AS TO THE ADMISSIBILITY OF

Application No. 16832/90
by Oleg KOZLOV
against Finland

The European Commission of Human Rights sitting in private on 28 May 1991, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
E. BUSUTTIL
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO
M.P. PELLONPÄÄ
B. MARXER

Mr. J. RAYMOND, Deputy Secretary to the Commission

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

Having regard to the application introduced on 9 July 1990 by Oleg KOZLOV against Finland and registered on the same day under file No. 16832/90;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having regard to the written observations submitted by the Government on 9 January and 2 April 1991 and by the applicant on 27 February, 20 March and 20 May 1991;

Having deliberated;

Decides as follows:

THE FACTS

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

The applicant is a citizen of the Soviet Union, born in 1970. Before the Commission he is represented by Mr. Markku Fredman, a lawyer practising in Helsinki.

Particular circumstances of the case

In 1987 the applicant began his studies at the university of Saratov in the Soviet Union. In 1988 he was called up for military service. In the Soviet Union there is no right to exemption from military service on the ground of conscientious objections. Having served for two weeks, the applicant notified the authorities that he could not continue his military service because it caused him moral and ethical problems. The applicant was then detained in two

different military hospitals for three and a half months, during which he was subjected to ill-treatment such as injections of inter alia sulphuric substances. The medical treatment caused him pain and side effects such as problems with his eyesight, hearing and faculty of speech. As a protest the applicant went on hunger strike.

When the applicant was released from the hospital the authorities put a stamp in his military passport stating that he was mentally ill. As a result of this he was not allowed to continue his studies, to work, to choose his domicile, to obtain a passport or a driving licence, to marry and to found a family or to participate in public elections, either as a voter or as a candidate.

On 19 June 1990 the applicant hijacked a Soviet aircraft on its way to Murmansk. The plane landed in Helsinki, where the applicant gave himself up and was arrested. During the hijacking nobody was killed or hurt.

Having been arrested, the applicant, on the same day, lodged a request for political asylum in the United States of America. On 20 June 1990 he requested political asylum also in Finland. He asked for leave to submit supplementary documents from the Soviet Union before the decision regarding asylum was made, in particular so as to enable his mother in the Soviet Union to send him his military passport.

On 21 June 1990 the applicant was remanded for trial by the City Court (raastuvanoikeus, rådstuvurätten) of Helsinki suspected of having hijacked a civil aircraft. The City Court decided that the trial would take place before the District Court (kihlakunnanoikeus, häradsrätten) of Vantaa on 17 July 1990.

On 28 June 1990 the Soviet Government requested the applicant's extradition to the Soviet Union, referring to the 1974 Bilateral Agreement between Finland and the Soviet Union on the Prevention of Hijacking of Civil Aircraft (hereinafter "the 1974 Agreement") and a warrant of arrest issued by the K.G.B. The applicant, however, submits that no such warrant was presented to the Finnish Government, but only a document according to which the applicant should be "kept in custody" (according to the translation by the Ministry for Foreign Affairs of Finland) or "kept under supervision" (according to the translation by the Central Criminal Police (keskusrikospoliisi, centralkriminalpolisen) of Finland). The document was issued by the K.G.B. in Latvia and confirmed by the local "prokurator".

On 29 June 1990 the Ministry of Justice asked the Supreme Court (korkein oikeus, högsta domstolen) to give its opinion regarding the extradition matter.

On 2 July 1990 the Finnish Ministry of the Interior rejected the applicant's request for asylum, stating that according to the United Nations Convention relating to the Status of Refugees he had no right to asylum, since this Convention was not to be applied to a person suspected of having committed a serious non-political crime outside the country he has fled from. Furthermore, the applicant had not presented any plausible reasons supporting his request. The decision was not subject to appeal.

Subsequently the applicant shut himself up in his cell for a week, until the police entered into the cell by breaking the door by force.

On 3 July 1990, the United Nations High Commissioner for Refugees submitted an opinion to the Ministry of the Interior which, however, was of a general character and did not deal specifically with the applicant's case.

On 6 July 1990 the applicant's lawyer lodged a new request for political asylum in Finland, referring to his previous request that he be permitted to submit further evidence.

On 10 July 1990 the Supreme Court delivered its opinion to the Ministry of Justice regarding the extradition. It reads, in its relevant parts:

"In the present case, there are no circumstances which would suggest that Kozlov, in Finland, has not been guaranteed his human rights under the United Nations Covenant on Civil and Political Rights and the European Convention on Human Rights, neither do the provisions in these Conventions, having regard to the facts of the case, constitute an obstacle to the extradition of Kozlov to the Soviet Union.

