AS TO THE ADMISSIBILITY OF

Application No. 26280/95
by Henry BATES
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 16 January 1996, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
M.P. PELLONPÄÄ
B. CONFORTI
N. BRATZA
I. BÉKÉS
E. KONSTANTINOV
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

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

Having regard to the application introduced on 22 December 1994 by Henry BATES against the United Kingdom and registered on 24 January 1995 under file No. 26280/95;

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 as submitted by the applicant may be summarised as follows. The applicant is an British citizen, born in 1955 and is resident in London. He is represented before the Commission by Susan Booth, a solicitor practising in London.

Particular circumstances of the case

On 30 November 1991 the applicant was stopped by a policeman and warned of his potential criminal liability in relation to his dog (it appearing to the policeman that the dog was a pit bull terrier) pursuant to recent legislation in relation to dangerous dogs. The applicant submits that he accordingly took steps to register his dog. On 4 December 1991 the applicant was again stopped by the police while driving with his dog in the car unmuzzled and without a lead and he was charged with an offence under section 1(2)(d) of the Dangerous Dogs Act 1991 ("the 1991 Act"). The dog was seized and remains in police custody to date.

At his trial on 29 July 1992 the applicant's legal representative submitted that there was no case to answer as the applicant's car was not a "public place" within the meaning of the legislation. Since the applicant was not aware of the actual breed of his dog, no submission was made on his behalf challenging the assertion of the prosecution that his dog was "of the type known as the pit bull terrier". After

hearing submissions from the prosecution and defence the Magistrate concluded that the interior of the car was a public place and the applicant was convicted. The applicant was fined £100 and it was ordered that the dog be destroyed.

The applicant successfully applied to the Magistrates' Court to state a case to the High Court on the question of whether the interior of his car constituted a "public place" within the meaning of the 1991 Act and the High Court, after an expedited hearing, found against the applicant on 25 February 1993. Mr. Justice Waller described the 1991 Act as follows:

> "This statute is a Draconian statute. ... The statute is ultimately aimed to exclude these types <inter alia, those of a type known as a pit bull terrier> of dog from the country in toto. It is certainly aimed at keeping the public as secure as is conceivably possible and relieving the public from any possible apprehension that it may have in relation to these types of dogs. The legislation puts these types of dogs higher than other specially dangerous dogs."

The High Court and, subsequently, the House of Lords refused leave to appeal to the House of Lords.

The applicant submits that he was informed in August 1993 by the Police that they had not, prior to or during the hearing before the Magistrates' Court, caused the dog to be seen by an expert to give an opinion on whether he was "of the type known as the pit bull terrier" and that this was not done because of the provisions of section 5(5) of the 1991 Act. The applicant subsequently caused the dog to be examined, initially on 8 September 1993 by one expert and thereafter by three additional experts, each of whom concluded immediately that the dog was not "of the type known as the pit bull terrier" but rather a Great Dane cross-breed.

Since the applicant had already applied to the Magistrates' Court to state a case to the High Court, he had no right of appeal to the Crown Court (which would have consisted of a full rehearing). Therefore the applicant applied for leave to apply for judicial review of his conviction and for an order of certiorari to quash his conviction. The grounds for his application were his new evidence as to the dog's breeding and the failure of the prosecution to have the dog examined by an expert prior to the hearing as a result of the presumption of fact contained in section 5(5) of the 1991 Act. On 22 December 1993 the High Court granted leave to so apply.

On 29 June 1994 the applicant's judicial review application was dismissed by the High Court. That court noted that not only had the applicant failed to adduce any evidence as to the breed of the dog before the Magistrates' Court, but that the Magistrate had found that the applicant had admitted that the dog was of a type known as a pit bull terrier. The High Court went on to find that the prosecution had not conducted such tests because it correctly relied on section 5(5) of the 1991 Act which placed the burden of proving this matter on the defendant and thus concluded that there was no failing in the conduct of the prosecution and, therefore, clearly no grounds for an order of certiorari. However, the court also considered arguments raised by the applicant as to the compliance of section 5(5) of the 1991 Act with Article 6 para. 2 of the European Convention on Human Rights and ruled that, even if it was necessary to rule on this matter in an English court, section 5(5) of the 1991 Act would not be open to criticism in any way.

