Application No. 26255/95
by Arnold JUKLERØD
against Norway

The European Commission of Human Rights (Second Chamber) sitting in private on 26 February 1997, the following members being present:

Mr. J.-C. GEUS, Acting President
Mrs. G.H. THUNE
MM. G. JÖRUNDSSON
J.-C. SOYER
H. DANELIUS
F. MARTINEZ
M.A. NOWICKI
I. CABRAL BARRETO
D. SVÁBY
P. LORENZEN
E. BIELIUNAS
E.A. ALKEMA

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 13 December 1994 by Arnold JUKLERØD against Norway and registered on 19 January 1995 under file No. 26255/95;

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 applicant, a Norwegian citizen, was born in 1925. He died on 25 January 1996 leaving behind three adult children. In the proceedings before the Commission the applicant is represented by Mr Knut Rognlien, a lawyer practising in Oslo.

The applicant's previous application No. 18164/91 was declared inadmissible by a Committee of three members composed pursuant to Article 20 para. 3 of the Convention on 1 April 1993.

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

The applicant was admitted to a mental hospital in 1971 and in 1974. This was registered in a central register for mentally ill persons. The information concerning the applicant included his name, date and place of birth, profession, marital status and number of children. Furthermore, the register contained the diagnosis: "Paranoia 10", that the applicant's stay at the hospital in 1971 lasted three months and that he was readmitted in 1974. No other information about the applicant was entered in the register.

It appears that, in 1990, the applicant requested the National Archives (Riksarkivet) to delete the above information from the register. This was apparently refused and appeals to the Health Directorate (Helsedirektoratet) and the Data Supervisory Board (Datatilsynet) were unsuccessful.

Therefore, on 13 May 1991, the applicant instituted proceedings in the Oslo City Court (Oslo Byrett) against the State represented by the Ministry of Social Affairs in which he maintained his request to have all information about him deleted from the register and furthermore he submitted a claim for damages.

By judgment of 29 October 1992 the City Court found against the applicant and rejected his claims. The Court found, inter alia, that the registration in question did not, in the circumstances, violate Article 8 of the Convention.

On 23 February 1993 the Appeals Selection Committee of the Supreme Court (Høyesteretts Kjæremålsutvalg) granted the applicant leave to appeal directly to the Supreme Court (Høyesterett). On 1 June 1994 the Supreme Court upheld the judgment of the Oslo City Court in its entirety.

COMPLAINTS

The applicant complains that the registration and the possible use of the information concerning him in the central register for mentally ill persons violate Article 8 of the Convention.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 13 December 1994 and registered on 19 January 1995.

The applicant died on 25 January 1996. On 1 April 1996 the applicant's representative submitted that he had informed the applicant's three children of the application pending before the Commission. Furthermore, he submitted a request for the continuation of the case dated 26 March 1996 from an organisation called "Mental Helse Norge". Finally, he submitted (without supporting documents) that a fund which had supported the applicant financially would prefer the case to continue.

No information has been submitted from the applicant's children.

REASONS FOR THE DECISION

The Commission recalls that the applicant died on 25 January 1996. The Commission further recalls that an applicant's death does not in itself dispose of his or her complaint. It falls to the Convention organs to decide whether the application should be examined further or whether it should be struck out of the list of cases. In the examination of this question special consideration must be given to the intentions expressed by the applicant's heirs as well as to the nature of the complaint (cf. e.g. No. 12526/86, Dec. 7.1.91, D.R. 68, p. 104).

In the present case the Commission notes that none of the applicant's children has expressed a wish to have the examination of the applicant's complaint continued by the Commission.

Furthermore, the Commission finds that the nature of the complaint does not, following the applicant's death, justify a continuation of the examination of the petition, nor does the respect for human rights as defined in the Convention so require. Accordingly, the Commission finds that the application should be struck out of the list of cases pursuant to Article 30 para. 1(c) of the Convention.

For these reasons, the Commission, unanimously,

DECIDES TO STRIKE THE APPLICATION OUT OF ITS LIST OF CASES.

M.-T. SCHOEPFER
Secretary
to the Second Chamber

J.-C. GEUS
Acting President
of the Second Chamber