AS TO THE ADMISSIBILITY OF

Application No. 22747/93
by Stig and Gun OLSSON
against Sweden

The European Commission of Human Rights (Second Chamber) sitting in private on 5 April 1995, the following members being present:

Mrs. G.H. THUNE, Acting President
MM. H. DANELIUS
G. JÖRUNDSSON
S. TRECHSEL
J.-C. SOYER
H.G. SCHERMERS
F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
M.A. NOWICKI
I. CABRAL BARRETO
J. MUCHA
D. SVÁBY

Mr. K. ROGGE, 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 29 September 1993 by Stig and Gun OLSSON against Sweden and registered on 6 October 1993 under file No. 22747/93;

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

a. Introduction

The applicants are a married couple, born in 1941 and 1944 respectively. They are Swedish citizens and reside at Alingsås. Before the Commission they are represented by Mrs. Siv Westerberg, a lawyer practising in Gothenburg.

The applicants have three children: Stefan, born in June 1971, Helena, born in December 1976, and Thomas, born in January 1979.

The applicants' children were taken into public care pursuant to the relevant provisions of the Child Welfare Act (Barnavårdslagen, 1960:97) by a decision of the Social District Council No. 6 (Sociala distriktsnämnden 6) of Gothenburg of 16 September 1980. The decision was later confirmed on appeal by the administrative courts. The basis for the care decision was that the health and development of the children were jeopardised as a result of the parents' inability to give them satisfactory care and education.

After having been taken into care the applicants' children were placed in separate foster homes, Helena in Näsviken, close to Hudiksvall, and Thomas in Maråker, south of Söderhamn. The distances from Hudiksvall and Söderhamn to Gothenburg, where the applicants lived at the time, is about 600 km. The applicants' right of access to their

children was restricted while the children were in public care.

The applicants addressed several requests for termination of the care of the children to the Social Council which remained unsuccessful. However, after the Council had rejected two termination requests lodged in 1984 and 1985 and the County Administrative Court (Länsrätten) of the County of Gothenburg and Bohus had dismissed the applicants' appeals, the Administrative Court of Appeal (Kammarrätten) of Gothenburg, by judgment of 16 February 1987, decided that the public care of Stefan be terminated. After a further appeal, the Supreme Administrative Court (Regeringsrätten), by judgment of 18 June 1987, ordered that the public care of Helena and Thomas should also terminate.

Following these judgments, Stefan returned to the applicants' home. In regard to Helena and Thomas, the Social Council, however, decided, on 23 June 1987, pursuant to the relevant provision of the Social Services Act (Socialtjänstlagen, 1980:620), to prohibit the applicants until further notice from removing them from their respective foster homes. The Council considered that there was a risk, which was not of a minor nature, of harming Helena's and Thomas' physical and mental health by separating them from the foster homes. The reasons given for this were, inter alia, that a long time had passed since their parents last took care of them, that they only had little contact with their parents during the public care, that they had emotional ties with their foster homes and that Helena had expressed a wish to stay in her foster home. The Council's decision was confirmed on appeal by the administrative courts. The Supreme Administrative Court, however, set a time limit for the prohibition on removal, a time limit that was later extended several times, ultimately until 28 February 1991 by a decision of the County Administrative Court of 27 July 1990.

Restrictions on parental access remained after the prohibition on removal was imposed. After an access request had been rejected by the Council on 18 December 1987, the administrative courts dismissed the applicants' appeals, finding that no appeal lay from an access decision taken while a prohibition on removal was in force. On 18 July 1988 the Supreme Administrative Court, recalling that the parents could request that the children be returned to them in accordance with the rules laid down in Chapter 21 of the Parental Code (Föräldrabalken), found that the Council's decision on access was null and void, there being no legal provision authorising the Council to restrict access while a prohibition on removal was in force. The applicants' subsequent request under Chapter 21 of the Parental Code was rejected by the administrative courts.