On 13 July 1994 the High Court also dismissed the applicant's application to certify a point of law of general public importance and for leave to appeal to the House of Lords.

The destruction order was stayed pending the above proceedings and the dog remains in kennels away from the applicant. Since 28 July 1994 the applicant has been obliged to pay £8.81 per day for the kennelling of the dog. The applicant has confirmed that his dog was approximately five years old in December 1994.

Relevant domestic law and practice

Section 111(4) of the Magistrates' Courts Act 1980 states that the right of appeal against conviction to the Crown Court (normally available pursuant to section 108 of that Act) ceases once an application is made to state a case to the High Court.

Pit bull terriers were bred as fighting dogs. When dog fighting was banned in the United Kingdom, this breed died out but was re-imported back into the United Kingdom from the United States in the 1970's.

Dogs generally have breed standards which are laid down and recognised by different associations of dog breeders. The English Kennel Club has no standards in relation to pit bull terriers because of the long period when those dogs were not bred in the United Kingdom. The United States, on the other hand, has two associations setting down such standards - the American Dog Breeders Association ("ADBA") and the United Kennel Club ("UKC").

The ADBA exists for pit bull terriers alone, its standards are widely used and referred to in the United Kingdom, it is concerned to take into account fighting standards and the dogs imported into the United Kingdom in the 1970's were registered with the ADBA. Its breed standards mainly relate to the physical characteristics of a pit bull terrier but also refer to the dog's "gameness and aggressiveness". The UKC provides standards for many breeds of dog registered with it (including pit bull terriers) but is mainly concerned with show dogs.

In 1991, pursuant to considerable public concern about recent attacks on persons by, inter alia, pit bull terriers, parliament enacted the Dangerous Dogs Act 1991 ("the 1991 Act") and, pursuant thereto, the Secretary of State made the Dangerous Dogs Compensation and Exemption Schemes Order 1991 ("the 1991 Order").

Section 1(2)(d) of the 1991 Act provides that no person shall allow, inter alia, "any dog of the type known as the pit bull terrier" of which he is the owner or of which he is for the time being in charge to be in a public place without being muzzled and kept on a lead. Contravention of this section is an offence carrying a potential punishment of imprisonment for a term not exceeding six months or a fine (section 1 (7)). Such contravention requires the court to make a destruction order in relation to the relevant dog (section 4).

While section 1(3) of the 1991 Act also went on to prohibit having, inter alia, a dog of a type known as a pit bull terrier at all in one's possession or custody after the 30 November 1991, the Secretary of State could make certain exemptions. The Secretary of State provided for, inter alia, compensation and exemption schemes by way of the 1991 Order.

In particular, the 1991 Order provided, inter alia, for an exemption scheme for those who wished to maintain ownership of their dogs. In order to be so exempted the dog had to be, inter alia, registered with the police (prior to the 12 October 1991 for an adult dog and prior to 30 November 1991 for a puppy), neutered, permanently marked as a dog of the relevant type and insured. A fee was also payable.

Section 5(5) of the 1991 Act, insofar as relevant, reads as follows:

"If in any proceedings it is alleged by the prosecution that a dog is one to which section 1 ... applies it shall be presumed that it is such a dog unless the contrary is shown by the accused by such evidence as the court considers fit; and the accused shall not be permitted to adduce such evidence unless he has given the prosecution notice of his intention to do so not later than the fourteenth day before that on which the evidence is to be adduced".

COMPLAINTS

1. The applicant invokes Article 6 of the Convention. He submits that the presumption as to fact contained in section 5(5) of the 1991 Act is in violation of Article 6 para. 2 of the Convention. He further complains that his inability to appeal against his conviction to the Crown Court, due to section 111(4) of the Magistrates' Court Act 1980, was in violation of his right of effective access to court guaranteed by Article 6 para. 1 of the Convention.

