AS TO THE ADMISSIBILITY OF

Application No. 15997/90
by O.B. and Others
against Norway

The European Commission of Human Rights (Second Chamber) sitting in private on 8 January 1993, the following members being present:

MM. S. TRECHSEL, President of the Second Chamber
G. JÖRUNDSSON
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G.H. THUNE
MM. F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS

Mr. K.ROGGE, Secretary to the Second 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 9 November 1989 by O.B. and Others against Norway and registered on 15 January 1990 under file No. 15997/90;

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 27 April 1992 and the observations in reply submitted by the applicants on 20 July 1992;

Having deliberated;

Decides as follows:

THE FACTS

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

The applicants, whose names are annexed to this decision, are of Skolte sámi origin, an ethnic group that differs from other sámi groups. They live at Neiden in the eastern part of Finnmark, the northernmost county (fylke) of Norway. Before the Commission the applicants are represented by Mr. Knut Rognlien, a lawyer practising in Oslo.

A. The particular facts of the case

Through centuries the Skolte sámis inhabited the border districts of Norway, Russia and Finland. They were mainly nomads living off a combination of keeping reindeer, fishing and hunting. The importance of these activities varied throughout history due to variations in resources and other peoples' activities in their domain.

People of Finnish and Norwegian origin subsequently settled in the district inhabited by the Skolte sámis which led to disputes

concerning land and reindeer herding and grazing rights. In particular in this century such disputes were brought before various authorities and in the 1950s and 1960s several agreements were reached between the Skolte sámis and other sámi groups but they did not solve the problems satisfactorily from the applicants' point of view.

On 10 May 1977 and again on 22 September 1978 the Skolte sámis requested the County Governor (fylkesmannen) to grant them an exclusive right to reindeer husbandry in their old area (siida) and to expel other sámi groups from that area. Their request was based on the Act of 12 May 1933 (hereinafter the 1933 Act) relating to reindeer husbandry which was then in force and according to which the County Governor could allocate districts to persons engaged in reindeer husbandry (section 4) and refer them and their herds to other districts (section 12). On 7 March 1979 another sámi group in the area whose means of livelihood was reindeer husbandry submitted their observations.

On 31 May 1979 the County Governor rejected the Skolte sámis' request. He stated that he was not empowered by the 1933 Act to accord exclusive rights to any group in the area in question, which covered several districts. Moreover, the area was vast and the Skolte sámis had no reindeer herd there at that time, and it was not realistic to expect that they would, in the near future, raise a herd which would need such a large area of land. On the other hand, it was stressed that according to the 1933 Act, the Skolte sámis - like other sámi groups - had a right to engage in reindeer husbandry in the area in question. The County Governor also stated that it was a matter for the courts to decide whether the Skolte sámis could claim an exclusive right to reindeer husbandry on the basis of immemorial usage (alders tids bruk).

The 1933 Act was replaced by the Act of 9 June 1978 relating to reindeer husbandry, entering into force on 1 July 1979 (hereinafter the 1978 Act). Under Sections 6 and 7 of that Act new bodies - the Reindeer Husbandry Board (Reindriftstyret) and the Local Board (områdestyret) - are empowered to make decisions in relation to reindeer husbandry.

On 22 June 1979 the Skolte sámis, including the applicants, lodged a complaint with the Ministry of Agriculture against the County Governor's decision. They requested that a decision be taken in the case according to the 1978 Act. Other sámis engaged in reindeer husbandry in the area submitted their comments on 14 September 1979. The Ministry referred the question whether the Skolte sámis should have a right to engage in reindeer husbandry to the Reindeer Husbandry Board. On 2 - 3 February 1981, following further correspondence between the Skolte sámis and the authorities concerning the history of the current disputes in the area, the Board decided that the Skolte sámis had a right to engage in reindeer husbandry under section 3 of the 1978 Act.

