AS TO THE ADMISSIBILITY OF

Application No. 15928/89
by J.K.
against the Netherlands

The European Commission of Human Rights (Second Chamber) sitting in private on 13 May 1992, the following members being present:

MM. S. TRECHSEL, President of the Second Chamber
G. JÖRUNDSSON
A. WEITZEL
J.-C. SOYER
H. G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
MM. F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO

Mr. K. ROGGE, Secretary to the Second 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 6 December 1989 by J.K. against the Netherlands and registered on 20 December 1989 under file No. 15928/89;

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 is a Dutch citizen, born in 1964 and is residing in Rotterdam, the Netherlands. She is represented before the Commission by Mr. H.G. Kersting, a lawyer practising in Amsterdam.

On 9 October 1986, on the platform of the Amsterdam Central Station where a special "Olympic" train carrying an official delegation was bound to leave for Lausanne, the applicant, without any permission thereto from the Railway authorities, started to unfold a banner with the words "No Olympics" in order to protest against the candidature of Amsterdam for the 1992 Olympic Games. At that point in time the applicant was, together with others, removed from this platform by Railway Police officers assisted by Municipal Police Officers. The applicant was not prosecuted.

In 1988 the applicant started civil proceedings before the District Court (Kantongerecht) of Amsterdam against the Mayor of Amsterdam and the Dutch Railway Company. She requested the Court to award her 1.992 Dutch guilders for non-material damages for the alleged unlawful police action and to declare Article 5 paras. 1 and 3 (f) of the General Transport Regulations (Algemeen Reglement Vervoer-Stbl. 1966, 566), which prohibits, inter alia, the display of objects at a railway station without prior permission by the railway authorities in order to prevent disturbance of the order, safety or the good running of operations, as invalid for being contrary to, inter alia, Articles 9 and 10 of the Convention. The General Transport Regulations are based

on the Passenger Transport Act (Wet Personenvervoer).

The District Court rejected the applicant's requests on 30 June 1989. The District Court considered, inter alia, that the mere fact that the applicant was denied the opportunity to express her opinion at a specific place on a specific point in time did not constitute such an infringement of her right to freedom of expression that it would create damage to be valued in terms of money.

Against this decision no appeal was possible.

COMPLAINTS

The applicant complains under Articles 9 and 10 of the Convention that by forcibly removing her from the station platform, whereas she did not disturb public order, the authorities did not limit her rights under these provisions but completely deprived her of these rights.

THE LAW

The applicant complains under Articles 9 and 10 (Art. 9, 10) of the Convention that the police, by forcibly removing her from the station platform, completely deprived her of her rights under these provisions.

Article 9 para. 1 (Art. 9-1) provides:

> "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice and observance."

In this case, the Commission notes that the applicant wished to protest against the candidature of Amsterdam for the 1992 Olympic Games by, inter alia, unfolding a banner with the words "No Olympics".

The Commission recalls that Article 9 (Art. 9) primarily protects the sphere of personal beliefs and religious creeds, i.e. the area which is sometimes called the forum internum. In addition, it protects acts which are intimately linked to these attitudes such as acts of worship or devotion which are aspects of the practice of a religion or belief in a generally recognised form (cf. No. 11308/84, Dec. 13.3.86, D.R. 46 p. 200).

The Commission does not find that the applicant, although her aim may be of an idealistic nature, was manifesting a belief ("conviction") within the meaning of Article 9 para. 1 (Art. 9-1) of the Convention. The applicant's removal from the platform by the police did, therefore, not constitute an infringement of her rights under Article 9 para. 1 (Art. 9-1) 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.

The applicant also relied on Article 10 (Art. 10) of the Convention, which provides:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers [...].
>
> 2. The exercise of these freedoms, since it carries with

it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

The Commission considers that the facts complained of by the applicant must be considered as an interference with the exercise of her right to freedom of expression.

The question then arises whether this interference was justified under the terms of Article 10 para. 2 (Art. 10-2).

The Commission notes that the applicant had no prior permission to demonstrate on the departure platform as required by the General Transport Regulations. The Commission observes that the aim of requiring such a permission is the prevention of a disturbance of the order, safety or good running of operations in railway stations. The Commission further notes that the applicant was not prosecuted for having demonstrated and that the applicant does not complain that she has been prevented from protesting at another place.

The Commission considers the requirement of a prior permission as referred to in the General Transport Regulations to be a formality, condition or restriction as prescribed by law and which can be regarded as necessary in a democratic society for the prevention of disorder.

The Commission is, therefore, of the opinion that the interference with the applicant's rights under Article 10 para. 1 (Art. 10-1) of the Convention was justified under para. 2 of this provision.

It follows that this part of the application is also manifestly ill-founded within the meaning of 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 Second Chamber — President of the Second Chamber

(K. ROGGE) — (S. TRECHSEL)