AS TO THE ADMISSIBILITY OF

Application No. 22377/93
by T.M.
against Finland

The European Commission of Human Rights sitting in private on 21 October 1996, the following members being present:

Mr. S. TRECHSEL, President
Mrs. G.H. THUNE
Mrs. J. LIDDY
MM. E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H. DANELIUS
F. MARTINEZ
L. LOUCAIDES
M.P. PELLONPÄÄ
M.A. NOWICKI
I. CABRAL BARRETO
B. CONFORTI
N. BRATZA
I. BÉKÉS
J. MUCHA
D. SVÁBY
A. PERENIC
C. BÎRSAN
P. LORENZEN
K. HERNDL
E. BIELIUNAS
E.A. ALKEMA
M. VILA AMIGÓ

Mr. H.C. KRÜGER, 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 16 May 1993 by T.M. against Finland and registered on 28 July 1993 under file No. 22377/93;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having regard to the observations submitted by the respondent Government on 4 January 1996 and the observations in reply submitted by the applicant on 15 January 1996;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a Finnish citizen, born in 1934 and resident at Kerava. He is a lawyer.

A. The particular circumstances of the case

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

The applicant lost his job in December 1986 and was thereafter granted earnings-related unemployment allowance for 900 days of unemployment, i.e. up to 19 November 1990, by a decision of the Unemployment Fund for Lawyers and Legal Associates ("the Unemployment Fund"). The applicant had reached the age of 55 before having collected the allowance for the maximum number of 500 days stipulated in section 26, subsection 1 of the 1984 Act on Unemployment Benefits (työttömyysturvalaki 602/84, lag 602/84 om utkomstskydd för arbetslösa; "the 1984 Act"). Due to his age and a 1987 amendment to section 26, subsection 3 of the 1984 Act he had therefore been entitled to continue collecting an allowance for an additional 400 days.

According to a further amendment to section 26, subsection 3 of the 1984 Act which was enacted in 1990 and entered into force on 1 January 1991, an earnings-related allowance which an unemployed had been receiving while reaching the age of 55 could be paid until he or she reached the age of 60, regardless of the maximum number of unemployment days prescribed in section 26, subsection 1.

In January 1991 the applicant requested a further earnings-related allowance, referring to the 1990 amendment to section 26 of the 1984 Act. His request was rejected by the Unemployment Fund on 29 January 1991, the Fund having found that his right to such allowance had ceased to exist on 20 November 1990, i.e. when he had been collecting it for the then maximum period of 900 days.

The applicant appealed to the Board for Unemployment Benefits (työttömyysturvalautakunta, arbetslöshetsnämnden), again referring to the 1990 amendment and the preparatory works relating to the 1984 Act. Before deciding on his appeal the Board obtained an opinion from the Unemployment Fund in which reference was made to certain instructions issued by the Ministry for Social Affairs and Health (sosiaali- ja terveysministeriö, social- och hälsovårdsministeriet) concerning the application of the 1990 amendment. Pursuant to these instructions an earnings-related allowance could also be granted to an unemployed who had reached the age of 55 and who, on 1 January 1991, had been collecting an allowance under the old legislation for more than 500 days. The Unemployment Fund noted that the applicant's right to collect an allowance for the 400-day period exceeding the 500 day-period prescribed in section 26, subsection 1 of the 1984 Act had ceased to exist prior to 1 January 1991.

The Unemployment Fund's opinion was not communicated to the applicant. The full text thereof has not been made available to the Commission.

In its decision of 27 August 1991 the Board for Unemployment Benefits summarised the facts, the applicant's appeal and the Unemployment Fund's opinion. Agreeing with the essence of that opinion, the Board then went on to reject the appeal, finding that his right to collect an earnings-related allowance had ceased to exist before 1 January 1991. Section 26 of the 1984 Act was therefore applicable as amended in 1987.

The applicant appealed further to the Insurance Court (vakuutusoikeus, försäkringsdomstolen), arguing that the 1990 amendment to the 1984 Act had not delegated any right to the Ministry to issue any instructions restricting the scope of those entitled to an earnings-related allowance.

