

THE FACTS

A. Whereas the following documents were before the Commission:

I. By letter of 3 May 1967 (1), the Permanent Representative of Greece to the Council of Europe informed the Secretary General of the Council of Europe as follows:

(1) Document 18.312 of the Council of Europe. The original French text of this letter is reproduced at Appendix I to the present decision.

"Acting on instructions from the Greek Government, and in accordance with Article 15, paragraph (3), of the European Convention on Human Rights, I have the honour to inform you that by Royal Decree No 280 of 21 April last, the application of Articles 5, 6, 8, 10, 11, 12, 14, 20, 95 and 97 of the Greek Constitution has been suspended in view of internal dangers which threaten public order and the security of the State.

I wish to point out that the suspension of the application of the aforementioned articles of the Greek Constitution does not prejudice paragraph (2) of Article 15 of the European Convention on Human Rights. It may be noted, Mr Secretary General, that as His Majesty the King of the Hellenes has emphasised, and as His Excellency, the Prime Minister has reiterated on many occasions, Greece will revert to normal political and parliamentary life as soon as circumstances will allow.

Greece will, of course, not fail to inform you, in accordance with paragraph (3) of Article 15, of the date when these exceptional measures cease to operate and the provisions of the European Convention on Human Rights are again being fully executed.

II. By letter of 25 May 1967, the Greek Permanent Representative transmitted to the Secretary General of the Council of Europe the texts of Royal Decree No 280 of 21 April 1967, and also of the articles of the Greek Constitution which had been suspended.

The text of Royal Decree No 280 (1) was as follows:

(1) Document No 18.804 of the Council of Europe, Annex 2. The French text received from the Greek Permanent Representative is reproduced at Appendix II to the present decision.

"Article 1

On the proposal of the Council of Ministers, we hereby bring into effect throughout the territory the Martial Law Act ... of 8 October 1912, as amended by Section 8 of Legislative Decree 4234/1962, by Act 2839/1941 and by the Legislative Decree of 9 - 11 November 1922.

Article 2

1. From the date of publication of this Decree we suspend throughout the territory the application of Articles 5, 6, 8, 10, 11, 12, 14, 20, 95 and 97 of the Constitution.

2. Military tribunals which are already in existence, military tribunals as may be set up as an extraordinary measure, and the competent military authorities shall exercise the jurisdiction provided for by Act ..., as amended, and, in particular, in accordance with the decisions of the Minister of National Defence.

Article 3

Cases pending before the Criminal Courts shall not be transmitted to the Military Tribunals, unless the Military Judicial Authority sees fit to request transmission thereof.

Article 4

This Decree shall enter into force as from the date of its publication in the Official Gazette."

IV. The provisions of the Constitution of Greece (1) which were suspended by Article 2, paragraph 1, of the above Decree, state as follows:

(1) As reproduced in Annex A of the Netherlands' Application of 27 September 1967. The French text received from the Greek Permanent Representative is reproduced at Appendix III to the present decision.

"Article 5

With the exception of persons taken in the act of committing an offence, no one shall be arrested or imprisoned without a judicial warrant stating the reasons which must be served at the moment of arrest or imprisonment pending trial. Any person taken in the act or arrested on the basis of a warrant of arrest shall without delay be brought before the competent examining magistrate within 24 hours of his arrest at the latest, or, if the arrest was made beyond the seat of the examining magistrate, within the time absolutely necessary for his conveyance. Within at the most 3 days from such appearance, the examining magistrate must either release the person arrested or deliver a warrant for his imprisonment. This time limit shall be extended for up to 5 days at the request of the person arrested or in the event of force majeure, which shall be certified forthwith by a decision of the competent judicial council. Should both these time limits expire without such action, every jailer or other officer, civil or military, charged with the detention of the person arrested shall release him forthwith. Transgressors of the above provisions shall be punished for illegal confinement and shall be obliged to make good any loss sustained by the injured party and further to give satisfaction to said party by such sum of money as the law provides. The maximum term of imprisonment pending trial, as well as the conditions under which the State shall indemnify persons unjustly imprisoned pending trial or sentenced, shall be determined by law.

