AS TO THE ADMISSIBILITY OF

Application No. 22588/93
by Matti and Eliina FÖRSTI
against Finland

The European Commission of Human Rights (First Chamber) sitting in private on 18 October 1995, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
M.P. PELLONPÄÄ
B. MARXER
G.B. REFFI
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 24 June 1993 by Matti and Eliina Försti against Finland and registered on 7 September 1993 under file No. 22588/93;

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 applicants are Finnish citizens residing in Espoo, Finland. Matti Försti, hereinafter MF, a journalist by profession, was born in 1926 and Eliina Försti, hereinafter EF, the first applicant's wife, was born in 1933.

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

A. The particular circumstances of the case

MF owns two pieces of real property in the municipality of Espoo, namely Mattila 4:187 with an area of 803 m2 and Mattila I 4:185 with an area of 93 m2 or 92 m2. On 25 November 1967 his title to the property in question was registered. On the land there is a house in which the applicants live and an outbuilding.

1. The present town plan and compulsory acquisition proceedings

It appears that in 1967, when the first applicant's title to the relevant property was registered, the area in question was not subject to any detailed plan but according to section 7 of the Building Act

(rakennuslaki), which came into force on 1 July 1959, new buildings could not be constructed without permission.

A town plan for an area including the first applicant's real property was drawn up in 1981. Appeals against the town plan were finally dismissed by the Supreme Administrative Court (korkein hallinto-oikeus) on 22 December 1981.

According to section 42 subsection 1 of the Building Act, a new building may not be constructed contrary to a town plan or plot division (building restriction).

According to the relevant town plan, the area in question is a block for residential multi-storey units with a maximum of three storeys, the ratio of unit area to plot area being 0.55. The area includes also recreation areas. The first applicant's property belongs to block No. 40333, which, according to the plot division approved on 8 May 1984, forms one plot. On 11 January 1985 the plot was entered in the directory of plots in the process of formation (tontinmuodotusluettelo) as No. 1/40333.

However, since this plot consisted, and still consists, of parts belonging to different owners, it could not be entered in the land register (tonttirekisteri). The different owners are, inter alia, MF and a housing association, V-S. The housing association V-S tried to purchase the other parts of the plot. As this proved impossible, on 7 November 1985 V-S requested a compulsory purchase (lunastus) pursuant to section 54 of the Building Act, which allows compulsory purchase in certain circumstances. All the other owners of the parts of the plot had an equal right to request a compulsory purchase.

On 20 January 1986 the Provincial Survey Office (maanmittaus-toimisto) of Uusimaa gave an order on the execution of the compulsory purchase. The order was signed by a county surveyor (lääninmaan-mittausinsinööri) named L. Subsequently, a compulsory acquisition committee (lunastustoimikunta), hereinafter "the committee" was established to carry out the compulsory purchase proceedings. The chair of the committee was an executive engineer (toimitusinsinööri) named H.

The compulsory purchase proceedings commenced on 9 April 1986. Only V-S lodged a request to purchase the other parts of the plot. On 11 November 1986 the committee inspected the real property in question.

On 10 December 1986 the committee decided that V-S was, by virtue of section 54 of the Building Act, entitled to purchase those parts of plot No. 1/40333 which it did not already own, including the real property owned by MF.

The payments for the compulsory purchase to the first applicant MF were fixed at FIM 584,637 for Mattila and FIM 25,631 for Mattila I. The second applicant was not mentioned in the committee's decision as she is not the owner of the real property. The payments were ordered to be made by 10 March 1987. However, as V-S did not make the payment as provided, the compulsory purchase lapsed. After this the other owners of the plot had a second opportunity to ask for a right to a compulsory purchase.

Subsequently, on 24 May 1988 the committee rejected the second applicant's claim for damages for the lapsed compulsory purchase proceedings on the grounds that her claim was not directed at V-S, which had applied for the compulsory purchase. On 6 April 1989 the Land Court (maaoikeus) of Southern Finland rejected the second applicant's appeal against the committee's decision concerning the claim for damages. On 11 October 1989 the Supreme Court (korkein oikeus) refused her leave to appeal.

2. The building prohibition and the amendment of the town plan

According to section 42 subsection 2 point 2 of the Building Act a building prohibition (rakennuskielto) applies to a plot that has not been entered in the land register.