On 9 January 1992 the Social Insurance Commission (sosiaalivakuutustoimikunta, socialförsäkringskommissionen) of Kerava rejected the applicant's request for a basic unemployment allowance. The Social Insurance Commission noted a binding opinion which it had obtained from the Employment Commission (työvoimatoimikunta, arbetskraftskommissionen) of Kerava. According to that opinion of 7 January 1992,

the applicant had repeatedly declined to accept offers of employment or education. The Social Insurance Commission stated, however, that provided the other conditions for receiving the basic allowance were fulfilled, the applicant would again be entitled thereto after having worked or received education for eight weeks.

The applicant appealed to the Board for Unemployment Benefits against the Social Insurance Commission's refusal, requesting to be exempted from the obligatory work or education while the appeal proceedings concerning his entitlement to an earnings-related allowance were pending.

Before deciding on the applicant's appeal the Board for Unemployment Benefits obtained opinions both from the Employment Commission and the Social Insurance Commission. In its observations of 23 January 1992 the Deputy Director of the Kerava branch of the Social Insurance Institution (kansaneläkelaitos, folkpensionsanstalten), apparently acting on behalf of the Social Insurance Commission, stated as follows:

> "The Kerava branch of the Social Insurance Institution has rejected the applicant's request for a basic unemployment allowance as from 11 November 1991, having regard to the ... binding opinion of the Employment Commission.
>
> ... The applicant has appealed ...
>
> ... The Employment Commission has been heard in respect of the appeal and has, on 22 January 1992, submitted an additional opinion. ... Reference is made to [that] opinion. ..."

Annexed was the Employment Commission's opinion of 22 January 1992 which, apart from recollecting the facts of the case, read as follows:

> "The ... Employment Commission has acquainted itself with [the applicant's appeal] and does not propose any change to its ... opinion of 7 January 1992, given that [his] appeal does not contain anything ... which was not known [to the Employment Commission] when it issued [that] opinion. ..."

None of the above-cited observations were communicated to the applicant.

In its decision of 6 May 1992 the Board for Unemployment Benefits summarised the facts, the applicant's appeal and the Employment Commission's opinion. It also noted that the Social Insurance Commission had referred to the Employment Commission's opinion. Agreeing with the essence of that opinion, the Board then went on to reject the appeal, noting that the salary which he could have received, had he accepted the employment offered to him, would have exceeded the basic allowance. It furthermore found that the pending appeal proceedings concerning his entitlement to an earnings-related allowance did not constitute a valid reason for his refusal to accept the post offered to him.

The applicant again appealed to the Insurance Court, where his appeals were joined. Before deciding on them it obtained observations both from the Unemployment Fund (as regards his entitlement to an earnings-related allowance) and the Social Insurance Commission (as regards his entitlement to a basic unemployment allowance).

In its observations of 20 December 1991 the Unemployment Fund stated, apart from summarising the facts of the case and the 1991 amendment to the 1984 Act, as follows:

"... In his appeal the applicant repeats his views as expressed in his appeal to the Unemployment Fund.

... An earnings-related unemployment allowance can, according to the instructions of the Ministry of Social Affairs and Health, be paid up to the age of 60 provided that the person is at least 55 years old and is, on 1 January 1991, collecting an allowance for an additional [400] days. Since [the applicant's] right to an allowance for additional days ceased to exist on 19 November 1990, the Unemployment Fund has not granted him any allowance for the period 1-20 January 1991.
Since the applicant has not in his appeal to the Insurance Court submitted any new relevant information which was not known to the Unemployment Fund at the time of deciding the matter, [the Fund] proposes that its decision be upheld."

In her submissions of 18 September 1992 the Director of the Kerava branch of the Social Insurance Institution, apparently acting on behalf of the Social Insurance Commission, stated, apart from summarising the facts of the case, as follows:

"... In his appeal to the Insurance Court the applicant has requested ... that the decision concerning his [entitlement to] a basic unemployment allowance be amended.

The Employment Commission's opinion has been requested once more and [it] does not propose any change to its opinion of 7 January 1992 [to the Unemployment Board].

Our opinion is that no reason has been put forward for amending the decision which has been appealed against."

Apparently annexed to the above opinion was the Employment Commission's opinion of 7 September 1992 which, apart from summarising the facts of the case, read as follows:
"The ... Employment Commission has acquainted itself with [the applicant's appeal] and does not propose any change to its ... opinion of 7 January 1992, given that [his] appeal does not contain anything ... which was not known [to the Employment Commission] when it issued [that] opinion. ..."

None of the above-cited observations were communicated to the applicant.