Article 6

In the case of political offenses, the court of misdemeanours may always, on the request of the person detailed, allow his release on bail fixed by a judicial order, which shall admit of appeal.

In the case of such offenses, imprisonment pending trial shall under no circumstances be extended beyond 3 months.

Interpretation Clause

The introduction in the future of general or special laws abolishing or restricting the term of imprisonment pending trial or rendering release on bail mandatory for the judge is by no means precluded. It is further understood that the maximum term of 3 months set in the second paragraph for imprisonment pending trial shall include the duration of both the entire investigation and the procedure before the judicial councils prior to the final hearing.

Article 8

No person shall be withdrawn without his consent from the jurisdiction of his lawful judge. The establishment of judicial committees and extraordinary courts under any name whatsoever is prohibited.

Article 10

Greeks have the right to assemble peaceably and unarmed. The police may be present only at public gatherings. Open air assemblies may be prohibited if danger to public security is imminent therefrom.

Article 11

Greeks have the right of association, with due adherence to the laws

of the State which, however, shall under no circumstances render this right subject to previous permission of the government. As association shall not be dissolved for violation of the law except by judicial decision. The right of association in the case of civil servants and employees of semi-governmental agencies and organisations may by law be submitted to certain restrictions. Strikes of civil servants and employees of semi-governmental agencies and organisations are prohibited.

Article 12

Each man's house is inviolable. No house searches shall be made except when and as the law directs. Offenders against these provisions shall be punished for abuse of authority and shall be obliged to indemnify fully the injured party and further to give satisfaction to said party by such sum of money as the law provides.

Article 14

Any person may publish his opinion orally, in writing or in print with due adherence to the laws of the State. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed matter, either before or after publication, is likewise prohibited. By exception, seizure after publication is permitted (a) because of insult to the Christian religion or indecent publications manifestly offending public decency, in the cases provided by law, (b) because of insult to the person of the King, the successor to the Throne, their wives or their offspring, (c) if the contents of the publication, according to the terms of the law, are of such a nature as to (1) disclose movements of the armed forces of military significance or fortifications of the country, (2) be manifestly rebellious or directed against the territorial integrity of the nation or constitute an instigation to commit a crime of high treason; but in these cases, the public prosecutor must, within 24 hours from the seizure, submit the case to the judicial council which, within a further 24 hours, must decide whether the seizure shall be maintained or withdrawn, otherwise the seizure shall be ipso jure lifted. Only the publisher of the item seized shall be allowed to appeal against the judicial order. After at least 3 convictions of a press offence which admits of seizure, the court shall order the permanent or temporary suspension of issue of the publication and, in grave cases, shall also prohibit the exercise of the profession of journalist by the person convicted. Such suspension or prohibition shall commence from the time that the court decision becomes final. No person whatsoever shall be permitted to use the title of a suspended newspaper for 10 years from the date of the permanent suspension thereof. Press offenses shall be deemed offenses whose author is taken in the act.

Only Greek citizens who have not been deprived of their civic rights shall be allowed to publish newspapers.

The manner of rectifying through the press erroneous publications as well as the preconditions and qualifications for exercising the profession of journalist shall be determined by law.

Enforcement by law of special repressive measures directed against literature dangerous to the morals of youth shall be permitted.

The provisions on the protection of the press contained in the present article shall not be applicable to motion pictures, public shows, phonograph records, broadcasting and other similar means of conveying speech or of representation. Both the publisher of the newspaper and the author of a reprehensible publication relating to one's private life shall, in addition to being subject to the penalty imposed according to the terms of the penal law, also be civilly and jointly liable to redress fully any loss suffered by the injured party and to indemnify him by a sum of money as provided by law.