The applicants have previously submitted two applications (Nos. 10465/83 and 13441/87) regarding the public care of their children. The first application, covering the period from 16 September 1980 to 18 June 1987, mainly concerned the taking into care of the children, the refusal to terminate the care and the implementation of the care decision. The Commission found that the care decisions concerning the applicants' children in combination with the placement of the children in separate foster homes far from each other and far away from the applicants constituted a violation of Article 8 of the Convention (Olsson v. Sweden, Comm. Report 2.12.86, para. 179, Eur. Court H.R., Series A no. 130, p. 62). The Court found that the implementation of the care decision, but not the decision itself or its maintenance in force, gave rise to a breach of Article 8 of the Convention (cf. Eur. Court H.R., Olsson judgment of 24 March 1988, Series A no. 130). The second application, covering the period from 18 June 1987 to 24 January 1991, mainly concerned the prohibition on removal, the different restrictions on parental access while the prohibition was in force, the impossibility of appealing against the access decisions and the length of certain court proceedings. The Commission found that the restrictions on access before 1 July 1990 and the prohibition on

removal had violated Article 8 of the Convention. The Commission further found a breach of Article 6 para. 1 of the Convention in that the applicants had not been able to challenge the access restrictions in a court (Olsson v. Sweden (no. 2), Comm. Report 17.4.91, paras. 113, 130 and 134, Eur. Court H.R., Series A no. 250, pp. 52 and 56-57). The Court agreed with the Commission as to the violations of Articles 8 and 6 para. 1 of the Convention in connection with the restrictions on access, but found no violation in respect of the prohibition on removal (cf. Eur. Court H.R., Olsson v. Sweden (no. 2) judgment of 27 November 1992, Series A no. 250).

b. The particular circumstances of the case

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

On 31 October 1989 the Social District Council (Stadsdelsnämnden) of Gunnared, Gothenburg decided to institute proceedings in the District Court (Tingsrätten) of Alingsås requesting that the legal custody of Helena and Thomas be transferred from the applicants to their respective foster parents in accordance with Chapter 6, Section 8 of the Parental Code.

The District Court held hearings on 9 and 10 October 1990, at which the applicants, their lawyer and representatives of the Social District Council were present and heard. The District Court further heard Helena's foster mother, Thomas' foster parents and four other witnesses, among them two medical doctors who had been in contact with the children on different occasions and had submitted expert opinions in earlier court proceedings.

By judgment of 24 January 1991, the District Court transferred the custody, finding this to be in the children's obvious best interests. The reasons for the transfer were the considerable time the children had spent in their foster homes, their strong relations with their foster parents, the wishes of the children, Thomas' special need of stability and the little contact that had occurred between the applicants and their children. The Court further ordered that the applicants should each year receive three day-time visits by the children at their home and be able to visit them at the foster homes during three weekends. The Court noted in this respect that it was in the children's best interest to have more frequent contacts with the applicants in the future but that, in view of the children's wishes and the few meetings - none at all since June 1989 - that had taken place after the placement of them in the foster homes, it was not possible to order parental access to a greater extent.

The applicants later claimed that Helena's foster mother and one of the medical doctors heard during the District Court hearings had committed perjury. They reported the matter to the police which, after questioning the two witnesses, decided to close the investigation.

The applicants appealed against the District Court's judgment to the Court of Appeal (Hovrätten) of Western Sweden. They maintained, inter alia, that the foster parents were unsuited as custodians. In particular, they contended that they had learned after the District Court judgment that Helena's foster father had been charged in 1986-87 with assault, including sexual assault, and sexual exploitation of a minor, namely another foster girl. The foster father had been acquitted due to lack of evidence. He had, however, stated during the police investigations that he had acted in a manner which, according to the applicants, constituted sexual assault. The applicants further raised suspicions of maltreatment of Thomas by his foster parents. Referring to this and to the alleged perjury, the applicants requested the Court of Appeal to stay execution of the District Court's judgment. The request was, however, refused on 9 April 1991 and, following the applicants' repeated requests, on 26 April and 2 September 1991.

The Court of Appeal held hearings in the case on 11-13 December 1991, during which it heard the same persons as the District Court with the exception of Helena's foster mother. In addition, it heard Helena, her foster father and one of her school teachers who had been appointed by the Social District Council as her contact person (kontaktperson).

