AS TO THE ADMISSIBILITY OF

Application No. 27881/95
by Esko NURMINEN and Others
against Finland

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

Mrs. J. LIDDY, President
MM. E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. MARXER
B. CONFORTI
N. BRATZA
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

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 30 November 1994 by Esko NURMINEN and Others against Finland and registered on 18 July 1995 under file No. 27881/95;

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 applicants, all Finnish citizens, are set out in the Annex. The first applicant, a lawyer born in 1963 and resident in Helsinki, represents the other applicants.

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

In 1992 Parliament accepted the Government's proposal that Finland lodge an application for membership of the European Union ("EU"). In June 1994 Finland signed an agreement with EU concerning the terms of the accession ("the Corfu agreement"). This agreement was to be ratified by 1 January 1995 so as to enter into force on that date.

In June 1994 Parliament passed Bill no. 578/94 concerning the organising of an advisory referendum on Finland's accession to EU. In July 1994 the Council of State (valtioneuvosto, statsrådet) confirmed the contents of an information leaflet which was to be distributed to all potential voters and be available at every polling station. The Government furthermore publicly announced that it would respect the wish of the majority view expressed in the referendum.

In its Bill no. 135/94 of August 1994 concerning Finland's accession to EU and the ratification of the Corfu agreement the Government proposed that the Bill be put to the vote pursuant to section 69, subsection 1 of the 1928 Parliament Act (valtiopäivä-järjestys, riksdagsordningen). In this so-called abridged procedure for constitutional matters the Bill needed a majority of at least two thirds of the votes cast in order to be passed.

The Constitutional Affairs Committee of Parliament (perustuslaki-valiokunta, grundlagsutskottet) heard a number of experts and, on 7 October 1994, proposed, by a majority vote, that the Bill should be put to the vote in accordance with section 69 of the Parliament Act. A minority found that the Bill should be dealt with pursuant to section 67. In that so-called normal procedure for constitutional amendments the Bill needed either to be passed by a majority of the votes cast and be confirmed by a majority of at least two thirds of the votes cast by the next Parliament or, if considered urgent by at least five sixths of the votes cast by the sitting Parliament, be passed by a majority of at least two thirds of the votes cast by that Parliament.

In the advisory referendum held on 16 October 1994 the voters were asked whether they approved of Finland's accession to EU on the terms agreed upon. 57 per cent of the Finnish voters supported Finland's accession to EU, while 43 per cent were opposed to it.

On 18 November 1994 Parliament passed the Bill pursuant to section 69 of the Parliament Act with 152 votes out of 198 cast.

The first applicant considered that the Bill should have been put to the vote pursuant to section 67. On 25 November 1994 he petitioned the President of the Republic and the Chancellor of Justice of the Council of State (valtioneuvoston oikeuskansleri, justitiekanslern i statsrådet), requesting that the President abstain from ratifying the relevant Act and request the Supreme Court (korkein oikeus, högsta domstolen) to submit its opinion on the proper procedure in which Bill no. 135/94 should be put to the vote. On 8 December 1994 the President of the Republic ratified the Act on Finland's accession to EU (no. 1540/94). On 9 December the Corfu agreement was ratified by Finland.

On 16 December 1994 the Chancellor of Justice found no likely grounds for suspecting that domestic law had been violated in connection with the preparation of Finland's accession to EU. On 25 January 1995 he found that the Council of State's information leaflet for the purposes of the referendum had been "balanced and also otherwise in accordance with the law".

In March 1995 parliamentary elections were held in Finland.

In an interview published on 4 October 1996 the former Minister of Foreign Trade disclosed that the timing of the advisory referenda on Finland's and Sweden's possible accession to EU had been a matter of negotiation. The Finnish President had strongly supported that the Finnish referendum be held before the Swedish one. Also the then Finnish Prime Minister had agreed on such a timing.

COMPLAINTS

The applicants essentially complain about the organising of the advisory referendum concerning Finland's possible accession to EU. As the referendum and Finland's membership of EU preceded the parliamentary elections in 1995, the applicants were allegedly deprived of their right to express their views on the proposed membership by voting in those elections. In addition, the information leaflet distributed by the Council of State prior to the referendum was misleading, thus violating the applicants' right to freedom of opinion, freedom of expression and freedom of assembly and association.

Moreover, in passing Bill no. 135/94 pursuant to section 69 of the Parliament Act instead of pursuant to section 67 a majority in Parliament disregarded in a politically expedient and discriminatory manner the rules for the protection of the minority formed by the opponents to Finland's accession to EU. This abuse of the democratic system resulted from the absence of a court capable of examining the proper constitutional procedure to be chosen. At any rate the Bill was passed in disregard of the outcome of the referendum which had not expressed the majority required by section 69 of the Parliament Act.

The applicants invoke Articles 9, 10, 11, 13, 14 and 17 of the Convention and Article 3 of Protocol No. 1 to the Convention.

