THE FACTS

Whereas the facts of the case may be summarised as follows:

The Applicant is an Austrian citizen born in 1922 and is the manager of the transport firm ITEKA in Vienna.

Preliminary investigations into a suspected fraud by the Applicant under Sections 197, 200, 201 (a) and (d), 203 and 5 of the Penal Code were opened in the winter of 1960 - 61 at the Regional Court of Vienna.

In particular, it is clear from official documents submitted to the Commission that he was suspected of having between October 1952 and September 1956, forwarded to a certain Lothar Rafael in Trieste, Holland, Switzerland and other countries, various consignments of soap, milling tools, soldering sticks, soldering wire, clothing, electrical fittings, gym shoes, moleskins and machine spares. He was further suspected of having procured currency purporting to be the proceeds from exports, of having financed the purchase of such export goods and provided guarantees for their transport, thereby knowingly assisting Rafael, in return for a share of the proceeds, and, of having improperly obtained refunds of indirect taxes.

The payment of such refunds entailed a loss to the State of some 6-7 million schillings. Finally, the Applicant was suspected of having, between November 1954 and August 1955 carried out similar transactions involving tax refunds amounting to 4 million schillings on behalf of Dr. Franz Schmuckerschlag, who was notorious for previous export swindles.

The Applicant was held in custody in connection with the present case from 24th February 1961 to 12th May 1961, on which date he was released without bail. Later the same year, he obtained permission from the examining judge to spend a holiday in Finland after which he returned to Vienna. Following the extradition to Austria on 21st December 1961 of Lothar Rafael, who had been arrested in the Federal Republic of Germany on 22nd June 1961, and his interrogation by the authorities, the Applicant was heard, on 3rd, 4th, 5th and 6th July 1962, by the judge in charge of the investigation of the case and, on 10th and 11th July, he was confronted with Rafael. Apparently, in view of the weight of suspicion hanging over him, another trip to Finland, which he was planning for 1962, was interpreted as an attempt to flee the country and escape further criminal proceedings and, on 12th July 1962, the Applicant was arrested for the second time and has since been held in detention pending trial, the indictment having been drawn up on 26th March 1964.

At the time of his arrest the Applicant was suspected of having committed certain other crimes in respect of which he was acquitted in 1963.

In order to illustrate the difference between the situation in 1961 and at the present time he has submitted that in 1961:

(1) he was a suspected person in connection with two separate cases then under investigation;
(2) the offences allegedly committed by him involved about 40 million Austrian schillings;
(3) he received permission to spend - and did spend - his holidays in Finland and, in January 1962, he similarly received permission to go to the Federal Republic of Germany.
(4) bail was not requested as a condition for his release.

On the other hand, at the present time,

(1) he is charged in one case only, having in the meanwhile been

acquitted on other charges;
(2) the offenses alleged to have been committed by him involve only about 6 million Austrian schillings;
(3) he is being kept under arrest on the pretext of preventing his fleeing the country;
(4) his offer of bail of 250,000 Austrian schillings has been rejected.

The Applicant's protest against arrest was dismissed on 31st July 1962 by the Judges' Council of the Regional Court (Landesgericht) of Vienna and, on 10th September 1962, by the Court of Appeal (Oberlandesgericht) of Vienna.

A formal complaint (Haftbeschwerde) was lodged by the Applicant on 16th October 1962 but this was also dismissed by the same courts on 27th December 1962 and 19th February 1963 respectively in sessions at which the Public Prosecutor was heard (nach Anhörung) but from which the Applicant and his counsel were excluded.

These proceedings were conducted in accordance with Articles 113 and 114 of the Code of Criminal Procedure which provide as follows:

Article 113 (1) Any person who, during the preliminary investigation, the preliminary examination or the proceedings following the introduction of the formal accusation in writing, considers himself to be aggrieved by a measure or a delay on the part of the examining magistrate shall have the right to request a decision on the matter from the Judges' Council (Ratskammer) and to present his application either in writing or verbally to the examining magistrate or directly to the Judges' Council ...

(2) The Judges' Council decides in a non-public session having heard the examining magistrate and the public prosecutor.

Article 114 (1) As a general rule no appeal is allowed against such decisions by the Judges' Council. Appeal (Beschwerde) can, however, be lodged with the Courts of Appeal by the Public Prosecutor ... and the accused person against such decision if it relates to the question of ... prolongation of, or release from, detention pending trial or fixation of bail ...

