AS TO THE ADMISSIBILITY OF

Application No. 23378/94
by P.S. V.
against Finland

The European Commission of Human Rights (First Chamber) sitting in private on 18 October 1995, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
M.P. PELLONPÄÄ
B. MARXER
G.B. REFFI
B. CONFORTI
N. BRATZA
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL

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 1 December 1993 by P.S. V. against Finland and registered on 2 February 1994 under file No. 23378/94;

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 applicant is a Finnish citizen, born in 1960. He is an industrial cleaner and resides in Barcelona, Spain. Before the Commission he is represented by Mr. Juha Tapio Keltti, a lawyer practising in Helsinki, Finland.

The facts of the case, as they can be established on the basis of the submissions of the applicant and the documents available, may be summarised as follows.

A. The particular circumstances of the case

On 21 October 1979 the applicant was called up for military service. He was then granted a postponement concerning his military service. He was granted further postponements on 11 November 1982 and on 11 March 1985, the last postponement covering the period until 31 December 1987.

Under a so-called clearance certificate (esteettömyystodistus) of 30 October 1987 given to allow the applicant to obtain a residence permit abroad the applicant was permitted to stay abroad until 11 October 1988. The applicant's passport was valid until the same day.

On 21 October 1987 the head of the Military District of Kajaani ordered the applicant to report for military service on 11 October 1988 in the Border Guard Department of Kajaani.

On 19 October 1988 the Headquarters of the Military District sent the applicant a letter stating that he had not reported for military service as ordered and requesting him to contact the Finnish Embassy in Spain.

Further on 19 October 1988 the Headquarters of the Military District sent the Finnish Embassy in Spain a letter according to which the order concerning the applicant's military service had been sent to his address in Barcelona as a registered letter in October 1987 and again in the spring of 1988. Both letters were, however, returned. Further, on 31 August 1988 a similar letter was sent to the applicant trough the Army Headquarters' Office for Foreign Affairs. The Headquarters of the Military District requested the Embassy to serve the order on the applicant in a manner capable of verification.

In a letter dated 20 January 1989 a secretary, K, at the Finnish Consulate General in Barcelona explained the efforts she had made in order to serve the letter on the applicant. She stated that she had sent a copy of the order to the applicant with four different letters during November and December 1988, the last of the letters being a registered one. None of these letters were returned. She had called the applicant twice at his home, but she had been told once by a man, probably the applicant, and once by a woman, probably the applicant's cohabitee, that the applicant did not live in the apartment any more. Lastly on 10 January 1989 she had gone to the applicant's apartment. The names of the applicant and his cohabitee were still on the postbox downstairs. K had then rung the applicant's doorbell and given the original papers to a woman, probably the applicant's cohabitee, who had opened the door, although the latter did not want to take the papers.

Apparently a new order has been given according to which the applicant should report for military service on 9 February 1989 in the Light Infantry Brigade of Sodankylä.

On 21 January 1991 the Headquarters of the Military District sent a request for investigation to the Central Criminal Investigation Police. According to this request the applicant had applied for a passport and a clearance certificate. Because the applicant had reached the age of 30 he was no longer obliged to report for military service. Further it was stated that the applicant was wanted for questioning by the police.

On 11 April 1991 the Criminal Police of Kajaani questioned the applicant in Kajaani, Finland about not reporting for military service.

In April 1991 the Headquarters of the Military District of Kajaani sent the minutes of the preliminary investigation to the Military Lawyer at the Headquarters of the Military County of Northern Finland in order to have charges brought against the applicant on the grounds that the applicant had not reported for military service on 9 February 1989.

The applicant was charged with desertion (karkaaminen) committed from 9 February 1989 to 15 September 1990 by virtue of chapter 45 section 4 subsection 2 of the Penal Code (rikoslaki) which, together with subsection 1, reads in so far as relevant as follows:

(translation)

> "A soldier who without permission leaves the troop or place in which he shall serve or does not report for duty there in the prescribed time, shall be convicted of illegal absence ...

