AS TO THE ADMISSIBILITY OF

Application No. 31006/96
by David and Roselie WEBB
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 2 July 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. CONFORTI
N. BRATZA
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

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 27 March 1996 by David and Roselie WEBB against the United Kingdom and registered on 15 April 1996 under file No. 31006/96;

Having regard to:

- the reports provided for in Rule 47 of the Rules of Procedure of the Commission;

- the observations submitted by the respondent Government on 30 May 1996 and the observations in reply submitted by the applicant on 3 July 1996;

- the further observations submitted by the Government and the applicant on 19 December 1996;

Having deliberated;

Decides as follows:

THE FACTS

The applicants, who are married, are British citizen born in 1948 and 1945 respectively and resident in Salisbury. They are represented before the Commission by Mr. Luke Clements, a solicitor practising in Hereford. The facts as submitted by the parties may be summarised as follows.

a. Particular circumstances of the case

The applicant are Romany gypsies. They have lived in a caravan in or about the Wiltshire area all their lives as have their forebears

for generations.

Due to the difficulties facing the applicants in continuing their nomadic life, in particular finding places for lawful encampment, in or about 1990 the applicants moved onto land which they had purchased. They applied for planning permission for the stationing of their caravan.

Planning permission for a "mobile home" for agricultural use was refused on 25 October 1990 by Salisbury district council ("the district council") and an enforcement notice issued on 12 December 1990.

Further caravans were moved onto the applicants' site (apparently those of their two adult daughters who live with them).

Following a public inquiry on 28 August 1991, the applicants' appeal against the refusal of planning permission was rejected on planning grounds alone by the planning inspector, who also indicated that it was for the district council to consider any further application raising gypsy status on its merits.

The applicants' application for permission to use their land for a 15 pitch gypsy site was refused by the district council on 23 April 1992. Following the issue of summonses for failure to comply with enforcement notices, the applicants were prosecuted in the magistrates' court. The first applicant was convicted of non-compliance on 23 February 1993.

In or about January 1993, further caravans moved onto the site. These caravans were removed following the issue of an injunction by the High Court on 26 January 1993.

On 15 March 1993, the applicants made a further application for planning permission for change of use of the land to accommodate a gypsy family including the construction of vehicular access. The district council proposed to use its powers under section 178 of the Town and Country Planning Act 1990 ("TCPA 1990") to enter onto the applicants' land and remove their caravans. The applicants' application for leave to seek judicial review of this proposal was rejected on 29 October 1993. Following the death of the father of the second applicant in January 1994, the local authority cancelled their proposed action.

The applicants' further application lodged in December 1993 for change of use of the land to site one caravan to house one gypsy family was refused on 11 March 1994. The grounds stated that the development would be detrimental to the character of the "special Landscape Area", unrelated to any established settlement and would pose a source of danger and cause inconvenience to highway users.

During 1994, the district council and the Wiltshire County Council identified two alternative sites at Zeals (35-40 miles away) for which the purchase prices were £45 000 and £40 000 respectively. A meeting was held on 21 October 1994 attended by the applicant and his wife, their adviser, the chairman of the National Gypsy Council (NGC) and officers of the County Council, at which the availability of these two sites was discussed. A number of possibilities, including the leasing of the land with an option to buy in the future, were raised.

On 28 December 1994, the chairman of the NGC wrote to the County Council stating:

> "Personally, I cannot see what more the County and District Councils can do for <the applicant>; they have gone to a great deal of time and expense in searching for a suitable alternative piece of land, which they have then taken him to see, and... he has already agreed that the land at Zeals

> is suitable for him... I am concerned... that a planning application has not been submitted on the land at Zeals, even though the meeting took place over two months ago, and I can no longer see where the County Council have any responsibility towards this family; certainly if <the applicant> does not submit a planning application in respect of the Zeals land but instead chooses to go his own way, he will receive no further support from ourselves."

