AS TO THE ADMISSIBILITY OF

Application No. 31073/96
by Jan PETTERSSON
against Sweden

The European Commission of Human Rights (Second Chamber) sitting in private on 21 May 1997, the following members being present:

Mrs. G.H. THUNE, President
MM. J.-C. GEUS
G. JÖRUNDSSON
A. GÖZÜBÜYÜK
H. DANELIUS
F. MARTINEZ
M.A. NOWICKI
I. CABRAL BARRETO
J. MUCHA
D. SVÁBY
P. LORENZEN
E. BIELIUNAS
E.A. ALKEMA
A. ARABADJIEV

Ms. M.-T. SCHOEPFER, 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 8 April 1996 by Jan Pettersson against Sweden and registered on 19 April 1997 under file No. 31073/96;

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, a Swedish citizen born in 1947, resides in Borås. Before the Commission he is represented by Mr Bela Simon, a lawyer practising in Stockholm.

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

In 1973 the applicant was injured in a motorcycle accident. He claimed compensation under a private traffic insurance, but could not reach an agreement with the insurance company, Trygg-Hansa, as to the degree of his disability and the amount of compensation to be awarded. On 16 November 1995 the applicant, therefore, brought the dispute before the District Court (tingsrätten) in Stockholm.

The case was assigned to the judge G.S. In addition to being a district court judge, G.S. was also, in 1995, a substitute to the chairman of the Accident and Health Insurance Board (Olycksfalls- och sjukförsäkringsnämnden), established by the Swedish Association of Insurance Companies (Sveriges Försäkringsförbund) of which Trygg-Hansa is a member. The functions of the Board include, inter alia, giving the respective companies advisory opinions in individual insurance cases in which the insured do not accept the companies' decisions.

On account of G.S.'s position on the above Board, the applicant claimed that he could not be considered impartial in the case between the applicant and Trygg-Hansa. However, by decision of 22 January 1996 the District Court, sitting with another judge, rejected the applicant's challenge. It noted that G.S. had not dealt with the applicant's case in his capacity as a substitute member of the Board and that, in any event, the Traffic Insurance Board (Trafikskade-nämnden), of which G.S. was not a member, was responsible for giving advisory opinions in traffic insurance cases.

On 28 February 1996 the Svea Court of Appeal (Svea hovrätt), by a final decision, rejected the applicant's appeal against the District Court's decision.

The insurance dispute is still pending before the District Court where, apparently, G.S. is still in charge of the case. A preparatory hearing is scheduled for 29 May 1997.

COMPLAINTS

The applicant complains of the decisions to reject his challenge against G.S. and claims that his case is not examined by an impartial tribunal on account of this judge's position on the Accident and Health Insurance Board. He invokes Article 6 para. 1 of the Convention.

THE LAW

The applicant complains of the decisions to reject his challenge against G.S. and claims that his case is not examined by an impartial tribunal on account of this judge's position on the Accident and Health Insurance Board. He invokes Article 6 para. 1 (Art. 6-1) of the Convention, the relevant parts of which read as follows:

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

The Commission recalls that the dispute between the applicant and the insurance company concerns the applicant's right to compensation under a private insurance and thus relates to his "civil rights". Article 6 para. 1 (Art. 6-1) is therefore applicable to the dispute as such.

The applicant claims that the dispute between him and the insurance company is not examined by an impartial tribunal on account of judge G.S.'s position on the Accident and Health Insurance Board.

In this respect, the Commission recalls its established case-law that the question whether court proceedings satisfy the requirements of Article 6 para. 1 (Art. 6-1) of the Convention can only be answered by examining the proceedings as a whole, that is to say only once they have been concluded (cf., e.g., No. 12952/87, Dec. 6.11.90, D.R. 67, p. 175).

In the present case, the Commission recalls that the proceedings are still pending in the District Court and that, consequently, the development of the whole proceedings and the outcome of the case are unknown. It thus considers that the application is, in this respect, premature.

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.

M.-T. SCHOEPFER Secretary to the Second Chamber	G.H. THUNE President of the Second Chamber