If the absence referred to in subsection 1 has lasted at least five days and has caused or might have caused an interruption of fundamental significance in the soldier's training or any other fundamental disadvantage to the service, the offender shall be convicted of desertion and sentenced to imprisonment for a maximum of one year or to disciplinary punishment."

The case was heard by the District Court (raastuvanoikeus) of Helsinki on 29 October 1991 according to military court procedure. This meant, by virtue of the Act on Military Court Proceedings (sotilas-oikeudenkäyntilaki), that the prosecutor was a Military Lawyer and that of one of the three judges, and at the same time the presiding judge, was a civilian judge, while the other two were military officers. The applicant appeared in person before the District Court. He was assisted by counsel, whom the Court, by virtue of section 28 of the Act on Military Court Proceedings, ordered to be the applicant's counsel in the case. The applicant pleaded not guilty to the charge of desertion on the grounds that he had not received any order to report for military service.

On the grounds that the prosecutor had asked for an adjournment the case was further heard on 17 December 1991. The applicant and his counsel were present at the hearing. The District Court heard evidence from the aforementioned secretary K about the efforts she had made to notify the applicant of the order in question.

The prosecutor stated that the applicant was guilty of desertion and in any case he had acted contrary to section 41 of the Military Service Act (asevelvollisuuslaki) by fraudulently avoiding military service. The prosecutor requested that the case be transferred to such division of the District Court as had jurisdiction over charges under the Military Service Act. The applicant pleaded not guilty to the charge of avoiding military service on the grounds that he had not acted fraudulently. He requested an adjournment for hearing a witness.

The District Court decided to transfer the case to be dealt with by a division composed in the ordinary way of three civilian judges.

On 31 December 1991 the Military Lawyer, on the grounds that avoiding military service was not within his competence, asked the City Prosecutor to bring charges against the applicant.

The City Prosecutor drew up a written indictment of one page and charged the applicant with avoiding military service between 1 January 1988 and 31 December 1990 contrary to section 41 of the Military Service Act which reads in so far as relevant as follows:

(translation)

"He who, in order to be freed from the liability to serve military service, ... injures himself or causes damage to his health or attempts to do so or for the said purpose gives false information or in other ways acts fraudulently shall be convicted of avoiding military service and sentenced to a fine or to imprisonment for a maximum of one year ..."

On 27 February 1992 the District Court heard the case as an ordinary criminal case. The applicant requested cost-free legal proceedings. A certificate as to the applicant's financial situation, dated 24 October 1991, was submitted to the District Court. The District Court decided, in accordance with the Act on Cost-free Legal Proceedings, not to grant the applicant cost-free legal proceedings on the grounds that he did not fulfil the financial requirements therefor.

The court heard the evidence from the applicant's cohabitee R-T, who gave her testimony in Spanish. She had a translator as an interpreter. Her evidence was tape-recorded. According to the minutes of the hearing the chair of the District Court reminded R-T of her duty to tell the truth and after R-T affirmed that she was telling the truth the chair remarked that somebody in the case was "talking rubbish".

The applicant declared that he was ready for the case to be decided.

Thereupon, on 27 February 1992 the District Court dismissed the charge of desertion but found the applicant guilty of avoiding military service and sentenced him to eight months' imprisonment. The District Court stated inter alia that the applicant had, when living in Barcelona, from 1 January 1988 to 31 December 1990, after the postponements of his military service had expired, fraudulently been evading the efforts of the clerk at the local Finnish Consulate General to contact him concerning his military service by failing to answer four letters, by giving three times, personally or through others, false information concerning his address, by failing to renew his passport after it had expired on 10 November 1988 and by thereafter deliberately staying with his family in Spain without a residence permit until the beginning of 1991, when he could no longer be ordered to report for military service. Soon after this he had applied for a clearance certificate from his Military District. Because of his actions and because he had reached the age of 30 on 15 September 1990 it was no longer possible to order him to report for military service after 31 December 1990. He has therefore been totally freed from military service. The District Court based its judgment on the evidence given by K. It did not find the applicant's explanation that he had not received the letters as described by K reliable, taking into account that he had had the same permanent address in Spain from 1986 to March 1991. However, with regard to the desertion, the District Court stated that it had not been proved that the applicant had been notified of the order to report for military service.