Following a public inquiry in January 1995, the applicants' appeal against the refusal of planning permission was refused. In his letter of 17 March 1993, the planning inspector noted that the applicants' gypsy status was accepted by the district council and that their gypsy status and other personal circumstances were material considerations to be taken into account. He found however that the development would seriously harm the scenic qualities of the open and attractive rural landscape. He observed that the applicants had lived in the area for 25 years, had aged relatives nearby, and that positive progress in finding alternative sites had foundered on problems of cost, lack of planning permission and the family's reluctance to move 35-40 miles away. These were however insufficient reasons to set aside the planning considerations.

The applicants applied to quash the planning inspector's decision letter pursuant to section 288 of the TCPA 1990.

By letter dated 1 September 1995, the County Council informed the applicants that one of the alternative sites at Zeals was no longer available, as being required for highways operational use.

The application in respect of the planning inspector's decision was dismissed by a Deputy High Court judge on 3 October 1995.

By letter dated 24 October 1995, the district council informed the applicants that the second of the alternative sites at Zeal had been sold to another purchaser. It was stated that no additional land was available.

On 25 October 1995, the district council decided to exercise its powers under section 178 of the TCPA 1990 to enter onto the applicants land and remove the family's caravan. By letter dated 3 November 1995, the district council warned the applicants of "extreme measures" and informed them that they would retain the family's home and possessions as security for the costs of the eviction.

On 16 November 1995, the applicants sought leave to apply for judicial review of the decision to enter their land and remove their caravan.

By letter dated 17 November 1995, the local authority official, acting as gypsy liaison officer for the County Council, stated that he could confirm that the applicants had made great efforts to look for alternative pieces of land. He stated that the County Council had reviewed its entire landholdings in the area for a possible site and that 10 parcels of land were considered in detail by the County and District Councils but none found to be suitable. While the applicant had also identified other parcels of land in Hampshire and other adjoining district council areas, these were found to be unacceptable when canvassed with the planning authorities. He confirmed that at the present time there was no alternative suitable accommodation available to the applicants within the area.

On 22 November 1995, the High Court judge dismissed the application. He stated, inter alia, that notwithstanding the circumstances of the case, the situation at English law did not even arguably give rise to a claim for judicial review.

On 27 March 1996, the applicants' renewed application to the Court of Appeal was refused.

In the District there are three official gypsy caravan sites with a total of 62 permanent pitches - Dairyhouse Bridge and Lodge Hill which the Government state have no waiting list at this time, and Oaktree Farm, which had a waiting list of 2/3 names. There is a transit section at the Oaktree farm site which is unused and its entrance blocked, where the District Council is stated as being willing to make a space available for a temporary period, to allow the applicants to pitch their caravan lawfully while looking for a site to buy with planning permission or until a permanent pitch of the appropriate size becomes available on one of the official sites. This proposal was put to the applicants by letter of 22 May 1996 by the District Council. The applicants state that these sites are unsuitable - the site at Dairyhouse Bridge is exceedingly insanitary and subject to flooding and the site at Load Hill is unfit for habitation, since it is verging on being a scrap heap.

b. Relevant domestic law and practice

On 3 November 1994, the Criminal Justice and Public Order Act 1994 came into force and repealed previous legislation which had, inter alia, imposed a duty on local authorities to provide adequate accommodation for gypsies in their area, conferred a power on the Secretary of State to direct local authorities to provide sites and annulled a grants scheme whereby one hundred per cent grants were available to local authorities to cover the costs of creating gypsy sites. It also repealed the power of the Secretary of State to designate areas where adequate provision for gypsies had been made or where it was not necessary or expedient to make such provision. The effect of designation had been to render it a criminal offence for a gypsy to station a caravan in the area on the highway, unoccupied land or on occupied land without the consent of the owner.

Pursuant to section 77 of the 1994 Act, a local authority may direct an unauthorised camper to move. An unauthorised camper is a person residing in a vehicle on the highway, unoccupied land or occupied land without the owner's consent. Failure to comply with such a direction as soon as practicable, or to re-enter the land within three months is a criminal offence. Local authorities may apply to a magistrates' court for an order authorising them to remove caravans parked in contravention of such a direction (section 78).