In its decision of 18 February 1993 the Insurance Court summarised the applicant's appeals and noted that the Unemployment Fund and the Social Insurance Commission had lodged observations in reply. It then went on to reject the appeals, referring to the reasoning of the Board for Unemployment Benefits in its respective decisions.

B. Relevant domestic law

1. Unemployment benefits

The 1984 Act prescribes, as a general condition, that an unemployment allowance shall be paid to any unemployed person who is capable of working and has reported himself or herself to the unemployment authority for the purpose of obtaining full-time work and provided that no employment or education has been found (section 4).

The 1984 Act also sets out specific conditions which are to be met by an unemployed before he or she can be granted an earnings-related allowance. These comprise, for instance, membership in an unemployment fund during a certain period of time preceding the loss of employment (section 16). If an unemployed has received an earnings-related allowance for the full number of days laid down by the law, he

or she has to meet the specific conditions anew in order to qualify for a further period (section 26, subsection 3).

An unemployed who meets the conditions stipulated by section 4 and who is in need of financial assistance can be granted a basic unemployment allowance which is not related to previous earnings (section 13).

The Board for Unemployment Benefits shall afford an appellant an opportunity to be heard in respect of material which is not known to him or her already (section 39, subsection 4)

According to the 1958 Insurance Court Act (laki vakuutus-oikeudesta, lag om försäkringsdomstolen 14/58), the provisions governing the proceedings in the ordinary courts may, when appropriate, be applied to those in the Insurance Court (section 9, subsection 4). According to the Code of Judicial procedure (Oikeudenkäymiskaari, Rättegångs Balk), if a court of appeal (hovioikeus, hovrätt) has obtained of its own motion an opinion or other written statement which may have an impact on its determination of the case, it must, unless it is clearly unnecessary, request the parties concerned to comment thereon in writing (chapter 26, section 6).

2. Access to the case-files of authorities

Under the 1951 Act on Publicity of Public Documents (laki 83/51 yleisten asiakirjain julkisuudesta; lag 83/51 om allmänna handlingars offentlighet, "the 1951 Act") documents drawn up and issued by an authority, or which have been submitted to an authority and are still in that authority's possession, are public (section 2, subsection 1). An exception to the rule of full publicity is made, inter alia, for medical and similar reports, which are accessible to the public only with the consent of the person they relate to (section 17).

If a public official refuses access to a document, that decision may be submitted for reconsideration by the authority on whose behalf he or she has acted, following which there lies an appeal under the general rules for appeals against a decision of that authority. If no right of appeal exists under those general rules, an appeal may be lodged with the superior authority. If no such authority exists, an appeal against a state authority's decision may be lodged with the Supreme Administrative Court (korkein hallinto-oikeus, högsta förvaltningsdomstolen). An appeal against a decision by another authority may be lodged with a County Administrative Court (lääninoikeus, länsrätten) (section 8, subsection 1 of the 1951 Act, as amended by Act no. 472/87).

COMPLAINTS

1. The applicant complains under Article 6 para. 1 of the Convention that he was denied a fair hearing in the proceedings relating to his entitlement to a further unemployment allowance on the basis of the 1990 amendment to the 1984 Act. Allegedly, neither the refusal to grant him such an allowance nor the subsequent decisions to reject his appeals had any basis in domestic law. In particular, the Ministry's instructions on the application of the 1990 amendment were issued in the absence of any delegation in the amendment itself and were contrary to its ratio. The decisions on the applicant's appeals allegedly included grounds which had not been invoked by the Unemployment Fund in its refusal of his request. Allegedly, he was also unable to comment on the Unemployment Fund's opinion which was obtained by the Board for Unemployment Benefits and taken into account both by that Board and by the Insurance Court.

2. Under Article 6 para. 1 as well as Article 13 of the Convention the applicant also complains that he was denied a fair hearing in the proceedings relating to his entitlement to a basic unemployment

allowance. Allegedly, the refusal to grant him such an allowance while the appeal proceedings concerning the refusal to grant him a further earnings-related allowance were pending sought to prevent him from enjoying the benefits which he would have been entitled to, had his appeals in this respect been successful.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 16 May 1993 and registered on 28 July 1993.

On 18 October 1995 the Commission (First Chamber) decided to communicate the application.

The Government's written observations were submitted on 4 January 1996. The applicant replied on 15 January 1996.