The applicant, assisted by counsel, appealed to the Court of Appeal (hovioikeus) of Helsinki. He denied being guilty of avoiding military service. The applicant stated that the witness K had not been able to prove that the applicant had been aware that she was trying to serve him an order concerning military service. He had not received any letters or spoken with K. He had not acted fraudulently. He had received a positive statement from the Spanish Ministry of Labour concerning his work permit, which in his opinion meant in practice the same as receiving the work permit itself. Furthermore, he had not been in need of a passport. The Spanish postal service was not reliable and there were also problems with the telephone lines. He attached to his appeal a written statement given by his father concerning the troubles his father had had when calling the applicant or posting things to him.

On 15 September 1992 the Court of Appeal rejected the appeal. The Court of Appeal stated further that the above-mentioned written statement did not contain such relevant information that there would be reason to hear evidence from the person who had given it. The Court of Appeal therefore by virtue of chapter 17 section 11 of the Code of Judicial Procedure (oikeudenkäymiskaari) took no account of the statement.

On 2 June 1993 the Supreme Court refused the applicant leave to appeal. Furthermore, the Supreme Court stated that the grant of legal aid did not cover the charge of avoiding the military service but only the desertion. The proceedings in the Supreme Court were not based on the Act on Military Court Proceedings. Therefore the Supreme Court decided that the applicant's counsel's fees were not to be paid from the public funds.

B. Relevant domestic law

The Court of Appeal may, if it considers it necessary, hold an oral hearing in a case in which an appeal against the judgment of the court of first instance has been lodged. Such a judgment cannot, as regards the charges brought against an accused, be amended by the Court of Appeal following a re-evaluation of the evidence without a re-hearing having been held, unless the sentence imposed by the Court of Appeal amounts only to fines or unless a re-hearing would clearly be unnecessary. In assessing the latter special regard shall be had to the interests of the accused (chapter 26, sections 7 and 8 of the Code of Judicial Procedure).

COMPLAINTS

1. The applicant complains, under Article 3 of the Convention, that the proceedings which violated several articles of the Convention, the severe punishment and the way in which the applicant's witnesses, namely his cohabitee and his father, were treated, constitute, taken as a whole, degrading treatment.

2. The applicant complains that he did not have a fair trial. He complains under Article 6 para. 1 of the Convention that the District Court was not independent and impartial since the District Court obtained the main evidence while sitting as a military court. He further maintains that the hearing of his evidence was insufficient. He also maintains that the concept of a fair trial includes that due reasons shall be given for the judgment. He submits that the charges against him were raised after an unreasonably long period. Because the conviction was based on slender evidence, the Court of Appeal should have arranged an oral hearing.

The applicant also complains under Article 6 para. 2 of the Convention that he was not presumed innocent. He maintains in this respect that the District Court expected him to prove his innocence.

Furthermore, he complains of infringements of Article 6 para. 3 (a), (b), (c), (d) and (e) of the Convention. He maintains that he was not informed satisfactorily of the nature and cause of the accusation against him, especially when he had to answer to a different charge than that contained in the original indictment. The amendment of the charge during the proceedings caused that he did not have adequate time for the preparation of his defence. He was refused the right to legal assistance and to cost-free proceedings. The witnesses were not heard under the same conditions since the chair, on the one hand, pressed the applicant's witness and, on the other hand, put leading questions to the prosecution witness. In addition, the translation of the evidence given by the applicant's witness was imperfect and this should be taken into account at least when evaluating the fairness of the proceedings and discrimination as a whole.

The applicant complains further under Article 13 of the Convention that he did not have an effective remedy before a national authority since the Court of Appeal did not arrange an oral hearing nor take into account, even in writing, the statement given by his father, and since the Supreme Court refused the applicant leave to appeal.