New guidance on gypsy sites and planning in light of the 1994 Act was issued to local authorities by the Government in Circular 1/94 (5 January 1994). The Circular stated:

> "In order to encourage private site provision, local planning authorities should offer advice and practical help with planning procedures to gypsies who wish to acquire their own land for development. ...The aim should be as far as possible to help gypsies to help themselves, to allow them to secure the kind of sites they require and thus help avoid breaches of planning control..."
>
> "As with other planning applications, proposals for gypsy sites should continue to be determined solely in relation to land-use factors. Whilst gypsy sites might be acceptable in some rural locations, the granting of permission must be consistent with agricultural, archaeological, countryside, environmental and Green Belt policies..."

On the enforcement powers under the 1994, a Circular 18/94-76/94 stated:

> "The Secretaries of State recognise that in certain

circumstances it may be in the public interest to evict an unauthorised gypsy encampment and they accept that this must remain a matter for local discretion. The Secretaries of State consider that it would usually be legitimate for a local authority to exercise the new eviction powers when gypsies camped unlawfully in their area refuse to move onto an authorised local authority site.

... The Secretaries of State continue to consider that local authorities should not use their powers to evict gypsies needlessly. They should use the powers in a humane and compassionate fashion and primarily to reduce nuisance and to afford a higher level of protection to private owners."

These circulars cancelled previous circulars 28/77 and 57/78 which, inter alia, advised local authorities that the special need to accommodate gypsies should be taken into account as a material consideration in reaching planning decisions.

COMPLAINTS

Article 3

The applicants submit that they are Romany gypsies who define their ethnicity by the accommodation which they occupy. This lifestyle is effectively rendered unlawful or illegal in the region where they live. The State is effectively proposing to drag them from their land, seize their home and possessions and sell them in circumstances where they have nowhere else that they can reasonably go. The opportunity to follow their traditional lifestyle will be destroyed. This constitutes, they submit, inhuman and degrading treatment.

Article 8

The applicants adopted the reasoning of the majority of the Commission in the Buckley case (No. 20357/94, Comm. Report 25.1.95 paras. 76-85, to be included in Reports 1996: see reference to Court judgment below). The applicants submit that the treatment suffered is of greater severity than in the Buckley case. They have been prosecuted and are to have their home and possessions forcibly confiscated and thereby to be rendered homeless. They submit that the State accepts that there is no alternative gypsy caravan accommodation and that their only option is destitution or housing.

Article 1 of Protocol No. 1

The applicants submit that the actions of eviction and confiscation will disclose an unreasonable deprivation of possessions in that it fails to strike a fair balance between the general interest of the community and the requirements of the protection of the fundamental interests of the applicants. The deprivation will render them not only destitute but will deprive them of their entire possessions and render them without shelter.

Article 13 of the Convention

The applicants submit that despite the courts' acknowledgment of their "very stark" predicament the courts are unable to intervene because the mechanism of judicial review does not allow the court to consider whether the actions of the council violate the provisions of the Convention.

Article 14 of the Convention

The applicants submit that they have been discriminated against

in their enjoyment of the above provisions.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 27 March 1996 and registered on 15 April 1996.

On 16 April 1996, the Commission decided to communicate the application to the Government and to ask for written observations on the admissibility and merits of the application. It refused the applicants' request for Rule 36 to be applied but decided to give the case priority under Rule 33 of the Commission's Rules of Procedure.

The Government's observations were submitted on 30 May 1996 and the applicant's observations in reply were submitted on 3 July 1996.

On 22 October 1996, the Commission invited the parties to make further submissions in light of the Court's judgment in the Buckley case (Eur. Court HR judgment of 23 September 1996).

The Government and the applicant submitted further observations on 19 December 1996.

THE LAW

1. The applicants complain of a violation of their right to respect for their private and family life and home contrary to Article 8 (Art. 8) of the Convention, in that they have been refused permission to live in their caravan on their land and are subject to enforcement measures.