Thus, the request for extradition in regard to the (applicant's) offence of having hijacked an aeroplane may lawfully be granted ..."

The Supreme Court found, however, that extradition could not be granted in regard to the applicant's offence of having illegally left the Soviet Union.

On 13 and 16 July 1990 the applicant was examined separately by a chief physician, a psychiatrist and a psychologist and found to be mentally healthy.

On 17 July 1990 the applicant was brought before the District Court of Vantaa in order to be tried for the hijacking offence. The public prosecutor, at the request of the Ministry of Justice, requested leave to present the charges in two weeks, referring to lack

of time for preparing the case and to the priority given to the extradition proceedings. This request was granted by the District Court. It referred to the 1974 Agreement, the fact that the examination of the extradition request was still pending, the serious character and the public importance of the case, and the fact that the prosecutor had received the criminal investigation documents only on 11 July 1990 and had thus not been given enough time to consider whether the investigations were sufficient to prepare an indictment. The District Court furthermore noted that under Finnish law the sentence for the offence would amount to not less than two years' imprisonment and that there was a risk that the applicant would abscond.

On 23 July 1990 the applicant's lawyer contacted the applicant's brother in the Soviet Union by telephone. The latter promised to take the applicant's military passport to the Embassy of Finland in Moscow, together with a written account by members of the applicant's family. Nothing was subsequently heard of in this matter.

On 24 July 1990 the applicant's second request for political asylum was refused.

On the same day the Ministry of Justice decided to extradite the applicant to the Soviet Union under the conditions that without the consent of the Finnish Ministry of Justice he would not be prosecuted or punished for any offence other than the hijacking committed prior to his extradition, nor be further extradited to a third country. The Government further stated their wish that they be allowed to monitor the investigations and proceedings in the applicant's case in the Soviet Union. The extradition decision was not subject to appeal.

On 26 July 1990 the applicant slashed himself with a razor blade in his cell.

On 27 July 1990 the applicant was handed over to the Soviet authorities.

In August the Ministry of Foreign Affairs asked the Soviet authorities for permission for its representative to see the applicant. This was not granted.

From 21 June to 24 July 1990 the applicant was detained under the Coercive Criminal Investigation Means Act (pakkokeinolaki 450/87, tvångsmedelslagen 450/87). From 24 July to 27 July 1990 he was detained under the Extradition Act (laki 456/70 rikoksen johdosta tapahtuvasta luovuttamisesta, lag 456/70 om utlämning för brott).

The applicant has submitted an undated opinion of Amnesty International from the summer of 1990 which deals with all Soviet hijackers who were arrested in Finland and Sweden at that time. It reads, in its relevant part:

"Over many years Amnesty International has urged the Soviet authorities (to) bring their domestic legislation into line with their international commitments on human rights by, among other things, recognizing the right to conscientious objection to military service and the right of Soviet citizens to leave and enter their own country. Amnesty International would be gravely concerned if, on his return to the USSR, XXX faced prosecution or imprisonment on these grounds.

In considering the extradition of XXX to the USSR, therefore, Amnesty International calls on the Finnish/Swedish authorities to obtain guarantees from the Soviet government that he will not be prosecuted on charges related to his exercise of these human rights."

The Government submitted that following the extradition they had been informed by the Soviet authorities that a forensic mental examination had been conducted on the applicant in Latvia and that he had been found to be "mentally sound". The applicant, however, claimed to have suffered from mental disorders affecting his criminal responsibility and requested a new examination. In late September 1990 the applicant was remanded for the second examination, which, however, had not yet been completed by 21 December 1990. The trial was expected to be held in January 1991. The Government stated that they would send an observer to the trial, which whould be open to the public.

The applicant's lawyer submitted that by late February 1991 he had not received any information as to the date of the applicant's trial. He further submitted that for several months he had not received any information from the Government regarding the proceedings following the extradition. He finally submitted that the Government seemed to have uncritically accepted the information given by the Soviet authorities and contested that the applicant had asked for a second examination of his mental state.

According to information subsequently provided by the applicant's lawyer, the applicant was considered mentally sound at the end of the second psychiatric examination which was concluded in December 1990. The trial took place on 11-13 March 1991. On 14 March 1991, the Court convicted the applicant of unlawful seizure of aircraft and sentenced him to five years' imprisonment with "hard discipline".

