AS TO THE ADMISSIBILITY OF

Application No. 24866/94
by Sture DAHLSTRÖM and Kurt HÅKANSSON
against Sweden

The European Commission of Human Rights (Second Chamber) sitting in private on 19 October 1995, the following members being present:

MM. G. JÖRUNDSSON, Acting President
H. DANELIUS
J.-C. SOYER
H.G. SCHERMERS
F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
M.A. NOWICKI
I. CABRAL BARRETO
J. MUCHA
D. SVÁBY
P. LORENZEN

Ms. M.-T. SCHOEPFER, 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 5 May 1994 by Sture Dahlström and Kurt Håkansson against Sweden and registered on 9 August 1994 under file No. 24866/95;

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 first applicant, a Swedish citizen born in 1931, resides at Fagersta. The second applicant, a Swedish citizen born in 1944, resides at Sysslebäck. Before the Commission they are represented by Mr. Carl-Gustaf Elwe, a lawyer practising at Karlskoga.

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

When the applicants' paternal uncle died in 1954, his estate was inherited by his wife, E.M.J. After her death on 25 January 1991, half of the property left by her went to the uncle's heirs. According to the estate inventory deed (bouppteckning), drawn up on 4 May 1991, these heirs were two other children of the applicants' deceased father. The applicants, half-siblings of the heirs, were not mentioned in the inventory deed, as they were born out of wedlock. It is true that since 1 January 1970 a child born out of wedlock has the same right of inheritance as a child born in wedlock, i.e. it inherits from both its parents and their relatives. However, as the person from which the applicants derived their claim to inheritance - their father - had died in 1959, i.e. before 1 January 1970, the old rules still applied. According to these old rules - laid down in Chapter 4 of the Code of Inheritance (Ärvdabalken) - a child born out of wedlock, save for a few exceptions of no relevance to the present case, inherited only from its mother and her relatives. Consequently, the applicants did not inherit from their paternal uncle and was thus not entitled to any part of the

property left by E.M.J. For the same reason, the applicants had not inherited anything from their father when he died in 1959.

The applicants allegedly learned of the contents of the inventory deed about three or four months after it had been drawn up. Thereafter they unsuccessfully negotiated with the beneficiaries of E.M.J.'s estate in an attempt to be acknowledged as beneficiaries and thus entitled to part of the estate. These negotiations allegedly ended a couple of months before the introduction of the present application. Apparently, the estate was wound up in the beginning of 1994.

COMPLAINTS

1. The applicants complain that they were discriminated against, as, being born out of wedlock, they did not, like children born in wedlock, inherit from their father and his relatives and were, thus, not entitled to any part of the property left by E.M.J., their paternal uncle's wife. They invoke Article 14 of the Convention in conjunction with Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. They also invoke Article 5 of Protocol No. 7 to the Convention.

2. The applicants further claim that they could not obtain a court determination of their alleged right of inheritance, as they were not beneficiaries and a court action, therefore, would have been dismissed. In this respect, they invoke Article 6 of the Convention.

3. Under Article 13 of the Convention, the applicants finally claim that they did not have an effective remedy against the alleged violations of their Convention rights.

THE LAW

The applicants complain that they were discriminated against, that they could not obtain a court determination and that they did not have an effective remedy against the alleged violations of their Convention rights.

However, the Commission is not required to decide whether or not the facts alleged by the applicants disclose any appearance of a violation of the Convention, as the application is inadmissible for the following reasons.

The Commission recalls that, pursuant to Article 26 (Art. 26) of the Convention, it "may only deal with the matter ... within a period of six months from the date on which the final decision was taken". According to the Commission's case-law, the "final decision" for purposes of the six months rule must normally be regarded as the date of the acts or decisions complained of where there exists no domestic remedy in respect of the complaint. However, the six months period can only begin to run from the moment the applicants learn of the act or decision of which they complain (cf., e.g., No. 12015/86, Hilton v. the United Kingdom, Dec. 6.7.88, D.R. 57, p. 108).

In the present case, the Commission observes that the alleged violations of the applicants' rights all relate to the fact that they did not inherit from their paternal uncle and were thus not entitled to a part of the property left by his wife E.M.J. As there existed no domestic remedy, the Commission finds that the six months period under Article 26 (Art. 26) began to run from the moment the applicants learned that they were not entitled to any part of that property.

The Commission recalls that E.M.J. died on 25 January 1991 and that the estate inventory deed was drawn up on 4 May 1991. As the applicants were not mentioned among the beneficiaries in the inventory deed, the Commission finds that the applicants became aware that they would not receive any part of the property left by E.M.J. at the latest

when they learned of the contents of the inventory deed. The applicants claim that this occurred about three or four months after it had been drawn up, i.e. sometime in August or September 1991. The present application was introduced on 5 May 1994, which is more than six months later.

It follows that 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, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Second Chamber	Acting President of the Second Chamber
(M.-T. SCHOEPFER)	(G. JÖRUNDSSON)