The European Commission of Human Rights sitting in private on 3 December 1986 the following members being present:

MM C.A. NØRGAARD, President
E. BUSUTTIL
G. JÖRUNDSSON
G. TENEKIDES
S. TRECHSEL
B. KIERNAN
A. WEITZEL
J.C. SOYER
H.G. SCHERMERS
H. DANELIUS
G. BATLINER
H. VANDENBERGHE
Mrs G.H. THUNE
Sir Basil HALL
Mr F. MARTINEZ

Mr K. ROGGE, Head of Division

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

Having regard to the application introduced on 3 March 1986 by T.E. against the United Kingdom and registered on 22 April 1986 under file No. 12114/86;

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

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a United Kingdom citizen, born in 1952 and living in London. He is a clerk by profession.

This is his third application to the Commission. His first, No. 10898/84, concerning criminal proceedings and subsidiary matters, was declared inadmissible, partly for non-observance of the six months' rule and partly as being incompatible ratione materiæ with the provisions of the Convention. His second application, No. 11224/84, concerning the length of criminal proceedings, is still pending before the Commission.

The present application concerns the decision by the criminal courts to require the applicant to pay £7,384.85 in compensation and £5,000 in prosecution costs, and the enforcement of those orders by the Magistrates Court.

The facts are described by the applicant as follows:

The sums of money in question were finally fixed by the Court of Appeal on 21 December 1982. The applicant completed his sentence of imprisonment on 12 August 1983.

On 12 September 1983 the applicant appeared before the Highbury Corner Magistrates Court for a means enquiry under Section 82 of the Magistrates Court Act 1980 (the 1980 Act) in respect of the costs and compensation which were still unpaid. The Court made an order under Section 87 of the 1980 Act for the enforcement, through High Court garnishee proceedings, of payment of the sums concerned from a bank where the applicant had an apparently substantial account.

On 13 September 1983 the Chief Clerk of the Magistrates Court obtained a garnishee order nisi from Master Grant.

On 11 October 1983 Mr Justice Woolf, in the High Court, granted leave to apply for judicial review of the Magistrates' means enquiry and decision of 12 September 1983.

On 12 October 1983 the provisional garnishee order was discharged by Master Creightmore.

On 18 January 1984 the applicant obtained summary judgment against his bank, under Order 14 of the Rules of the Supreme Court 1965, for the sum of the then balance of £12,350 in his account, but the judgment was ordered to be suspended for seven days to enable the bank to consider an appeal.

On 24 January 1984 the Chief Clerk of the Magistrates Court obtained an injunction from Mr Justice Hodgson in connection with the applicant's judicial review proceedings. The applicant's judgment against his bank was further suspended until the determination of the judicial review proceedings or until further order.

On 22 June 1984 the Divisional Court heard the judicial review application and dismissed it except for the application for prohibition against the Magistrates Court from proceeding any further with garnishee proceedings.

On 6 July 1984 the Chief Clerk of the Magistrates Court obtained from Mr Justice Stuart-Smith a garnishee order nisi in the High Court in respect of the £12,350 owed by the applicant. On 12 February 1985 Sir Neil Lawson, in the High Court, discharged that order, whereupon the Chief Clerk lodged an appeal in the Court of Appeal.

On 7 March 1985 the Divisional Court varied the terms of the injunction granted by Mr Justice Hodgson on 24 January 1984.

The Court of Appeal heard the oral arguments of the various parties on 15 July 1985 but reserved its judgment. The applicant lodged an application for further argument on 23 July 1985.

On 2 October 1985 the Chief Clerk applied to the Divisional Court to vary the aforementioned injunction to enable the bank to pay him from the applicant's bank account any sum that the Court of Appeal may order the bank to pay, in the event of a successful appeal from the aforementioned decision of Sir Neil Lawson.

On 3 October 1985 the Court of Appeal delivered its judgment on the Chief Clerk's appeal, dismissing it in respect of the compensation order, but allowing it in respect of the £5,000 costs. It made the garnishee order absolute in respect of that amount.

On 27 January 1986 the Highbury Corner Magistrates Court held a further means enquiry in respect of the compensation order and made a further order under Section 87 of the 1980 Act for its enforcement in the High Court. On 20 February 1986 the Magistrates Court refused to state a case for the opinion of the High Court on whether it had jurisdiction to make a further order under Section 87 of the 1980 Act.

On 25 February 1986 the House of Lords dismissed the applicant's petition for leave to appeal from the decision of the Court of Appeal making the garnishee order absolute in respect of £5,000.

COMPLAINTS

The applicant complains of an unfair hearing, contrary to Article 6 para. 1 (art. 6-1) of the Convention, because the various

jurisdictions dealing with the garnishee proceedings made errors of law and fact; for example he claims that the Court of Appeal erred in law because it had no jurisdiction to deal with the appeal by the Chief Clerk of the Magistrates Court and erred in fact in making the garnishee order absolute in respect of £5,000 because his bank account allegedly no longer existed. The applicant also claims that he was not allowed to argue his case in great detail before Master Creightmore on 12 October 1983 and that the Civil Appeals Office denied him natural justice in not listing his application of 23 July 1985 for further argument. He also alleges further breaches of Article 6 para. 1 (art. 6-1) because the House of Lords ought to have granted him leave to appeal and because he considers the proceedings as a whole to have been unreasonably long.

THE LAW

1. The applicant has complained of an unfair hearing in the determination of his civil rights and obligations, as regards garnishee proceedings taken against him.

Article 6 para. 1 (art. 6-1) of the Convention provides as follows:

"In the determination of his civil rights and obligations .... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ...."

Even assuming that the various proceedings in the present case concerned the applicant's civil rights and obligations, the Commission notes that the applicant's first complaint is that they were wrongfully conducted and concluded. However, the Commission recalls its constant case-law that it is not competent to deal with allegations that errors of law or fact have been committed by domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention (see e.g. No. 458/59, Dec. 29.3.60, Yearbook 3 pp. 222, 236; No. 5258/71, Dec. 8.2.73, Collection 43 pp. 71, 77; No. 7987/77, Dec. 13.12.79, D.R. 18 pp. 31, 45).

The Commission further notes that the applicant complains of inadequate opportunities to put forward arguments before Master Creightmore, and further arguments before the Court of Appeal. However, the Commission finds, after examining the proceedings as a whole, that the applicant's claims are unsubstantiated, for he was given adequate facilities to argue his case in person. In these circumstances the Commission concludes that this aspect of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (art. 27-2) of the Convention.

2. The applicant has also complained of the length of the garnishee proceedings, which lasted from their initiation on 12 September 1983 to their conclusion before the House of Lords Appeal Committee, dismissing the applicant's petition for leave to appeal, on 25 February 1986, a total of over two years.

However, the Commission does not consider, after examining the proceedings as a whole (including the complexity of the case and the applicant's and the courts' conduct) that the period of over two years was unduly lengthy. In these circumstances the Commission concludes that this aspect of the case is also manifestly ill-founded within the meaning of Article 27 para. 2 (art. 27-2) of the Convention.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE.

Head of Division
replacing the Secretary

President of the Commission

to the Commission

(K. ROGGE) (C.A. NØRGAARD)