3. The applicant complains under Article 7 para. 1 of the Convention that the relevant provision of the Military Service Act was not detailed and clear enough to guarantee such predictability of its application that the act could constitute a criminal offence. He further maintains that, at least since 1984, no one has been convicted by virtue of the provision in question.

4. Finally, the applicant complains under Article 14 of the Convention that he has been discriminated against in comparison with others who have been exempted de jure or de facto from military service. He was convicted in a discriminatory way when he was

exercising his rights concerning private and family life guaranteed by the Convention by living, studying, working and building a family abroad. The Finnish authorities demanded that he should act in a way which would have been unusual in his place of residence and thus discriminated against him on the grounds of different culture.

5. The applicant claims a compensation of FIM 60,000. He further maintains that the aim of his complaint is also to get the provision in question quashed.

THE LAW

1. The applicant complains of several infringements of Article 6 (Art. 6) of the Convention in connection with the criminal proceedings instituted against him. He also invokes Article 13 (Art. 13) of the Convention in this context. The Commission considers that these complaints fall to be examined under Article 6 (Art. 6) of the Convention which, as far as relevant, reads as follows:

> "1. 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 ...
>
> 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
>
> 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;
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> b. to have adequate time and facilities for the preparation of his defence;
>
> c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
>
> d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
>
> e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court."

a) The applicant first complains about the lack of an oral hearing in the Court of Appeal.

In this respect the Commission notes Finland's reservation to Article 6 (Art. 6) which reads, in so far as relevant, as follows:

> "For the time being, Finland cannot guarantee a right to an oral hearing in so far as the current Finnish laws do not provide such a right. This applies to:
>
> 1. proceedings before the Courts of Appeal, ... in accordance with Chapter 26 Sections 7 and 8, ... of the Code of Judicial Procedure ... "

The Commission observes that chapter 26, section 7 of the Code

of Judicial Procedure does not provide a right to an oral hearing in appeal proceedings in the Court of Appeal.

The Commission further observes that under chapter 26, section 8 of the Code of Judicial Procedure a judgment of a court of first instance cannot, as regards the charges brought against an accused, be amended by the Court of Appeal following a re-evaluation of the evidence without a re-hearing having been held, unless the sentence imposed by the Court of Appeal amounts only to fines or unless a re-hearing would clearly be unnecessary. In the instant case the applicant's conviction was not amended on appeal.

Under Finnish law the applicant was not entitled to a hearing before the Court of Appeal. The Commission finds that Finland's reservation covers this complaint.

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

b) The applicant complains about the length of the proceedings.

The proceedings began with the questioning of the applicant by the police on 11 April 1991 and ended on 2 June 1993 when the Supreme Court refused the applicant leave to appeal. Thus the length of the proceedings was approximately two years and two months.

The Commission recalls that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and having regard to the following criteria: the complexity of the case, the conduct of the parties and that of the authorities dealing with the case (Eur. Court H.R., Vernillo judgment of 20 February 1991, Series A no. 198, p. 12, para. 30).

The Commission notes that the case was not very complex as regards either the legal issues or the facts. The Commission has not overlooked the fact that it took about eight months before the charge of avoiding military service was brought against the applicant. However, the proceedings in the District Court lasted about three months after this, and the proceedings in the Court of Appeal and in the Supreme Court lasted altogether about one year and three months. Taking into account that the case was heard at three instances and that the proceedings lasted altogether two years and two months the Commission, making an overall assessment of the circumstances of the case, considers that a reasonable time was not exceeded.