Article 20

The secrecy of letters and correspondence by any other medium whatsoever shall be completely inviolable.

Article 95

Trial by jury shall be given to criminal and political offenses as well as offenses of the press, whenever such offenses do not concern one's private life, and to any other offenses which may by law be made liable to trial by jury. For the trial of the said offenses of the press, mixed courts may be established by law composed of regular judges and jurors, the latter constituting the majority. Criminal offenses which have thus far been brought within the jurisdiction of the Courts of Appeal by special laws and resolutions shall continue to be tried by such courts provided they are not by law again made liable to trial by jury.

Article 97

The details regarding courts martial of the army, navy and air force, piracy, barratry and prize courts shall be regulated by special laws. Civilians may not be brought under the jurisdiction of courts martial of the army, navy or air force except for punishable acts affecting the security of the armed forces."

V. On 19 September 1967, the Permanent Representative of Greece addressed the following letter (1) to the Secretary General of the Council of Europe:

(1) Document D 20.330 of the Council of Europe. The original French text of this letter is reproduced at Appendix IV to the present decision.

"On 3 May 1967, I had the honour to write to you, in accordance with Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms, informing you that the Greek Government had suspended the application of certain provisions of the Greek Constitution and had in consequence found it necessary to take measures derogating from certain of the obligations laid down in the said Convention in view of dangers which threatened public order, the security of the State and the life of the nation.

The purpose of this letter, Mr Secretary General, is to provide you, insofar as considerations of State security permit at this stage, and in the spirit of Article 15 of the Convention, with certain details regarding the public emergency which threatened the life of the nation.

At the same time, and in the same spirit, I explain hereunder that the measures taken are strictly limited to what was made absolutely necessary by the situation which prevailed in Greece prior to 21 April 1967.

I. Starting in July 1965, a situation had been created in Greece which was manifestly directed towards the abolition of all the institutions of the political system and regime, bringing my country to the brink of anarchy.

By way of example I mention the following:

- a. The anarchist demonstrations in July 1965, in which cars were set on fire, barricades erected in the streets, and houses under construction burnt down in the centre of Athens.
- b. The daily strikes, fomented for political reasons unrelated to the interests of the working class, which were paralysing the country's economic life. The demonstrations leading to yet more serious incidents, as for example the violent clashes between groups of farmers and the police in Salonica, and those between the forces of law and order and building workers who had infiltrated as agitators into student demonstrations.
- c. The political scene was dominated by the activities of the Centre Union and EDA parties. While the EDA affected to be a political group

independent of the Greek Communist Party (banned in Greece under a law passed following the communist armed insurrection), Mr Iliopoulos, an EDA Member of Parliament and member of the Executive Committee of that party, admitted during the party's congress in 1966 that the EDA was simply a substitute for the Communist party in Greece and faithfully followed the latter's line. Another EDA leader, Emmanuel Glezos, stated unequivocally at the party's 6th Congress that the aim of the EDA was to seize power. Identical statements were made by Kalliyannis, a member of the Steering Committee of the Greek Communist Party, and by the notorious communist Fillinis, whose declaration was published in the periodical "The Greek Left". In it he spoke explicitly of revolution and threatened to seize power by force. An article on exactly the same lines was published by the well-known communist Stringos.

d. The Centre Union Party aligned its policy on what constituted the basis of the EDA policy.

This comes through clearly from the anarchist speeches against the regime which Mr Georges Papandreou and Mr André Papandreou made repeatedly both in Parliament and elsewhere. The latter had no compunction in saying that, should the elections result in deadlock, a government would be formed in "place of the Constitution" without respect to the relevant constitutional provisions. In other words, here was a politician contemplating bloodshed among Greek citizens who might disagree on politics.

e. The attempt by the ASPIDA organisation to infiltrate and undermine the armed forces of the country. This plot was brought before the courts and resulted, well before the revolution of 21 April 1967, in the conviction of 15 officers and the committal by the examining magistrate of M A Papandreou for trial on charges of secret and subversive activities.

f. The contempt of the Centre Union and the EDA for the lawful Government of the country and their instigation of mass anarchist demonstrations.

