AS TO THE ADMISSIBILITY OF

Application No. 14477/88
by F.B.
against Austria

The European Commission of Human Rights sitting in private on 10 September 1992, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
F. ERMACORA
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
M.P. PELLONPÄÄ
B. MARXER

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 20 October 1988 by F.B. against Austria and registered on 15 December 1988 under file No. 14477/88;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The facts of the case, as they have been submitted by the parties, may be summarised as follows:

The applicant, born in 1928, is an Austrian national and claims to have acquired the citizenship of Belize. When lodging his application, he was resident in Costa Rica. In the beginning of 1992 he moved to Nicaragua.

A. The particular circumstances of the case

The applicant's first wife died in December 1981. The applicant inherited her farm valued at some 15 million AS. However, he had difficulties to run the farm properly by himself. In accordance with his late wife's wishes he sought to marry again. He met A.M., an innkeeper in Wels, who then divorced her former husband. She married the applicant on 20 January 1983.

On the same day the applicant's brother applied to the Wels District Court (Bezirksgericht) for the applicant's partial legal incapacitation (beschränkte Entmündigung). He claimed that the applicant was mentally deficient (geistesschwach) and incapable of making reasonable decisions. His new wife had married him only to get hold of his property part of which had already been transferred to her.

On 20 January 1983, apparently some hours after the marriage, the District Court appointed his brother as provisional guardian (vorläufiger Beistand) and ordered this to be recorded in the official land register. The applicant was not heard before this decision.

On 3 February 1983 the applicant appeared at the Wels District Court. In presence of a Judge, he stated that on 2 February 1983 he had left his wife and moved to a friend, because his wife had treated him badly, and because he was afraid of her and her ex-husband. He also mentioned that his wife had talked him into signing a sales order in respect of his real property, and a contract with a view to purchasing a restaurant in Linz. She had been nice to him and had helped him on the farm as long as they had not yet been married. After their marriage she had no longer been interested in running a farm. He further referred to his school education, his driving licence and shooting licence and stated that he did not consider himself to be mentally ill, or of low intelligence or education, nor lavish. He also mentioned how he had become acquainted with his second wife, and that he intended to institute proceedings to have his marriage annulled.

This record was followed by a file note according to which the Judge concerned did not have the impression that the applicant was mentally ill. Rather he had been fully orientated, responsive, open-minded, and he had properly answered questions. His intelligence and general education appeared to be normal. However, the applicant had also been tearful and helpless, and he had stated that he could not refuse anything.

On 18 February 1983 the applicant's brother informed the Wels District Court that he had appointed Mr. G. to assist him in his duties as provisional guardian.

On 21 February 1983 the applicant appeared at the Wels District Court and stated that his wife had attempted to induce him to sign irrevocable mandates concerning the sale of his property but that he had refused. He deposited the mandates at the Court and also complained about the illicit behaviour of his wife.

On 24 March 1983 the Wels District Court placed the applicant under guardianship (beschränkte Entmündigung). The Court had in particular regard to a psychiatric expert opinion of 17 March 1983, according to which the applicant, due to lack of intelligence, light signs of senility and deficiencies in his personality, was not capable of managing complex situations and to take difficult decisions.

On 21 April 1983 the applicant, assisted by counsel K., lodged an appeal (Rekurs) against the decision of 24 March 1983.

On 26 April 1983 the applicant again appeared at the Wels District Court. He withdrew his counsel's power of attorney and his appeal of 21 April 1983. He explained that his wife had talked him into signing the power of attorney, and that his wife had instructed the counsel to lodge the said appeal. In a decision of 26 April 1983 the District Court noted that the applicant had withdrawn his appeal.

On 28 April 1983 the Wels District Court appointed Mr. G. as the applicant's guardian.

On 19 May 1983 the applicant, again represented by counsel K., lodged an appeal against the decision of 26 April 1983, which was

dismissed on 17 August 1983. The applicant, represented by Mr. K., lodged an appeal on points of law (Revisionsrekurs). He subsequently appointed counsel O. who withdrew the appeal on points of law.

Due to appeals brought by the applicant's wife, the decision on the applicant's placement under guardianship had not acquired binding force, when new legislation on guardianship matters entered into force, and the guardianship proceedings concerning the applicant had to be continued in first instance.