(2) ... The Court of Appeal decides on the appeal in a non-public session having heard the superior public prosecutor.

On 16th September 1962, the Applicant's daughter, Maria Neumeister, sent a letter to the Minister of Justice offering bail of 1 million Austrian schillings to obtain her father's release.

On 8th January 1964, the Regional Court of Vienna authorised the Applicant's release on bail of 2 million Austrian schillings, but on 31st March 1964, the Court reduced this sum to 1 3/4 million schillings.

It appears that, immediately after this decision had been given, the Applicant's previous lawyer, Dr. Michael Stern, offered to find bail of 1 million schillings without previously obtaining the Applicant's authorization to make this offer. Dr. Stern informed the Commission's Secretary of this on 14th April 1964.

On 3rd June 1964, the Regional Court of Vienna further reduced the Applicant's bail to 1 million schillings but the Applicant declared himself unable to raise this sum. During the oral hearing before the Commission the Applicant's present lawyer, Dr. Leutgeb, submitted that, at a hearing before the Regional Court between 31st March 1964 and 3rd June 1964, the Applicant had withdrawn his instructions from his former lawyer and informed the judge that he was not financially in a position to accept release on the above bail with the result that the Applicant is still in prison. The truth of this assertion has not been

ascertained by the Commission.

The submissions of the Parties

Whereas in his application form, in his reply of 6th February 1964 and during the oral hearing on 6th July 1964 the Applicant alleges violations of

- Article 5, paragraph (1) (c), in that he was arrested and detained without reasonable suspicion of having committed a crime;

- Article 5, paragraph (2) in that he was not informed of the charges against him;

- Article 5, paragraphs (3) and (4) in that the investigation of the charges against him does not necessitate the prolongation of his detention and, that he should be released pending trial or be brought to trial within a reasonable delay;

- Article 6, paragraphs (1) and (3) (b) and (c), in that the principle of "equality of arms" was not respected during the hearings before the Regional Court and the Court of Appeal of Vienna and, in this respect, he refers to the decisions in the Pataki-Dunshirn cases (Applications Nos. 596/59 and 789/60);

Whereas the Respondent Government has replied to the Applicant's submission in its written observations of 24th January 1964 and at the oral hearing on 6th July 1964;

Whereas the submissions of the Parties on the various issues may be summarised as follows:

In respect of Articles 25 and 26 of the Convention

During the oral hearing the Respondent Government submitted that the Applicant could not be considered a "victim" of a violation of the Convention within the meaning of Article 25 and that, having regard to the provisions of Article 26, he had not exhausted the domestic remedies available to him under Austrian law.

The Government submitted that, on 3rd April 1964, the Applicant had lodged a request for his release on payment of bail of 1 million Austrian schillings and that this request was granted on 3rd June 1964. Article 25, paragraph (1), stipulated that a person lodging an application with the Commission must be a "victim" of a violation of the Convention and, in the present case, the Applicant was clearly not such a "victim" as the decision of which he complained fully complied with his own request.

It was further submitted that the Applicant had not availed himself of the possibility of introducing a new request for his release on bail to be fixed at a sum which he is prepared to pay. Under Article 113 of the Code of Criminal Procedure such a request may be introduced at any time and thus it offered him the possibility of obtaining a redress against the decision of 3rd June 1964 which, according to the Applicant, was based on an unauthorised offer of bail made by his lawyer.

The Applicant submitted in reply that he had never consented personally to a bail of 1 million Austrian schillings as he maintained that he did not commit the offences with which he was charged and that he did not possess the sum required for his release. The offer was made without his authority by Dr. Stern, the Applicant's former lawyer, and the Applicant had never agreed to a fixed bail of more than 250,000 schillings.

It was further submitted that Article 26 had been duly complied with

by the Applicant. As, indeed, although it was true that he could have lodged a new request for his release by offering to find bail of a lower sum than 1 million schillings, it was hardly to be expected that such a request would be successful. The Court would almost certainly not have consented to a reduction of the amount which it had fixed a month earlier.