The lawyer further stated that he had attended most of the trial which in his view had not satisfied normal requirements as to fairness and the rights of the defence. During the trial the applicant had been placed in a cage with metal bars and his defence counsel had

been sitting five metres away from him, so that they could not communicate with each other during the proceedings. Requests by the applicant's counsel to hold the trial in the Latvian language and to obtain translations of documents from the mental examination in Finland had not been granted. The applicant's counsel had been interrupted twice by the President of the Court and had been fined for contempt of court after he had asked for the President to be replaced on account of lack of impartiality.

Relevant domestic law and practice

According to the 1974 Agreement a person suspected of having hijacked a civil aircraft registered in one of the two countries and which has landed in the other country shall be returned to the country of registration if the suspect is a citizen of that country.

Extradition based on the 1974 Agreement is regulated by the Act on the Returning in Certain Cases of Persons Guilty of Hijacking Civil Aircraft (laki 336/75 siviili-ilma-aluksen kaappaukseen syyllistyneiden henkilöiden palauttamisesta, lag 336/75 om återförande i vissa fall av personer som gjort sig skyldiga till kapning av civilt luftfartyg; hereinafter "the 1975 Act"), as well as by the Extradition Act. In extradition cases which fall under the 1975 Act Sections 13 to 25 and 34 of the Extradition Act are, insofar as they are applicable, to be applied.

Section 16 para. 1 of the Extradition Act reads:

"If the person whose extradition is requested, during the investigation or in a petition submitted to the Ministry of Justice before the decision, alleges that lawful conditions for the extradition are not fulfilled, the Ministry shall, if the extradition request is not immediately rejected, before its decision ask for the opinion of the Supreme Court. The Ministry may also otherwise ask for an opinion, if necessary."

Section 17 of the Extradition Act reads:

"The Supreme Court examines, having regard to Sections 1-10 or other provisions in international treaties binding upon Finland, whether the request for extradition may be granted. If the Supreme Court finds an obstacle to the extradition the request may not be granted."

Under Section 12 para. 4 of the Extradition Act the Government may, when granting an extradition request, state the conditions under which the extradition shall take place. However, in cases which fall under the 1975 Act the Government may only state conditions in order to prevent the extradited person from being prosecuted or punished for any offence other than the hijacking committed prior to his extradition or the further extradition of the person to a third country.

According to Chapter 1, Section 21, of the Act on Pre-Trial Means of Coercion the Court shall, when remanding a suspect for trial and provided the examination of the charges has not already started, decide when the trial will take place. It has to take place within four weeks, but the Court may for particularly weighty reasons postpone the trial for two weeks at a time, provided this is requested by the prosecutor before the day of the trial. The postponement is not subject to ordinary appeal. However, under Finnish law it is possible to lodge an extraordinary appeal (kantelu, klagan) on the basis of an alleged procedural fault by the Court.

COMPLAINTS

1. The applicant complains that the denial of asylum in Finland and his extradition to the Soviet Union violated Article 3 of the Convention. He submits that, already during his detention in the military hospital, he has been subjected to treatment contrary to this provision. He further refers to the unjustified diagnosis according to which he is mentally ill. He submits that the Goverment, when

deciding to extradite him, failed to demand the revocation of this unjustified classification by the Soviet authorities. Therefore, he now risks remaining in a mental institution. Mental hospitals and psychiatry have recently been used in the Soviet Union to suppress dissidents. The latitude applied in sentencing hijackers on previous occasions as well as the legal practice regarding hijacking have been inhuman, while the enforcement of sanctions has been both degrading and inhuman. The recent positive developments in the Soviet Union have not yet reached the military, prisons or mental hospitals.

2. The applicant alleges that in view of the fact that the warrant for his arrest was issued by the K.G.B., his extradition exposed him to a serious risk that his case would not be tried by a tribunal in conformity with the conditions laid down in Article 6 para. 1 of the Convention. He submits that the judicial procedures in the Soviet Union fail notoriously to meet the standards laid down in Article 6 of the Convention. Subsequently, he has added that the trial which took place on 11-13 March 1991 was unfair and did not respect the rights of the defence.

3. The applicant alleges that he was not promptly informed about the nature and the ground for the charges against him. He alleges a violation of Article 6 para. 3 (a) of the Convention.

4. The applicant alleges that because of the postponement of the trial in Finland he was not tried within a reasonable time. He complains of a violation of Article 6 para. 1 of the Convention.