Since plot No. 1/40333, as mentioned above, still consists of parts belonging to different owners it cannot be entered in the land register. Because of this it is at present covered by a building prohibition pursuant to section 42 subsection 2 point 2 of the Building Act.

In 1991 a new planning process began in order to amend the town plan relating to the relevant block. The City Board (kaupunginhallitus) of Espoo decided on 25 October 1994 to keep the proposal for the town plan amendment on public display. The purpose of the amendment is to allow block No. 40333 to be divided into plots in a manner that would reflect the current ownership situation. The process concerning this amendment is still pending. A building prohibition also applies to an area for which a town plan amendment has been approved until the submission for ratification of this amendment has been considered (section 42 subsection 2 point 4 of the Building Act).

3. Proceedings concerning claim for damages and offences in office

Regardless of the fact that no compulsory purchase of the first applicant's property had taken place and of the fact that the second applicant's claims for damages in this respect had been rejected (cf. 1 above), in June 1990 the second applicant, EF, sued the county surveyor L, who had given the order on execution of compulsory purchase as well as the executive engineer H, who had been the chair of the relevant committee, for damages. The claim, as specified during the trial, was based on inconvenience, damage, mischief, unnecessary packing and looking for a new residence which were allegedly caused by the compulsory purchase proceedings.

The District Court (kihlakunnanoikeus) of Espoo heard the case between 20 September 1990 and 31 January 1991. The District Court consisted of a judge acting as the chair of the Court and of seven lay judges. According to the District Court Lay Boards Act (laki kihlakunnanoikeuden lautakunnasta), as it stood until 1 December 1993, the lay judges were to be appointed by the City Council (kaupunginvaltuusto) for the same term as the City Council itself, i.e. for four years. In the District Court of Espoo the lay judges were appointed by the City Council of Espoo.

The second applicant, EF, appeared in person before the District Court. On 20 September 1990 the District Court granted her legal aid pursuant to the Act on Cost-free Legal Proceedings (laki maksuttomasta oikeudenkäynnistä). However, the District Court found that she was able, at least at that phase of the proceedings, to represent herself without legal assistance and thus it did not ex officio appoint counsel for her. The District Court decided to postpone the case to 29 November 1990 on the grounds that the applicant had asked for an adjournment in order to instruct counsel herself. On 29 November 1990 there was another hearing, but the proceedings were adjourned on the grounds of the late hour. The parties did not call any witnesses.

There was a further hearing on 31 January 1991. The second applicant objected to the chair of the District Court. She stated that the chair was biased on the grounds, inter alia, that he had on 6 November 1978, allegedly illegally, registered the City of Espoo's title to the real property known as Armas 4:12, which lay in the vicinity of the real property owned by the first applicant. The registration of title to property does not confer ownership but raises a presumption of ownership. The District Court dismissed her objection.

By judgment of 31 January 1991 the District Court rejected the

second applicant's claim for damages.

The second applicant appealed to the Court of Appeal (hovioikeus) of Helsinki. She stated, inter alia, that a compulsory purchase permit granted by the Ministry of the Environment (ympäristöministeriö) would have been necessary for the compulsory purchase. She requested an oral hearing and an order concerning free legal assistance. She alleged that her claim had not been dealt with, she had been interrupted and the evidence of her witnesses had not been heard. She maintained further that the District Court had wrongly stated that it had been she who had asked for an adjournment, although she had declared that she was ready for the case to be decided in her first written submission.

In her appeal to the Court of Appeal the second applicant also submitted that two judges in the Land Court and the judge in the District Court had committed offences in office when they were dealing with her cases.

The Court of Appeal requested the prosecuting counsel of the Court of Appeal (kanneviskaali) to give his opinion on the second applicant's information concerning the three judges. The prosecuting counsel stated that the information did not call for him to take further measures. In the light of this opinion, the Court of Appeal decided on 22 January 1992 that there were no grounds to render a judicial pronouncement on the information concerning the three judges.

Further, on 22 January 1992 the Court of Appeal rejected the second applicant's appeal concerning the claim for damages and the request for an oral hearing and legal assistance.

On 8 January 1993 the Supreme Court refused the second applicant leave to appeal in so far as her appeal concerned the claim for damages.