In respect of the alleged violation of Article 5, paragraph (1) (c)

The Respondent Government submitted that both the incriminating statements made by the chief offender, Rafael, and the evidence collected inside and outside Austria, provided reasonable grounds for suspecting the Applicant of unlawful activities (fraud involving 10 million schillings). The Applicant's detention was therefore justified in the interests of justice. Furthermore, there was a danger of the Applicant fleeing the country, particularly after Rafael, who had also sought refuge abroad and was returned to Austria following a request for his extradition, had been placed under arrest. Suspicion against the Applicant was further increased by the fact that he did not lodge any objections to the preliminary examination or to the indictment. Consequently, it was clear that the Convention had not been violated to the extent alleged by the Applicant.

The Applicant submitted that his arrest was due to incriminating statements which were made without any foundation by Mr. Rafael. He contested the suggestion that he had any intention of leaving Austria permanently in order to escape the consequences of his alleged offences. Indeed, if this had been the case, he would have had ample opportunity to do so in the summer of 1961 and in January 1962 when he received permission to go abroad and even during the few days between his confrontation with Rafael on 3rd, 4th, 5th and 6th July and his arrest on 18th July 1962. The Applicant's arrest was contrary to the provisions of the Convention as there was no reasonable suspicion against him nor any danger of his fleeing the country. He denied that any importance could be attached to his failure to object to the investigations or to the indictment. Such protest would have only been a formality and would have only impeded the progress of the case.

In respect of the alleged violation of Article 5, paragraph (2)

The Applicant's lawyer submitted during the oral hearing that the Applicant had never been informed in detail and in writing of the charges which were brought against him and which formed the basis of his detention.

The Respondent Government made no particular submission on this issue.

In respect of the alleged violation of Article 5, paragraph (3)

The Respondent Government submitted that there was no general standard for interpreting the term "within a reasonable delay" and this should be determined in relation to the special circumstances of each individual case. The present case, already complex, was further complicated by the fact that part of the evidence required to convict or acquit the 10 accused persons had to be obtained abroad (in the Middle East, in African and Latin American States as well as in the Federal Republic of Germany, Italy, Switzerland, the Netherlands and Liechtenstein). The case file comprised 24 volumes and 8 files of supporting documents. It was also relevant to point out that the accused persons obstructed the investigation by filing numerous complaints against the officials involved. In these circumstances, a period of detention of 2 years could not be described as unreasonably long. Consequently, this part of the Application would appear to be unfounded.

The Applicant did not contest that the investigation was complicated and that the case was complex. Nevertheless, it was contrary to the

above provisions of Article 5 to keep a person detained for almost two years pending his trial and to fix bail at a sum which, as in the present case, was obviously beyond his means. If the case was as complex as the Government contended, the Court must assign several persons to conduct the investigation in order to bring about his trial more speedily.

In particular he submitted that the situation was in certain respects different in 1961, when he was released from prison, from the position in 1963. This difference is best illustrated as follows:

1. In 1961 he was a suspected person in connection with two separate cases then under investigation;
2. the offences allegedly committed by him involved about 40 million Austrian schillings;
3. he received permission to spend - and did spend - his holidays in Finland and, in January 1962, he similarly received permission to go to the Federal Republic of Germany;
4. bail was not requested as a condition for his release.

On the other hand, at the present time

1. he is a suspect in one case only, having in the meanwhile been acquitted on other charges;
2. the offences alleged to have been committed by him involve only about 6 million Austrian schillings;
3. he is being kept under arrest on the pretext of preventing his fleeing the country;
4. his offer of bail of 250,000 Austrian schillings had been rejected.

In respect of the alleged violation of Article 5, paragraph (4)

The Respondent Government submitted that this provision did not prevent the Court in the present case from requiring the Applicant, as provided for in municipal law (Article 192 of the Code of Criminal Procedure), to put up as bail a sum fixed in relation not only to the damages resulting from the alleged offences (approximately 10 million schillings), but also to the prisoner's own financial circumstances and the means of the person standing surety. Bail had in fact been fixed on this basis and it would thus appear that this part of the Application was unfounded.

The Applicant submitted that the Courts had, when fixing bail, failed to investigate the Applicant's financial position. Bail could not, under the Convention, be fixed at a sum which would, for all practical purposes, prevent a prisoner's release from detention. Regard should also be had to the possible sentence which would be imposed upon the Applicant if convicted and it was submitted that such sentence could scarcely exceed two years which was the period already spent by him in detention.

