AS TO THE ADMISSIBILITY OF

Application No. 14462/88
by William BALLANTYNE
against the United Kingdom

The European Commission of Human Rights sitting in private on 12 April 1991, the following members being present:

MM. C.A. NØRGAARD, President
S. TRECHSEL
F. ERMACORA
G. SPERDUTI
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 RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO
M.P. PELLONPÄÄ

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 13 September 1988 by William BALLANTYNE against the United Kingdom and registered on 12 December 1988 under file No. 14462/88;

Having regard to

- the reports provided for in Rule 47 of the Rules of Procedure of the Commission;
- the observations submitted by the Government on 27 April 1990;
- the observations of the applicant submitted on 6 August 1990.

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen born in 1959 and currently serving a life sentence in Peterhead Prison. He is represented by Cameron Fyfe, a solicitor practising in East Kilbride. The facts as submitted by the parties may be summarised as follows.

On 20 January 1983 the applicant was convicted of murder and assault and sentenced to life imprisonment.

Shortly after his conviction, the applicant was transferred to Peterhead Prison.

Following an incident in December 1983, the applicant was charged with escape from his cell, theft and damage in prison property. Following his trial, he was found guilty and sentenced to

one year's imprisonment. He was then placed on the strict escapers' list and held in restricted association under Rule 36 of the Prison (Scotland) Rules 1952 from December 1983 until May 1984.

Following an incident on 12 March 1984, the applicant was tried on charges of assault on prison officers and sentenced to a further three months' imprisonment.

On 15 May 1984, the applicant was taken off the restrictions under Rule 36.

On 21 August 1984, the applicant was charged with attempted murder of a prison officer, following injuries caused to an officer by his home-made knives. He was found guilty of a charge of assault and sentenced to five years' imprisonment.

On 6 October 1984, while being transferred between prisons, the applicant attempted to escape.

In January 1986, the Peterhead Security Board recommended that the applicant be regraded from security category B to category A.

Following a major incident in Peterhead prison in which a prison officer was taken hostage and "A" Hall seriously damaged by fire, the applicant was placed under Rule 36 and then on 20 November 1986 moved to the Inverness Unit. At the end of November the applicant embarked on a "dirty protest" which lasted until the end of December 1986. While held in the unit, the applicant is recorded as having been abusive to staff and having assaulted staff by throwing hot tea at two officers and punching two officers.

On 4 March 1987, the applicant was sentenced to ten years' imprisonment on charges of mobbing, rioting, assault and setting fire to "A" Hall in Peterhead Prison in November 1986.

On 5 March 1987, the applicant was returned to the Inverness Unit.

In May 1987, the applicant returned to Peterhead Prison.

On 26 June 1987, 4 August 1987 and 6 November 1987, the applicant was involved in assaults on prison staff. In the latter incident, the applicant was sentenced to 30 days' imprisonment for assaulting a prison officer by slashing his face with a piece of glass after he had broken a window pane.

The applicant was transferred to Aberdeen Prison on 22 November 1987 because of his disruptive influence at Peterhead.

On 6 September 1988, the applicant was returned to "A" Hall Peterhead on limited association in recognition of his good behaviour at Aberdeen.

Since November 1987, the applicant has received only one misconduct report.

On 27 March 1989, the Governor at Peterhead Prison recommended that in light of the remarkable change in the applicant's attitude and conduct, he should be assessed for transfer to the Barlinnie Special Unit, Glasgow. A formal assessment was carried out and it was recommended that the unit assist the applicant in making further progress.

In September 1978, the applicant was regraded to security category B, though still subject to strict escape precautions.

On 1 December 1989, the applicant was transferred to the Barlinnie Special Unit.

a) Visits

Following his conviction for murder in January 1983, the applicant was classified for Perth Prison. For long periods, however, he was detained in Peterhead, Inverness and Aberdeen, which are located in the north of Scotland several hundreds miles from Glasgow where the applicant's close relatives live.