On 15 October 1996 the plenary Commission ordered the transfer of the application to itself.

THE LAW

1. The applicant complains under Article 6 para. 1 (Art. 6-1) of the Convention that he was denied a fair hearing in the proceedings relating to his entitlement to a further unemployment allowance on the basis of the 1990 amendment to the 1984 Act. It is alleged that the refusal to grant him such an allowance and the subsequent decisions to reject his appeals had no basis in domestic law. The decisions on his appeals allegedly included grounds which had not been invoked by the Unemployment Fund in its refusal of his request. Allegedly, he was also unable to comment on the Unemployment Fund's opinion which was obtained by the Board for Unemployment Benefits and taken into account both by that Board and by the Insurance Court.

Article 6 para. 1 (Art. 6-1) of the Convention reads, in so far as it is relevant, as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal established by law. ..."

The Government dispute the applicability of Article 6 (Art. 6) as the applicant had - prior to the entry into force of the 1990 amendment to the 1984 Act - lost his "right" to any further earnings-related unemployment allowance. In the alternative, the Government submit that Article 6 (Art. 6) has not been violated in the special circumstances of the case. It is true that the Board for Unemployment Benefits did not communicate to him the opinion of the Unemployment Fund, where a reference was made to the instructions issued by the Ministry for Social Affairs and Health. Nor was the Fund's opinion to the Insurance Court communicated to him. However, the Fund's opinion to the Board was virtually reproduced in that body's decision, as was the Fund's opinion to the Insurance Court in the decision of that court. The non-communicated submissions did not include any information which was new to the applicant or which he could not have obtained by consulting the case-file of the respective authorities.

The Government stress that the case is distinguishable from the case of Kerojärvi v. Finland (Eur. Court HR, judgment of 19 July 1995, Series A no. 322) in that the present applicant, by virtue of his legal profession, was aware of his possibility of consulting the case-files and commenting on the various opinions as they had been reproduced without that material having been formally communicated to him. In sum, he had ample opportunity to challenge the lower authorities' views at the latest in his appeal to the Insurance Court.

The applicant contends that Article 6 para. 1 (Art. 6-1) applies.

Under the 1990 amendment to the 1984 Act he retained his right to a further earnings-related unemployment allowance. The instructions issued by the Ministry for Social Affairs and Health effectively restricted the scope of applicability of the 1990 amendment.

The applicant also maintains that the proceedings were unfair. The Unemployment Fund did not base its decision on the Ministry's instructions and these were never communicated to him. Their inclusion in the decision of the Board for Unemployment Benefits caught him by surprise, as he had no reason to believe that the decisions would be based on material which had not been communicated to him. His legal profession is irrelevant, as the same requirement of fairness must apply irrespective of someone's professional background.

The Commission must ascertain whether Article 6 para. 1 (Art. 6-1) of the Convention is applicable in the instant case and, first, whether there was a dispute over a "right" which can be said, at least on arguable grounds, to be recognised under domestic law. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise. Finally, the result of the proceedings must be directly decisive for the right in question (e.g., the above-mentioned Kerojärvi judgment, p. 12, para. 32).

The Commission observes that the disagreement between the applicant and the authorities concerned the question whether he was still entitled to an earnings-related unemployment allowance under the 1984 Act as amended in 1990. This dispute related to the existence of a "right" of the applicant which could be said, at least on arguable grounds, to be recognised under domestic law. The outcome of the proceedings was, moreover, directly decisive, for the purposes of Article 6 para. 1 (Art. 6-1), for that right. Consequently, there was a genuine and serious dispute over a "right".

The Commission has next examined whether the right at issue was "civil" within the meaning of Article 6 para 1 (Art. 6-1). It recalls that, as a general rule, this provision is applicable in the field of social insurance, including even welfare assistance (Eur. Court HR, Schuler-Zgraggen v. Switzerland judgment of 24 June 1993, Series A no. 263-A, p. 17, para. 46; Salesi v. Italy judgment of 26 February 1993, Series A no. 257-E, pp. 59-60, para. 19). Thus, State intervention alone is not sufficient to establish that Article 6 para. 1 (Art. 6-1) is inapplicable. Other considerations might argue in favour of the applicability, such as whether or not the applicant was affected in his relations with the administrative authorities as such, acting in the exercise of discretionary powers, or whether he suffered an interference with his means of subsistence. It must further be determined whether the applicant was claiming an individual, economic right flowing from specific rules laid down by law (ibid.)