In respect of the alleged violations of Article 6 (1)

The Respondent Government did not contest that, in the examination by the courts of the Applicant's petition for release, prosecution officers were "heard" in the absence of the accused and his defence counsel. It was, however, submitted that Article 6 did not apply to these proceedings as they were not part of the proceedings designed to ascertain the validity of the charge or to establish the guilt or innocence of the Applicant; their purpose was merely to determine the question of the continuation of his detention. These proceedings were not designed to determine a "civil right" of the Applicant within the meaning of Article 6 and in this respect, reference was made to Austrian law and its criteria for defining civil rights. If Article 6 was applicable to these proceedings, Article 5, paragraph (4), would be superfluous and this was clearly an untenable assertion. The Applicant's reference to Article 6 of the Human Rights Convention and the identification by him of his case with the Pataki-Dunshirn cases

were irrelevant. Indeed, during the proceedings under review, the Public Prosecutor was at a disadvantage in comparison with the accused. The reason for the summary nature of the proceedings was to avoid delays in dealing with requests for release. This part of his Application was consequently unfounded.

The Applicant submitted that, during the proceedings relating to the justification of his detention, the Applicant and his lawyer were excluded from the court sessions whereas the Public Prosecutor was heard by the court. It was contended that the principle laid down by the Commission, in interpreting Article 6, paragraph (1), in the cases of Pataki and Dunshirn, applied with equal force during the proceedings now at issue. It was not admitted by the Applicant that the Public Prosecutor was at a disadvantage in comparison with the prisoner and the defence in general. On the contrary, the opposite view was expressed in a public statement by the Minister of Justice who stated, in the interest of the accused, that the principle of equality of arms ought also to be observed during the proceedings under review.

In respect of the alleged violation of Article 6, paragraph (3)(b) and (c)

The Respondent Government made no particular submissions on this issue.

The Applicant, apart from referring to the above paragraph in his Application form, did not further pursue his allegation.

THE LAW

As regards the general objection made by the Respondent Government (Articles 25 and 26 (Art. 25, 26) of the Convention)

Whereas Article 25, paragraph (1), (Art. 25-1) of the Convention provides that:

"The Commission may receive petitions ... from any person ... claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention"; and whereas Article 26 (Art. 26) provides: "The Commission may only deal with a matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law ..."

Whereas the Respondent Government has submitted that the Applicant is no longer a "victim" within the meaning of Article 25 (Art. 25) and, further, that, by failing to lodge a renewed request for release on bail after the decision of 3rd June 1964, the Applicant has not exhausted the domestic remedies available to him in pursuance of Article 26 (Art. 26);

Whereas, first, the Respondent Government has, by its submission that the Applicant was not a "victim" within the meaning of Article 25 (Art. 25) contended that the Regional Court of Vienna, in its decision of 3rd June 1964 fixed the Applicant's bail at 1 million schillings in accordance with the offer made by his own lawyer, Dr. Stern;

Whereas it appears from Dr. Stern's letter to the Commission of 14th April 1964 that he undertook on the Applicant's behalf to find bail of 1 million schillings without having received his client's authorization;

Whereas it has been submitted by the Applicant's present lawyer during the oral hearing that prior to the decision of 3rd June 1964 the Applicant informed the Regional Court of Vienna that he was unwilling and financially unable to find bail fixed at that amount; whereas, consequently the Applicant is still detained pending trial and has not been released on conditions which he considers to be reasonable;

Whereas, secondly in respect of the objection made by the Government under Article 26 (Art. 26) it is true that, under Articles 113 and 114 of the Code of Criminal Procedure, the Applicant can at any time lodge a request for his release on bail and during these proceedings offer such bail as he considers reasonable in view of his financial situation;

Whereas the Commission, in taking into consideration the bail fixed by the Austrian court at 1 million schillings, is satisfied that there was no reason to believe that the Austrian courts would, about one month later, order the Applicant's release on bail of 250,000 Austrian schillings as had been offered by the Applicant.