By judgment of 24 January 1992, the Court of Appeal upheld the District Court's judgment. It stated, inter alia, that, having regard to Helena's and Thomas' age and degree of maturity, great importance should be attached to their views about custody and access. It was clear that they both wanted to remain in their foster homes. Moreover, contacts between the applicants and the children had been very infrequent, especially in recent years. In the Court of Appeal's opinion, the absence of contacts was due rather to a lack of desire and initiative on the part of the applicants to visit the children than to any preventive measures taken by the foster parents or the social authorities. As concerns the alleged unsuitability of the foster homes, the Court of Appeal, taking into account the evidence given before it, found no indication that Helena had been, or ran a risk of being, a victim of improper conduct on the part of her foster father or that Helena's foster mother or Thomas' foster parents were unsuited.

After a further appeal, the Supreme Court (Högsta domstolen), by decision of 21 January 1993, granted the applicants leave to appeal. In the meantime, Helena's foster mother had died on 5 November 1992. The Social District Council had allegedly not notified the applicants of her death. Instead, the applicants were informed of her death by their representative, who got to know about this in January 1993 after having contacted a former foster girl of the foster mother. By letter to the Supreme Court of 19 March 1993, the Council withdrew the request for transfer of custody of Helena, as her foster father was not prepared to be her sole custodian. For this reason, the Supreme Court, by decision of 19 May 1993, set aside the judgments of the District Court and the Court of Appeal in so far as they concerned Helena. The applicants' custody of Helena was thus restored.

On 1 May 1993 Helena, at the time 16 years old, moved from the foster home to an apartment of her own in Hudiksvall where she attended secondary school. The Social District Council paid the rent for the apartment and other housing costs. It also granted Helena social allowance for furniture and subsistence costs and renewed the appointment of her contact person. The Council's decisions were taken in accordance with Helena's wishes. She had expressly stated that she wanted to stay in the area of Hudiksvall and finish her studies there.

In letters to the Social District Council the applicants objected to any grant to Helena by the Council. They stated that they intended to take care of their daughter themselves, both financially and otherwise, and had decided that she should live with them. Claiming that it was unlawful to grant Helena assistance without their consent, they demanded that the Council annul its assistance decisions.

The Social District Council replied that the applicants had a right to provide for their daughter and that, if they intended to do so, the Council wished to be informed thereof. The Council stated that, due to Helena's age, it was not possible to move her against her own will. It further stated that its assistance decisions were based on Sections 3 and 12 of the Social Services Act and that, according to Section 73 of the same Act, no appeal lay from the decisions.

In a further letter to the Social District Council the applicants claimed that it could not legally grant assistance to Helena, as she did not live in the municipality of Gothenburg. They referred to Section 2 of the Social Services Act.

In the case concerning transfer of custody of and access to Thomas, the Supreme Court held hearings on 19 and 20 October 1993, at which the applicants and their lawyer and representatives of the Social District Council were present and heard. The Court further heard Thomas' foster parents. The applicants requested, inter alia, that the Court should order access under penalty of a fine (vitesföreläggande) to be paid by Thomas' foster parents. By judgment of 10 November 1993, the Supreme Court upheld the judgments of the lower courts as concerns both custody and access. It stated that transfer of custody was in Thomas' obvious best interests as he had spent 13 years in the foster home and was rooted there. In view of his age and degree of maturity, great importance should also be attached to his wishes. The Supreme Court noted that Thomas had expressed his wish to remain with the foster parents whom the Court found to be well suited as custodians. The Court further took into account that contacts between Thomas and the applicants had been very infrequent. Noting that Thomas' foster parents had invited the applicants to visit Thomas as often as they wanted, but that no personal contacts had taken place since June 1989, it agreed with the Court of Appeal that the absence of contacts was, to a great extent, due to the applicants' lack of initiative. With respect to access, the Supreme Court, noting that the extent of future contacts depended mainly on Thomas' wishes, rejected the applicants' request for an access order under penalty of a fine.

The applicants later accused Thomas' foster mother of having committed perjury during the Supreme Court hearings. By letter of 6 December 1993, the President of the Supreme Court stated that he would not take any action in the matter. The applicants then requested the Public Prosecution Authority (Åklagarmyndigheten) of Stockholm to investigate the matter and bring an indictment against the foster mother. On 11 February 1994 and, following the applicants' request for a review, on 13 April 1994 the Authority decided not to commence preliminary investigations, as there was no reason to suspect that a crime had been committed. On 25 April 1994 the Prosecutor-General (Riksåklagaren) decided not to take any action with regard to the applicants' further request for a review.