In a separate judgment of the same day, the Supreme Court referred the case back to the Court of Appeal to be heard on the issue of the information about offences in office allegedly committed by the three judges.

Subsequently, on 1 April 1993 the second applicant gave notice that she was bringing a private prosecution, under section 93 of the Constitution Act (Hallitusmuoto), against two judges in the Land Court, the judge in the District Court and the Director General of the National Survey Board (maanmittaushallitus) with offences in office.

On 23 December 1993 the Court of Appeal noted that the legal aid granted by the District Court applied also to the case concerning offences in office and appointed a lawyer to assist the second applicant. However, the lawyer withdrew from the case on 17 March 1994. The Court of Appeal held an oral hearing on 24 August 1994. It then appointed a new lawyer to assist the second applicant. The second applicant further claimed damages totalling FIM 1,500,000 and expenses.

By judgment of 31 January 1995 the Court of Appeal dismissed the charges the second applicant had brought as well as rejecting her fresh claim for damages.

The second applicant appealed against the Court of Appeal's judgment to the Supreme Court, where the case is apparently still pending.

4. The street tax

In 1992 the first applicant MF requested the City Board of Espoo to adjust his assessment to street tax for the years 1983 to 1992. He alleged that no street led to his property and therefore he could not be obliged to contribute towards the construction and maintenance of

a street. It appears that the street tax was under FIM 200 per year.

The City Board rejected his claim partly without considering the merits on the grounds that the request was lodged out of time in respect of that part. According to the Act on Street Taxes (laki kunnalle suoritettavasta katumaksusta), as it stood, the amount of a street tax was based, on the one hand, on the taxable value of the relevant property and, on the other hand, on the classification of the relevant street. The streets were classified into three payment categories. The City Board found that the street tax in question was not based on an incorrect taxable value and that, furthermore, the street tax was in the lowest payment category. The County Administrative Court (lääninoikeus) of Uusimaa rejected the first applicant's appeal on 12 October 1993, also partly without considering the merits. On 25 May 1994 the Supreme Administrative Court refused the first applicant leave to appeal.

B. Relevant domestic law

The Court of Appeal may, if it considers it necessary, hold an oral hearing in a case in which an appeal against the judgment of the court of first instance has been lodged. Such a judgment cannot, as regards the charges brought against an accused, be amended by the Court of Appeal following a re-evaluation of the evidence without a re-hearing having been held, unless the sentence imposed by the Court of Appeal amounts only to fines or unless a re-hearing would clearly be unnecessary. In assessing the latter special regard shall be had to the interests of the accused (chapter 26, sections 7 and 8 of the Code of Judicial Procedure).

COMPLAINTS

1. The applicants complain that their right to use their property according to the town plan in force has been violated. They complain under Article 1 of Protocol No. 1 to the Convention that their right to peaceful enjoyment of their possessions has been violated on the grounds that their real property has, allegedly, been subject to a building prohibition since 13 November 1968. They allege that as their real property cannot be entered in the land registry this prevents the realization of the town plan and gives rise to a building prohibition.

2. The applicants further complain under Article 13 of the Convention that they have been denied an effective remedy to end the building prohibition.

3. As regards the compulsory purchase proceedings, the applicants complain under Article 6 of the Convention that the proceedings were not fair. They further complain under Article 8 of the Convention that the inspection of the relevant real property on 11 November 1986 violated their private and family life. The second applicant complains, under Article 14 of the Convention, that in the compulsory purchase proceedings she was discriminated against on the grounds of her sex and opinions, since she did not personally receive any compensation for the compulsory purchase. She also invokes Article 5 of Protocol No. 7 to the Convention in that she was not accepted as a party to the compulsory purchase proceedings. Finally, the applicants complain that they did not receive any compensation for the lapsed compulsory purchase proceedings.

4. The applicants also complain that the present process concerning the amendment of the town plan violates their private and family life. They maintain that the amendment of the town plan has caused a new building prohibition based on section 42 subsection 2 point 4 of the Building Act.

5. The applicants complain, under Article 6 of the Convention, that the trial concerning the second applicant's claim for damages was not

fair. The applicants maintain that since 9 April 1986, when the compulsory purchase proceedings began, they have been forced to institute proceedings against several authorities in order to be able to use their real property according to the town plan in force.