On 12 October 1984 the Wels District Court appointed a guardian (Sachwalter) for the applicant under Section 273 para. 3 (2) of the Civil Code (Allgemeines Bürgerliches Gesetzbuch) as amended by the Act on Guardianship for Handicapped Persons (Sachwaltergesetz), which had entered into force in July 1984. The guardian was entrusted with the task of managing the following matters for the applicant: administration of his property, financial transactions, conduct of court and administrative proceedings, conclusion of leases, issuing of mandates and powers of attorney. The applicant remained free to dispose of his working income and money left to him by the guardian. The Court appointed counsel G. as guardian.

The District Court found in particular that, in the course of the applicant's first marriage, his late wife had taken all decisions in managing their farm whereas he had only worked in accordance with her instructions. The applicant had an insufficient school education and had always had an intelligence below normal. He had been completely helpless after the death of his first wife and run the farm down. The farm house had became uninhabitable, and he had lived for months with

neighbours. In 1982 several estate agents, cattle-dealers and other businessmen had attempted to take advantage of the applicant's helplessness. The applicant had given various sales mandates and revoked them shortly afterwards.

The District Court further noted that the applicant had then met A.M. who was still married at that time. She had promised to assist him in running the farm, got divorced by mutual consent and married him on 20 January 1983. The Court referred in detail to the difficulties which the applicant had encountered with his second wife after their marriage: her disinterest in agriculture, her intentions to sell his property and purchase a restaurant, her refusal of sexual intercourse, unauthorised dispositions concerning his property, renting of a flat in town from her former husband against the applicant's will.

As regards the applicant's state of mental health, the District Court relied in particular on the report of a psychiatric expert Prof. H., according to which the applicant was not mentally ill, but suffered from a mental deficiency in the form of low intelligence, extremely good nature and irresolution, making him unfit for reasonable economic decisions. The Court noted that the applicant himself had accepted the necessity of a guardian in respect of important legal transactions.

The District Court expected numerous lawsuits of the applicant with his wife (challenge of the validity of the marriage and of the legitimate birth of a child, contestation of property transfers and assertion of financial claims) and third parties (concerning property transactions which the applicant had concluded with them). For this reason it considered it appropriate, despite the high costs, to appoint a practising lawyer as guardian.

On 20 May 1985 the Wels Regional Court (Landesgericht) dismissed the applicant's appeal against the District Court's decision of 12 October 1984.

The Regional Court, having further investigated and in particular

heard the applicant, his wife and a second psychiatric expert, Prof. L., noted that in the meantime criminal proceedings had been instituted against the applicant's wife and her former husband, against the latter inter alia on a charge of fraudulent conversion to the applicant's disadvantage. Furthermore, in October 1983 the applicant, assisted by his provisional guardian, counsel O., had instituted proceedings to disclaim paternity in respect of a child born in wedlock on 4 September 1983. Counsel O. had withdrawn this action in March 1984. On 17 July 1984 the applicant had appeared in court and asked about the state of the proceedings. He had declared that he could not remember to have given counsel O. power of attorney, and had not known that the action had been withdrawn. He had wished to pursue the proceedings, and withdrawn the power of attorney on the ground that he suspected counsel O. of serving his wife's interests. Some days later he had again instructed counsel O.

The Regional Court considered that the applicant's state of mind had deteriorated since his examination in the course of the first instance proceedings. Due to a lack of intellectual stimulation, he had become hit by atrophy. Moreover, there were signs of a beginning paranoia. The applicant was thus suffering from a mental deficiency

within the meaning of S. 273 of the Civil Code requiring the appointment of a guardian for the administration of his property, which could not be properly carried out by members of his family.

On 11 December 1985 the Austrian Supreme Court (Oberster Gerichtshof) rejected the applicant's appeal on points of law (außerordentlicher Revisionsrekurs). The Supreme Court considered that the applicant, who was represented by counsel, had failed to show that the Regional Court decision was manifestly wrong from a factual or legal point of view within the meaning of S. 16 of the Non-Contentious Proceedings Act (Außerstreitgesetz). In particular, both lower courts had duly considered that only a lawyer could properly administer the applicant's property. Furthermore, the Regional Court had rightly refused to hear witnesses as to the question of the applicant's mental health, as it had assumed that the applicant was not mentally ill and had based its findings in this respect on an expert opinion.