2. The applicant further argues that his keeping of a dog or, alternatively, his relationship with that dog falls within the concept of private life in Article 8 of the Convention and that his conviction and the mandatory destruction order constituted a disproportionate interference with his right to respect for his private life in a manner which did not correspond to any social need.

3. The applicant also claims that his property has been controlled or, alternatively, that he has been deprived of his property in violation of Article 1 of Protocol 1 as the measures in question were disproportionate and vague.

4. Finally, the applicant complains under Article 14 of the Convention together with each of Article 6, Article 8 and Article 1 Protocol 1 arguing that there is no reasonable justification for the different treatment of pit bull terrier dog owners by the 1991 Act because the means employed by that Act to control dangerous dogs are disproportionate and single out dogs on the basis of breed rather than dangerous behaviour.

THE LAW

1. The applicant mainly complains about the presumption as to fact contained in section 5(5) of the 1991 Act, maintaining that it is not within the reasonable limits allowed under Article 6 para. 2 (Art. 6-2) of the Convention. He also complains under section 6 para. 1 of the Convention that, despite the finding of new and cogent evidence, he was unable to appeal to the Crown Court against his conviction (which would have been a full rehearing) because of section 111(4) of the Magistrates' Court Act 1980. He submits that he was thereby denied effective access to court in violation of Article 6 para. 1 (Art. 6-1) of the Convention.

Article 6 paras. 1 and 2 (Art. 6-1, 6-2) of the Convention, insofar as relevant, reads as follows:

"1. In the determination 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. ...

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

The Commission recalls that the criteria to be applied in determining whether proceedings involve the determination of a criminal charge are the qualification of the offence in domestic law, the very nature of the offence together with the nature and degree of severity

of the penalty which the accused risks incurring (see, for example, No. 13877/88, Dec. 17.5.90, D.R. 65 p. 279). Applying these criteria and in view, in particular, of the penalty set out in section 1(7) of the 1991 Act for a contravention of section 1(2)(d) of that Act, the Commission considers that the proceedings against the applicant constituted the determination of a criminal charge.

The applicant refers in detail to principles of domestic law, to the Canadian Charter, to other Commonwealth jurisprudence and to the Hong Kong Bill of Rights. He argues that these sources are of persuasive value in terms of establishing the criteria which a presumption as to fact or law must satisfy in order to fall within the reasonable limits allowed under Article 6 para. 2 (Art. 6-2) of the Convention. He maintains that section 5(5) of the 1991 Act does not comply with those criteria nor, therefore, with Article 6 para. 2 (Art. 6-2) of the Convention.

However, in light of the clear guidance as to what is acceptable in terms of presumptions of fact and law under Article 6 para. 2 (Art. 6-2) of the Convention given by the Court in the Salabiaku judgment and recently confirmed in the Pham Hoang judgment (Eur. Court H.R., Salabiaku judgment of 7 October 1988, Series A no. 141-A and Pham Hoang judgment of 25 September 1992, Series A no. 243), the Commission does not consider that it is necessary, in the circumstances of the present case, to resort to any supplementary means of interpretation of Article 6 para. 2 (Art. 6-2) of the Convention (Eur. Court H. R., Golder judgment of 21 February 1975, Series A no. 18, p. 18, para. 36).

The Commission recalls that the Court in the above-mentioned Salabiaku and the Pham Hoang judgments stated that the Convention does not prohibit presumptions of fact or law in principle, but does require Contracting States to remain within certain reasonable limits as regards criminal law which limits take into account the importance of what is at stake and maintain the rights of the defence. The Court also went on to consider whether the application of the relevant presumptions was compatible with the presumption of innocence (Salabiaku judgment, loc. cit., pp. 14-18, paras. 26-30 and the Pham Hoang judgment, loc. cit., pp. 21-22, para. 33).

In the present case, the Commission recalls that the presumption contained in section 5(5) of the 1991 Act is one as to fact namely, it is presumed that a dog is "of the type known as the pit bull terrier".