The Commission observes that the right in question had certain public law features in that it related to a allowance-scheme established by law and administered by public authorities. However, other considerations argue in favour of the applicability of Article 6 (Art. 6). The possibility for the applicant to obtain an earnings-related allowance was dependent on, among other things, his membership in the relevant Unemployment Fund prior to his loss of employment. The allowance at issue was individual and pecuniary in nature and was aimed at compensating for loss of means of subsistence resulting from unemployment. Accordingly, the Commission concludes that the entitlement in issue was a "civil" right and that Article 6 para. 1 (Art. 6-1) therefore applies.

The Commission must next examine whether the relevant proceedings were "fair" within the meaning of Article 6 para. 1 (Art. 6-1). It recalls that it is normally not competent to deal with a complaint alleging that errors of law and 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 or one of its Protocols, for instance in that a judgment has no legal justification and thereby violates a party's right to receive a fair trial (cf. Eur. Court HR, De Moor v. Belgium judgment of 23 June 1994, para. 55, to be published in Series A no. 292-A; No. 7987/77, Dec. 13.12.79, D.R. 18 pp. 31, 45). The Commission's power to review compliance with domestic law is limited (e.g., Eur. Court HR, Fredin v. Sweden judgment of 18 February 1991, Series A no. 192, pp. 16-17, para. 50). As a general rule, it is for the domestic courts to assess the evidence before them. The task of the Convention organs is to ascertain whether the proceedings, considered as a whole, including the way in which evidence was taken and submitted, were fair (e.g., Eur. Court HR, Lüdi v. Switzerland judgment of 15 June 1992, Series A no. 238, p. 20, para. 43).

In the present case the Commission finds no indication that the decisions of the authorities to refuse the applicant a further earnings-related unemployment allowance lacked a legal justification. As furthermore regards the fairness of the proceedings in themselves, it is undisputed that the opinion on the applicant's appeal which the Board for Unemployment Benefits had obtained from the Unemployment Fund was not communicated to the applicant before the Board reached its decision. The Commission notes, however, that the essence of the Fund's opinion was reproduced in the decision of the Board for Unemployment Benefits. In his appeal to the Insurance Court the applicant indeed made reference to this opinion, thereby challenging those arguments which in his view had not been put forward by the Unemployment Fund in its own refusal of his request. He did not, however, complain about the fact that the Board for Unemployment Benefits had not communicated the Fund's opinion to him.

It is true that before deciding on the applicant's appeal the Insurance Court obtained observations thereon from the Unemployment Fund. Although these observations were not communicated to the applicant either, they were in essence similar to those which the Fund had previously submitted to the Board for Unemployment Benefits. Thus the Fund's position had already become known to the applicant and had been challenged by him. Noting also that he did not in his appeal to the Insurance Court refer to the Board's failure to communicate the Fund's observations as an issue affecting the fairness of the proceedings, the Commission considers that the non-communication by the Insurance Court of the Fund's further observations does not suffice to render the proceedings before that court unfair. In effect the Insurance Court simply upheld the decision of the Board for Unemployment Benefits by referring to the reasoning of that body.

In these specific circumstances and considering the proceedings as a whole, the Commission cannot find any indication that they were unfair. Accordingly, there is no appearance of a violation of Article 6 para. 1 (Art. 6-1) in this respect.

It follows that this complaint must be rejected as being manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. Under Article 6 para. 1 (Art. 6-1) as well as Article 13 (Art. 13) of the Convention the applicant also complains that he was denied a fair hearing in the proceedings relating to his entitlement to a basic unemployment allowance. Allegedly, the refusal to grant him such an allowance while the appeal proceedings concerning the refusal to grant him an earnings-related allowance under the 1991 amendment to the 1984 Act were pending sought to prevent him from enjoying the benefits which he would have been entitled to, had his appeal been successful. In this respect the applicant also invokes Article 13 (Art. 13) of the Convention which reads as follows:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

The Government submit that in the special circumstances of the case Article 6 para. 1 (Art. 6-1) has not been violated on this point either. Although the opinions of the Employment Commission and the Social Insurance Commission were not communicated to the applicant, the opinion of the first-mentioned body was to the relevant extent reproduced in the decision of the Board for Unemployment Benefits and the opinion of the last-mentioned body only referred to the opinion of the first-mentioned. As none of these submissions contained anything new to the applicant, the Insurance Court, following its practice, did not obtain his views on them.