As far as the other complaints are concerned the Commission recalls that the guarantees in paragraphs 2 and 3 are specific aspects of the right to a fair trial set forth in paragraph 1 (cf. for example Eur. Court H.R., Unterpertinger judgment of 24 November 1986, Series A no. 110, p. 14, para. 29). Accordingly, the Commission will have regard to these aspects when examining the facts under paragraph 1 of Article 6 (Art. 6-1). The Commission further recalls that it must consider the proceedings as a whole. Its task is to ascertain whether the proceedings in their entirety were fair (cf. for example Eur. Court H.R., Stanford judgment of 23 February 1994, Series A no. 282-A, p. 10, para. 24).

c) The applicant has questioned the independence and impartiality in particular with regard to the District Court functioning as a military court. The Commission notes, however, that the charge of avoiding military service was heard by the District Court sitting as an ordinary court composed of three civilian judges. The fact that the witness K, whose testimony played an important role in the case, was heard by the District Court in its military composition, does not disclose any appearance of a violation of the Convention. In this regard the Commission notes that the witness was heard in the presence

of the applicant and his counsel (see p. 3) and that the presence of military members on the bench of a court does not as such make a tribunal partial within the meaning of Article 6 (Art. 6) (cf. Eur. Court H.R., Engel and Others judgment of 1 October 1975, Series A no. 22, p. 37, para. 89).

d) The applicant further complains that the District Court did not give proper reasons for its judgment.

The Commission notes that the District Court set out the facts and stated the relevant provision on which the judgment was based.

e) The applicant has raised the question of a fair trial with regard to the presumption of innocence. He maintains in this respect that the District Court shifted the burden of proof from the prosecution to the applicant.

The Commission notes that the District Court heard all the witnesses that the parties had requested should be heard and based its judgment on this evidence. The Commission finds that no evidence has been adduced to show that the applicant's right to the presumption of innocence was violated.

f) The applicant maintains that he was not informed satisfactorily of the nature and cause of the accusation against him especially with regard to the charge of avoiding military service and that he did not have adequate time for the preparation of his defence.

The Commission notes that the applicant was orally charged with avoiding military service in the District Court on 17 December 1991 in the presence of his counsel. This charge was based on the same facts as the previous charge of desertion but it was based on a different provision. A written indictment was also drawn up. The case was then heard on 27 February 1992, i.e. two months and ten days after the applicant had been notified of the charge of avoiding military service. The Commission further notes that the applicant and his counsel declared themselves to be ready for the case to be decided.

g) The applicant submits further that he was refused the right to legal assistance and to cost-free proceedings.

The Commission recalls that unlike the rights embodied in other provisions of Article 6 para. 3 (Art. 6-3), the right to free legal assistance is not absolute; such assistance is to be provided only if the accused "has not sufficient means to pay" (cf. Eur. Court H.R., Croissant judgment of 25 September 1992, Series A no. 237-B, p. 34, para. 33).

The Commission notes that the District Court refused the applicant free legal assistance on the grounds that the applicant did not fulfil the relevant financial requirements.

h) The applicant complains about the hearing of witnesses. He maintains in this respect that the chair did not treat his witness in the same way as the prosecution witness and that the evidence given by his witness was not properly translated.

The Commission recalls that, as a rule, it is for the national courts to assess the evidence before them. The Commissions's task is to ascertain whether the proceedings considered as a whole, including the way in which evidence was taken, were fair (cf., for example Eur. Court H.R., Isgrò judgment of 19 February 1991, Series A no. 194, p. 11, para. 31).

The Commission notes that both the prosecution witness and the applicant's witness were heard in the presence of the applicant and his counsel. Furthermore, the applicant did not ask for an adjournment in

order for the prosecution witness to be heard again. The Commission recalls that Article 6 para. 3 (e) (Art. 6-3-e) does not concern the interpretation of witness evidence. The Commission also notes that the applicant did not ask for an adjournment in order to find another interpreter.

The Commission finds, however, that the complaint may be interpreted as to refer also to the question of impartiality with regard to the questioning judge in the District Court. The Commission has therefore examined the complaint also from this point of view.

i) The Commission recalls that the existence of impartiality for the purposes of Article 6 para. 1 (Art. 6-1) must be determined according to a subjective test and also according to an objective test (cf. Eur. Court H.R., Fey judgment of 24 February 1993, Series A no. 255-A, p. 12, para. 28). As regards the subjective test, the Commission and the Court of Human Rights have constantly held that the impartiality of a judge must be presumed until the contrary is established (cf. for example Eur. Court H.R., Le Compte, Van Leuven and De Meyere judgment of 23 June 1981, Series A no. 43, p. 25, para. 58).