The Commission notes what was at stake for the applicant namely, a possible criminal conviction together with a potential penalty of, inter alia, six months imprisonment and the destruction of his dog. However, the Commission finds that it is significant that section 5(5) of the 1991 Act expressly provides an opportunity to the defendant to adduce evidence at the initial hearing as to a dog's breeding and that, despite this provision, the applicant (who was legally represented) didnot adduce any such evidence. According to the applicant, his experts would have had no difficulty in presenting strong evidence in this respect. As regards the extent of the Magistrates' Court's reliance on the presumption of fact, the Commission notes that there was an express finding by the Magistrate that the applicant had admitted that the dog was of a type known as a pit bull terrier.

The applicant claims that he was not aware of his dog's breeding at the time of the initial hearing and assumed that the police must have performed some sort of examination prior to the hearing. However, the Commission considers that the breed of the dog was evidently a basic proof in the case, that the terms of section 5(5) of the 1991 Act were clear and that it is not therefore tenable for the applicant to submit that his mistaken assumption in such circumstances would render the presumption of fact unreasonable. The applicant further submits that once the dog was impounded he was not permitted access in order, inter alia, to have it examined for evidentiary purposes. However, the

Commission notes that the applicant appeared to have had no difficulty in 1993 gaining access to his dog for the expert examinations and has not detailed to the Commission any requests for access made by him in this respect nor any refusals by the police. Furthermore and insofar as the applicant claims that it is unfair that he would be obliged to definitively disprove the identity of his dog rather than simply cast some doubt on this, the Commission again recalls that the applicant did not even attempt any such evidential procedure and that, according to the applicant, his various experts would have been in a position to present strong evidence that his dog was not a pit bull terrier.

Therefore the Commission considers that section 5(5) of the 1991 Act falls within reasonable limits, even in light of what was at stake for the applicant, given the opportunity expressly provided to the defence to rebut the presumption of fact and that that section 5(5) was applied in a manner compatible with the presumption of innocence. Accordingly, the Commission concludes that the applicant's complaint under Article 6 para. 2 (Art. 6-2) of the Convention is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

As regards the applicant's complaint under Article 6 para. 1 (Art. 6-1) of the Convention, the Commission notes that it was the applicant's own choice to state a case to the High Court which led to his being unable to pursue a full rehearing before the Crown Court. In any event, the Commission recalls that a right to an appeal or retrial cannot be derived from the provisions of the Convention (see, for example, No. 12323/86, Dec. 13.7.88, D.R. 57 p. 157 and No. 7761/77, Dec. 8.5.78, D.R. 14 p. 171) and that the United Kingdom has not ratified Protocol 7. The Commission therefore finds this complaint manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant further argues that his keeping of a dog or, alternatively, his relationship with that dog fall within the concept of private life in Article 8 (Art. 8) of the Convention and that the measures taken against the applicant's dog constituted a disproportionate and unlawful interference with his right to respect for his private life as guaranteed by Article 8 (Art. 8) of the Convention in a manner which did not correspond to any social need.

As to whether the applicant's complaint is within the scope of Article 8 (Art. 8) of the Convention, the Commission recalls its previous case-law in which it held that the keeping of a pet does not fall within the sphere of the owner's private life for the purposes of Article 8 (Art. 8) of the Convention (No. 6825/74, X v. Iceland, Dec. 18 May 1976, D.R. 5 p. 86). While the applicant argues to the contrary, the Commission does not consider that, in the circumstances of the present case, there exists any reason to depart from or to distinguish the aforementioned case-law (cf., No. 25517/94, Dec. 3.4.95, unpublished).

Accordingly, the Commission finds this complaint incompatible ratione materiae pursuant to Article 27 para. 2 (Art. 27-2) of the Convention.

3. The applicant also claims that his right to property, as guaranteed by Article 1 of Protocol 1 (P1-1), has been violated as the measures in question, in particular sections 1 and 4 of the 1991 Act, were disproportionate and vague.

