AS TO THE ADMISSIBILITY OF

Application No. 20366/92
by P.S.
against Austria

The European Commission of Human Rights (First Chamber) sitting in private on 31 March 1993, the following members being present:

MM. J. A. FROWEIN, President of the First Chamber
F. ERMACORA
G. SPERDUTI
E. BUSUTTIL
A. S. GÖZÜBÜYÜK
Sir Basil HALL
Mr. C. L. ROZAKIS
Mrs. J. LIDDY
MM. M. PELLONPÄÄ
B. MARXER

Mrs. M.F. BUQUICCHIO, Secretary to the First 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 13 July 1992 by P.S. against Austria and registered on 24 July 1992 under file No. 20366/92;

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

The applicant is an Austrian citizen, born in 1930. He is a retired farmer and resides at Weitensfeld. Before the Commission he is represented by Dr. Herbert Rabitsch, a lawyer practising in Vienna.

In 1990 a dispute arose between the applicant and another farmer concerning the ownership of an agricultural vehicle. The applicant eventually instituted proceedings in the Regional Court (Landesgericht) of Klagenfurt, claiming the return of the vehicle against the payment of a certain sum of money.

The case was heard in court on 17 December 1990. The parties were present and had the opportunity to submit what in their opinion was of relevance to the case. The Court furthermore heard a number of witnesses and certain documentary evidence was submitted.

Judgment was pronounced on 18 January 1991. On the basis of an evaluation of the available evidence the Regional Court found against the applicant who was also ordered to pay the costs. The applicant appealed against the judgment (Berufung) to the Court of Appeal (Oberlandesgericht) of Graz maintaining that the first-instance court had made an incorrect legal evaluation of the case.

On 18 April 1991 the Court of Appeal rejected the appeal. A

further appeal (ausserordentliche Revision) was rejected by the Supreme Court (Oberster Gerichtshof) on 28 November 1991. The applicant was informed thereof on 21 January 1992.

COMPLAINTS

The applicant complains that the domestic courts erred in their evaluation of the evidence produced as well as in the application of the law. He maintains that he did not, in these circumstances, get a fair hearing and invokes Article 6 of the Convention.

THE LAW

With regard to the judicial decisions of which the applicant complains, the Commission recalls that, in accordance with Article 19 (Art. 19) of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not competent to deal with an application alleging that errors of law or fact have been committed by domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention. The Commission refers, on this point, to its established case-law (see e.g. No. 458/59, Dec. 29.3.60, Yearbook 3 pp. 222, 236; No. 5258/71, Dec. 8.2.73, Collection 43 pp. 71, 77; No. 7987/77, Dec. 13.12.79, D.R. 18 pp. 31, 45).

It is true that in this case the applicant complains, under Article 6 (Art. 6) of the Convention, that he did not get a fair hearing. However, assuming that the further appeal to the Supreme Court, in the circumstances of the present case, was a remedy within the meaning of Article 26 (Art. 26) of the Convention, an examination by the Commission of the applicant's complaint under Article 6 (Art. 6) of the Convention, as it has been submitted, does not disclose any appearance of a violation of this provision.

It follows that the application is 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.

Secretary to the First Chamber — President of the First Chamber

(M.F. BUQUICCHIO) — (J.A. FROWEIN)