Article 8 (Art. 8) of the Convention provides:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Government submit that to the extent that there is any interference with the applicants' rights under Article 8 (Art. 8) this pursues the legitimate aim of environmental and planning control, and is applied in a proportionate way. They point out that the applicants took up residence without obtaining the necessary prior permission, that their occupation has been found by the planning inspector to cause unacceptable harm to the rural amenity of the area and that they have been afforded opportunities to move elsewhere, of which they have failed to avail themselves. The Government submit that the interests of the applicants received fair and proper regard by the responsible planning authorities when exercising their discretion in the implementation of policy in the planning sphere.

The applicants submit that the interference with their rights under Article 8 (Art. 8) is disproportionate. They submit that no fair balance is struck between the interests of gypsies and planning control. Local authorities no longer have the duty to provide official sites and grants for such purposes have been withdrawn. While the Circular guidance to local authorities professes an intention to provide that the planning system recognises the need for accommodation

consistent with gypsies' nomadic lifestyle, it at the same time withdrew previous guidance which indicated that it might be necessary to accept gypsy sites in green belt or areas of outstanding beauty and indicated that proposals for gypsy sites should continue to be determined solely in relation to land-use factors. They refer to the fact that 80% of all planning applications are granted but up to 90% of gypsy applications are refused. They also contend that they have not had and do not have a viable alternative open to them to remaining on their own land. The sites which were stated as available for sale were prohibitively expensive, there were no sites available elsewhere and as regards the offer made in May 1996 of the Oaktree farm transit site, this is unsuitable and used for temporary periods ie. a maximum stay of 28 days and nothing is said about where the applicants might go at the expiry of that period.

The Commission finds, first of all, that the measures taken in respect of the applicants' occupation of land in their caravan constitutes an interference with their right to respect for their family and private life and their home. It also notes in that respect that the applicants are gypsies for whom living in a caravan is an integral and deeply-felt lifestyle and that this traditional lifestyle attracts the guarantees of Article 8 (Art. 8) as concerning their private life (see Buckley v. the United Kingdom, No. 20348/92, Comm. Report 11.1.95, para. 64).

According to the constant case-law of the Convention organs, an interference under the first paragraph of Article 8 (Art. 8) entails a violation unless it is "in accordance with the law", has an aim that is legitimate under Article 8 paragraph 2 (Art. 8-2) and is "necessary in a democratic society" for the aforesaid aim (see, inter alia, Eur. Court HR, W. v. the United Kingdom judgment of 8 July 1987, Series A no. 121, p. 27, para. 60 (a).

As regards the criterion "in accordance with the law", the Commission finds, and the applicants do not dispute, that the measures were taken pursuant to the relevant provisions governing town and country planning and the aims pursued by the measures included the protection of the rights of others (through highway safety, the preservation of the environment and public health).

The case-law of the Commission and Court establish that the notion of "necessity" implies that the interference corresponds to a pressing social need and that it is proportionate to the aim or aims pursued. In assessing the proportionality, regard must be had to whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. In this context, the importance of the right to respect for home, which is pertinent to personal security and well-being, must be taken into account. The case-law indicates that while there are no explicit procedural requirements in Article 8 (Art. 8), the decision-making process leading to measures of interference must be fair and such as to afford due respect to the individual's interest (Eur. Court HR, Buckley v. the United Kingdom judgment of 25 September 1996 to be reported in Reports 1996, para. 76). Further, in determining whether an interference is justified the Commission and Court will take into account that a margin of appreciation is left to the Contracting States, which are in principle in a better position to make an initial assessment of the necessity of a given interference (see eg. Eur. Court HR, Olsson v. Sweden judgment of 24 March 1988, Series A no. 130, p. 32, para. 68). In the area of town planning which involves the exercise of discretionary judgment in the implementation of policies adopted in the interest of the community, the Court has stated that the national authorities enjoy a wide margin of appreciation (Eur. Court HR, Buckley v. the United Kingdom judgment op. cit. para. 75).

The Commission recalls that the applicants' appeal against

refusal of planning permission was considered by the planning inspector who held a public inquiry. The planning inspector had regard to the applicants' arguments and their personal circumstances as gypsies, noting their links with the district and difficulties in finding alternative sites, but considered that these were outweighed by the planning considerations, ie. that the development would seriously harm the scenic qualities of the rural landscape.