They submit that the District Court was biased in the proceedings against L and H. They maintain in this respect that the chair of the District Court had in 1978, allegedly illegally, registered the City of Espoo's title to a real property known as Armas 4:12 which lay in the vicinity of the property owned by the first applicant. They further allege that the lay judges were biased because they were appointed by the City Council of Espoo. They further maintain that the proceedings were secret, that an oral hearing and a hearing of witness evidence were refused and that the second applicant was refused the assistance of a lawyer. They further submit that the District Court's judgment as well as the appellate courts' judgments concerning the second applicant's claim for damages contain incorrect information and that they are based on errors of law.

The applicants also complain that it took almost 10 months for the Supreme Court to give its judgment in the case and that after such a long period of deliberation the Supreme Court merely refused the second applicant leave to appeal.

The applicants further complain that they have not had an effective remedy in respect of the proceedings concerning the claim for damages on the grounds that the alleged mistakes have been committed by legally trained persons while the applicants, on the other hand, are laymen. The applicants have not been able to bring a private prosecution against the authorities and their claim for damages has not been dealt with. They invoke in this respect Article 13 of the Convention.

The applicants also complain that because the second applicant was refused the assistance of a lawyer, she was discriminated against on the grounds of property. They invoke Article 14 of the Convention.

6. The applicants complain that the proceedings concerning the private prosecution the second applicant had brought against certain officials have not been fair. They invoke in this respect Articles 6 and 13 of the Convention.

7. Finally, the applicants complain, under Article 1 of Protocol No. 1 to the Convention, that they have been ordered to pay street tax for a non-existent street.

8. The applicants further invoke Articles 1 and 17 of the Convention.

THE LAW

The Commission first considers that the question whether the second applicant can be considered to be a victim within the meaning of Article 25 (Art. 25) of the Convention as regards the use of the real property and the street tax can be left open, as can the question whether the first applicant can be considered to be a victim within the meaning of Article 25 (Art. 25) of the Convention as regards the civil and criminal proceedings the second applicant has instituted since it considers that the application is in any event inadmissible for the following reasons.

1. The applicants complain that their right to use their property according to the town plan in force has been violated on the grounds that their property is covered by a building prohibition. They invoke Article 1 of Protocol No. 1 (P1-1) to the Convention.

Article 1 of Protocol No. 1 (P1-1) to the Convention:

> "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 provision 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 Commission notes that the town plan in force was adopted in 1981, whereas the Convention entered into force with regard to Finland on 10 May 1990. The Commission therefore finds that the application is incompatible ratione temporis with the Convention in so far as concerns the lawfulness, purpose and proportionality of the restrictions resulting from the town plan as such. In so far as the effects resulting from the town plan can be regarded as a continuous situation, the plan and the other developments preceding 10 May 1990 can be taken into account as a background to the issue whether the restrictions in force after that date constitute a violation of Article 1 of Protocol No. 1 (P1-1) to the Convention. In this respect the Commission first notes that the alleged restrictions fall to be considered under the second paragraph of that Article (P1-2).

The Commission further notes that ever since the first applicant has owned the real property in question, construction of a new building on it has required a building permit. Further, the Commission notes that there is a house on the real property in question.

The Commission further notes that according to Finnish law a new building may not be constructed contrary to a town plan or plot division. It is true that the relevant property is affected by a building prohibition. This building prohibition is not, however, decisive in the case. It is namely the town plan in force which regulates the building in the relevant area. The Commission notes that no absolute right to build on the relevant real property could be deduced from the town plan.

In so far the application concerns the applicants ability to construct new buildings on the relevant real property the Commission does not find that the present town plan interferes with the applicants property rights in violation of Article 1 of Protocol No. 1 (P1-1) to the Convention.

It follows that this part of application must be rejected under Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicants further complain, under Article 13 (Art. 13) of the Convention, that they have not had an effective remedy to end the building prohibition.

Article 13 (Art. 13) of the Convention reads:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

As regards Article 13 (Art. 13) of the Convention the Commission notes that the building prohibition is based on the fact that the relevant plot consists of parts belonging to different owners. The town plan and the plot division were approved in 1981 and 1984,

respectively. The first applicant, as the landowner, had the right to participate in the planning process. However, as the Convention entered into force with regard to Finland in 1990, the Commission is not competent to supervise these proceedings.