Meanwhile, on 23 September 1985 the Wels District Court had authorised the guardian to bring an action on behalf of the applicant against his wife to have his marriage declared null and void (Ehenichtigerklärungsverfahren). The decision was confirmed by the Wels Regional Court on 30 October 1985. In these proceedings the applicant is represented by counsel H.

On 1 October 1986 the Wels District Court dismissed the applicant's request of 24 September 1986 to have his guardianship terminated. The District Court noted that the request of 24 September 1986 had been formulated by the applicant's wife and only signed by himself. The District Court, having heard the applicant, considered that his state of mental health had not improved. Referring to the sale of a tractor by the applicant in November 1985, it found that the applicant was still acting to his detriment and needed a guardian in order to take care of his financial matters. The District Court further noted that the applicant, pending divorce proceedings with his wife, had moved to a friend. On 21 September 1986 his wife had told the local police authorities that the applicant was unlawfully detained. When the police visited the applicant, he saw his wife and left with her. On 23 September 1986 he had made his will in presence of a notary and disposed that his wife and her daughter should be sole heirs. The District Court considered that the notary's statement that the applicant had made his will in presence of mind and free of coercion, fraud and a relevant error, did not show that he was in fact no longer suffering from mental deficiencies.

According to two private psychiatric expert opinions of 13 and 22

October 1986 the applicant was not suffering from a mental illness necessitating his placement under guardianship.

On 30 July 1987 the applicant declared that he wished to renounce his Austrian nationality on the ground that he intended to move to Costa Rica.

Subsequently he moved together with his wife and children to Costa Rica.

On 12 December 1987 the Wels District Court rejected the request, brought by the applicant's wife, to terminate the applicant's placement under guardianship. Her appeal with the Wels Regional Court was to no avail.

In April 1988 the applicant's guardian, authorised by the competent guardianship court, visited the applicant in Costa Rica in order to discuss his situation. The guardian, in his report dated 11 May 1988, stated in detail the circumstances of this visit and the applicant's living conditions. He mentioned the applicant's statement that he would like not to be bothered any longer by his wife and to be divorced as soon as possible; that he would like to have a home in Austria and live some months of the year in Costa Rica; that he had wished to return to Austria. In this respect, the guardian observed that it was difficult to get the applicant's lost passport replaced as well as to get a flight for him immediately.

On 1 July 1988 the Wels District Court rejected various requests lodged by the applicant, represented by his wife, concerning in particular financial matters and proceedings to have the applicant's marriage declared null and void. In this respect, the Court found that the applicant had not been in a position validly to appoint his wife as representative concerning matters covered by the guardianship order. Furthermore, the District Court considered that the submissions of the applicant's wife did not necessitate that any measures be taken ex officio. In particular, the Court, referring to its decision of 23 September 1985, confirmed by the Wels Regional Court, found that the applicant's wife had failed to show that the conduct of proceedings to have their marriage declared null and void was not in the applicant's interest.

Moreover, the District Court dismissed the request that the applicant's placement under guardianship be terminated. It considered that the applicant could give authority to his wife as chosen representative as regards this request in accordance with SS. 238 para. 1, 251 of the Non-Contentious Proceedings Act (Außerstreitgesetz). However, the submissions of the applicant's wife did not contain any new relevant information justifying the conclusion that he was no longer suffering from a mental disorder. The applicant's wife rather disputed the assessment of evidence in the first set of proceedings, where the private expert opinions referred to had already been taken into account.

On 5 August 1988 the applicant and his wife were granted the nationality of Belize. The applicant's guardian refused to consent to the applicant's change of nationality. The Austrian authorities recognised that the applicant's wife had lost her Austrian nationality.

On 7 October 1988 the Wels District Court rejected the applicant's application for consent to his change of nationality, for termination of guardianship and return of his property.

The District Court noted that these requests had been brought by the applicant's wife and a lawyer on the applicant's behalf. However, having regard to the applicant's placement under guardianship, he could not appoint any legal representative. On the basis of these requests, the Court nevertheless considered whether or not any decisions were to be taken ex officio.

