AS TO THE ADMISSIBILITY OF

Application No. 27788/95
by Basoodeo SUJEEUN
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 18 January 1996, 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
B. CONFORTI
N. BRATZA
I. BÉKÉS
E. KONSTANTINOV
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 30 September 1992 by Basoodeo SUJEEUN against the United Kingdom and registered on 5 July 1995 under file No. 27788/95;

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 British citizen born in 1950. He lives in Tupsley, in Hereford. The facts of the case, as submitted by the applicant in his various application forms, may be summarised as follows.

I. In an application form submitted on 7 August 1993, the applicant complained inter alia that he had been denied legal aid to defend the petition for divorce brought by his wife. From the documents attached to the application form, it appears that legal aid for proceedings before the Commission was twice refused by the Legal Aid Area Office in Bristol in 1992, and that three applications for leave to apply for judicial review of decisions of the South Glamorgan County Council and the "U.K. Government and Crown" were refused on 12 February 1993. No further details were submitted.

II. In an application form submitted on 12 April 1994, the applicant complained inter alia of a prohibition order made against him on 26 October 1993. The prohibition order took the form of a direction by the Legal Aid Board to Area Committees that the applicant had been abusing legal aid facilities and that exceptional circumstances existed, and that for five years, no civil legal aid application from the applicant should be considered. On 25 February 1994, the Legal Aid

Head Office informed the applicant that his request for complete or partial revocation (in connection with specific proceedings) of the prohibition order had been put to the Legal Aid Board on 22 February 1994, and that the Board had declined to revoke or vary the order. The Board continued that if the Board's legal director was of the opinion that further representations did not disclose sufficient information to justify the matter being put before the Board again, the matter would not go to the Board.

From papers submitted by the applicant, it appears that between 1984 and 1987, the applicant applied for legal aid on 48 occasions. A prohibition order was made on 8 December 1987, relating to six specified civil matters in respect of which the applicant had made applications for legal aid. That order, which was valid for five years, expressly excluded six particular sets of pending proceedings. The 1987 prohibition order was amended on 22 May 1990 to permit an application for legal aid in connection with one specific matter, and on 28 July 1992 it was again amended to permit an application in connection with a separate matter.

A report by the secretary to the Area Committee in (apparently) late 1992 noted that the applicant had made 38 applications for legal aid since 8 December 1987. The report set out the various applications, noting that of the 38, eight had been covered by the existing prohibitory direction, 16 had been refused on substantive grounds and appeals had been dismissed; two had been refused as duplication; one had been refused as legal aid was not available, one had been adjourned, and ten had been granted, of which two had since been discharged. The report appears to have formed the basis of the prohibition order of 26 October 1993.

III. In an application form submitted on 14 July 1994, the applicant claimed that he was entitled under the Convention to the same treatment as the Queen, and in particular to her income of £10,700,000.00 p.a.

IV. In a second application form dated 14 July 1994, the applicant made further complaints that he was not being treated in the same way as the Queen, in particular with respect to taxation.

V. In an application form dated 21 November 1994, the applicant complained about criminal proceedings in which he had been convicted of driving without due care and attention. He stated that he had been convicted on 22 November 1993, that on appeal to the Crown Court his conviction was confirmed on 1 July 1994, that he applied for a case to be stated, but that the Crown Court judge refused to state a case on 27 September 1994. The applicant complained in particular that he had been denied full transcripts of the hearing on 1 July 1994, that the Crown Court judge refused to transfer the applicant's legal aid to another solicitor, that he had been refused an appeal, and that he was innocent. He also claimed that the police perjured themselves and that he had been discriminated against. He regarded himself as innocent.

VI. In a second application form dated 21 November 1994, the applicant complained about two sets of civil proceedings before the Court of Appeal. He submitted an ex parte application to the Court of Appeal in an action in which he was the appellant and his former wife was the respondent, and an ex parte application in a case involving two individuals.

VII. In an application form dated 18 May 1995, the applicant complained about a refusal by the Legal Aid Board of 28 April 1995 to grant legal aid for proceedings before the Commission, and about a refusal by the police (confirmed by the Deputy Clerk to the Justices by letter of 31 October 1994) to bring a number of prosecutions on the applicant's behalf. The letter of 31 October 1994 noted that the applicant was entitled to bring private prosecutions.

