CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 61605/00
by Arkadiy Ivanovich VIKTOROV
against Russia

The European Court of Human Rights (Second Section), sitting on 8 January 2002 as a Chamber composed of

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr GAUKUR JÖRUNDSSON,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr M. UGREKHELIDZE,
Mr A. KOVLER, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application introduced on 14 June 2000 and registered on 10 October 2000,

Having deliberated, decides as follows:

THE FACTS

The applicant, Arkadiy Ivanovich Viktorov, is a Russian national. He was born in 1941 and lives at Kazan.

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

In March 1999, after obtaining planning permission from the Moskovskiy District Authority of Kazan, a co-operative society started to build sixteen garages near the applicant's house. The existing amenities – a

playground and shrubbery – were demolished. At the same time, the Head of the District Authority issued planning permission to construct open-air night-time parking facilities near the site of the garages and the applicant's house.

In April and May 1999 the applicant and other residents in his house lodged several administrative complaints with various authorities about the garages, alleging that they would constitute a nuisance and adversely affect the environment. The authorities replied that the building works were lawful as they had been approved by the medical, architectural and fire services.

On 18 August 1999 the applicant filed a court complaint with the Moskovskiy District Court of Kazan about the illegal actions of the Moskovskiy District Authority and the co-operative society.

On 18 October 1999 the Moskovskiy District Court examined the applicant's case and dismissed it, holding that the works complied with applicable rules and regulations.

The applicant appealed. One of the grounds of appeal was that in the course of the hearing the representative of the defendant – the District Authority – had presented in evidence a list of residents who would benefit from the garages and that the court had refused to allow the applicant to examine the list. Furthermore, even though the list had been admitted in evidence, the applicant was unable to find it in the case-file on later inspection.

The decision was upheld on appeal by the Supreme Court of Tatarstan on 21 December 1999. In its decision the Supreme Court found that the lower court had reached valid conclusions in the case. However, no assessment was made of the grievance about the list of residents.

COMPLAINTS

1. The applicant complains under Article 2 § 1 of the Convention that the use of the garages produces significant amounts of exhaust fumes, thus endangering residents' health.

2. The applicant also complains under Article 6 § 1 of the Convention that he was unable to examine the list presented in evidence by the District Authority; that on 18 October 1999 the court proceeded with other cases without closing the hearing in the applicant's case; that no proper transcript of the hearing was made; that the judgment was served on the applicant out of time thus complicating the appeal process, and that the judgment of the Moskovskiy District Court was not sufficiently reasoned.

3. Under Article 10 of the Convention, the applicant claims that he did not have unfettered access to information concerning the building works and that the appeal judgment of the Supreme Court is illegible.

4. Finally, under Article 13 of the Convention, the applicant complains that the court dismissed his application to obtain an independent expert opinion on the construction and that a duly authorised representative of an environmental protection association was not allowed to make representations in the case as an *amicus curiae*.

THE LAW

1. The applicant complains under Article 6 § 1 of the Convention that the hearing before the Moskovskiy Court on 18 October 1999 was unfair. Article 6 § 1, insofar as relevant, reads as follows:

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

The Court considers that it cannot, on the basis of the case-file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

2. Under Articles 2 § 1, 10 and 13 of the Convention the applicant complains that the construction of the car park endangers the life of residents in his building, that he experienced difficulties in obtaining access to the administrative decisions concerning the building works and that the court refused his request for an independent expert opinion.

The Court notes, however, that these allegations do not raise any Convention issues separate from the complaint under Article 6 § 1.

It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaints under Article 6 § 1 of the Convention;

Declares inadmissible the remainder of the application.

S. DOLLÉ
Registrar

J.-P. COSTA
President