In particular, the District Court confirmed the refusal of the applicant's guardian to authorise his change of nationality. It found that a loss of the applicant's Austrian nationality would be dangerous and detrimental to him. He had expressed the wish to live in Costa Rica, where the nationality of Belize would be of no advantage to him.

Because of his mental deficiencies and lack of will-power, the applicant had apparently not understood the disadvantages of a loss of his Austrian nationality and his stay in Central America, i.e. the loss of his farmer's pension and of his protection by the Austrian authorities including the Austrian guardianship court. Because of his origin, education and previous life the applicant was "not a person made to be a citizen of a small Central American State".

On 18 October 1988 the Wels District Court addressed a letter to the authorities of Costa Rica, under cover of the Austrian Consul-General in Costa Rica, with a request to provide for the applicant's return to Austria. Referring to the applicant's placement under guardianship, the District Court stated that the applicant mainly needed protection against his wife. In July 1987 she had taken the applicant to Costa Rica and left him there without money, passport and return-ticket. On the occasion of the guardian's visit to Costa Rica, the applicant had complained about his wife and wished to return to Austria. For his return, he had to await the delivery of a new Austrian passport. The letter continued that on 16 May 1988 the applicant had returned to his wife in Austria but had not appeared before the District Court, nor seen his guardian. She had travelled back to Costa Rica with him in July 1988, and had brought him to a psychiatric hospital from where the applicant had been able to escape in October 1988. He had contacted the Consul-General and asked for help to return to Austria. The Consul-General had then lost contact with the applicant.

On 11 November 1988 Costa Rican authorities brought the applicant to a hotel with a view to his return to Austria. On 14 November 1988 the applicant, in presence of officials of the Costa Rican Immigration Office (Migracion), signed an affidavit (declaracion jurada - eidesstattliche Erklärung) in Spanish. According to the wording of the affidavit, it was translated for the applicant into German by the Austrian Consul-General. According to this affidavit, the applicant wished to return to Austria. He had accepted the decision of the Immigration Office that his stay in Costa Rica was illegal and that he had to leave within twenty-four hours. He declared that since 11 November he had been staying voluntarily in a hotel where he was protected by the Immigration Office. He intended to leave Costa Rica on 15 November 1988. In his submissions to the Commission the applicant claims that he could not understand the document in question as it was in Spanish. It appears that he returned to Austria on 16 November 1988; on 10 December 1988 he again flew to Costa Rica.

On 11 January 1989 Austrian Administrative Court (Verwaltungs-gerichtshof) rejected the applicant complaint of 28 August 1988 challenging the inactivity of the Upper Austrian Provincial Government (Landesregierung) concerning his application to be released from Austrian nationality on the ground that the complaint had not been authorised by his guardian. It found that, having been placed under guardianship, he could not validly lodge such a complaint nor instruct a lawyer to this end.

On 10 April 1989 the Government of Upper Austria ruled that the applicant had not lost the Austrian nationality because his acquisition of the nationality of Belize had not been authorised by his guardian. Complaints against this decision were rejected on 20 September 1989 by

the Administrative Court and on 26 September 1989 by the Constitutional Court (Verfassungsgerichtshof) as they had not been authorised by the guardian.

The Government submit that in the night from 10 to 11 August 1989 the court files concerning the applicant's guardianship proceedings were stolen at the Wels District Court. An acquaintance, Mr. Steger (see also below, Proceedings before the Commission), was suspected of having committed this offence, and an international search was started. The original was not returned. The applicant confirms that he is in possession of the files.

It appears that in September 1989, in the context of these events, the Costa Rican authorities, on the basis of a request from Interpol, prohibited the applicant's wife and Mr. Steger from leaving that country. On 18 October 1989 the Constitutional Court of Costa Rica (sala constitucional) declared these measures unlawful. Apparently, the authorities did not comply with this judgment. When in March 1990 Mr. Steger intended to get his and the applicant's passports from the Costa Rican authorities in question, exit visas had not been entered. On 13 April 1990 the Constitutional Court of Costa Rica declared that these further measures constituted an unlawful infringement of their right to freedom of movement. Meanwhile, on 22 March 1990 Mr. Steger, inter alia on behalf of the applicant, lodged a complaint against Costa Rica with the Inter-American Commission of Human Rights; these proceedings were still pending in January 1991.

