The European Commission of Human Rights sitting in private on 6 October 1986, the following members being present:

MM. C. A. NØRGAARD, President
J. A. FROWEIN
G. TENEKIDES
S. TRECHSEL
B. KIERNAN
A. S. GÖZÜBÜYÜK
A. WEITZEL
J. C. SOYER
H. G. SCHERMERS
H. DANELIUS
G. BATLINER
J. CAMPINOS
Sir Basil HALL
Mr. F. MARTINEZ

Mr. H. C. KRÜGER, Secretary to the Commission

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

Having regard to the application introduced on 4 May 1984 by A. and E. R. against Norway and registered on 16 October 1984 under file No. 11201/84;

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 facts of the case, as submitted by the applicants, may be summarised as follows:

The applicants, a married couple, are Norwegian citizens born in 1930 and 1922 respectively. They are businessmen by occupation and reside at Lysaker, Norway.

As the youngest of 3 children the first applicant, hereinafter called "the applicant", inherited a third of her father's fortune when he died in 1948. The fortune consisted mainly of shares in two shipping companies. In her father's will it was decided that the fortune should not be divided before the applicant's mother died. She died in 1970.

The inheritance represented the majority shareholding in the two companies A/S Luksefjell and A/S Dovrefjell and after the death of the applicant's father, her brother administered the estate. It appears that over the years hostility developed between the first applicant and her brother concerning the inheritance and the administration of the estate. In a suit brought against the applicant because of an alleged breach of contract, her brother attempted to take away certain company shares which had been given to her. However, the City Court of Oslo (Oslo Byrett) decided in favour of the applicant on 2 June 1970 and there was no appeal against the judgment.

After the death of the applicant's mother in 1970 the hostilities between the applicant and her brother intensified. In the Probate Court of Oslo (Oslo Skifterett) the applicant alleged that over the years after the death of their father, her brother had used his

position as administrator of the estate to buy a large number of shares in the companies at a very favourable price and to the detriment of the applicant. By judgment of 30 May 1973 the Probate Court of Oslo decided that the brother should give back to the estate the shares in question. The brother appealed against the judgment but the appeal was withdrawn in 1977.

Due to the alleged maladministration of the estate the applicant demanded a public investigation of the administration of the companies. This was granted and a commission, set up for that purpose, delivered a report on 15 October 1980 in which a number of transactions appeared to be open to criticism.

In the meantime the parties tried to reach a settlement by which the applicant would get her part of the estate and thereafter would have no shareholding or other claims on the companies which were the major assets of the estate. On 5 April 1974 the parties reached an agreement by which the applicant would receive M/S Sognefjell, a company ship, and in return she should hand over all the shares to the companies (the estate). A number of points as to how to handle the deal were set out in the agreement including a paragraph saying that in case of dispute this should be settled by arbitration in accordance with the Norwegian Civil Procedure Act (Tvistemålsloven).

Disputes arose and the matter was put before the arbitrators selected by the parties. After considering the allegations and the arguments of the parties and due to their requests the arbitrators were left with no other option than to decide (voldgiftsdom), on 2 May 1975, that the agreement of 5 April 1974 was rescinded (hævet). This had the effect that the applicant remained the heiress of one third of the estate consisting largely of shares in the shipping companies.

It appears that during this period of time the Norwegian shipping industry experienced serious financial difficulties, and after the arbitration decision the applicant realised that, due to a number of disputed factors, her shares had dropped considerably in value. Maintaining that had she been informed of these financial difficulties she would not have allowed the arbitrators to rescind the agreement of 5 April 1974 but would have settled for the second best alternative, she instituted proceedings before the City Court of Oslo in order to have the arbitration procedures re-opened. She envisaged that as a shareholder she would probably lose her inherited fortune whereas as a creditor she might be in a better position. Such a re-opening of the arbitration procedure was possible under Sec. 468 read in conjunction with Sec. 407 n° 6 of the Civil Procedure Act if new facts or evidence - which obviously would have led to a different solution had they been known - could be produced, and this would then lead to a cancellation of the arbitration decision of 2 May 1975.

In its decision of 27 July 1978 the City Court of Oslo did not find that these requirements were fulfilled and therefore refused to repeal the arbitration decision. This decision was overruled on 3 April 1981 by the Court of Appeal (Eidsivating Lagmannsrett) but finally upheld by the Supreme Court (Høyesterett) on 9 November 1983. Subsequently the applicants have tried to have these proceedings re-opened as well. This was finally refused by the Supreme Court on 12 March 1985.

COMPLAINTS

The applicants invoke Articles 2, 3, 5, 6, 8, 13 and 14 (art. 2, art. 3, art. 5, art. 6, art. 8, art. 13, art. 14) of the Convention and Article 1 of Protocol No. 1 (P1-1).

In general the applicants maintain that the first applicant's case and in particular the court judgments, have been manipulated by the Norwegian authorities. The applicants refer to the financial crisis in the Norwegian shipping industry during the time when the most

important decisions in the case were taken. They maintain that the outcome of the arbitration case was fixed in advance in order to avoid an even bigger crisis in Norway with the loss of thousands of jobs and many bankruptcies of major shipping companies as a result. Due to that they claim that they have both been illegally deprived of their fortune estimated to amount to approximately 30 million dollars.