The Ministry of Agriculture then made several attempts to reach a friendly settlement between the opposing sámi groups as to the exercise of this right, but to no avail. On 26 May 1983 the Skolte sámis asked the Ministry to decide the matter. On 29 July 1983 the Ministry of Agriculture dismissed the complaint because neither the provisions under the 1933 Act nor the 1978 Act, in its opinion, provided for the possibility of giving a specific group an exclusive right to reindeer husbandry. The Ministry furthermore advised the complainants to proceed as envisaged in the 1978 Act, i.e. to request a decision from the Local Board and, if necessary, to appeal to the Reindeer Husbandry Board.

On 18 and 24 August 1983 the Skolte sámis complained to the King in Council (Kongen i statsråd). The Ministry's decision was, however, upheld by Royal Decree of 28 October 1983. The Decree stated inter alia that the administrative authorities were not empowered to grant exclusive herding areas as reindeer husbandry was a collective right

for everybody in the areas. It was a matter for the courts to decide whether the Skolte sámis could, on the basis of principles of private law, claim an exclusive right to the area.

Proceedings before the District Court (Herredsrett) of Tana and Varanger

It does not appear from the applicants' submissions whether they followed the advice of the Ministry of Agriculture and proceeded as envisaged in the 1978 Act. However, by a submission dated 23 November 1984 they instituted proceedings in the District Court of Tana and Varanger. The suit was directed against another sámi group currently engaged in reindeer husbandry in the area and against the Government, i.e. the Ministry of Agriculture.

On the basis of the principles of immemorial usage, the applicants claimed an exclusive right to grazing land in their old area and requested that other sámis herding reindeer leave that area. In relation to the Government the applicants demanded that any decisions of the authorities permitting others to herd reindeer in the area be annulled. According to the applicants their exclusive right to grazing land could not be set aside by decisions pursuant to ordinary legislation.

On 4 December 1984 the Court ordered the defendants to submit their reply within 21 days after receiving the summons.

On 20 December 1984 the other sámi group, which was engaged in reindeer husbandry in the area, filed their reply, in which they disputed the exclusive right of the applicants. Their brief submission stated inter alia that further research was required. The Court requested observations from the applicants and the Government by 25 January 1985.

On 3 January 1985 the applicants supplemented their first submission and produced historical material from 1517 to 1969.

The Government which had been granted an extension of the time-limit filed their reply on 15 February 1985. They argued inter alia that the applicants had no exclusive right to the area. On 18 February 1985 the Court requested observations from the other two parties by 6 March 1985.

On 4 March 1985 the applicants requested an extension, and the Court fixed 20 March 1985 as a new time-limit.

On 6 March 1985 the other sámi group submitted their observations and also filed historical material. They did not accept the description of the extent to which the applicants had been engaged in reindeer husbandry in a historical perspective. The applicants were requested to define the exact borders of the old Skolte sámi area as compared with their current claim and to submit certain old documents. On 8 March 1985 the Court requested observations from the applicants by 12 April 1985.

On 28 March 1985 the Court informed the parties that the main hearing would commence on 5 November 1985 and that one week had been reserved for that purpose.

On 14 August 1985 the other sámi group complained that the applicants had still not complied with their requests for further information. On 14 August 1985 the Court asked the applicants to submit the requested information immediately. They did so on 30 August 1985.

On 2 September 1985 the Court raised the question whether it was necessary that the Court also be composed of two lay judges. The

parties were asked to submit their comments by 12 September 1985. On that date the Government stated that in their view lay judges were not required.

On 11 September 1985 the other sámi group submitted additional documentation and argued that part of the evidence adduced by the applicants was inadmissible. On 16 September 1985 the Court requested the applicants to comment on this matter as soon as possible. They submitted their observations on 23 October 1985 and filed a list of nine witnesses. As two of the witnesses spoke only Finnish, it was suggested that an interpreter be engaged.

On 28 October 1985 the other sámi group maintained their contention that part of the evidence was inadmissible.

The main hearing before the District Court took place from 5 to 8 November 1985. Six representatives of the parties and nine witnesses were heard.

Judgment was pronounced on 18 November 1985. On the basis of a study of the historical sources and after an evaluation of the other evidence submitted, the District Court found that the applicants had not established an exclusive right to reindeer husbandry in their old area.