The parties in question, along with foreign communists and leftist sympathizers, sought to exploit the "Marathon peace march" to assert their power and incite the masses to take part in anarchist demonstrations, so creating conditions of mob rule in the country. The Communist paper AVGI, despite the fact that the Government had forbidden the march, on 8 April 1967, called on all its supporters to take part in the 5th "Marathon march". Then there are the distinctly subversive and anarchist articles which were published daily in the same paper.

On 23 April 1967, the leader of the Centre Union Party proposed to visit Salonica on the occasion of a political meeting. Mr G Papandreou intended, with the help of EDA supporters, to foment disorder and bloodshed, thus officially consecrating the popular front which had already been formed by the Centre Union and the EDA. It has been established that shock brigades of the extreme Left and its most aggressive leaders had foregathered at Salonica a week before the date of the meeting. It has likewise been established that these shock brigades, after listening to an incendiary speech from Mr G Papandreou, were going to try to overthrow the authority of the State by seizing the headquarters of the Governor of Northern Greece, the headquarters of the 3rd Army Corps (which covers Greece's northern frontier) and other public buildings.

On 6 April 1967, the Centre and the Left, in accordance with a preconcerted plan, tried to use the students in order to occupy the University of Salonica. This was meant as a dress rehearsal for future application of the plan on a wider scale. Similar incidents occurred 6 days later, that is on 11 April 1967, within the precincts of the same University, where the idea of the State's authority was thoroughly

trampled under foot.

The next day, on 12 April 1967, 3,000 building workers, under the instigation of Centre Union agitators, tried to seize the centre of Athens. Two hundred people, including 51 police officers, were injured in the violent clashes which ensued.

The facts mentioned above are only a few samples of the perils which threatened the life of the nation. The list is far from being exhaustive. Our Permanent Delegation is at your disposal to supply further particulars.

II. The revolution of 21 April 1967 has never dissembled its anti-communist nature and its determination to rid the Greek nation of the imminent danger which threatened it.

Consequent on the revolution, application of certain provisions of the Constitution was suspended and the Delta-Xi-Theta law "on the proclamation of a state of emergency" was put into effect.

Thus the Greek Government found itself obliged to exercise its right as a Contracting Party under Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms to derogate from certain of the provisions of that Convention.

It is to be noted that the suspended articles of the Constitution are unconnected with the provisions of Article 15, paragraph (2), of the said Convention.

In this connection I wish to emphasise that not only has there been no deviation from Article 2 of the Convention, but nobody has been deprived of his life in Greece since 21 April 1967 and nobody has been subjected to torture. This is clear from statements to the Press by MM G Papandreou, A Papandreou and Mikis Theodorakis, and from photographs published at the time and recently.

Temporary suspension of constitutional provisions relating to personal rights and freedoms is an inherent feature of any revolution; nevertheless, in this instance, and in view of the situation which had to be met, it constitutes an elementary measure to obviate the danger of the country's fundamental institutions being overthrown. At all events, the Government has endeavoured to limit the measures taken as much as possible, confining itself in the main to the arrest and removal of a number of communists so as to neutralise any attempted reaction on their part. The conditions of their detention, moreover, are decent.

Lastly, I would ask you to note that three-quarters of those originally arrested were set free as soon as they had given an undertaking not to engage in activities against the lawful authorities of the country. As regards the Press, I wish to state that the foreign Press in general - which is nevertheless unsparing in its accusations against the Greek Government - enjoys complete freedom of circulation in Greece.

I would also add that correspondence of every kind is free from censorship, except that of persons under arrest."