Article 1 of Protocol 1 (P1-1) reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general

principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The applicant submits that the measures taken under the 1991 Act amount to a control of the use of property. However, the Commission notes that the applicant's dog was impounded in December 1991, remains so to date and is the subject of a destruction order and considers that these measures amount to a deprivation of the applicant's property which falls to be considered under the second sentence of the first paragraph of Article 1 of Protocol 1 (P1-1).

In order to be justified it must be shown that the deprivation was in accordance with the conditions provided for by law and in the public interest. Furthermore, the Commission notes that not only must the aim of the deprivation of property be in the public interest, but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised (cf., for example, Eur. Court H.R. Holy Monasteries judgment of 9 December 1994, to be published in Series A no. 301-A, para. 70). This implies that a fair balance must be struck between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights, which balance would not be found if the individual was found to have borne an excessive burden (cf. Eur. Court H.R., Sporrong and Lönnroth judgment of 23 September 1982, Series A no. 52, pp. 26-28, paras. 69-73).

(a) Subject to the conditions provided for by law

The Commission recalls that the term "law" in the Convention refers not only to compliance with the domestic law but also to the quality of that law requiring it to be compatible with the rule of law so that, inter alia, the law in question must not be arbitrary and must be formulated with sufficient precision to enable citizens to regulate their conduct (Eur. Court H.R., James and Others judgment of 21 February 1986, Series A no. 98, p. 41, para. 67 and the Sunday Times judgment of 26 April 1979, Series A no. 20, p. 31, para. 49). The Commission, having examined the applicant's submissions, finds no evidence that his prosecution was other than in accordance with the 1991 Act or that his prosecution or conviction was arbitrary in its effect.

However, the applicant submits that the reference in section 1(1) to "any dog of the type known as the pit bull terrier" is vague in that identifying a dog of this nature is notoriously difficult. The Commission does not consider, in view of the availability of objective standards by which various characteristics of a dog can be assessed to establish its identity, that the formulation of section 1(1) of the 1991 Act lacked sufficient precision to have enabled the applicant to regulate his conduct as regards his dog to avoid prosecution under section 1(2)(d) of the 1991 Act. The Commission is also cognisant, in this respect, of the exemption scheme provided by the 1991 Order, by which the applicant could have appropriately regulated his conduct, if he was in any doubt as to his dog's breeding. The Commission therefore concludes that the applicant has not demonstrated that the deprivation of his property was other than "subject to the conditions provided for by law".

(b) Public interest

The applicant accepts that the State is entitled to enact legislation to control dangerous dogs in the interests of public safety and recognises that this was the aim of his prosecution.

(c) Proportionality of the deprivation

However, the applicant argues that the 1991 Act, as it applied to him and taken as a whole, did not strike a fair balance between the public interest involved and his right to the protection of his property in that he has borne an excessive burden. He also submits that the mandatory destruction order is not proportionate and that the immediate seizure of a suspected dog, the unavailability of "bail" for a dog pending trial together with the extenuating circumstances in his case (the dog having been in his car) demonstrate that the operation of the provisions of the 1991 Act in his case were disproportionate.

On the one hand, the Commission accepts that the conviction based on breed rather than past behaviour and the consequent mandatory destruction order, being provisions ultimately aimed at eradicating pit bull terriers as a breed from the United Kingdom, are draconian measures.

However and on the other hand, the Commission notes that the applicant was stopped on 30 November 1991 and warned of his potential criminal liability in light of the new legislative regime in relation to dangerous dogs. While the applicant claims that he paid heed to this advice and took steps to register his dog, he did not have his dog muzzled, on a lead or restrained in any way when he was again stopped four days later. In addition, the Commission is cognisant of the fact that the pit bull terrier breed was developed as a fighting animal which, prior to the introduction of the 1991 Act, was known to have attacked persons in the United Kingdom causing much public concern. Furthermore, the Commission does not consider that participation in the exemption scheme and the use of a muzzle and a lead (which would avoid conviction under section 1(2)(d)) are onerous conditions. Moreover, the Commission finds seizure pending determination of the charges to be a reasonable measure bearing in mind the public safety goal of the relevant legislation and the risk that owners, who in consequence of their attachment to their pets, may not be sufficiently conscious of the danger their pets may present to the public.