Records indicate that the applicant was transferred to Barlinnie prison on a number of occasions to enjoy accumulated visits i.e. from 21 June 1984 to 18 July 1984, from 10 June 1985 to 10 July 1985, from 25 August 1987 to 25 September 1987, from 27 May 1988 to 23 July 1988 and from 15 September 1989 to 29 November 1989. The applicant also was granted escorted home visits to Glasgow on 21 October 1987 (to visit his mother in hospital), on 14 November 1988, 30 June 1989, 20 October 1989 and 22 November 1989.

The records also indicate that the applicant has been regularly visited in prison by his father, sister, son and other members of his family and that members of his family have been granted financial assistance towards travel expenses by the Assisted Prison Visits Scheme which started in April 1989.

b) Solitary confinement

The applicant has been held under Rule 36 of the Prison (Scotland) Rules 1952 for the following periods:

- in Peterhead from December 1983 to 15 March 1986

- in Inverness from 19 November 1986 to 20 February 1987 and
from 5 March 1987 to 30 April 1987 and

- in Aberdeen from 20 February 1987 to 5 March 1987,
from 22 November 1987 to 28 March 1988,
from 23 June 1988 to 16 July 1988 and
from 23 July 1988 to 6 September 1988.

The applicant has not been held out of association since 6 September 1988. He complains that during this time he has had virtually no contact with other prisoners and has effectively been deprived of conversation.

c) Exercise

The applicant is entitled to one hour exercise each day. Since the exercise is outdoor, it can only take place when the weather permits. Since the weather is frequently inclement in this area of Scotland and the prison does not provide indoor exercise facilities, the applicant claims that he has to go without exercise. He has also been forced to perform his exercise with handcuffs on 10 occasions between 2 September 1987 and 1 October 1987.

The Government submit that while there are no indoor exercise facilities for prisoners held under Rule 36 in Peterhead, prisoners are supplied with duffle coats to enable them to exercise outdoors if they wish. Similarly, in Inverness, donkey jackets were available for prisoners who wished to exercise outside in bad weather and when weather is particularly bad they are permitted to exercise in the Unit corridors. The Unit records show that the applicant took exercise regularly and made full use of the exercise periods.

The Government confirm that during the applicant's detention in Barlinnie Prison in late summer 1987 (to enjoy accumulated visits) opportunities for exercise were limited due to operational difficulties, as a result of the presence of a number of Security A prisoners awaiting trial at that time. They also confirm that the applicant had during that time to take exercise in handcuffs but submit

that this was because he had a long record of violent incidents and was a very high security risk. Since Barlinnie Prison does not normally hold category A prisoners, special measures had to be taken. In January 1988, an exercise bike was purchased by Barlinnie Prison to alleviate the exercise problem and the applicant is recorded as having made use of it in his subsequent stays in Barlinnie.

d) Conditions of his cell

From January to March 1985, the applicant was detained in Peterhead in the "dark cell" which had no natural light and in which electric light was kept on 24 hours per day. The Government state that the applicant was moved to this cell on the ground floor for security purposes following an attempt by the applicant to take an officer hostage. The applicant, who was charged with an offence in this connection, though the case was found not proved, denies this incident. The Government submit that due to the constant damage to cell windows at that time, the cell window had been fitted with a metal plate perforated to allow air to enter. It was therefore necessary to use artificial light at all times.

From 30 April 1987 to 25 August 1987, the applicant was kept in a cell with 6 missing panes in the cell-window, which he alleges that the authorities refused to repair.

The Government accept that there may have been periods when glass was missing from the window of the applicant's cell but state that during this period prisoners were conducting a course of destruction within the cell block and as soon as glass was replaced it was being smashed. The Government state that there is no record of the applicant complaining of cold and that he would have been given extra blankets if he had done so.

On 6 November 1987 the applicant complains that he was kept in a cell known as the "silent cell" or "isolation cell". This cell, 12 feet by 10, contained no furniture whatsoever and is a cell within a cell. The only light came from a small window in the ceiling. The Government state that prison records indicate that the applicant was held there overnight only for a cooling down period, following his assault on an officer with a piece of glass.