Proceedings before Hålogaland High Court (Lagmannsrett)

On 23 January 1986 the applicants lodged an appeal with the Hålogaland High Court. They stated that there was a need to examine the archives of one of the witnesses, and reserved their right to submit additional historical material.

The appeal was received on 27 January 1986, and on the same day the Court requested the other parties to submit their observations in reply within 14 days.

The other sámi group submitted their reply as early as 28 January 1986. On 27 February 1986 the Government submitted their observations, which were received by the District Court on 3 March 1986. The same day the Court forwarded the case to the Hålogaland High Court which received it on 7 March 1986.

On 20 March 1986 the High Court asked the applicants to file, by 21 April 1986, a complete list of evidence and to provide the information necessary for the preparation of the case. On that date the Government requested to be given until 20 May 1986 to consider whether additional evidence was necessary. On 24 April 1986 the applicants requested an extension of the time-limit as it had not been possible for the parties to examine the documents of one of the witnesses. They asked the High Court not to fix a time-limit for the submission of a complete list of evidence. Moreover, the applicants requested a special hearing in order to hear six persons who should, for reasons of age or health, be questioned as soon as possible. At the same time the applicants asked the High Court to fix dates for the main hearing.

On 28 April 1986 the High Court requested the other sámi group and the Government to file, by 20 May 1986, complete lists of evidence and to provide the information necessary for the preparation of the case. It asked the applicants for further information concerning the subject matter to be dealt with by the six persons to be questioned, and wished to know when the applicants would be in a position to examine the archives of the witness mentioned in the appeal. The dates of the main hearing would be fixed when the High Court's time-table so permitted.

The Government submitted their observations on 20 May 1986. On

27 May 1986 the other sámi group asked the Court not to fix a time-limit for the submission of a complete list of evidence. Moreover, they stated that they also wished to question witnesses during the hearing for the taking of evidence, and would name these witnesses at a later stage. Furthermore, the names of two new witnesses were mentioned, and there was also a question of summoning a third witness in addition to those heard before the District Court. The other sámi group indicated that January or February 1987 might be possible dates for the main hearing.

On 6 June 1986 the High Court requested the applicants and the other sámi group to produce the remaining evidence without undue delay. The High Court asked for complete lists of witnesses and for more information as to why the taking of evidence was necessary.

On 18 September 1986 the High Court ordered the parties to file complete lists of evidence by 10 October 1986. On 1 October 1986 the applicants informed the High Court that the lawyers had still not received the documents from the witnesses mentioned in their appeal. Consequently, it was impossible to file a complete list of evidence by 10 October 1986.

On 6 October 1986 the High Court extended the time-limit for a complete list of evidence to 3 November 1986. If the documents were not made available by 10 October, the applicants and the other sámi group were urged to request that a hearing for the taking of evidence be held immediately.

On 17 November 1986 the applicants submitted 16 new documents, mainly historical material relating to reindeer husbandry in the area. They upheld their request for a special hearing of six persons unless a main hearing could be scheduled before the summer of 1987.

On 25 November 1986 the High Court requested final submissions from the parties by 17 December 1986, and the applicants were ordered to prepare excerpts from the documents necessary for the High Court's consideration of the case by 19 January 1987. The High Court found that there were not sufficient reasons for a special hearing for the taking of evidence prior to the main hearing on the grounds maintained, except for one of the applicants' witnesses, provided the main hearing would take place after the summer of 1987.

On 1 December 1986 Counsel for the other sámi group filed 19 new documents, mainly historical material providing further information concerning reindeer husbandry in the area in question. Moreover, he informed the High Court that some pages of an old protocol had been removed. If his further attempts to find them should prove unsuccessful, he mentioned the possibility of calling witnesses to give evidence on the question.

On 17 December 1986 the applicants reserved their right to call a new witness and to submit more documents, including the missing pages from the protocol.

The above-mentioned excerpts from relevant documents which the applicants' lawyer had been ordered to prepare were received by the High Court on 25 May 1987.