On 11 October 1994 the Supreme Administrative Court rejected the applicants' request for a re-opening of the case concerning return of Helena and Thomas to the applicants under Chapter 21 of the Parental Code.

c. Relevant domestic law

Decisions concerning the applicants' children relevant to the present application were based on the Parental Code and the Social Services Act.

Chapter 6 of the Parental Code concerns custody and access. The relevant provisions read as follows:

(translation)

Section 8:

> "If a child has been permanently cared for and brought up in a private home and if it is obviously in the best interests of the child that the prevailing relationship may continue and that custody be transferred to the person or persons who have received the child or to one of them, the court shall appoint the said person or persons to exercise custody of the child as specially appointed guardians.
>
> Questions concerning the transfer of custody under subsection 1 are to be examined at the request of the Social Council."

Section 15, subsection 2:

"If the child's custodian opposes the access requested by a parent who is not custodian, the court decides on the question of access at the request of this parent in accordance with the child's best interests."

The Social Services Act contains provisions concerning supportive and preventive measures effected with the approval of the individuals concerned. Section 2 provides that every municipality is responsible for the social services within its area. According to Section 3, the municipality is ultimately responsible for ensuring that those who stay in that area get the necessary support and assistance. With respect to children, the extent of this responsibility is laid down in Section 12. Section 6 stipulates that the individual has a right to assistance from the Social Council for his subsistence, if his needs cannot be satisfied in another way. The decisions of the Social Council taken pursuant to Section 6 may, according to Section 73, be appealed to the County Administrative Court, while no appeals lie from decisions taken under Sections 3 and 12.

COMPLAINTS

1. Invoking Article 8 of the Convention, the applicants complain of the courts' decisions to transfer custody of Helena and Thomas to their respective foster parents. They also complain of the extent and the arrangements of their access to Helena and Thomas awarded by these decisions.

2. The applicants further claim that Article 8 of the Convention has been violated as a result of the Social District Council's failure to inform them of the death of Helena's foster mother.

3. The applicants allege that several violations of Article 6 of the Convention occurred in the transfer of custody proceedings. They claim that the District Court's judgment of 24 January 1991, in so far as it concerned Helena, and the Supreme Court's judgment of 10 November 1993 concerning Thomas were based on perjured evidence, which shows that the courts were not impartial. They also challenge the impartiality of the Court of Appeal, as it allegedly ignored the perjury committed in the District Court and based its judgment on the statements of the social authorities and the foster parents, although they were guilty of lies, perjury and withholding information. Furthermore, the Supreme Court allegedly let itself be deceived by the parties' different appearances.

4. The applicants contend that the transfer of custody of Thomas to his foster parents constitutes a breach of Articles 6 and 8 of the Convention, as the applicants have been deprived of the possibility of instituting proceedings on behalf of Thomas concerning possible maltreatment of him by his foster parents. Furthermore, invoking Article 25 of the Convention, the applicants contend that the effective exercise of their right to lodge complaints with the Commission has been hindered, as, owing to the transfer of custody of their children, they have not been able to complain on their behalf.

5. The applicants further contend that the refusal of the police and the social authorities to investigate their reports of maltreatment of Thomas by his foster mother constitutes a violation of Articles 6 and 13 of the Convention. In this connection, the applicants further complain under Article 6 that the social authorities, which have appointed the foster homes, also investigate complaints against these homes.

6. The applicants allege that the access awarded to them by the courts was not clearly defined, as no dates or places of the meetings were given, for which reason they were not given a "determination" of the access issue. They further submit that these vague formulations render a request for a court execution order impossible, that Swedish

courts usually refuse to execute access orders in respect of children who have reached the age of the applicants' children and that the courts regularly follow statements by social authorities and foster parents that foster children do not want to meet their natural parents. The applicants further contend that the Supreme Court should have ordered access under penalty of a fine for Thomas' foster parents, as the applicants have had no access to Thomas, his foster parents having persuaded him to refuse such meetings. The applicants invoke Articles 6, 8 and 13 of the Convention.

7. The applicants further complain that the Social District Council's grant of social assistance to Helena after the Supreme Court's decision to annul the previous judgments on transfer of custody constitutes an unjustified interference with their right to respect for their family life under Article 8 of the Convention.

8. The applicants also complain that they could not appeal against the assistance decisions, as they were taken under Sections 3 and 12 of the Social Services Act. They invoke in this respect Articles 6 and 13 of the Convention.