From 19 November 1986 to 20 February 1987 and from 5 March 1987 to 30 March 1987, the applicant was detained in Inverness prison. The cell was 11 feet by 7 feet and contained only a mattress laid upon a concrete block. The applicant states that he was obliged continuously to request for the mattress to be changed since it was not dry enough to lie upon. He was given 3 blankets which he complains were not adequate during the winter which was extremely cold. There was also a speaker in his cell linked to the prison radio, which was frequently switched on in the early hours of the morning when the applicant was asleep or trying to sleep.

The Government accept that there was a problem with dampness caused by condensation during this time. There is no record, however, of the applicant requesting a replacement mattress. If a prisoner had complained of dampness in a mattress, the mattress would have been replaced or aired and cleaned. If a prisoner complained of cold, additional blankets would be issued by staff. The Unit records only indicate that on 14 March 1987 the applicant wanted his heating turned off. As regards the radio, the Government submit that a speaker is located in each cell and run from a radio in the staff area, controlled by staff who adjust sound and programme to suit each individual. Occasionally, a mistake may have been made and the radio switched on in the wrong cell. On 16 February 1987, the radio was removed for repair and a replacement installed in the corridor. It was switched on in the evening from 22.00h to 00.05h on 16 February 1987 and from 22.00h to 00.00h on 17 February 1987 at the request of other prisoners and it may have been this period to which the

applicant refers.

e) Prison allowance

The applicant states that he receives only £2.50 as an allowance per week to cover the purchase of items such as stamps, shampoo, toothpaste and cigarettes. He considers this amount inadequate. The Government submit that there was a free issue of toothpaste and shampoo and one letter provided for each week. They submit that the applicant's earning cards indicate that he seldom spent all his earnings. Also, prisoners had access to personal funds i.e. money sent by relatives and friends for items such as batteries for radios etc.

f) Lack of work

While the applicant was placed under Rule 36, he had no opportunity to carry on any form of work, such as the repair of mail bags or fishing nets. He has thus been deprived of work to help occupy his mind and give him a sense of purpose and achievement.

The Government submit that is was not possible in the Inverness Unit to find work which was not ruled out for security reasons, tools and weapons being too readily used as weapons or for other inappropriate purposes. Prisoners had access to books and several daily newspapers and prisoners were also allowed to pursue educational or training activities.

f) Refusal of permission to wear gloves

The applicant alleges that on 2 December 1983 his right hand was injured by a prison officer who assaulted him after an attempted escape. The applicant considers that the injury was not treated adequately at the time, the fingers merely being taped and since then the applicant has experienced extreme pain and difficulty in manoeuvring his fingers. While in Barlinnie Prison in August-September 1987, he states that the doctor advised him to keep his hands warm to prevent the risk of severe rheumatoid arthritis in the injured fingers. By a note dated 16 November 1987, the doctor gave his opinion that the applicant did have signs of rheumatism in two of his fingers.

The Government submit that the applicant's injury to his hand was self inflicted during an attempted escape. On his recapture he was examined by a member of the nursing staff and made no complaint of an injury to his hand. The next day, he complained of pain in his right hand and was examined by a doctor, who applied a strapping. The doctor took the view that the applicant was suffering from a swollen middle finger.

Following a letter from the applicant's solicitor, the authorities granted permission for the applicant to be examined by an external doctor. No action for damages was instituted, however, in respect of any alleged injury. The Government can find no record of any request by the applicant for gloves, and his medical records contain no reference to gloves or complaints of feeling the cold in his hand.

The Government accept that the applicant was put in report on 22 October 1985 for offending against discipline and creating a nuisance, when the applicant was told to take his hands out of his pockets. The report of the subsequent evening indicates that the applicant made no mention of attempting to keep his fingers warm. The Government submit that no medical officer has diagnosed that the applicant sustained a fracture of his fingers and the medical advice available to the Secretary of State indicates that the applicant is not suffering from rheumatical arthritis but multiple joint strain.

Petitions to the Secretary of State

The applicant has petitioned the Secretary of State more than forty times during his imprisonment, including petitions about his removal from association from other prisoners under Rule 36 of the Prison Rules. In a reply dated 12 July 1985 the Secretary of State informed the applicant that he had to show that he was capable of improved behaviour without causing an extreme threat to staff before being taken off Rule 36. A similar reply on 28 January 1986 informed him that he was being held under Rule 36 due to his behaviour.