B. Whereas the arguments of the Parties may be summarised as follows:

I. In their identical Applications of 20 September 1967, the Applicant Governments of Denmark, Norway and Sweden referred to the change of Government which had taken place in Greece on 21 April 1967, and submitted that the above suspension, for an indefinite period of time, of certain provisions of the Constitution relating to human rights and fundamental freedoms in Greece affected correspondingly the following provisions of the Convention: Article 5, guaranteeing the right to personal liberty and security; Article 6, guaranteeing the right to

fair trial by independent and impartial tribunals in criminal as well as civil cases; Article 8, guaranteeing the right to respect for a person's private and family life, his home and his correspondence; Article 9, guaranteeing the right to freedom of thought, conscience and religion; Article 10, guaranteeing the right to freedom of expression; Article 11, guaranteeing the right to the freedoms of peaceful assembly and association; Article 13, guaranteeing the right to an effective remedy against violations of the above-mentioned rights and freedoms; Article 14, providing safeguards to the effect that such rights and freedoms shall be enjoyed without discrimination on any ground including that of a person's political opinion.

It was also pointed out that parliamentary elections, which should have taken place on 29 May 1967, had been cancelled by the new Greek Government.

The Applicant Governments of Denmark, Norway and Sweden further referred to various official and unofficial statements which, in the opinion of these Governments, showed the grave situation in Greece with regard to human rights and fundamental freedoms. In particular, they stated that political parties and ordinary political activities had been prohibited and that a state of siege was maintained upholding court martials and similar extraordinary courts; that thousands of persons had been imprisoned for a long period without being brought before a competent legal authority and many persons sentenced by court martial or extraordinary penal commissions for their political opinion; that the rights to assemble or to associate freely with others had been abolished as was demonstrated by the criminal charges and resultant harsh sentences in certain cases; that the right to freedom of expression had been suppressed as was illustrated by an order of the Army Chief of Staff of 14 June 1967; lastly, that censorship had been applied to the press and private communications.

The Applicant Governments of Denmark, Norway and Sweden alleged that the Government of Greece had, by the above legislative and administrative measures, violated Articles 5, 6, 8, 9, 10, 11, 13 and 14 of the Convention. They reserved the right to extend their Applications to other provisions of the Convention should subsequent information so require.

The Applicant Governments of Denmark, Norway and Sweden also referred to Resolution 346 (1967) of 23 June 1967, by the Consultative Assembly of the Council of Europe in which the Assembly expressed "its grave concern at the present situation in Greece and at the many serious reported violations on human rights and fundamental freedoms" and also expressed the wish that "The Governments of the Contracting Parties to the European Convention on Human Rights refer the Greek case either separately or jointly to the European Commission of Human Rights in accordance with Article 24 of the Convention".

With regard to the notice of derogation given by the Greek Government under Article 15 of the Convention, the Applicant Governments of Denmark, Norway and Sweden submitted that the Respondent Government had failed to show that the strict requirements of this provision were satisfied, namely that the measures concerned were taken "in time of war or other public emergency threatening the life of the nation" and were "strictly required by the exigencies of the situation". The intent of Article 15 could not possibly be to grant to any state the right to derogate by a stroke of the pen from all basic human rights and fundamental freedoms as was done by the Greek Government in the present situation and for an unspecified period of time. Reference was also made in this connection to the terms of Articles 17 and 18 of the Convention. Finally, it was alleged that the Respondent Government had not fulfilled its obligations under Article 15, paragraph (3), of the Convention to keep the Secretary General of the Council of Europe "fully informed of the measures it has taken and the reasons therefor".

The Applicant Governments of Denmark, Norway and Sweden concluded in their written Applications that the legislative and administrative measures complained of were incompatible with the Convention regardless of any individual or specific injury. They further submitted that the provisions of Article 26 of the Convention concerning the exhaustion of domestic remedies did not apply to the present case and referred, in this respect, to the Commission's decision on the admissibility of Application No 176/56 (*Greece v. United Kingdom*, see Yearbook of the European Convention on Human Rights, