AS TO THE ADMISSIBILITY OF

Application No. 12781/87
by Rune ANDERSSON
against Sweden

The European Commission of Human Rights sitting in private on 13 December 1988, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
G. SPERDUTI
E. BUSUTTIL
G. JÖRUNDSSON
A. WEITZEL
J.C. SOYER
H.G. SCHERMERS
H. DANELIUS
H. VANDENBERGHE
Mrs. G.H. THUNE
Sir Basil HALL
MM. F. MARTINEZ
C.L. ROZAKIS
Mrs. J. LIDDY

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 16 December 1983 by Rune ANDERSSON against Sweden and registered on 9 March 1987 under file No. 12781/87;

Having regard to the report provided for in Rule 40 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

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

The applicant is a Swedish citizen, born in 1932 and resident at Täby.

In January 1983 the applicant decided to demonstrate outside the Eslöv District Court against the fact that a carpenter had been incarcerated for violations of the tax laws. Upon inquiring the applicant was told by the police that he needed permission for such a demonstration.

The applicant submitted his request for a permit on 2 February 1983. He stated that he estimated that the number of demonstrators would be between one and five.

On 4 February 1983 the Police Board (polisstyrelsen) of Eslöv granted the permission. The applicant was also charged a fee

(expeditionsavgift) of 60 SEK. The applicant states that he learned about the fee only after the demonstration had taken place.

On 7 February the applicant fetched the permit at the police station. He informed the police that he would be the only demonstrator.

On the same day, 7 February 1983, the applicant carried out a one-man demonstration outside the District Court.

The applicant appealed against the Police Board's decision claiming that his demonstration did not require a permit. The appeal was rejected by the County Administrative Board (länsstyrelsen) of the County of Malmöhus on 9 May 1983. The applicant lodged a further appeal with the Government. On 22 June 1983 the Government decided that the applicant had no right to appeal since his application for a permit had been granted by the Police Board.

The applicant refused to pay the fee of 60 SEK and the matter was eventually subject to enforcement proceedings. On 17 November 1984 the Enforcement Office (kronofogdemyndigheten) of Täby decided to take the applicant's debt to the State - then 110 SEK - from his tax credit resulting from the taxation of his income during 1983.

The applicant, asking for a hearing in the case, appealed to the Svea Court of Appeal (Svea hovrätt) which rejected the appeal on 26 February 1985 without a hearing. In its decision the Court of Appeal, inter alia, stated:

> "The fundamental provision in the Instrument of Government (regeringsformen) concerning the freedom to demonstrate is found in Chapter 2 Section 1 (4). It states that every citizen shall, in relation to the community, be guaranteed the freedom of demonstration: the freedom to arrange and to participate in demonstrations on public grounds. From Section 14 in conjunction with Section 12 of the same Chapter, it appears that a limitation on the freedom of demonstration may only be based on law - or in certain cases other provisions after authorisation in law - and further that this freedom may only be restricted for reasons of national security, order and security at the meeting or demonstration or in view of the traffic or in order to stop an epidemic. In the 1956 Act on Public Meetings (lagen om allmänna sammankomster) it is provided in Section 3, first paragraph, that a public meeting may not take place, without the permission of the police authority, in streets, squares, parks or other places which, according to an adopted town plan or building plan, are public places and which are used for such purposes. ... From the second paragraph of the same Section it appears that such permission may be refused only if it is necessary having regard to the traffic or the public order. In the Ordinance on Stamp Duties (expeditionskungörelsen) it is provided that the applicant is obliged to pay a stamp duty of 60 SEK for a permit.
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> The requirement of a permit is of course a restriction of the freedom of demonstration. However, the restriction does not go any further than what is permitted under the Instrument of Government. The obligation to pay a stamp duty can possibly appear as a specific restriction. However, the fee, which is not considerably higher or lower than other comparable stamp duties, is only a consequence of the fact that a permit is required. Consequently, there is no question of an impermissible restriction of the freedom of demonstration."

The applicant appealed to the Supreme Court (högsta domstolen) and asked for a hearing on the issue whether leave to appeal should be

granted. On 10 July 1985 the Supreme Court refused leave to appeal.

The applicant also appealed to the National Tax Board (riksskatteverket) against the decision to impose a fee of 60 SEK for the demonstration permit and against the Svea Court of Appeal's decision to charge 50 SEK for its decision of 26 February 1985.

On 25 September 1986 the National Tax Board rejected the appeal.