THE LAW

1. The Commission has first dealt with the organising of the advisory referendum concerning Finland's possible accession to EU.

Article 9 (Art. 9) of the Convention guarantees to everyone "the right to freedom of thought, conscience and religion". The Commission finds no indication that the Finnish authorities interfered with the applicants' rights under this provision.

Article 10 (Art. 10) of the Convention provides that "everyone has the right to freedom of expression", including the "freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". The Commission recalls that the right to freedom to receive information basically prohibits the Contracting States from restricting the possibility of receiving information that others wish or may be willing to impart (see, e.g., Eur. Court HR, Leander v. Sweden judgment of 26 March 1987, Series A no. 116, p. 29, para. 74).

The Commission cannot find that Article 10 (Art. 10) guarantees, in circumstances such as in the present case, an unfettered individual right to be informed by State authorities on issues of general interest in a specific way. Moreover, the applicants do not allege that they were prevented by the Finnish authorities from obtaining information which they deemed necessary. In these circumstances the Commission does not find any appearance of a violation of Article 10 (Art. 10) (see also, as regards Austria's referendum on its accession to EU, No. 26633/95, Dec. 15.5.96, not published).

Article 11 (Art. 11) of the Convention in essence prescribes that "everyone has the right to freedom of peaceful assembly and to freedom of association with others". The Commission finds no indication that the applicants' rights under this provision have been violated.

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 applicants also rely on Article 3 of Protocol No. 1 which provides that the "High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

The Commission recalls, however, that the obligations of the High Contracting Parties under this provision are limited to the field of elections concerning the choice of the legislature and do not extend to referenda (see No. 7096/75, Dec. 3.10.75, D.R. 3, p. 165 and the above-mentioned No. 26633/95).

Nor can the Commission find any indication that the parliamentary elections in 1995 were not "free" within the meaning of Article 3 of

Protocol No. 1.

It follows that this part of the application is, as regards the referendum, incompatible ratione materiae with the provisions of the Convention and, as regards the parliamentary elections, manifestly ill-founded, within the meaning of Article 27 para. 2 of the Convention.

3. The Commission has next considered the application insofar as it refers to Article 13 of the Convention. According to this provision, "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."

The Commission recalls, however, that Article 13 does not go as far as to guarantee a remedy allowing a Contracting State's laws as such to be challenged before a national authority on the ground of being contrary to the Convention or to equivalent domestic legal norms (see, e.g., Eur. Court HR, Lithgow and Others v. the United Kingdom judgment of 8 July 1986, Series A no. 102, p. 74, para. 206). It follows that this part of the application is also manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

4. The applicants also appear to complain that they were being discriminated against contrary to Article 14 of the Convention, presumably since they formed part of the minority of voters who objected to Finland's accession to EU. Article 14 stipulates that "the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as ... political ... opinion, ... association with a national minority, ... or other status."

Article 14 is effective solely in relation to the enjoyment of the rights and freedoms safeguarded by the other substantive provisions (see, e.g., Eur. Court HR, Van der Mussele v. Belgium judgment of 23 November 1983, Series A no. 70, p. 22, para. 43). In the present case the Commission need not determine whether Article 14 is applicable in conjunction with any of the other provisions invoked. Even in the affirmative, there is no indication of discrimination proscribed by Article 14.

It follows that this part of the application is also manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

5. Finally, the Commission finds no issue under Article 17 of the Convention.

It follows that this part of the application is also manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

M.F. BUQUICCHIO
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber

ANNEX

The applicants are:

1. Mr. Esko NURMINEN, residing in Helsinki;

2. Mr. Aatos KARJALAINEN, residing in Helsinki;

3. Ms. Kaisa BACKMAN, residing in Vantaa;
4. Mr. Juha Tapio HAAVISTO, residing in Helsinki;
5. Mr. Helge KAALIKOSKI, residing in Pietilä;
6. Ms. Raili KUITTINEN, residing in Imatra;
7. Mr. Ville-Veikko KUIVALAINEN, residing in Siilinjärvi;
8. Mr. Väinö KUIVALAINEN, residing in Siilinjärvi;
9. Mr. Veijo LAASONEN, residing in Lahti;
10. Mr. Tauno OLLIKAINEN, residing in Lahti;
11. Ms. Arja ROMPPANEN, residing in Vantaa;
12. Ms. Asta ROMPPANEN, residing in Vantaa;
13. Mr. Kauko SUOMINEN, residing in Kokemäki;
14. Ms. Salme SUOMINEN, residing in Turku;
15. Ms. Vaula TUOMINEN, residing in Lumparland;
16. Mr. Pauli TUONONEN, residing in Juuka;
17. Ms. Maritta VILKMAN, residing in Vantaa;
18. Mr. Hannu VUORENMAA, residing in Forssa;
19. Ms. Else HAKOKIVI, residing in Lahti;
20. Ms. Marianne SAHLSTEIN, residing in Espoo; and
21. Mr. Seppo KOPOLA, residing in Klaukkala.