeal. On 26 April 1993 the Administrative Court of Appeal (*kammarrätten*) of Gothenburg upheld the Board's decision. On 9 February 1995 the Supreme Administrative Court (*Regeringsrätten*), *inter alia* after having heard the opinion of the National Board on Housing, Building and Planning (*Boverket*), quashed the decisions and referred the case back to the Building Committee.

On 9 March 1995 the Building Committee anew granted the building permit. Some neighbours to the relevant property, including the applicants, appealed against the decision. On 30 January 1996 the County Administrative Board rejected the appeal. The complainants appealed to the Administrative Court of Appeal which, on 20 September 1996, held an oral hearing in the case at the location of the property in the presence of the parties involved. The parties were then able to submit arguments in favour of their different views.

On 14 October 1996 the Administrative Court of Appeal upheld the decision with extensive reasons.

On 28 October 1996 the applicants applied for leave to appeal to the Supreme Administrative Court. The application was rejected on 23 November 1998.

COMPLAINTS

1. The applicants complain that in the determination of their civil rights they did not have a fair trial in that the administrative authorities as well as the courts in their decisions disregarded the appropriate legislation.

2. The applicants furthermore complain of the length of the proceedings.

3. Finally, the applicants complain of the fact that the Supreme Administrative Court did not grant leave to appeal.

They invoke Articles 6 and 13 of the Convention.

THE LAW

1. The applicants complain that in the determination of their civil rights they did not have a fair trial in that the administrative authorities as well as the courts in their decisions disregarded the appropriate legislation.

In this respect the Court recalls that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not competent to deal with applications concerning errors of law or fact allegedly committed by the competent national authorities, to whom it falls, in the first place, to interpret and apply domestic law. The Court has no competence to examine allegations concerning such errors except where, and to the extent that, they seem likely to have entailed a possible violation of any of the rights and freedoms set out in the Convention (see the Garcia Ruiz v. Spain judgment of 21 January 1999, § 28, with further reference, to be published in *Reports of Judgments and Decisions* 1999).

It is true that the applicants maintain that the proceedings were not fair and invoke in this respect Article 6 of the Convention. However, an examination of this part of the application has not disclosed any appearance of a violation of this provision.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4.

2. The applicants furthermore complain of the length of the proceedings. The Court has examined this part of the application under Article 6 of the Convention which, *inter alia*, guarantees the right to a determination of civil rights and obligations within a reasonable time.

The Court considers, however, that it cannot, on the basis of the case file, determine the admissibility of this part of the application and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

3. The applicants finally complain that they were not granted leave to appeal to the Supreme Administrative Court.

The Court recalls that the right to appeal to a third level of jurisdiction does not feature among the rights and freedoms guaranteed by the Convention. No provision of the Convention, therefore, requires a State to grant persons under its jurisdiction an appeal to a Supreme Court acting as a third instance court. If a State makes provisions for such an appeal it is entitled to lay down the conditions for such an appeal (cf. No. 6916/75, Dec. 12.3.76, D.R. 6 p. 101 and No. 10515/83, Dec. 2.10.84, D.R. 40 p. 258).

The Court also notes that the applicants had access to, and indeed also availed themselves of, the right to appeal to a court of law.

In these circumstances the Court finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed by the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

DECIDES TO ADJOURN the examination of the applicants' complaint relating to the length of the proceedings.

DECLARES INADMISSIBLE the remainder of the application.

Erik Fribergh
Registrar

Christos Rozakis
President