9. Finally, the applicants complain that Swedish authorities and courts violate Article 53 of the Convention by continuing to prevent the applicants' contacts with Helena and Thomas.

THE LAW

1. The applicants claim that the courts' decisions to transfer custody of Helena and Thomas to their respective foster parents and the access awarded to the applicants by these decisions have violated Article 8 (Art. 8) of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others." The applicants allege that the decisions to transfer custody were not in accordance with Swedish law, as the transfer was not obviously in the children's best interests, and not necessary in a democratic society. They further claim that the access awarded by these decisions was not sufficient to re-establish and maintain the family ties between them and their children.

The Commission finds that the transfer of custody of Helena and Thomas from the applicants to their respective foster parents and the decisions on the applicants' access to their children interfered with the applicants' right to respect for their family life as ensured by Article 8 para. 1 (Art. 8-1) of the Convention. In this connection, the Commission recalls that the applicants' custody of Helena was, after the Social District Council had withdrawn its transfer request, restored by decision of the Supreme Court of 19 May 1993. Custody of Helena had, however, been bestowed upon her foster parents since the District Court judgment of 24 January 1991. There was thus an interference with the applicants' right in respect of Helena during the period from 24 January 1991 to 19 May 1993. Having established that the applicants' right under Article 8 para. 1 (Art. 8-1) of the Convention was interfered with, the Commission must examine whether this interference was justified under the terms of Article 8 para. 2 (Art. 8-2). In this respect, the Commission recalls that three

conditions must be satisfied: the interference must be "in accordance with the law", it must pursue one or more of the legitimate aims enumerated in para. 2 (Art. 8-2) and it must be "necessary in a democratic society" for that or those aims.

As regards the first condition, the applicants argue that the decisions to transfer custody were not in accordance with Swedish law, as the transfer was not obviously in the children's best interests. The Commission, however, finds that, although the relevant provision - Chapter 6, Section 8 of the Parental Code - confers discretion on the courts, this discretion is sufficiently defined. Taking into account that the particular circumstances in cases concerning transfer of custody may vary greatly and that, thus, norms cannot be formulated with absolute precision, the Commission finds the discretion conferred by the provision in question to be reasonable and acceptable for the purposes of Article 8 (Art. 8) of the Convention (cf. Eur. Court H.R., Olsson judgment of 24 March 1988, Series A no. 130, pp. 30-31, paras. 61-62). The Commission thus considers that the court decisions as to transfer of custody and access were in conformity with Swedish law, namely Chapter 6, Sections 8 and 15 of the Parental Code.

The Commission further finds that the interference had a legitimate aim under Article 8 para. 2 (Art. 8-2), namely the interests of the children, which in this case fall under the expressions "for the protection of health or morals" and "for the protection of the rights and freedoms of others".

It thus remains to be determined whether the interference was "necessary in a democratic society" in the interests of the children.

According to the established case-law of the Commission and the European Court of Human Rights, the notion of necessity implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued. In determining whether an interference is "necessary in a democratic society", the Commission furthermore has to take into account that a margin of appreciation is left to the Contracting States. That does not mean, however, that the Commission's review is limited to ascertaining whether the respondent State has exercised its discretion reasonably, carefully and in good faith. Furthermore, it cannot confine itself to considering the relevant decisions in isolation but must look at them in the light of the case as a whole. It must determine whether the reasons adduced to justify the interference at issue are "relevant and sufficient" (cf. above-mentioned Olsson judgment, pp. 31-32, paras. 67-68).

In the present case, the Commission recalls that the reasons for transferring the custody of the applicants' children to their respective foster parents were, inter alia, the considerable time they had spent in their foster homes - Helena more than 11 years at the time of the judgment of the Court of Appeal and Thomas more than 13 years at the time of the judgment of the Supreme Court. The courts also considered that the children's wish to remain in the foster homes should be given great importance in view of their age - Helena 15 years and Thomas almost 15 years at the time of the respective judgments - and their degree of maturity. The courts further took into account the children's strong relations with their foster parents and the little contact they had had with the applicants. The courts therefore concluded that a transfer of custody was in the children's obvious best interests. As regards parental access, the courts took into account that the applicants had had very little contact with their children and that no meetings had taken place since June 1989, for which reason the courts concluded that, at the time of the judgments, it was not possible to grant access to a greater extent than the six yearly meetings awarded by the District Court. The Commission further recalls that the courts, before giving their judgments, had held hearings, at which the applicants, their lawyer, the foster parents, representatives

of the Social District Council and several witnesses were heard. Thus, the courts cannot be said to have intervened without adequate knowledge of the cases.