This part of the application is incompatible ratione temporis.

Furthermore, the Commission recalls that the town plan is in the process of being amended. Nothing has emerged which could lead to the conclusion that the applicants cannot take part in this process or resort to remedies, including those provided by administrative courts, available to them. In these circumstances the Commission finds no appearance of a violation of Article 13 (Art. 13) of the Convention.

It follows that this part of the application must be rejected under Article 27 para. 2 (Art. 27-2) of the Convention.

3. The applicants further complain, under Articles 6, 8 and 14 (Art. 6, 8, 14) of the Convention and under Article 5 of Protocol No. 7 (P7-5)to the Convention, about the compulsory purchase proceedings and the subsequent proceedings in the Land Court and Supreme Court.

The Commission notes, first, that the compulsory purchase proceedings lapsed in 1987. Secondly, the Commission notes that the final judgment concerning the compensation for the lapsed compulsory purchase proceedings was given by the Supreme Court on 11 October 1989.

As the Convention entered into force with regard to Finland on 10 May 1990, this part of the application is outside the competence ratione temporis of the Commission.

It follows that this part of the application must be rejected under Article 27 para. 2 (Art. 27-2) of the Convention.

4. The applicants complain that the present process concerning the amendment of the town plan violates their private and family life. The applicants have not, however, substantiated their claim under Article 8 (Art. 8) of the Convention.

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.

5. The applicants complain of several infringements of Article 6 (Art. 6) of the Convention in connection with the civil proceedings the second applicant has instituted against two officials, L and H. They refer in this respect also to Articles 13 and 14 (Art. 13, 14) of the Convention.

a) The applicants have raised the question of impartiality with regard to the chair of the District Court as well as the lay judges of the District Court. They maintain that the chair had in 1978 registered the City of Espoo's title to a piece of real property in the vicinity of the first applicant's real property. They allege that because of this the chair as well as the lay judges were biased.

The Commission recalls that the existence of impartiality for the purposes of Article 6 para. 1 (Art. 6-1) must be determined according to a subjective test and also according to an objective test (cf. Eur. Court H.R., Fey judgment of 24 February 1993, Series A no. 255, p. 12, para. 28). As regards the subjective test, the Commission and the Court of Human Rights have constantly held that the impartiality of a judge must be presumed until the contrary is established (cf. for example, Eur. Court H.R., Le Compte, Van Leuven and De Meyere judgment of 23 June 1981, Series A no. 43, p. 25, para. 58).

The Commission notes that the chair of the District Court had in 1978 registered the City of Espoo's title to another piece of real property. This registration does not preclude a decision on a possible dispute over ownership. Furthermore, the City of Espoo was not a party to the compulsory purchase proceedings or in the proceedings concerning the claim for damages deriving from the compulsory purchase. The registration of title in question does not give any reason to doubt the chair's impartiality. As the second applicant's claims were not directed at the City of Espoo and furthermore, as the lay judges do not represent the City of Espoo, the relevant registration of title does not give any reason to doubt the impartiality of the lay judges either. The Commission further notes that no other evidence has been adduced which could raise doubt as to the subjective or objective impartiality of the chair of the District Court or of the lay judges of the same court.

b) The applicants further claim that the proceedings concerning the claim for damages were secret and that an oral hearing was refused. They also maintain that a hearing of witnesses was refused.

The Commission recalls that in the District Court there was a public oral hearing.

The Commission notes that the relevant case concerned a claim for damages. The Commission furthermore notes that the second applicant had the opportunity to call witnesses to the District Court, but she did not call any witnesses. On the contrary, she had, according to her appeal to the Court of Appeal, declared that she was ready for the case to be decided.

c) The applicants also complain that the second applicant was not assigned a legal representative. The Commission notes that the second applicant was granted legal aid and that in the District Court the case was adjourned in order to give the second applicant the opportunity to instruct counsel herself.

d) The applicants further complain that the District Court's judgment concerning the claim for damages contains incorrect information. They further maintain that the District Court's and the appellate courts' judgments thereupon are based on errors of law.