5. The applicant finally alleges that the grounds given for the postponement of the trial in Finland violated Article 18 of the Convention.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 9 July 1990 and registered on the same day.

On 10 July 1990, following the applicant's request for an interim measure, the Commission decided under Rule 36 of its Rules of Procedure not to indicate to the Government that they suspend the decision on the applicant's extradition pending the Commission's examination of the admissibility of the case.

Following the extradition decision the applicant, on 24 July 1990, requested that the Commission indicate to the Government that they suspend the enforcement of this decision pending the Commission's examination of the case. On 25 July, the request was rejected by the President of the Commission.

On 5 October 1990 the Commission decided that notice of the application be given to the respondent Government and that the parties be invited to submit written observations on the admissibility and merits of the application.

After an extension of the time limit, the Government's observations were submitted on 9 January 1991. The applicant's observations in reply were submitted on 27 February 1991.

The applicant submitted further observations on 20 March and

20 May 1991 and the Government on 2 April 1991.

THE LAW

1. The applicant alleges that the denial of asylum in Finland and his extradition to the Soviet Union violated Article 3 (Art. 3) of the Convention.

Article 3 (Art. 3) of the Convention reads:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The Government submit that the complaint is manifestly ill-founded. Article 3 (Art. 3) of the Convention could only come into play on the basis of objective facts indicating an imminent risk of ill-treatment in the receiving country. It is up to the applicant to produce prima facie evidence to show that he has serious and substantial grounds for fearing treatment contrary to Article 3 (Art.3) of the Convention. It is commonly recognised that the human rights situation in the Soviet Union has dramatically improved during the latter half of the 1980's. This has inter alia been reflected in the treatment of prisoners of conscience. Moreover, there is a marked change in the field of forensic psychiatry in the Soviet Union. The fact that the applicant, at the time when he was extradited, risked a criminal prosecution and trial, including forensic mental examinations, in the Soviet Union does not in itself raise an issue under Article 3 of the Convention. Accordingly, there was no reason to assume that the applicant, when extradited, would be tortured or otherwise ill-treated in the Soviet Union.

The Government further submit that the 1974 Agreement, as implemented in the applicant's case, does not in itself constitute a violation of Article 3 (Art. 3) of the Convention. The wording of the 1974 Agreement admittedly does not mention the substance of Article 3 (Art. 3) of the Convention. However, it is obvious that the subsequent human rights commitments of Finland prevail over the provisions of the 1974 Agreement.

The Government further submit that, although the 1974 Agreement allows no reservation to be made in regard to capital punishment, which is authorised by the Latvian Penal Code, it does not rule out such reservations where they are necessitated by international or other commitments of the extraditing State. As the hijacking did not result in any casualties or serious bodily injuries the applicant does not face the risk of capital punishment. The Government on this point refer to the Supreme Court's opinion on the extradition, in which the exclusion of capital punishment was specifically discussed.

The Government further refer to the sentences inflicted in the Soviet Union on two other aircraft hijackers extradited in the course of 1990 from Sweden and Finland, respectively. They were sentenced to three and four years' suspended imprisonment, respectively. These sentences must be considered lenient.

As to the applicant's allegation that he has previously been diagnosed in the Soviet Union as mentally ill, while he was found to be mentally sound in the examination carried out in Finland, the Government contend that this does not constitute any evidence of abuse of psychiatry. Furthermore, it is hardly possible for an extraditing

country to state demands as to how an extradited person's mental state should be diagnosed in the future. The same goes for the legal classification of an extradited person's mental state at the time of the suspected offence, as the question of criminal responsibility is to be decided within each legal system. It would be improper, if not

impossible, for the extraditing country to dictate specific conditions in this respect. Accordingly, the most that can be done by the extraditing State is to ensure that the subsequent proceedings in the receiving State are adequately monitored, in order to preclude a possible risk of abuse. The Government contend that to this end it has made all necessary efforts.

The applicant submits that the Government's decision to extradite him appears to be an expression of support for the Soviet leadership. As to the allegedly lenient sentences inflicted on other hijackers he submits that his situation is different, as he would face trial in Latvia, where the Soviet Union has recently used force against Latvia's democratic institutions. He finally submits that the omission of capital punishment from the 1974 Agreement indicates glaring contradictions between the 1974 Agreement and the Convention.

The Commission first recalls that according to its established case-law the right to asylum and the right not to be expelled or extradited are not as such included among the rights and freedoms mentioned in the Convention but that the expulsion or extradition of a person may nevertheless, in certain exceptional circumstances, raise an issue under the Convention and in particular under Article 3 (Art. 3). In the Soering case, the European Court of Human Rights stated as follows (Eur. Court H.R., Soering judgment of 7 July 1989, Series A No. 161, pp. 35-36, para. 91):

"In sum, the decision by a Contracting State to extradite a fugitive may give rise to an issue under Article 3 (Art. 3), and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person concerned, if extradited, faces a real risk of being subjected to torture or to inhuman or degrading treatment or punishment in the requesting country. The establishment of such responsibility inevitably involves an assessment of conditions in the requesting country against the standards of Article 3 (Art. 3) of the Convention."

The Commission also recalls that according to the Court's case-law ill-treatment, including that in connection with punishment, must attain a minimum level of severity if it is to fall within the scope of Article 3 (Art. 3) of the Convention. The assessment of this level depends on all the circumstances of the case, such as the nature and context of the treatment or punishment, the manner and method of its execution, its duration, its physical or mental effects and, in some instances, the sex and state of health of the victim (above-mentioned Soering judgment, p. 39, para. 100). The Commission furthermore recalls that for punishment or treatment associated with it to be "inhuman" or "degrading", the suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation inherent in a given form of legitimate punishment (Eur. Court H.R., Tyrer judgment of 25 April 1978, Series A No. 26, pp. 14-15, paras. 29-30).

The Commission has examined the applicant's submissions and the documents in support of his application. It notes that the existence of a risk of ill-treatment in a case of extradition should be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of the extradition. However, regard can also be had to information which has come to light after the extradition, as such information may be of value in confirming or refuting the appreciation made by the Contracting State or the well-foundedness of the fears of the extradited person (Eur. Court H.R., Cruz Varas and Others judgment of 20 March 1991, para. 76, to be published in Series A).

In the present case, the Commission considers that the information which was available to the Finnish Government at the time

of the extradition with regard to the personal situation of the applicant and the development in the Soviet Union did not show that the applicant, upon his extradition, would run a substantial risk of being exposed to treatment contrary to Article 3 (Art. 3) of the Convention. The information which has subsequently been provided by the applicant's lawyer about the applicant's trial, conviction and sentence cannot be considered to show that the applicant has been, or is likely to be, submitted to treatment or punishment of such gravity as to be deemed "inhuman" or "degrading" within the meaning of Article 3 (Art. 3) 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.

2. The applicant alleges that his extradition would expose him to a serious risk of not having his case tried by a tribunal in conformity with the conditions set out in Article 6 para. 1 (Art. 6-1) of the Convention. After the trial had taken place, he alleged that the requirements of fairness and the rights of the defence had been disregarded in various respects.

Article 6 para. 1 (Art. 6-1) of the Convention reads, in its relevant parts:

"In the determination ... of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ..."

The Government submit that the complaint is manifestly ill-founded. The applicant has not substantiated his allegation that the involvement of K.G.B. in his case would render his trial unfair.

The Government admit that the criminal procedure in the Soviet Union may not be in full harmony with the requirements under Article 6 (Art. 6) of the Convention. However, such harmony cannot be required as a condition for extradition from a Contracting State to another country. The Government refer to the Commission's decision in Application No. 10308/83 (Dec. 3.5.83, D.R. 36 pp. 209-235 at 232), in which it was expressly held that non-compliance in the receiving State with the guarantees laid down in Article 6 (Art. 6) of the Convention would not in itself make the extradition appear as inhuman treatment. In any case, there was no reason to doubt that the applicant's trial would satisfy the minimum standards laid down in the International Covenant on Civil and Political Rights to which the Soviet Union is a party.

According to the information available to the Government, the applicant was expected to face a normal criminal trial in the Soviet Union. This would be open to the public, the press and observers from international human rights organisations. Moreover, the applicant had been granted legal representation in the Soviet Union. His lawyer before the Commission would be notified of the date and place of the trial as soon as the Government received this information.

The applicant submits that criminal cases which are investigated by the K.G.B. are decided by the Supreme Court as the first and only instance. Such proceedings are also less public than those of other courts.

The Commission recalls that in the Soering case the Court did not exclude that an issue might exceptionally arise under Article 6 (Art. 6) by an extradition decision in circumstances where the fugitive has suffered or risks suffering a flagrant denial of a fair trial in the requesting country (above-mentioned Soering judgment, p. 45, para. 113).