In the light of the foregoing the Commission finds that the transfer of custody of the applicants' children to their respective foster parents and the access awarded to the applicants were supported by relevant and sufficient reasons and that, having regard to their margin of appreciation, the Swedish authorities were reasonably entitled to think that these measures were necessary. Accordingly, the Commission concludes that the relevant decisions can reasonably be regarded as "necessary in a democratic society" within the meaning of Article 8 para. 2 (Art. 8-2) 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 applicants further claim that Article 8 (Art. 8) of the Convention has been violated as a result of the Social District Council's failure to inform them of the death of Helena's foster mother.

The Commission, recalling that the foster mother died on 5 November 1992 and that the applicants' representative got to know about this in January 1993, finds that an examination of this complaint as it has been submitted does not disclose any appearance of a violation of the rights and freedoms of the Convention and in particular the Article invoked.

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 applicants make several complaints with respect to the court proceedings regarding custody and access. They claim that the District Court's judgment of 24 January 1991, in so far as it concerned Helena, and the Supreme Court's judgment of 10 November 1993 concerning Thomas were based on perjured evidence, which shows that the courts were not impartial. They also challenge the impartiality of the Court of Appeal, as it allegedly ignored the perjury committed in the District Court and based its judgment on the statements of the social authorities and the foster parents, although they were guilty of lies, perjury and withholding information. Furthermore, the Supreme Court allegedly let itself be deceived by the parties' different appearances. The applicants invoke Article 6 (Art. 6) of the Convention which, in so far as relevant, reads as follows:

> "1. In the determination of his civil rights ..., everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ..."

The Commission recalls that the alleged perjury in the District Court and the Supreme Court was reported to the police and the Public Prosecution Authority which decided not to bring any indictments against the alleged perjurers. The Commission finds that neither the complaints made in relation to the alleged perjury nor the additional complaint concerning the Supreme Court as they have been submitted disclose any appearance of a violation of the rights and freedoms of the Convention and in particular the Article invoked.

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.

4. The applicants contend that the transfer of custody of Thomas to his foster parents constitutes a breach of Articles 6 and 8

(Art. 6, 8) of the Convention, as the applicants have been deprived of the possibility of instituting proceedings on behalf of Thomas concerning possible maltreatment of him by his foster parents. Furthermore, invoking Article 25 (Art. 25) of the Convention, the applicants contend that the effective exercise of their right to lodge complaints with the Commission has been hindered, as, owing to the transfer of custody of their children, they have not been able to complain on their behalf.

The Commission recalls its above conclusion as to the compliance of the decision to transfer custody with Article 8 (Art. 8) of the Convention.

Having regard to that conclusion, the Commission finds that an examination of the applicants' complaint under Articles 6 and 8 (Art. 6, 8) of the Convention does not disclose any appearance of a violation of the rights and freedoms of these Articles.

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.

Also in the light of the said conclusion, the Commission finds that the effective exercise of the applicants' right of individual petition has not been hindered in a way which gives rise to an issue under Article 25 (Art. 25) of the Convention.

The Commission therefore concludes that it need take no further action in respect of the alleged interference with this right.

5. The applicants further contend that the refusal of the police and the social authorities to investigate their reports of maltreatment of Thomas by his foster mother constitutes a violation of Articles 6 and 13 (Art. 6, 13) of the Convention. In this connection, the applicants further complain under Article 6 (Art. 6) that the social authorities, which have appointed the foster homes, also investigate complaints against these homes.

The Commission, recalling that neither the Convention nor its Protocols guarantee a right to have criminal investigations instituted against third persons, notes that there is nothing in the file to suggest that Thomas has been maltreated by his foster mother and that, thus, the information given by the applicants fail to substantiate the present complaint.

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.