The High Court then consulted the lawyers in order to set a date for the main hearing, which was expected to last one week. It is not clear when these consultations took place, but at any rate it is clear that there was agreement on the dates in early November 1987 when it was decided that the main hearing should start on 1 February 1988. On 16 December 1987 the parties were formally requested by the High Court to meet on that date.

In December 1987 and January 1988 there was considerable correspondence between the High Court and the parties concerning the 15 witnesses to be heard (problems concerning availability, need for interpreter, etc.) and other practical arrangements. Additional documents were also filed.

In a statement of 13 January 1988, the applicants declared that they wished to have a new counsel. Consequently, on 15 January 1988, the applicants' lawyer informed the High Court that he could no longer represent them and requested that the main hearing be postponed. Other reasons for this request were that two of the witnesses had declared that they were unable to attend the main hearing due to illness, and that one of the witnesses, who had undertaken to carry out a study on the history of the Skolte sámis, had not completed his work.

The High Court tried to avoid postponing the main hearing. However, on 22 January 1988, the High Court found that it had to accept the request for a postponement, since the counsel for the other two parties had supported the request. At the same time the High Court recommended that the applicants designate a new counsel as soon as possible and fixed 3-7 October 1988 as new dates for the main hearing.

As the High Court had not received any notification from the applicants regarding a new counsel, it informed them on 23 June 1988 that they could not expect the Court to grant another postponement. On 7 July 1988 a new counsel informed the High Court that he was now representing the applicants and that he would file a final list of evidence after his meeting with the applicants. On 8 July he requested the appointment of an expert (sakkyndig) in the case.

On 13 July 1988 the High Court asked for observations on the need for appointing experts in the case, drawing the attention of the parties to the fact that the expert requested was already on the list of ordinary witnesses. On 2 August 1988 the other two parties stated that they saw no need for experts in the case, and on 22 August 1988 the High Court decided not to appoint an expert. At the same time the High Court informed the applicants' lawyer that the time-limit for the submission of final observations had expired on 17 December 1987, but set 13 September 1988 as a new time-limit.

On 13 September 1988 the applicant's lawyer informed the High Court that because of age, two of his clients were not able to give evidence, but suggested that the tape of a radio interview in 1974 with one of them be played. He also requested that interpreters be provided and that two new witnesses be heard during the main hearing.

Considerable correspondence between the High Court and the parties followed in September and October 1988 concerning these and other practical issues in connection with the preparation of the main hearing, which took place from 10 to 13 October 1988. Nine witnesses and two persons nominated by the parties were heard.

By judgment of 11 November 1988 the High Court upheld the judgment of the District Court.

Proceedings before the Supreme Court (Høyesterett)

On 23 January 1989 the applicants lodged an appeal with the Supreme Court. Observations in reply were submitted by the other parties on 14 and 15 February 1989, and the High Court forwarded the case to the Appeals Selection Committee of the Supreme Court (Høyesteretts kjæremålsutvalg) on 20 February 1989.

On 9 March 1989 the Appeals Selection Committee informed the parties that it was considering not to grant leave to appeal and asked the applicant to submit observations on this issue by 30 March 1989.

On that date the applicants submitted their comments.

On 19 April 1989 the Appeals Selection Committee decided not to grant leave to appeal since the appeal had no prospects of success. This decision was sent to the parties on 5 May 1989.

B. Relevant domestic law

According to section 1 of the Act of 12 May 1933 relating to reindeer husbandry, nomadic sámis (flyttlapper) who were Norwegian nationals had the right to engage in reindeer husbandry in accordance with the provisions of the Act. Section 84 accorded the same right to other inhabitants of the area, including owners of reindeer having permanent residence there (fastboende). Consequently, the Skolte sámis were also entitled to engage in reindeer husbandry.

Section 2 of the Act provided that reindeer husbandry had to take place in certain parts of Norway, which were divided into districts. According to section 4 the County Governor could regulate the grazing land within each district and allocate it to persons engaged in reindeer husbandry. Section 12 of the Act empowered a local authority (lappefogden) to expel a person and his herd to other districts if this was required in order to improve grazing conditions or was considered advisable for other reasons. However, according to subsection 2 of that provision, persons having used the grazing land for the longest period of time should be given preference.