In the present case the Commission finds that the information available to it as to the situation prevailing in 1990 in regard to the system of criminal justice with which the applicant would be confronted upon his extradition is not sufficient to conclude that the applicant's case is of that exceptional character.

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.

3. The applicant alleges that he was not promptly informed about the charges against him. He alleges a violation of Article 6 para. 3 (a) (Art. 6-3-a) of the Convention, which reads:

"3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; ..."

The Government submit that already during the first interrogation by the police on 19 June 1990 the applicant was informed about the charges against him. The application for a detention order which was presented before the City Court of Helsinki on 21 June 1990 contained a description of the suspected offence and the alleged facts of its commission. On the latter occasion the applicant admitted the factual description of the charges. Subsequently, on 13 July 1990, the applicant appeared before the District Court of Vantaa. On both occasions he was assisted by legal counsel and an interpreter.

The Commission first notes that, in view of the circumstances, the applicant must have been immediately aware of the nature of the charges against him. Moreover, on 21 June 1990, that is two days after his arrival in Finland, a hearing was held before the District Court of Helsinki which remanded him for trial. At this hearing, the applicant was present as well as his lawyer and an interpreter. There can be no doubt that on that occasion the applicant received full information about the charges against him.

In these circumstances, the Commission finds no violation of Article 6 para. 3 (a) (Art. 6-3-a) 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.

4. The applicant alleges that because of the postponement of the trial in Finland he did not receive a trial within a reasonable time. He alleges a violation of Article 6 para. 1 (Art. 6-1) of the Convention.

The Government submit that the complaint is manifestly ill-founded. They submit that the reasonableness of the length of the proceedings must be considered as a whole. In the present case, the especially weighty reasons for the postponement of the trial as stated in the District Court's decision were the need to allow the prosecutor enough time to prepare the indictment on the one hand, and the uncertainty of the pending extradition request on the other. The pre-trial investigations were further complicated due to the applicant's own behaviour, notably the fact that he barricaded himself in his cell for a week, refusing all co-operation with the authorities. The police record and other investigation material were not ready for the prosecutor until 11 July 1990. Moreover, had the indictment been presented in the District Court it would have been difficult, from the point of view of judicial independence, for the

executive branch to interfere in the trial by making an extradition decision. On the other hand, the delay of the extradition decision was partly due to the fact that the Government wanted to study carefully the impact of their commitments under the Convention. In the present case criminal proceedings were discontinued as soon as the authorities were informed about the extradition decision. On 24 July 1990 the legal basis for the applicant's detention was changed, as he was henceforward detained under the Extradition Act. Thus, the period to be taken into consideration when determining whether the length of the criminal proceedings exceeded the requirements under Article 6 para. 1 (Art. 6-1) of the Convention runs from 21 June to 24 July 1990. Such a length does not amount to a violation of Article 6 para. 1 (Art. 6-1) of the Convention.

The Commission recalls that the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see, as the most recent authority, Eur. Court H.R., Vernillo judgment of 20 February 1991, to be published in Series A). In the present case the Commission notes that, while a procedure for prosecution in Finland was initiated, it was interrupted by the applicant's extradition to the Soviet Union.

In the light of the case-law of the Convention organs the Commission finds no violation of the applicant's right to a trial within a reasonable time within the meaning of Article 6 para. 1 (Art. 6-1) 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.

5. The applicant finally alleges that the District Court's decision to postpone the trial was based on the prosecutor's statement that he had not had enough time to prepare the indictment, this being an interpretation of the Convention detrimental to the applicant. The applicant alleges a violation of Article 18 (Art. 18) of the Convention which provides:

"The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

The Government submit that the complaint is incompatible rationae materiae with the provisions of the Convention, as it seems to be based on the assertion that the prosecutor's real motive for invoking the Convention in order to have the trial postponed was to deprive the applicant of his legitimate rights. On the contrary, the request was made in the applicant's interest, as the prosecutor argued that in the short time available it would have been difficult for him to prepare an indictment which would have satisfied the requirements under Article 6 paras. 3 (a) and (b) (Art. 6-3-a, 6-3-b) of the Convention. In any case, the effect of the prosecutor's argument appears to have been marginal, as the Court in its decision disregarded his reference to Article 6 (Art. 6) of the Convention.

The Commission finds no appearance of a violation of Article 18 (Art. 18) of the Convention.

It follows that this part of the application in 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.

Deputy Secretary to the Commission — President of the Commission

(J. RAYMOND) — (C.A. NØRGAARD)