Insofar as the applicant complains about section 1(3) of the 1991 Act, the Commission notes that the applicant was not charged thereunder. In any event, the Commission notes that pursuant to the 1991 Order the applicant could have taken certain steps to qualify for an exemption scheme which would have allowed him to retain his dog despite the terms of section 1(3) of the Act. While the applicant submits that he began this process, he claims he did so after 30 November 1991 which was after the registration time limit for adult dogs set down by the 1991 Order.

The Commission therefore considers that the operation of the 1991 Act in the applicant's case demonstrated a reasonable relationship of proportionality between the means employed and the aim sought to be realised in that a fair balance was struck between the exigencies of maintaining public safety and the requirement to protect his rights under Article 1 of Protocol 1 (P1-1).

While the applicant also refers, in this context, to the existence of the presumption of fact and his inability to appeal from the Magistrates' Court's decision, the Commission notes its conclusions above on these matters and considers that they do not alter the Commission's view expressed above as to the proportionality of the measures taken against the applicant.

The Commission, for the above reasons, concludes that this complaint of the applicant is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

4. Finally, the applicant complains under Article 14 of the Convention in conjunction with Articles 6 and 8 (Art. 14+6, 14+8) of the Convention together with Article 1 of Protocol 1 (Art. 14+P1-1)

arguing that there is no reasonable justification for the difference in treatment of pit bull terrier dog owners because the means employed to control dangerous dogs are disproportionate and single out dogs on the basis of breed rather than dangerous behaviour. Article 14 (Art. 14) of the Convention, insofar as relevant, reads as follows:

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as ... political or other opinion, ... property or other status."

The Commission recalls that this Article protects individuals in analogous situations from a discriminatory difference in treatment in the exercise of the rights and freedoms recognised by the Convention and its Protocols. As such and in light of the Commission's findings above as to the incompatibility of the applicant's complaint under Article 8 (Art. 8) of the Convention, the Commission has limited its consideration below to the applicant's complaint under Article 14 of the Convention in conjunction with Article 6 paras. 1 and 2 (Art. 14+6, 14+8) of the Convention and Article 1 of Protocol 1 (Art. 14+P1-1).

In this respect, the Commission notes that such a difference in treatment will only be discriminatory if it has "no objective and reasonable justification" namely, if it does not pursue a "legitimate aim" and if there is no "reasonable relationship of proportionality between the means employed and the aim sought to be realised" (see, for example, Eur. Court H.R., Darby judgment of 23 October 1990, Series A no. 187, p. 12, para. 31). Furthermore, the Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment in law; the scope of this margin will vary according to the circumstances, the subject matter and the background (Eur. Court H.R., Lithgow judgment of 8 July 1986, Series A no. 102, pp. 66-67, para. 177).

The Commission accepts that the 1991 Act provides for a different treatment of owners of pit bull terriers and owners of other dogs who by their behaviour show themselves to be dangerous. However, the Commission finds that this difference in treatment has an objective and reasonable justification given the fact that this type of dog is bred for fighting and the experience of pit bull terriers in the United Kingdom. The Commission further finds that such difference in treatment pursues the legitimate aim of public safety and demonstrates a reasonable relationship of proportionality between the means employed and the aim sought to be realised in light, in particular, of the existence of the exemption scheme in the 1991 Order together with the relatively uncomplicated requirement to use a muzzle and lead in a public place. Having regard, in addition, to the margin of appreciation enjoyed by the Contracting States in this area, the Commission considers that this difference in treatment is not discriminatory within the meaning of Article 14 (Art. 14) of the Convention.

Accordingly, the Commission finds this complaint manifestly ill-founded pursuant to 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 First Chamber — President of the First Chamber

(M. F. BUQUICCHIO) — (C. L. ROZAKIS)