With regard to the judicial decision of which the applicants complain, the Commission recalls that its task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not competent to deal with an application alleging that errors of fact and law have been committed by domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights of freedoms set out in the Convention. The Commission refers, on this point, to its constant case-law (cf., e.g., No. 21283/93, Dec. 5.4.94, D.R. 77-A, p. 88). The Commission finds no appearance of a violation of Article 6 (Art. 6) of the Convention is this respect.

e) The applicants complain about the length of the proceedings in the Supreme Court.

The proceedings began in June 1990 when the second applicant sued L and H for damages and ended on 8 January 1993 when the Supreme Court refused the second applicant leave to appeal. Thus the length of the proceedings was approximately two years and six months.

The Commission recalls that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and having regard to the following criteria: the complexity of the case, the conduct of the parties and that of the authorities dealing with the case (Eur. Court H.R., Vernillo judgment of 20 February 1991, Series A no. 198, p. 12, para. 30).

The Commission notes that the proceedings in the District Court lasted approximately seven months. In her appeal to the Court of Appeal the second applicant stated as a new fact that three judges had committed offences in office. Because of this the Court of Appeal requested an opinion from the prosecuting counsel of the Court of Appeal. The second applicant also submitted a fresh claim for damages. The proceedings in the Court of Appeal lasted approximately one year. The proceedings in the Supreme Court, which also gave a separate judgment concerning the alleged offences in office, lasted about eleven months. Taking into account that the case contained not only the original claim for damages against L and H but later also a separate case concerning offences in office and a fresh claim for damages, the Commission considers that a reasonable time was not exceeded.

f) The applicants also complain about the lack of an oral hearing in the Court of Appeal in the proceedings concerning the claim for damages.

In this respect the Commission notes Finland's reservation to Article 6 (Art. 6) which reads, in so far as relevant, as follows:

> "For the time being, Finland cannot guarantee a right to an oral hearing in so far as the current Finnish laws do not provide such a right. This applies to:
>
> 1. proceedings before the Courts of Appeal, ... in accordance with Chapter 26 Sections 7 and 8, ... of the Code of Judicial Procedure ... "

The Commission observes that chapter 26, section 7 of the Code of Judicial Procedure does not provide a right to an oral hearing in appeal proceedings in the Court of Appeal. Chapter 26, section 8 of the Code of Judicial Procedure concerns only criminal cases. The Commission finds that Finland's reservation covers this complaint.

g) The applicants complain that they did not have an effective remedy before a national authority. They maintain in this respect that the proceedings they instituted were aimed against judicially trained authorities. They further complain that the second applicant was discriminated against on the grounds of property because she did not obtain legal assistance. They invoke Articles 13 and 14 (Art. 13, 14) of the Convention.

As regards Articles 13 and 14 (Art. 13, 14) of the Convention the Commission finds that the applicants' references to these provisions amount in substance to the same complaints as those made under Article 6 (Art. 6). The Commission, having regard to its findings above, finds that no separate issue arises under Articles 13 or 14 (Art. 13, 14) of the Convention.

In sum, the Commission considers that the applicants' complaints do not disclose any appearance of a violation of Article 6 (Art. 6) of the Convention or of Articles 13 or 14 (Art. 13, 14) of the Convention.

It follows that this part of the application is incompatible ratione materiae with the Convention within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention in so far it concerns the oral hearing in the Court of Appeal and the remainder of this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

6. Finally, the applicants complain, under Articles 6 and 13 (Art. 6, 13) of the Convention, that the proceedings concerning the private prosecution the second applicant has brought against certain officials have not been fair.

In this respect the Commission notes that the case is apparently still pending in the Supreme Court. Even assuming that Article 6 (Art. 6) of the Convention were to be applicable to these proceedings, the application is nevertheless premature. The applicants have not, in accordance with Article 26 (Art. 26) of the Convention, complied with the condition as to the exhaustion of domestic remedies.

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

7. The applicants complain, under Article 1 of Protocol No. 1 (P1-1) to the Convention, about the street tax.

In this respect the Commission, taking into account the State's right to enforce such laws as it deems necessary to secure the payment of taxes, finds no appearance of a violation of Article 1 of Protocol No. 1 (P1-1).

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.

8. Finally, the Commission finds that no separate issue arises under Articles 1 or 17 (Art. 1, 17) of the Convention. 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.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber — President of the First Chamber

(M.F. BUQUICCHIO) — (C.L. ROZAKIS)