COMPLAINTS

1. The applicant complains that he has never received a fair and public hearing before a tribunal on the issue of whether his one-man demonstration was subject to the condition of a permit and the payment of a fee. The applicant alleges a violation of Article 6 of the Convention.

2. The applicant complains that, before the payment of the fees was enforced, the Enforcement Office threatened to enter his home with the help of a locksmith to collect the fees. In the applicant's opinion this constitutes a violation of Article 8 of the Convention.

3. The applicant also alleges that he has been the victim of a breach of Article 10 of the Convention.

4. The applicant further alleges a breach of Article 14 of the Convention on the ground that his rights were violated because of his political opinions.

5. Finally, the applicant alleges a violation of Article 13 of the Convention.

THE LAW

1. The applicant alleges a violation of Article 10 (Art. 10) of the Convention, which provides:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibiities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

The Commission notes that the applicant applied for, and was granted, a permit to carry out his demonstration, and that, in fact, he also carried out the demonstration. Consequently, the applicant has not been prevented from imparting information or ideas by means of a demonstration.

The only issue which arises is whether the requirement of a permit and the obligation to pay 60 SEK as a stamp duty for the decision granting the permit can nevertheless be regarded as an

interference with the rights guaranteed by Article 10 para. 1 (Art. 10-1) and, if so, whether the interference is justified under the terms of Article 10 para. 2 (Art. 10-2).

The Commission considers that it can leave open the issue whether the facts of the case constituted an interference with the rights under Article 10 para. 1 (Art. 10-1). Even assuming that there was an interference, the Commission considers that the interference was justified under the terms of Article 10 para. 2 (Art. 10-2) which provides that the freedom to impart information and ideas "may be subject to such formalities, conditions... as are prescribed by law and are necessary in a democratic society, in the interests of ... public safety, for the prevention of disorder and crime...". The Commission considers that these conditions were satisfied in the present case. It first notes that the permit was granted on the basis that there would be one to five demonstrators. It further notes that the obligation to pay a stamp duty is laid down in the Ordinance on Stamp Duties and that it is a consequence of the granting of a permit. The Commission considers that, in general, the requirement of a permit for a demonstration may be necessary in order to properly regulate traffic and otherwise maintain order in public places. Having regard to the low amount charged as stamp duty, the Commission finds that the condition imposed is not disproportionate to the legitimate aim pursued. Consequently there is no appearance of a violation of the applicant's rights under Article 10 (Art. 10) of the Convention.

It follows that, in this respect, the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant has also invoked Article 14 (Art. 14) of the Convention, which prohibits discrimination in the enjoyment of the rights and freedoms set forth in the Convention. However, the Commission finds no indication that the applicant has, on the basis of his political opinion, been discriminated against contrary to Article 14 (Art. 14).

It follows that, in this respect, the application is also manifestly ill-founded within the meaning of Article 27 para. 2 (Art.27-2) of the Convention.

3. The applicant further alleges a violation of Article 6 (Art. 6) of the Convention, which provides as follows in its first sentence:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

The Commission notes that the applicant lodged with the Police Board a request for a demonstration permit, and that his request was granted. In his request the applicant had indicated that the number of demonstrators would be one to five.

The fact that the applicant later, when it turned out that he would be the only demonstrator, wished to have a determination of whether a one-man demonstration required a permit cannot give rise to a dispute over the permit which had already been granted under different conditions.

Furthermore, there is no decision taken by Swedish authorities requiring the applicant to obtain a permit for a one-man demonstration.

Consequently, there is no dispute over a permit for a one-man demonstration requiring a determination by a tribunal satisfying the conditions of Article 6 (Art. 6) of the Convention.

Finally, insofar as the stamp duty is concerned, the Commission considers that a dispute concerning the payment of a fee for a permit, as in the present case, does not concern the applicant's "civil rights" or "obligations". Article 6 para. 1 (Art. 6-1) was therefore not applicable to the dispute over the said fee.

It follows that, in this respect, the application is incompatible ratione materiae with the provisions of the Convention and must be rejected under Art. 27 para. 2 (Art. 27-2).

4. The Commission finds no appearance of a violation of Article 8 or 13 (Art. 8, 13) of the Convention. In these respects, the application is therefore manifestly ill-founded within the meaning of Article 27 para. 2 (Art 27-2) of the Convention.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE

Secretary to the Commission	President of the Commission
(H. C. KRUGER)	(C. A. NØRGAARD)