COMPLAINTS

I, II, III, IV. The applicant alleges violation of Articles 1, 2, 3, 5, 6, 7, 8, 10, 12, 13, 14 and 17 of the Convention, and of Article 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

V. The applicant alleges violation of Articles 1, 2, 3, 5, 6, 7, 8, 10, 13, 14 and 17 of the Convention.

VI. The applicant alleges violation of Articles 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 14 and 17 of the Convention, and of Article 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

VII. The applicant alleges violation of Articles 1, 2, 3, 6, 8, 9, 10, 12, 13, 14 and 17 of the Convention, and of Article 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

THE LAW

1. The applicant complains of the making of a prohibition order against him.

The Commission notes that the prohibition order stated that no civil legal aid application was to be considered from the applicant for a period of five years from 26 October 1993. It will consider this complaint in the context of Article 6 para. 1 (Art. 6-1) of the Convention which provides, so far as relevant, as follows.

> "In the determination of his civil rights and obligations or 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 established by law."

The Commission next notes that the prohibition order was an order which related only to civil legal aid: the right to free legal assistance in criminal cases, guaranteed by Article 6 para. 3 (c) (Art. 6-3-c) of the Convention, is not at issue. In the context of civil proceedings, the Commission recalls that the State is not required to provide free legal aid for every dispute relating to a "civil right", but must nevertheless guarantee to litigants an effective right of access to the courts for the determination their "civil rights and obligations" (see Eur. Court H.R., Airey judgment of 9 October 1979, Series A no. 32, p. 15, para. 26).

In the present case, the legal aid board made an order that no application for civil legal aid from the applicant was to be entertained for a period of five years. The background was that the applicant had made a remarkable number of applications for legal aid in the past, which had led to an earlier, limited prohibition order for five years. Notwithstanding that earlier order, the applicant continued to make large numbers of applications for legal aid.

The Commission has previously recalled that access to court is frequently regulated in respect of minors, vexatious litigants, persons of unsound mind and persons declared bankrupt, and that such regulation is compatible with Article 6 (Art. 6) of the Convention where the aim pursued is legitimate and the means employed to achieve it are proportionate (No. 12040/86, Dec. 4.5.87, D.R. 52, p. 269). The prohibition order in the present case is of a similar nature, save that it affects the applicant's dealings not with the courts as such, but his ability - in the bulk of cases, before the courts ever become aware of a potential action - to apply for legal aid in civil proceedings he wishes to bring.

The aim of the prohibition order of 26 October 1993 was to prevent the abuse of legal aid facilities found by the Legal Aid Board. Such an aim is, in itself, compatible with Article 6 (Art. 6) of the

Convention.

As to proportionality, the Commission considers that an absolute, rigorously enforced prohibition on applications for legal aid from a particular person would raise serious problems of access to court under the Convention - however much an individual has abused the system in the past, it is impossible to discount the possibility that he may in the future have a claim with merit in respect of which the requirements of Article 6 (Art. 6) call for legal aid to be available.

The prohibition order made against the applicant was not, in fact, as absolute as it appeared. In particular, he was able to apply for a revocation of the order, and that application was considered by the Legal Aid Board on its merits. At the same time as refusing the revocation requested, the Legal Aid Board stated that further applications would only be put to it if the Board's legal director was of the opinion that such action was justified. Even in refusing the request for revocation, therefore, the Board was leaving open the possibility of an application for legal aid being considered and granted.

Given that the Convention does not contain an express right to legal aid in civil cases, that the applicant remains free to pursue cases before the civil courts without the benefit of legal aid, and that the prohibition order leaves open the possibility of a grant of legal aid, the Commission finds that the prohibition order in the present cases did not limit the applicant's access to court in a way incompatible with Article 6 (Art. 6) of the Convention.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 6 para. 1 (Art. 6-1) of the Convention.

2. In connection with the criminal proceedings in which the applicant was convicted of driving without due care and attention, the Commission notes that the applicant claims that he applied for a case to be stated to the High Court, but that the Crown Court judge refused to state a case.

The Commission finds that if the Crown Court judge refused to state a case for consideration by the High Court, the applicant could have applied to the High Court for judicial review of that refusal. In connection with this part of the application, the applicant has therefore failed to exhaust domestic remedies, as required by Article 26 (Art. 26) of the Convention.

It follows that this part of the application is inadmissible and must be rejected pursuant to Article 27 para. 3 (Art. 27-3) of the Convention.

3. The Commission has also examined the applicant's other complaints as they have been submitted by him. However, after considering them as a whole, the Commission finds that they do not generally disclose any appearance of a violation of the rights and freedoms set out in the Convention.

It follows that the remainder of the application must be rejected as being 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)