Regarding the specific Articles, the applicants feel that the injustice and the sacrifices they have had to bear and still bear amount to an infringement of Article 2 (art. 2).

Under Article 3 (art. 3) they maintain that the arbitration decision of 2 May 1975 illegally deprived them of approximately 12 million dollars which again was inhuman treatment and punishment. This treatment was sustained by the Supreme Court decision of 9 November 1983 not to reverse the decision of 2 May 1975.

The applicants claim, under Article 5 (art. 5), that their right to liberty has been violated in that they have been obliged to live in Norway in order to fight for their rights and defend their interests.

Under the Article 6 (art. 6) of the Convention the applicants refer to the proceedings before the arbitrators in 1974/75. They claim that the arbitrators were not impartial but had been instructed by the Norwegian Government to reach the conclusion they did. Furthermore they claim that the proceedings before the Supreme Court were not fair.

Due to the circumstances of the whole case the applicants allege that their private and family life has been completely ruined contrary to Article 8 (art. 8) of the Convention.

Finally, the applicants claim that they had no effective remedy at their disposal, that they have been discriminated against and deprived of their possibility of peaceful enjoyment of their possessions contrary to Articles 13 and 14 (art. 13, art. 14) of the Convention and Article 1 of Protocol No. 1 (P1-1) to the Convention.

THE LAW

1. The Commission has first considered whether the second applicant can claim to be a victim, in the sense of Article 25 (art. 25), in respect of alleged violations of the Convention in domestic proceedings to which he was not a party. However, it does not find it necessary to determine this question as the application is inadmissible on other grounds, as set out below.

2. In answering the question of the admissibility of the applicants' different complaints, the Commission first recalls that the case apparently originates from a dispute over a family fortune. A number of law suits came out of this, notably in 1970 and 1973. The applicants have complained in principle that all problems started in 1948 after the death of the first applicant's father. However, insofar as the applicants allege that their rights under the Convention were violated in the proceedings in 1970 and 1973 the Commission notes that the last decision submitted in respect of these proceedings was given on 30 May 1973. However, the Commission recalls that under Article 26 (art. 26) of the Convention it "may only deal with the matter ... within a period of six months from the date on which the final decision was taken".

The present application was submitted to the Commission on 4 May 1984, that is more than six months after the date mentioned above. Furthermore, an examination of the case does not disclose the existence of any special circumstances which might have interrupted or suspended the running of that period.

It follows that this part of the application has been introduced out of time and must be rejected under Article 27 para. 3 (art. 27-3) of the Convention.

3. The applicants have also complained that the decision of 2 May 1975 of the Arbitration Court violated their rights under Article 6 (art. 6) of the Convention in that the arbitrators were not impartial but had been instructed by the Norwegian Government to reach the decision they did.

Furthermore, under Article 6 (art. 6) of the Convention, the applicants maintain that they did not get a fair hearing, notably by the Supreme Court, when the Norwegian courts decided on the question of repealing the arbitration decision of 2 May 1975.

Regarding this complaint, the Commission finds that it can be left open whether Article 6 (art. 6) is applicable to the proceedings mentioned above and whether the applicants exhausted all domestic remedies in accordance with the generally recognised rules of international law since the Commission is of the opinion that these complaints are in any case manifestly ill-founded for the following reasons.

Regarding the judicial decisions as such, 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 constant 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).

Regarding the arbitration case it is true that the applicants have alleged that the arbitrators were partial and that they had been instructed by the Norwegian Government to reach the decision they did. However, the Commission recalls that due to the applicants claims before the arbitrators, they were left with no other option than to rescind the agreement in question. Furthermore the Commission has found nothing indicating that the arbitrators, when fulfilling their task, were influenced or instructed by any third party or that they in any other way showed bias against the applicants contrary to Article 6 (art. 6) of the Convention.

The applicants have also complained that they did not get a fair hearing by the Norwegian courts, notably the Supreme Court, when the question whether or not to repeal the decision of the Arbitration Court was determined. As set out above, the Commission recalls that the evaluation of the facts is a matter which necessarily comes within the appreciation of the independent and impartial tribunals and cannot be reviewed by the Commission unless there is an indication that the courts have drawn grossly unfair or arbitrary conclusions from the facts before it. This does not seem to be the case here. Indeed it appears from the documents submitted by the applicants that the issue in question was thoroughly examined by the courts. Furthermore the Commission has found no other element which could indicate in any way that the applicants did not receive a fair hearing before the Norwegian courts.

Therefore, as stated above, it follows that the applicants' complaints under Article 6 (art. 6) of the Convention are manifestly ill-founded within the meaning of Article 27 para. 2 (art. 27-2) of the Convention.

3. The Commission has finally considered the applicants' remaining complaints under Articles 2, 3, 5, 8, 13 and 14 (art. 2, art. 3, art. 5, art. 8, art. 13, art. 14) of the Convention as well as Article 1 of Protocol No. 1 (P1-1) to the Convention. However, after considering the information and documents submitted, the Commission finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention and Protocol No. 1 and in particular of the invoked Articles. It follows, therefore, 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.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE

Secretary to the Commission — President of the Commission

(H. C. KRÜGER) — (C. A. NØRGAARD)