Whereas, under Article 26 (Art. 26) the question whether or not a domestic remedy must be exhausted before the Commission can be seized if a case is to be determined according to the generally recognised rules of international law; whereas in its decision on the admissibility of Application No. 514/59 (X. v. Austria - Yearbook III, page 196), in which reference was made to the jurisprudence of the Permanent Court of International Justice, the Commission held that it was not necessary to have recours to domestic tribunals if the result must inevitably be the repetition of a decision already pronounced;

Whereas it follows that, in the circumstances of the present case, the remedy now open to the Applicant cannot be considered an effective and sufficient remedy which under Article 26 (Art. 26) of the Convention, was bound to be exhausted by the Applicant;

Whereas, therefore, the Commission rejects the general objection to the admissibility of the Application made by the Respondent Government on the basis of Articles 25, paragraph (1) and 26 (Art. 25-1, 26) of the Convention;

As regards the alleged violation of Article 5, paragraph (1) (c) (Art. 5-1-c)

Whereas Article 5, paragraph (1) (c) (Art. 5-1-c) of the Convention provides as follows: "No-one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law ... the lawful arrest and detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so."

Whereas the Applicant alleges that on 12th July 1962, the date of his second arrest, the police officials had no reasonable suspicion that he had committed an offence within the meaning of the above paragraph;

Whereas, in its partial decision of 6th July 1959 on the admissibility of Application No. 343/57 (Nielsen against Denmark), the Commission held that "in determining what is 'a reasonable suspicion of having committed an offence' permitting the arrest or detention of a person under Article 5, paragraph (1) (c) (Art. 5-1-c) regard must be had to the circumstances of the case as they appeared at the time of the arrest and detention ...";

Whereas, in the present case, when interrogated by the police, the said Rafael made statements which incriminated the Applicant to such an extent that the question arose, not unreasonably, whether or not the Applicant was implicated in the illegal transactions imputed to Rafael;

Whereas the Commission finds that, in the light of the circumstances of the case such as it presented itself to the Austrian authorities in July 1962, it cannot be excluded that there was a reasonable suspicion in the view of the Austrian authorities, that the Applicant had committed offences under the provisions of the Criminal Code; whereas,

consequently, the Applicant's arrest on 12th July 1962 and his subsequent detention have not resulted in a violation of Article 5, paragraph (1) (c) (Art. 5-1-c) of the Convention;

Whereas it follows that this part of the Application is manifestly ill-founded and must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2), of the Convention;

As regards the alleged violation of Article 5, paragraph (2) (Art. 5-2)

Whereas Article 5, paragraph (2) (Art. 5-2), of the Convention provides as follows: "Everyone who is arrested shall be informed promptly ... of the reasons for his arrest and of any charge against him";

Whereas the Applicant alleges that he was not so informed of the reasons for his arrest and of the charges against him; whereas it is pointed out that, in connection with the investigation of the case which led to his arrest on 12th July 1962, the Applicant had previously been detained for a period of eleven weeks, namely, from 24th February until 12th May 1961, that he had been interrogated in detail by the investigating judge on 3rd, 4th, 5th and 6th July 1962, which was 2 weeks prior to his arrest, and that he was confronted with the said Rafael on 10th and 11th July 1962; whereas the Commission is thus satisfied that the Applicant must have been fully aware of the reasons for his arrest and the nature of the charges against him;

Whereas it follows that this part of the Application is manifestly ill-founded and must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2) of the Convention;

As regards the alleged violations of Article 5, paragraph (3) and Article 6, paragraph (1) (Art. 5-3, 6-1) of the Convention, in that the Applicant has been detained pending trial for a period of almost two years.

Whereas Article 5, paragraph (3) (Art. 5-3) of the Convention provides as follows: "Everyone arrested or detained in accordance with the provisions of paragraph (1) (c), of this Article (Art. 5-1-c)... shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditional by guarantees to appear for trial."

Whereas the Applicant alleges that this detention pending trial for a period of almost two years violates the above provisions;

Whereas the Respondent Government has submitted that, in view of the complexity of the case and the difficulties of the investigation of the charges against the Applicant, such period is not excessive nor unreasonable and that the Application is, in this respect, manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2) of the Convention;

Whereas it is true that Article 27, paragraph (2) (Art. 27-2) of the Convention requires the Commission to declare inadmissible any application from an individual which it considers to be "manifestly ill-founded";

Whereas, in a series of previous decisions concerning the question of the length of detention pending trial, the Commission has held that the above provisions of Articles 5 and 6 (Art. 5, 6) do not lay down any definite standard, but should be interpreted according to the circumstances of each case (See Applications Nos. 530/59 - S. v. the Federal Republic of Germany - Collection of Decisions, Volume 8, page 46 and 1546/62 - ibid., Volume 9, page 58); whereas in these cases the Commission found, on various grounds, that the special circumstances of the cases concerned justified periods of detention which were only slightly shorter than the period of almost two years which is under review in the present case;