On 6 November 1987 the applicant petitioned the Secretary of State concerning the medical treatment and being required to wear handcuffs while exercising. By reply dated 22 December 1987, the Secretary of State considered that the applicant was receiving adequate medical treatment and that there was no indication of a diagnosis of rheumatoid arthritis. The handcuffing was indicated as necessary in view of the applicant's record.

On 26 November 1987, the applicant petitioned the Secretary of State concerning inter alia the conditions of detention at Inverness (i.e. facilities for exercise, lack of association, the condition of his cell, the radio, wages, medical treatment). By petitions dated 2 December 1987 and 3 December 1989 the applicant complained further of the swelling in his fingers, that prison staff ordered him to keep his hands out of his pockets while exercising outside and that he had been placed on report for refusing to take his hands out of his pockets in October 1983.

By reply dated 26 February 1988, the applicant was informed inter alia that the conditions of detention in the Inverness Unit conformed with statutory requirements and the Prison Rules, that the amount of wages was satisfactory and that the conditions under which he was held were justified by his many subversive activities and record of assaults on prison staff. It was also stated that the radio facilities were provided in accordance with Unit Instructions and that there was no record of the applicant complaining at the time. As regards his medical treatment, reference was made to previous replies.

On 10 February and 23 March 1988, the applicant petitioned the Secretary of State concerning the difficulties that his family faced in visiting him in the north of Scotland. By a reply dated 3 June 1988, it was pointed out that the applicant's location was a direct consequence of his behaviour (49 misconduct reports and additional prison sentences totalling 16 years and 9 months for offences committed in prison). He was informed that his allocation to a prison in central Scotland depended on his maintaining satisfactory conduct. It was also pointed out to him that he had been briefly transferred to Barlinnie prison in Glasgow to assist him in maintaining contact with his mother who was in poor health.

On 9 May 1988 the applicant's solicitors wrote to the Secretary of State giving details of the applicant's various complaints and giving an opportunity to remedy the complaints before submitting an application to the European Commission of Human Rights.

By letter dated 7 October 1988, the Scottish Home and Health Department replied that the applicant's location was influenced by the applicant's conduct but that the authorities had had regard to the applicant's family circumstances and had transferred him temporarily to Glasgow on 3 occasions when his mother was in hospital. They acknowledged that, as regards the applicant's complaints of dampness of his cell, there had at the relevant time been a problem with the heating in the Inverness unit and resulting problems of condensation. They also stated in relation to the applicant's complaints of a broken window that there was no trace of the applicant having complained of

this through normal channels at the time. As regards the fact that the applicant was held in a cell in Peterhead without natural light, it was stated that a plate had been put over the window in that cell as it had been the practice of particularly disruptive prisoners to smash the cell window and, due to the applicant's behaviour at that time, there was good reason to hold him in a cell without access to glass which could be used as a weapon.

RELEVANT DOMESTIC LAW AND PRACTICE

The system of prisons in Scotland was governed at the relevant time by the Prisons (Scotland) Act 1952 ("the Act"). In exercise of his powers under the Act, the Secretary of State made the Prison (Scotland) Rules 1952 ("the Rules"). To supplement these provisions, the Secretary of State issues advice and instructions by way of administrative orders known as the Prison (Scotland) Standing Orders.

Classification of prisoners

Under Rule 7 of the Rules convicted prisoners are classified in accordance with instructions given by the Secretary of State. Standing Order Fb10 sets out the security categories and how prisoners shall be allocated to them. All prisoners are placed in one of the four security categories A, B, C or D. Prisoners in category A are those who require the highest degree of security, and must in no circumstances be allowed to escape because of considerations of public safety or national security. The number of category A prisoners held at any one time in Scotland is very small. Those in security classification B are those who require to be kept in very secure conditions.

In addition, the Governor of a prison must assess which prisoners need to be subject to special precautions having regard amonst other things to the potential risk of escape. Prisoners placed on "strict escape precautions" are subject to special conditions affecting their location and movement within an establishment.