6. The applicants allege that the access awarded to them by the courts was not clearly defined, as no dates or places of the meetings were given, for which reason they were not given a "determination" of the access issue. They further submit that these vague formulations render a request for a court execution order impossible, that Swedish courts usually refuse to execute access orders in respect of children who have reached the age of the applicants' children and that the courts regularly follow statements by social authorities and foster parents that foster children do not want to meet their natural parents. The applicants further contend that the Supreme Court should have ordered access under penalty of a fine for Thomas' foster parents, as the applicants have had no access to Thomas due to his foster parents having persuaded him to refuse meetings. The applicants invoke Articles 6, 8 and 13 (Art. 6, 8, 13) of the Convention.

The Commission recalls that the District Court, in its judgment of 24 January 1991, ordered that the applicants should have access to Helena and Thomas six times per year, three times at the applicants'

home and three times at the foster homes. The judgment was upheld on appeal by the Court of Appeal and, with respect to Thomas, by the Supreme Court. Thus, the judgments specified the extent of the access and the places where the meetings were to take place, but not the dates of the meetings. The Commission, however, considers that some discretion as to the implementation of access decisions must be left to the competent administrative authorities and the other parties concerned. Thus, the fact that the court judgments did not specify the dates of the meetings does not, in the Commission's opinion, mean that they did not determine the access issue.

With respect to the applicants' other submissions in respect of this complaint the Commission finds that they do not disclose any appearance of a violation of the rights and freedoms of the Convention and in particular the Articles invoked.

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.

7. The applicants further complain that the Social District Council's grant of social assistance to Helena after the Supreme Court's decision to annul the previous judgments on transfer of custody constitutes an unjustified interference with their right to respect for their family life under Article 8 (Art. 8) of the Convention.

The Commission recalls that at the time of the Council's decisions to grant Helena social assistance she was 16 years of age and had lived with her foster parents for almost 13 years. During this time, she had had very little contact with the applicants, her natural parents. Assistance was granted in accordance with Helena's express wish to stay in the area of Hudiksvall and finish her studies there. The Commission further recalls that the applicants were invited by the Council to provide for their daughter.

In view of the above, the Commission considers that the Council's grant of social assistance to the applicants' daughter did not show a lack of respect for the applicants' family life within the meaning of Article 8 para. 1 (Art. 8-1) of the Convention.

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.

8. The applicants also complain that they could not appeal against the assistance decisions, as they were taken under Sections 3 and 12 of the Social Services Act. They invoke in this respect Articles 6 and 13 (Art. 6, 13) of the Convention. Article 13 (Art. 13) reads as follows:

> "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 that the applicability of Article 6 (Art. 6) depends on whether there was a dispute involving a determination of the applicants' civil rights within the meaning of this provision and that Article 13 (Art. 13) has been interpreted by the European Court of Human Rights as requiring a remedy in domestic law only in respect of grievances which can be regarded as "arguable" in the terms of the Convention (cf., e.g., Eur. Court H.R., Boyle and Rice judgment of 27 April 1988, Series A no. 131, p. 23, para. 52).

Having regard to its above conclusion in respect of the complaint under 7, the Commission considers that the dispute between the

applicants and the Social District Council did not concern the applicants' civil rights within the meaning of Article 6 (Art. 6).

It follows that the complaint submitted under Article 6 (Art. 6) is incompatible ratione materiae with the provisions of the Convention within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

Furthermore, the Commission considers that the applicants do not have any "arguable claim" of a violation of the provision invoked for the complaint under 7. In these circumstances, the Commission finds no appearance of a violation of Article 13 (Art. 13).

It follows that the complaint submitted under Article 13 (Art. 13) is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

9. The applicants complain that Swedish authorities and courts violate Article 53 (Art. 53) of the Convention by continuing to prevent the applicants' contacts with Helena and Thomas. Article 53 (Art. 53) reads as follows:

> "The High Contracting Parties undertake to abide by the decision of the Court in any case to which they are parties."

The Commission recalls that, according to Article 54 (Art. 54) of the Convention, the Committee of Ministers supervises the execution of the judgments of the Court. The Commission therefore finds that it lacks competence to examine the present complaint.

It follows that this part of the application is incompatible ratione materiae with the provisions of the Convention within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE;

DECIDES TO TAKE NO FURTHER ACTION in respect of the alleged interference with the effective exercise of the right of individual petition.

Secretary to the Second Chamber Acting President of the Second Chamber

(K. ROGGE) (G.H. THUNE)