AS TO THE ADMISSIBILITY

Application No. 12972/87
by Eric PORTER
against the United Kingdom

The European Commission of Human Rights sitting in private on 9 November 1987, the following members being present:

MM. C.A. NØRGAARD, President
S. TRECHSEL
G. SPERDUTI
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.C. SOYER
H.G. SCHERMERS
H. DANELIUS
G. BATLINER
J. CAMPINOS
Mrs. G.H. THUNE
Sir Basil HALL
MM. F. MARTINEZ
C.L. ROZAKIS
Mrs. J. LIDDY

Mr. J. RAYMOND, Deputy Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 21 June 1986 by Eric PORTER against the United Kingdom and registered on 9 June 1987 under file No. 12972/87;

Having regard to the report provided for in Rule 40 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a United Kingdom citizen, born in 1923, and an electrical engineer by profession. He resides in Saffron Walden.

His complaints arise from a dispute with his landlord over his tenancy of a farm cottage. The landlord commenced possession proceedings against the applicant in 1982. These proceedings ended on 14 March 1983 in the applicant's favour. Subsequently major repairs were needed to the cottage and the applicant vacated it to enable the work to be done. His landlord again commenced possession proceedings on 6 February 1985. The competent County Court found in the landlord's favour on 3 August 1985. The Court of Appeal ordered stays of execution of that decision pending the outcome of the applicant's appeal, which was dismissed on 20 January 1986. Leave to appeal to the House of Lords was refused by the Court of Appeal on 5 March 1986, and the applicant was informed by the Judicial Office of the House of Lords on 5 June 1986 that his direct application for leave had also been refused by the House of Lords. As was later explained by the

Judicial Office, in a letter dated 17 June 1986, the latter refusal was not only because the application had been made out of time, but also because it was considered that the points raised in the petition were not of "the type and importance to justify any further proceedings in the House of Lords".

COMPLAINTS

The applicant complaints of the delay by the Court of Appeal in refusing him leave to appeal to the House of Lords, thus obliging him to make his direct leave application to the House of Lords out of time. He also complains of the House of Lords procedures which are held in camera and against which, if leave is refused, there is no right of appeal. The applicant invokes Articles 6 and 13 of the Convention.

THE LAW

1. The applicant has first complained of the delay between 20 January and 5 March 1986 in the Court of Appeal's decision to refuse him leave to appeal to the House of Lords about a civil, tenancy dispute. He claims that the said delay obliged him to appeal out of time to the House of Lords.

The applicant invoked Article 6 (Art. 6) of the Convention, the relevant part of which provides as follows:

> "1. In the determination of his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

However, the Commission notes that the applicant was not refused leave to appeal by the House of Lords itself solely because he had failed to lodge his direct application in time, but also because his was not deemed to be a suitable case for which leave to appeal should be granted. In view of this latter element, the Commission concludes that the applicant in fact suffered no procedural prejudice through the Court of Appeal's delay and, therefore, the applicant cannot claim to be a victim of a violation cf Article 6 para. 1 (Art. 6-1) of the Convention. This aspect of the case must accordingly be rejected as being manifestly ill-founded, within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant has next complained of the in camera nature of the leave to appeal proceedings before the House of Lords, against whose refusal of leave there is no right of appeal. He has again invoked Article 6 (Art. 6) of the Convention.

However, the Commission recalls its constant case-law that the Convention does not guarantee a right of appeal (cf. No. 8299/78, Dec. 10.10.80, D.R. 22 p. 51, para. 22). No provision of the Convention requires the High Contracting Parties to grant persons within their jurisdiction a supreme court appeal on important legal questions. If a High Contracting Party makes provision for such an appeal, it is entitled to prescribe the provisions by which this appeal shall be governed and fix the conditions under which it may be brought.

The Commission is of the opinion that when a supreme court, like the House of Lords, conducts a preliminary examination of a case in order to establish whether or not the conditions required for granting leave to appeal have been fulfilled, it is not determining "civil rights and obligations" within the meaning of Article 6 para. 1 (Art. 6-1) of the Convention (cf. mutatis mutandis No. 6916/75, Dec. 12.3.76,

D.R. 6 p. 101 and No. 10515/83, Dec. 2.10.84 to be published in D.R. 40).

The Commission concludes that Article 6 para. 1 (Art. 6-1) of the Convention does not apply to the preliminary proceedings on leave to appeal before the House of Lords and that, therefore, this aspect of the applicant's case must be rejected as being incompatible ratione materiae with the provisions of the Convention, in accordance with Article 27 para. 2 (Art. 27-2).

3. The applicant also complained of an absence of effective domestic remedies in respect of his Convention grievances, contrary to Article 13 (Art. 13) of the Convention. However, the Commission finds no separate issue arises under this provision of the Convention, now that it has examined the applicant's purported civil rights' complaints under Article 6 para. 1 (Art. 6-1), because the rigorous procedural guarantees of Article 6 para. 1 (Art. 6-1) take precedence over the more general guarantees of Article 13 (Art. 13) (cf. No. 9276/81, Dec. 17.11.83, D.R. 35 p. 13 at p. 21).

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE.

Deputy Secretary to the Commission — President of the Commission

(J. RAYMOND) — (C.A. NØRGAARD)