The Inverness Segregation Unit

Inverness is a small local prison serving courts in the north of Scotland. In 1966 a Departmental Working Party recommended that a unit be set up within the prison to which particularly difficult prisoners should be sent. The expected profile of such prisoners would be a record of previous subversive behaviour usually accompanied by violence against other prisoners and/or staff.

Following a period of disuse, the Unit's purpose has been redefined as providing a secure place of segregation for a limited period for those prisoners who through their violence, subversive and recalcitrant behaviour were seriously disrupting the institutions in which they were accommodated, who had not responded to appropriate forms of treatment in those establishments, and who had flagrantly refused to cooperate in the course of normal prison routine. At the same time the Unit offers a special measure of protection for staff.

Rule 36 - Restriction of Association

Rule 36 of the Rules provides as follows:

"(1) If at any time it appears to the Visiting Committee or to the Secretary of State that it is desirable for the maintenance of good order or discipline, or in the interests of a prisoner, that he should not be employed in association with others, the Visiting Committee or the Secretary of State may authorise the Governor to arrange for him to work in a cell, and not in association, for a period not exceeding one month from the date of each authorisation.

(2) The Governor may arrange for any such prisoner to be employed in association again whenever he considers this desirable, and he shall so arrange if in any case the Medical Officer so advises on medical grounds."

This rule enables a Governor to hold a prisoner out of association with other prisoners in the interest of good order and discipline or where it is necessary in the interest of the prisoner. Although it relates to restrictions on association at work it may also involve some restriction on association at recreation also. Prisoners are held under Rule 36 for a variety of reasons, for example where their behaviour has been disruptive or they represent a risk to other prisoners and staff.

Although the operation of the rule inevitably varies between establishments, it does not amount in any sense to solitary confinement. A prisoner retains all his normal rights including visits.

COMPLAINTS

The applicant complains of the following violations of the Convention:

a) of Articles 8 and 10 of the Convention in respect of the difficulties experienced by his family in visiting him in Peterhead Prison. Peterhead is 200 miles from Glasgow and as most of his relatives (including his mother, stepfather and sister) are unemployed it is difficult for them to afford the bus or train fares. His mother also suffers from a severe heart condition and on medical advice cannot undertake the ten hours of travelling involved in going to Peterhead;

b) of Article 3 of the Convention in respect of the inhuman and degrading treatment he has suffered in prison as a result of:

i) being deprived of contact with other prisoners while in solitary confinement,

ii) being refused daily exercise and being obliged to exercise while handcuffed,

iii) the conditions of his cell in Inverness and Peterhead Prisons,

iv) the inadequate weekly allowance,

v) being deprived of work,

vi) being prevented from protecting his injured fingers through wearing gloves.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 13 September 1988 and registered on 12 December 1988.

On 9 November 1989, the Commission decided to bring the application to the notice of the respondent Government and to invite them to submit written observations on its admissibility and merits.

The observations of the respondent Government were submitted on 27 April 1990 after three extensions in the time-limit and the observations in reply submitted by the applicant on 6 August 1990

after one extension in the time-limit.

The Commission granted the applicant legal aid on 18 May 1990.

The Commission examined the application on 7 December 1990 and adjourned it for further consideration.

THE LAW

1. The applicant complains of being detained in prisons in the north of Scotland, which creates great difficulties for his family to visit him. He invokes Article 8 (Art. 8) of the Convention which provides:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Commission recalls that the applicant is lawfully detained following his conviction for murder in 1983. The Commission refers to its constant case-law according to which a prisoner has no right as such under the Convention to choose the place of his confinement and that the separation of a detained person from his family and the hardship resulting from it are the inevitable consequences of detention (see e.g. No. 5229/71, Dec. 5.10.72, Collection 42 p. 14, No. 5712/72, Dec. 15.7.74, Collection 46 p. 112 and No. 9054/80, Dec. 8.10.82, D.R. 30 p. 113).