According to section 3, subsection 1, of the Act of 9 June 1978 relating to reindeer husbandry, which replaced the 1933 Act, Norwegian nationals of sámi origin have the right to engage in reindeer husbandry. If this was not their main occupation when the Act entered into force, it is a condition that it had been the primary means of livelihood of their parents or grandparents. However, the right to engage in reindeer husbandry may be given to other persons in accordance with section 3, subsection 3, of the Act. The Reindeer Husbandry Board has been given authority to decide on the issue.

According to section 2 the Board is also responsible for dividing the various parts of Norway into districts and for deciding upon the number of reindeer to be allowed in each district. It is the responsibility of the Local Board to decide whether a person is allowed to take up reindeer husbandry as his means of livelihood.

The right to reindeer husbandry is a right of use (bruksrett) irrespective of the ownership of the land. The legislation is based on the traditional understanding that it is a collective right of the sámi people as a group.

The principles of immemorial usage are unwritten principles of private law according to which certain rights to land may be acquired if the use has been accepted for a long period of time. As the use is supposed to create a right, it is a further condition that the user cannot base it on other rights, for instance a collective right.

According to section 437 of the Code of Civil Procedure of 13 August 1915 (Tvistemålsloven), an administrative authority may provide that legal proceedings concerning the validity of a decision may only be instituted if the person concerned has lodged a complaint with a superior administrative authority and after this authority has decided upon the matter. No such regulation had, or has, been issued in respect of the 1933 and 1978 Acts.

COMPLAINTS

The applicants complain that they did not receive a fair hearing

by an independent and impartial tribunal within a reasonable time. They invoke in this respect Article 6 of the Convention.

Under Article 1 of Protocol No. 1 to the Convention the applicants complain that their right to keep reindeer in the Neiden district is not respected by the Norwegian authorities. They complain that others now have the right to keep reindeer in the area where they have had an exclusive right over centuries.

Furthermore, the applicants complain that they have been discriminated against and invoke in this respect Article 14 of the Convention in conjunction with Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

In their letter of 9 October 1991 the applicants finally complain that the restrictions on their right to keep reindeer violate Article 8 of the Convention as reindeer husbandry is closely connected with their culture and way of living.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 9 November 1989 and registered on 15 January 1990.

On 13 February 1992 the Commission decided to bring the application to the notice of the respondent Government and to invite them to submit written observations on the admissibility and merits of the application.

The Government submitted their observations on admissibility and merits on 27 April 1992. The applicants' observations in reply were submitted on 20 July 1992.

THE LAW

1.a. Under Article 6 para. 1 (Art. 6-1) of the Convention the applicants complain that they did not get a fair hearing by an independent and impartial tribunal within a reasonable time when the dispute concerning their reindeer herding right was determined. The provision invoked by the applicants reads in its relevant part as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing within a reasonable time by an independent and impartial tribunal ... ."

In respect of the questions of fairness, independence and impartiality the applicants submit that the Norwegian courts are established on the basis of Norwegian culture, values and way of life and thinking. Therefore they are not impartial when determining the rights of a national minority belonging to another culture and having another way of thinking and determining natural rights. Furthermore, they submit that the courts' independence is open to doubt, in particular when the Norwegian State is party to a conflict with a national minority.

The Commission recalls that the question whether a hearing conforms with the standard laid down by Article 6 para. 1 (Art. 6-1) of the Convention must be decided on the basis of the court proceedings as a whole and after they have been concluded. Furthermore the Commission recalls that the evaluation of evidence is a matter within the appreciation of the national courts which 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 them. This is not the case here. Indeed it appears that the Norwegian courts in their judgments made a thorough examination of the issue before them and that they reached their conclusions on the basis of what they considered to be domestic law and practice. The Commission finds that the reasons on which the courts based their judgments are sufficient to exclude the assumption that the evaluation of the evidence was unfair or arbitrary.