On 22 February 1990 the Wels District Court dismissed the applicant's request of 26 November 1989 for termination of his placement under guardianship.

On 14 August 1991 the Wels District Court dismissed various complaints and requests lodged by the applicant. As regards the applicant's complaints about his guardian, in particular the allegedly belated payment of his monthly allowance, the District Court found that the applicant's guardian had sent him non-negotiable cheques of an amount of 2,000 US-Dollars via air mail to Costa Rica and at the same time transferred the amount to the applicant's bank in Costa Rica. The applicant had failed to show any negligence on the part of his guardian in paying the allowances to him. Thus there was no reason to appoint another guardian. With regard to the applicant's renewed requests to terminate his placement under guardianship, the Court observed that such a decision presupposed a considerable improvement of the applicant's mental state. A new expert opinion on this question, ordered by the District Court, and the applicant's personal appearance at Court would be necessary.

The applicant's and his wife's requests to institute criminal proceedings against the guardian and judges involved in his case for fraud, misuse of powers and forgery of the court files remained unsuccessful.

In the proceedings before the Commission, the applicant submits that, in the proceedings to have his marriage declared null and void, a judgment was passed in August 1989, and that he was not served a copy of this judgment. The Government state that these proceedings are still pending.

B. Relevant domestic law

SS. 269 et seq. of the Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch) govern guardianship matters (Sachwalterschaft).

Under S. 273 para. 1 a guardian will be appointed for a person of unsound mind if this person cannot handle all or some of his/her own matters without risk of damage. S. 273 para. 2 concerns the question of how far guardianship can be dispensed with because of family or other assistance to the person concerned. S. 273 para. 3 regulates the extent of matters to be handled by the guardian.

According to S. 273 a para. 1 the person of unsound mind has no

power to take any dispositions or to enter into any obligations as regards the matters entrusted to the guardian without explicit or tacit consent of the guardian concerned. If there is no risk of damage to the well-being of the person of unsound mind concerned, the competent court may decide that the person of unsound mind may dispose of, or enter into obligations as regards particular items of his/her property or his/her income or parts thereof, although these matters are generally within the guardian's competence. S. 273 para. 3 provides that the person of unsound mind is entitled to be informed by the guardian in time about any intended important matters concerning him/herself, or his/her property, and to comment upon such or other matters in due time. Such comments have to be taken into account if the wish expressed likewise serves the well-being of the person of unsound mind.

With regard to the rights and duties of a guardian, S. 282, first sentence, provides that the provisions concerning the guardian of a minor apply mutatis mutandis. Under S. 282, second sentence, the guardian of a person of unsound mind also has to ensure that this person is taken care of, in particular as regards medical and social care, if the competent court does not decide otherwise.

Proceedings in guardianship matters are governed by the Non-Contentious Proceedings Act (Außerstreitgesetz). S. 252 in conjunction with SS. 236 to 250 regulate proceedings concerning termination of guardianship. According to S. 237 the competent court is obliged to hear the person concerned. Under S. 238 the court has to ensure legal assistance for the person concerned; if the person concerned has no legal or chosen representative, the competent court has to appoint a provisional guardian for the purposes of the guardianship proceedings. The provisional guardian's power to represent the person concerned terminates as soon as this person informs the court about appointment of a representative of his own choice.

COMPLAINTS

The applicant complains about his placement under guardianship. He submits that subsequently he had no effective access to the courts. He further complains that Austrian authorities violated his right to respect for his family life in that his guardian does not, or not sufficiently, pay for his living. He also considers that his placement under guardianship and the incapacity freely to dispose of his property constitute an unjustified interference with his property rights.

The applicant invokes Article 6 para. 1 and Article 8 of the Convention and Article 1 of Protocol No. 1.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 20 October 1988 and registered on 15 December 1988.

On 7 March 1991 the Commission communicated the application to the Austrian Government and invited them to submit written observations on its admissibility and merits.

After an extension of the time-limit, the Government submitted their observations on 5 July 1991.

On 5 November 1991 the applicant was granted an extension of the time-limit to submit his observations in reply.