The Commission notes in the present case that the Scottish Home and Health Department stated that the applicant's location in the more secure prisons of the north was a result of his history of violence and further offences. The Commission also notes that the authorities have made arrangements on five occasions for the applicant to be transferred temporarily to Glasgow to be visited by his mother and other relatives. The applicant has also enjoyed escorted home visits on five occasions.

In the light of these circumstances, the Commission finds that insofar as the detention of the applicant hundreds of miles from his family may be construed as an interference with his right to respect for his family life, it is justified as being in accordance with the law and necessary in a democratic society for the prevention of disorder and crime within the meaning of Article 8 para. 2 (Art. 8-2) of the Convention.

The applicant also invokes Article 10 (Art. 10) of the Convention, in respect of the above complaint. However, the Commission considers that no separate issue arises under Article 10 (Art. 10).

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

2. The applicant also complains of suffering inhuman and degrading treatment contrary to Article 3 (Art. 3) of the Convention, which provides:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The applicant complains in this regard of being placed in solitary confinement, of the conditions of his cell, of being deprived of daily exercise, of the inadequate weekly allowance, of being deprived of work and of being prevented from wearing gloves.

The Government have submitted that the applicant has failed to exhaust domestic remedies in respect of his complaints since, inter alia, he has not instituted proceedings for damages or for judicial review against the Secretary of State. The Government also submit that, even if the applicant can be said to have exhausted all available remedies, his complaints are time-barred since he has failed to introduce them within six months of the final decisions, i.e. the replies made to his petitions to the Secretary of State.

As regards exhaustion of domestic remedies, the Commission recalls that Article 26 (Art. 26) of the Convention only requires the exhaustion of such remedies which relate to the breaches of the Convention alleged and at the same time can provide effective and sufficient redress. An applicant does not need to exercise remedies which, although theoretically of a nature to constitute a remedy, do not in reality offer any chance of redressing the alleged breach (cf. Application No. 9248/81, Dec. 10.10.83, D.R. 34 p. 78).

It is furthermore established that the burden of proving the existence of the available and sufficient domestic remedies lies upon the State invoking the rule (cf. Eur. Court H.R., Deweer judgment of 27 February 1980, Series A No. 35, p. 15, para. 26; Application No. 9013/80, Dec. 11.12.82, D.R. 30 p. 96, p. 102).

The Commission notes that the applicant has complained of injury to his hand, the failure of the prison authorities to give him proper medical care and the damaging effect of the refusal to allow him to wear gloves.

In the present case the applicant failed to institute proceedings claiming damages in respect of the injury to his hand and alleged medical negligence and has, therefore, not exhausted the remedies available to him under Scottish law. Moreover, an examination of the case as it has been submitted does not disclose the existence of any special circumstances which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal.

It follows that the applicant has not complied with the condition as to the exhaustion of domestic remedies and this aspect of his complaints must be rejected under Article 27 para. 3 (Art. 27-3) of the Convention.

As regards the applicant's other complaints, the Commission is not satisfied that an effective remedy would be provided by judicial review proceedings. It finds, however, that it is not required to decide whether or not the facts alleged by the applicant disclose any appearance of a violation of the Convention, as Article 26 (Art. 26) of the Convention provides that the Commission "may only deal with the matter ... within a period of six months from the date on which the final decision was taken".

In the present case, the applicant introduced his application on 13 September 1988. However, he had petitioned the Secretary of State with regard to his complaints and received replies prior to 13 March 1988. In particular, the applicant's complaints concerning conditions of his cell in Inverness and Peterhead were dealt with in the reply of 26 February 1988, the lack of exercise in the replies of 22 December 1987 and 26 February 1988, the lack of contact with other prisoners while on restricted association in the replies inter alia of

12 July 1985 and 28 January 1986 and the amount of allowance and lack of work in the reply of 26 February 1988. The fact that the same matters were raised in a letter by the applicant's solicitors dated 9 May 1988 to the Secretary of State and a reply was received dated 7 October 1988 is not capable of interrupting the running of the six months time limit, since the applicant had already utilised this remedy on previous occasions with regard to the same subject matter.

It follows that this part of the application has been introduced out of time and must be rejected under Article 27 para. 3 (Art. 27-3) 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)