In determining whether a body can be considered to be an independent tribunal, i.e. independent in particular of the executive and of the parties to the case, regard must be had to the manner of appointment of its members and the duration of their term of office, the existence of regulations governing their removal or guarantee for their irremovability, laws prohibiting their being given instructions by the executive in their role as adjudicators, the existence of legal guarantees against outside pressures, the question whether the body presents an appearance of independence and the participation of members of the judiciary in the proceedings (cf. for example Eur. Court H.R., Campbell and Fell judgment of 28 June 1984, Series A no. 80, pp. 39-41, paras. 78-81 with further references).

As regards the question of impartiality the Commission recalls that the existence of impartiality for the purposes of Article 6 para. 1 (Art. 6-1) must be determined according to a subjective test, that is on the basis of the personal conviction of a particular judge in a given case, and also according to an objective test, that is ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect (see, for example, Eur. Court H.R., Piersack judgment of 1 October 1982, Series A no. 53, p. 14, para. 30).

When considering these elements in the circumstances of the present case, and in the light of the applicants' submissions, the Commission has not found any substantiated allegations which would merit a further examination of these aspects of Article 6 para. 1 (Art. 6-1) of the Convention.

The Commission therefore concludes that the applicants' allegations of a violation of the principles of fairness, independence and impartiality in this case are manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

b. Under Article 6 para. 1 (Art. 6-1) of the Convention the applicants also complain that their case was not determined within a reasonable time. They maintain that the proceedings commenced on 10 May 1977 when they submitted a request to the County Governor, asking him to grant them the right to reindeer herding in a specific area. These proceedings came to an end on 5 May 1989 when they were informed that the Appeals Selection Committee of the Supreme Court had refused leave to appeal. In particular the applicants submit that the period from 22 June 1979, when they lodged their complaint with the Ministry of Agriculture, until 29 July 1983, when the Ministry decided on the matter, is unreasonable and in violation of Article 6 para. 1 (Art. 6-1) of the Convention.

The Government do not dispute that "civil rights" within the meaning of Article 6 (Art. 6) of the Convention are at issue, but they maintain that the period to be assessed runs from 23 November 1984 when proceedings were instituted in the District Court until 19 April 1989 when leave to appeal was refused. They contend in particular that the prior decisions of the administrative authorities did not relate to the issue put before the courts for determination and it would not have been necessary to await the outcome of the administrative proceedings before bringing the present case before the courts.

The Commission recalls that the period to which Article 6

(Art. 6) is applicable in civil cases normally starts to run with the issuing of the writ commencing proceedings before the court to which the plaintiff submits the dispute. However, where such proceedings may only be instituted after a determination of the same dispute by an administrative authority the concept of "reasonable time" must be applied so as to include both the administrative and the court proceedings (cf. Eur. Court H.R., König judgment of 28 June 1978, Series A no. 27, p. 33, para. 98).

In the present case the Commission recalls that disputes between different sámi groups concerning reindeer herding and grazing rights had been pending before various authorities for decades. Eventually the question arose whether the Skolte sámis had an exclusive right to reindeer husbandry in a specific area, and the Commission finds it established that this was not a matter the administrative authorities had competence to decide upon. Indeed the County Governor referred the Skolte sámis to the courts already on 31 May 1979 and the view was subsequently upheld by the Ministry of Agriculture and the King in Council. The Commission furthermore finds that under domestic law the

applicants were not prevented from instituting court proceedings concerning the exclusive right to reindeer husbandry while other issues in this respect were pending before the administrative authorities.

In these circumstance the Commission finds that the period to the taken into consideration starts to run from 23 November 1984 when the applicants instituted proceedings in the District Court of Tana and Varanger. It ended on 5 May 1989 when the applicants were informed that the Appeals Selection Committee of the Supreme Court had refused leave to appeal. Accordingly, the proceedings lasted approximately 4 years and 6 months.

The Commission recalls that the reasonableness of the length of the proceedings must be assessed in the light of the particular circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the parties and the conduct of the authorities dealing with the case (see Eur. Court H.R., Vernillo judgment of 20 February 1991, Series A no. 198, p. 12, para. 30).