On 5 December 1991 Mr. Steger, residing in Costa Rica, presented himself as the applicant's representative in the proceedings before the Commission. By letter of 8 January 1992 the applicant was informed that the President of the Commission had refused such representation under

Article 32 para. 2 of the Commission's Rules of Procedure.

Meanwhile, on 6 January 1992 Mr. Steger submitted observations on behalf of the applicant.

By letter of 17 January 1992 the Secretary, referring to the President's decision as to the applicant's representation by Mr. Steger, invited the applicant to state whether he endorsed Mr. Steger's submissions or intended to have other observations filed, possibly by a lawyer practising in one of the Member States.

In a letter of 4 May 1992 the applicant stated that he endorsed Mr. Steger's submissions.

THE LAW

1. The applicant complains about his placement under guardianship and various other measures taken against him subsequently. He considers that he is arbitrarily restricted in his right of access to court, as guaranteed by Article 6 para. 1 (Art. 6-1) of the Convention, his right to respect for his private and family life, as guaranteed by Article 8 (Art. 8) of the Convention, as well as his right to the peaceful enjoyment of his possessions, as guaranteed by Article 1 of Protocol No. 1 (P1-1) to the Convention.

2. It appears that the applicant's main complaints relate to his placement under guardianship and the respective Austrian court proceedings between 1983 and 1985.

The Government, referring to Article 26 (Art. 26) of the Convention, submit that these complaints have been lodged out of time.

The Commission notes that the applicant was placed under guardianship by the Wels District Court on 12 October 1984 and that his appeal was dismissed by the Wels Regional Court on 20 May 1985. The final decision was given by the Austrian Supreme Court on 11 December 1985, which is more than six months before 20 October 1988, the date on which the application was submitted to the Commission.

It follows that this part of the application must be rejected under Article 26 and Article 27 para. 3 (Art. 26, 27-3) of the Convention.

3. The applicant also complains that the Wels District Court, in decisions of 1 October 1986, 1 July and 7 October 1988 as well as 22 February 1990, refused to terminate the applicant's placement under guardianship.

The Government submit that the applicant failed to exhaust domestic remedies in accordance with Article 26 (Art. 26) of the Convention.

The Commission finds that the applicant did not lodge appeals against the respective decisions with the Regional Court. He has not, therefore, in accordance with Article 26 (Art. 26), exhausted the remedies available to him under Austrian law. Moreover, an examination of his case does not disclose the existence of any special circumstance which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal. In this respect, the Commission notes in particular that the applicant, assisted by counsel, had pursued his appeals against the Wels District Court's earlier decision of October 1984 ordering his placement under guardianship.

It follows that this part of the application must also be rejected under Article 26 and Article 27 para. 3 (Art. 26, 27-3) of the Convention.

4. The applicant further complains about the refusal of the Austrian authorities to agree to his change of nationality, and that he did not have effective access to court in this matter, as required by Article 6 para. 1 (Art. 6-1) of the Convention.

The Government submit that Article 6 (Art. 6) does not apply to this dispute.

The Commission observes that the Convention does not grant a right as such to a particular nationality or to a change of nationality (cf. No. 5212/71, Dec. 5.10.72, Collection 43 p. 69). Furthermore, nationality entails rights and obligations which exist for the individual person in his or her capacity as citizen, which do not relate to his or her civil rights and obligations. Thus Article 6 (Art. 6) does not cover the proceedings instituted by the applicant in view of his intended change of nationality (cf. No. 5212/71, loc. cit.).

It follows that this part of the application is incompatible ratione materiae with the provisions of the Convention within the meaning of Article 27 para. 2 (Art. 27-2).

5. The Commission has examined the applicant's further complaints concerning in particular his allegedly forced stay in a hotel in Costa Rica in November 1988, his difficulties in leaving the territory of Costa Rica in 1989/90, the alleged misconduct of his guardian, inter alia, in financial matters and proceedings to have the applicant's marriage declared null and void, in the light of the parties' submissions. The Commission finds that, in so far as the matters

complained of have been substantiated by the applicant and are within its competence, they do not disclose any appearance of a violation of his rights and freedoms set out in the Convention or its Protocols.

It follows that the remainder of the applicant's complaints is as a whole manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, by a majority,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Commission — President of the Commission

(H.C. KRÜGER) — (C.A. NØRGAARD)