The Commission observes that efforts were made by the local authorities to find alternative sites or solutions. It notes that while two sites were available for purchase at a price beyond the applicants' means, it is not apparent that the applicants pursued the possibilities mooted at the meeting of 21 October 1994 of leasing the land with the option to buy at a later date. Further, while the official sites in the area may not be as satisfactory as the land on which the applicants are currently living, the Commission notes that there are no, or short, waiting lists for these sites and it is likely that if they had applied for places, a site would have become available. The reason for declining the use of the transit site offered by the District Council in May 1996 appears to be a reluctance to move onto a temporary site. There is no indication in the letter from the District Council that this disused site could only be used for a maximum period of 28 days as alleged rather than for a longer period while other options were explored.

The Commission concludes that, notwithstanding the impact on the applicants' home and private and family life of the refusal of planning permission and the requirement to move elsewhere, it is not established that they have no viable alternative or that it is disproportionate to the legitimate aims pursued. The responsible planning authorities in exercising their discretion had proper regard to the applicants' interests, which were protected by adequate procedural safeguards (see, mutatis mutandis, the Buckley judgment op. cit. para. 84). Even though in the present case the applicants allege that the local authority is threatening to seize their caravan and possessions, with the view to possible sale, by exercising powers under the Criminal Justice Act 1994, the Commission notes that the local authority is only proposing to take this step after five-six years of unlawful occupation, after the conclusion of appeal and judicial review proceedings and after not inconsiderable efforts had been made to find other solutions acceptable to the applicants. Since it has not been established that the applicants have no choice but to remain on their land and face seizure, the Commission finds that the decision of the local authority to resort to further enforcement measures is not disproportionate.

Having regard to the wide margin of appreciation, the Commission finds that the measures may regarded as necessary in a democratic society for the protection of the rights of others. It follows that this complaint is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicants complain that they are being subjected to treatment contrary to Article 3 (Art. 3), which provides:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The Government deny that the removal of the applicants' caravan from the site on which it is unlawfully stationed amounts to degrading treatment. They point to the fact that the applicants have been involved in unlawful conduct for five years, that they are subject to legitimate and necessary planning control measures and that alternative accommodation has been offered to them.

The applicants state that whether or not they have been lawfully stationed on their land is irrelevant where treatment is objectively degrading by Convention standards. They have nowhere else to go and the

threat to seize their home and possessions if carried out will effectively result in destroying their lifestyle as gypsies. This is, they submit, "manifestly degrading" treatment within the meaning of Article 3 (Art. 3).

The case-law of the Convention organs establishes that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 (Art. 3) of the Convention. The assessment of that minimum is relative and depends on all the circumstances of the case, such as the duration of the treatment and its physical or mental effects. Further, the Court has held that treatment may be considered as degrading where it is such as to arouse feelings of fear, anguish and inferiority capable of humiliating and debasing an individual and possibly breaking his or her physical and moral resistance (see eg. Eur. Court HR, Ireland v. the United Kingdom judgment of 18 January 1978, Series A no. 25, p. 65, paras. 162 and 167).

The Commission recalls that the applicants are gypsies who follow a particular lifestyle, which includes living by tradition in caravans or mobile homes. It notes that they are threatened with seizure, and possibly sale, of their caravan if they fail to comply with the enforcement order. While this will have grave consequences for the applicants, the Commission notes above that it has found that the applicants have had other alternatives offered to them and that it is not established that they have no other choice but to remain on their land until evicted.

In the circumstances, the Commission finds that the applicant's complaints fail to disclose treatment of such a nature or degree as to render it either inhuman or degrading within the meaning of Article 3 (Art. 3) of the Convention.

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

3. The applicants also complain that the measures taken against them disclose an unreasonable deprivation of property contrary to Article 1 of Protocol No. 1 (P1-1), which provides:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The Commission recalls that the applicants have not yet been subject to any measure of seizure or deprivation of property. The planning measures implemented so far have related to the control of use of their land. However, insofar as the measures may disclose a threat of deprivation of property and a control of use, the Commission finds that these are compatible with the requirements of Article 1 of Protocol No. 1 (P1-1), in respect of which its findings under Article 8 (Art. 8) as to the legitimate aim pursued and the striking of a fair balance between the individual interests and the general interest in preservation of the environment are equally pertinent.