In the present case it is true that the questioning judge reminded the applicant's witness of the importance of telling the truth. The Commission finds, however, that this does give any legitimate suspicion of the judge being partial. Neither does the Commission find any other evidence which could raise doubt as to the judge's subjective or objective impartiality.

In conclusion, the Commission considers that the proceedings as a whole do not disclose that the applicant was deprived of a fair trial within the meaning of Article 6 (Art. 6) of the Convention. It follows that the application, in so far as concerns complaints b) - i), is manifestly ill-founded and must be rejected in pursuance of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant complains that the relevant provision of the Military Service Act was not detailed and clear enough to guarantee the predictability of its application. He invokes Article 7 para. 1 (Art. 7-1) of the Convention, which reads in so far as relevant as follows:

> "1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed..."

The Commission recalls that Article 7 para. 1 (Art. 7-1) of the Convention embodies the principle that the law alone can define a crime and prescribe a penalty and the principle that the criminal law must not be widely construed to an accused's detriment, for example by analogy; it follows from this that an offence must be clearly defined in law. This condition is satisfied where the individual can know from the wording of the relevant provision and, if need be, with the assistance of the courts' interpretation of it, what acts and omissions will make him liable. The wording of many statutes is not absolutely precise. The need to avoid excessive rigidity and to keep pace with changing circumstances means that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague (cf. Eur. Court H.R., Kokkinakis judgment of 25 May 1993, Series A no. 260-A, p. 22, para. 52 and p. 19 para. 40).

In the present case, the Commission has examined whether the act committed by the applicant constituted an offence under Finnish law as it stood. In this respect the Commission notes that the definition of the offence of avoiding military service given in section 41 of the Military Service Act comprises, inter alia, giving false information and other ways of acting fraudulently in order to be freed from the

liability to carry out military service. The Commission notes that the basis for the conviction was, on the one hand, that the applicant had given false information and, on the other hand, matters falling under the latter part of the definition.

The Commission notes the applicant's allegation that the provision in question has seldom been applied. However, the Commission considers that, having regard firstly to the wording of the provision in question, and secondly to the application of that provision in the present case, this complaint does not disclose any appearance of a violation of Article 7 (Art. 7) 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.

3. The applicant complains, under Article 14 (Art. 14) of the Convention, that he has been discriminated against in comparison with others who have been exempted from military service. He also maintains that the Finnish authorities demanded that he should act in a way which would have been unusual in his new place of residence.

As far as relevant Article 14 (Art. 14) of the Convention reads as follows:

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as ... national or social origin ... or other status."

The Commission recalls that Article 14 (Art. 14) affords protection against discrimination. For a claim of violation of this Article to succeed, it has to be established, inter alia, that the situation of the alleged victim can be considered similar to that of persons who have been better treated (cf. Eur. Court H.R., Fredin judgment of 18 February 1991, Series A no. 192, p. 19, para. 60).

The Commission finds that the applicant was not in a similar situation to that of other persons who may have been exempted from military service on various grounds. The Commission has, finally, considered the applicant's complaint as regards discrimination on the grounds of the applicant's national origin and his culture but has found no basis for a finding that Article 14 (Art. 14) of the Convention was violated.

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

4. The applicant complains that the proceedings instituted against him, taken as a whole, subjected him to degrading treatment in violation of Article 3 (Art. 3) of the Convention, which reads:

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

The Commission notes that the proceedings had as their object to try the criminal case instituted against the applicant. The proceedings did not denote any contempt or lack of respect for the personality of the applicant and they were not designed to, and did not, humiliate or debase him (cf. for example, Eur. Court H.R., Albert and Le Compte judgment of 10 February 1983, Series A no. 58, p. 13, para. 22). The proceedings cannot therefore be regarded as degrading.

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.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber	President of the First Chamber
(M.F. BUQUICCHIO)	(C.L. ROZAKIS)