Whereas in the present case, however, a preliminary examination of the information and arguments submitted to the Commission by the Parties does not enable it to determine here and now whether the special circumstances invoked by the Respondent Government are of such a nature so as to exclude any possibility of such violation; whereas it follows that the Applicant's complaints in regard to the refusal to release him on reasonable terms and to the length of his detention pending trial cannot be regarded as manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2) of the Convention and cannot be declared inadmissible on that ground;

As regards the alleged violation of Article 6, paragraph (1) (Art. 6-1) as read in conjunction with Article 5, paragraphs (3) and (4) (Art. 5-3, 5-4) of the Convention

Whereas Article 6, paragraph (1) (Art. 6-1) of the Convention provides that: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to fact and public hearing ..."; and whereas Article 5, paragraph (4) (Art. 5-4) provides that: "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court ..."

Whereas the Applicant alleges that, during the proceedings by which the lawfulness of his detention was decided, he did not receive a fair hearing within the meaning of Article 6 (Art. 6) in that the Public Prosecutor was present at the session of the Court while the Applicant and his lawyer were excluded; whereas, in this respect, he has referred to the findings of the Commission in its Report on Applications Nos. 596/59 (Pataki) and 789/60 (Dunshirn);

Whereas the Respondent Government has submitted that Article 6 (Art. 6) does not apply to the proceedings mentioned in Article 5, paragraph (4) (Art. 5-4), and aimed at deciding the question whether or not the Applicant should be released on bail or detained for a further period of time;

Whereas, in its decision on the admissibility of Application No. 1599/62 (X. v. Austria - Collection of Decisions, Volume 10, page 5) the Commission stated as follows: "Whereas, ..., insofar as the Applicant complains that the proceedingsheld in 1961 before the Court (Oberlandesgericht) in A. were not held in the presence of both parties and that it was the duty of this Court to give a decision on the continued detention of X; whereas, therefore, it was the duty of the Court to settle a dispute as to the right of the accused as to his liberty, guaranteed by Article 5 (Art. 5) of the Convention; whereas, it might be asked whether such dispute did not relate to a civil right in the sense of Article 6 (1) (Art. 6-1) of the Convention;

Whereas, the procedure referred to would, in that event, raise problems in respect of the latter provision as regards the "equality of arms" between the prosecution and the defence (Waffengleichheit);";

Whereas, in that Application, the Commission was, however, not called upon to pursue, the matter as the Applicant had failed to comply with the provisions of Article 26 (Art. 26) of the Convention; whereas in the present case, however, the Applicant has duly complied with these provisions;

Whereas the Commission finds that, at the present stage of the proceedings, it cannot be excluded that the lack of "equality of arms" between the prosecution and the defence during the proceedings before the Regional Court of Vienna in respect of the Applicant's request for release might have resulted in a denial of "fair hearing" within the meaning of Article 6, paragraph (1) (Art. 6-1) of the Convention; whereas it follows that this part of the Application cannot be declared

inadmissible as being manifestly ill-founded; As regards the alleged violation of Article 6, paragraph (3) (b) and (c) (Art. 6-3-b, 6-3-c) of the Convention

Whereas, apart from referring to this paragraph in his Application form, the Applicant has not pursued this issue during the subsequent proceedings before the Commission;

Whereas the Respondent Government has made no particular submissions on the issue;

Whereas, in these circumstances, the Commission does not find it necessary to make any findings on this alleged violation of the Convention;

Now therefore the Commission

rejects the objection made by the Respondent Government as to the admissibility of the Application in its entirety; rejects, however as being manifestly ill-founded the allegations made by the Applicant in respect of Article 5, paragraph (1) (c) and (2) (Art. 5-1-c, 5-2) of the Convention, but, declares ADMISSIBLE and retains the allegations made by the Applicant in respect of Articles 5, paragraph (3) (Art. 5-3) and 6, paragraph (1) (Art. 6-1) and of Article 6, paragraph (1) (Art. 6-1) as read in conjunction with Article 5, paragraphs (3) and (4) (Art. 5-3, 5-4) of the Convention.