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

4. The applicants claim that they have been discriminated against in the enjoyment of their rights under Articles 3, 8 and 13 (Art. 3, 8, 13) of the Convention and Article 1 of Protocol No. 1, (P1-1) invoking Article 14 (Art. 14) of the Convention which provides:

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The Government submit that there is no evidence of discrimination against the applicants, but that on the contrary planning policies, the decision of the Inspector and the decisions of the courts have manifestly treated their gypsy status as a factor in their favour.

The applicants submit that the recent changes in legislation and policy which remove the gypsies' former position in the planning system ignores the need for special provision to be made if gypsies are to be enabled to continue to follow their traditional way of life, and that this infringes Article 14 (Art. 14). They refer to the applicable guidance and the statements of the Government to the effect that the fact that the applicants are gypsies cannot excuse them from compliance with the planning controls which apply to all sections of the community.

The case-law of the Convention organs establishes that it is not every difference in treatment which constitutes discrimination within the meaning of Article 14 (Art. 14) of the Convention. It must be established that other persons in an analogous or relevantly similar situation enjoy preferential treatment and that there is no reasonable or objective justification for this distinction (see eg. Eur. Court HR, Van der Mussele v. Belgium judgment of 21 November 1982, Series A no. 70 and Fredin v. Sweden (No. 1) judgment of 18 February 1991, Series A no. 192, p. 19 para. 60).

The Commission observes that in the present case the applicants submit that it is a failure to make special allowance for their gypsy status in the application of planning controls that constitutes discrimination. It notes that a difference in treatment may arise, indirectly, where rules are applied generally but where a particular group, due to a characteristic personal to them, as a result face severe obstacles in complying and suffer a correspondingly greater prejudice from the application of those rules.

However, even assuming that the applicants can claim to be penalised by the application of general planning laws on the basis of their status as gypsies, the Commission recalls that whether a difference in treatment constitutes discrimination in the sense of Article 14 (Art. 14) of the Convention depends on whether or not there exists an objective and reasonable justification. This requires that the difference pursues a legitimate aim and that there is a reasonable relationship of proportionality between the means employed and the aim sought to be realised. In this assessment of whether and to what extent differences in otherwise similar situations justify a different treatment, Contracting States enjoy a margin of appreciation which will vary according to the circumstances, subject-matter and background (see eg. Eur. Court HR, Lithgow and Others v. the United Kingdom judgment of 8 July 1986, Series A no. 102, pp. 66-67, para. 177).

Having regard to the above, the Commission recalls that in the present case the local planning authorities took the applicants' gypsy status into account in seeking to assist them to find suitable alternative sites where they could lawfully site their caravan without harm to a special landscape area and that their gypsy status was a

material consideration taken into consideration by the Inspector in examining their appeal. It notes the importance of control of development and preservation of the environment and the wide margin of appreciation enjoyed by the domestic authorities in the area of town and country planning control. It finds that there has not been such disregard of the applicants' position and difficulties as gypsies as to disclose discrimination contrary to Article 14 (Art. 14) of the Convention.

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

5. The applicants also invoke Article 13 (Art. 13) of the Convention, which provides that :

> "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 Commission recalls however that Article 13 (Art. 13) does not require a remedy under domestic law in respect of any alleged violation of the Convention. It only applies if the individual can be said to have an "arguable claim" of a violation of the Convention (Eur. Court HR, Boyle and Rice v. the United Kingdom judgment of 27 April 1988, Series A no. 131, p. 23, para. 52).

The Commission finds that the applicants cannot be said, in light of its findings above to have an "arguable claim" of a violation of their Convention rights.

It follows that this complaint must be dismissed as 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.

M.F. BUQUICCHIO	J. LIDDY
Secretary	President
to the First Chamber	of the First Chamber