As regards the complexity of the case the Government submit that the issue in question had never been determined by a Norwegian court before and involved the application of the principle of immemorial usage which necessitated a study of historical and legal sources dating as far back as 1517. The applicants have not expressed themselves on this point.

The Commission recalls that various issues concerning reindeer husbandry in northern Norway had for years caused difficulties and many attempts to solve them had failed. The Commission considers that the particular issue before the courts was not less difficult and therefore accepts that it was of a complex nature.

As regards the conduct of the parties the Government submit that the length of the proceedings was mainly attributable to the applicants. These have not, however, expressed themselves on this point.

The Commission recalls that the proceedings in the District Court lasted from 23 November 1984 to 18 November 1985, i.e. approximately one year. The applicants did not during this period contribute to prolonging the proceedings.

The proceedings in the High Court lasted two years, nine months and eighteen days. The Commission recalls that during this period the applicants asked on several occasions for extensions of the time-limits for the submission of documents and failed to comply with others. Furthermore, they asked for a postponement of the main hearing two

weeks before the date it was scheduled in order to change counsel. In these circumstances the Commission finds that the applicants prolonged the proceedings in the High Court.

As regards the conduct of the judicial authorities the Government maintain that the proceedings do not disclose negligence or dilatoriness on the part of the courts. The applicants have not expressed themselves on this point.

The Commission has not overlooked that the District Court fixed the date for the hearing more than seven months in advance, and that the High Court spent from May to November 1987 on arranging a date for the hearing. However, although the Convention emphasises the importance of administering justice without delays which might jeopardise its effectiveness and credibility, the Commission is aware of the difficulties which sometimes delay the hearing of cases by national courts and which are due to a variety of factors which do not transpire from the documents of a case. Furthermore, the Commission notes that the judicial authorities, in particular the High Court, actively pursued the case by setting time-limits and by warning the parties as to the possibility of obtaining further postponements.

Having regard to this and to the fact that the proceedings comprised three court levels, the Commission finds that the total period of time was not so long as to warrant the conclusion that it was excessive. Consequently, this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicants also complain that their right guaranteed to them under Article 1 of Protocol No. 1 (P1-1) to the Convention has been violated. This provision reads as follows:

> "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."

In so far as the applicants complain that they have been deprived of their exclusive right to reindeer husbandry in the area in question the Commission recalls that the courts found that they had no such right. Furthermore, the Commission recalls that the applicants do indeed have a right - although not an exclusive one - to reindeer husbandry and it does not appear that this right has been interfered with or controlled in a way not acceptable under Article 1 para. 2 of Protocol No. 1 (P1-1-2) to the Convention.

It follows 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.

3. Under Article 14 (Art. 14) of the Convention the applicants complain that they have been discriminated against in the enjoyment of their rights under Article 6 (Art. 6) of the Convention and Article 1 of Protocol No. 1 (P1-1) to the Convention. They submit that they "are discriminated [against] in relation to other Laps and to the Norwegian population both because of their association with a national minority and because of their special traditional form of property".

The Commission has not, in its examination of this particular

complaint, found any substantiation in the applicants' allegations which would merit their further consideration. They do not disclose any appearance of a violation of the Convention or its Protocols. It follows 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.

4. Finally, the applicants complain, in their letter of 9 October 1991, that the restrictions on their right to keep reindeer violate Article 8 (Art. 8) of the Convention as reindeer husbandry is closely connected with their culture and way of living.

The Commission is not, however, required to decide whether or not the facts alleged by the applicants disclose any appearance of a violation of this provision, as Article 26 (Art. 26) of the Convention provides that the Commission "may only deal with the matter ... within a period of six months from the date on which the final decision was taken".

In the present case the decision of the Appeals Selection Committee of the Supreme Court, which was the final decision regarding the subject of this particular complaint, was sent to the applicants on 5 May 1989, whereas the complaint under Article 8 (Art. 8) of the Convention was submitted to the Commission on 9 October 1991, that is, more than six months later. 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.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Second Chamber — President of the Second Chamber

(K. ROGGE) — (S. TRECHSEL)