The Government furthermore submit that the applicant could also have consulted the case-file of the respective authorities. As a lawyer he therefore had ample opportunity to challenge the lower authorities' views at the latest in his appeal to the Insurance Court.

The applicant again contests the Government's views.

The Commission has first considered the complaint under the above-cited Article 6 para. 1 (Art. 6-1). Recalling the general criteria for the applicability of that provision, it observes that the present disagreement between the applicant and the authorities concerned the question whether he was entitled to a basis unemployment allowance under section 26 of the 1984 Act, as amended in 1990. The Commission finds that this dispute equally concerned the existence of a "right" of the applicant which could be said, at least on arguable grounds, to be recognised under domestic law. The outcome of the proceedings was, moreover, directly decisive, for the purposes of Article 6 para. 1 (Art. 6-1), for that right. Consequently, there was a genuine and serious dispute over a "right".

Recalling the above-cited case-law of the Convention organs on the notion of "civil" rights, the Commission observes that also the present right had certain public law-features in that it related to an allowance-scheme established by law, administered by public authorities and in this case apparently funded entirely by the State. However, other considerations argue in favour of the applicability of Article 6 (Art. 6). The allowance now at issue was likewise individual and pecuniary in nature and was aimed at compensating for loss of means of subsistence resulting from unemployment. Accordingly, the Commission concludes that the entitlement now in issue was also a "civil" right and that Article 6 para. 1 (Art. 6-1) therefore applies.

Recalling the general principles governing the Convention organs' assessment of the fairness of proceedings, the Commission has next examined the compliance with Article 6 para. 1 (Art. 6-1) in the present context. It observes that the applicant was denied a basic unemployment allowance, since the pending appeal proceedings concerning his entitlement to an earnings-related allowance was not found to be a valid reason for his refusal to accept the employment offered to him. The Commission finds no indication that this denial of the allowance and the reasoning adduced therefor were not legally justified.

Furthermore, as regards the fairness of the proceedings in themselves, it is undisputed that the Board for Unemployment Benefits obtained opinions both from the Employment Commission and from the Social Insurance Commission without communicating them to the applicant before deciding on his appeal. The Commission observes, however, that the Employment Commission's opinion was in essence reproduced in the decision of the Board for Unemployment Benefits and that, according to the same decision, the Social Insurance Commission had, in its opinion, referred to the opinion submitted by the Employment Commission. In his

appeal to the Insurance Court the applicant indeed challenged the opinions of the Employment Commission and the Social Insurance Commission. He did not, however, complain about the fact that the Board for Unemployment Benefits had not communicated those opinions to him.

It is true that before deciding on the applicant's appeal the Insurance Court obtained observations thereon from the Social Insurance Commission. Although these observations were not communicated to the applicant either, they were in essence similar to those which the Social Insurance Commission had previously submitted to the Board for Unemployment Benefits. Thus the Social Insurance Commission's position had already become known to the applicant and had been challenged by him. Noting also that he did not in his appeal to the Insurance Court refer to the Board's failure to communicate the opinions of the Employment Commission and the Social Insurance Commission as an issue affecting the fairness of the proceedings, the Commission considers that the non-communication by the Insurance Court of the Social Insurance Commission's further observations does not suffice to render the proceedings before that court unfair. In effect the Insurance Court simply upheld the decision of the Board for Unemployment Benefits by referring to the reasoning of that body.

In these specific circumstances and considering the proceedings as a whole, the Commission cannot find any indication that they were unfair. Accordingly, there is no appearance of a violation of Article 6 para. 1 (Art. 6-1) in this respect either.

Having regard to its above conclusion, the Commission finds it unnecessary to consider the complaint also under Article 13 (Art. 13), given that the requirements of Article 13 (Art. 13) are less strict than, and are here absorbed by, those of Article 6 para. 1 (Art. 6-1) (e.g., Eur. Court HR, Håkansson and Sturesson v. Sweden judgment of 21 February 1990, Series A no. 171, p. 21, para. 69).

It follows that this complaint must also 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, by a majority,

DECLARES THE APPLICATION INADMISSIBLE.

H.C. KRÜGER	S. TRECHSEL
Secretary	President
to the Commission	of the Commission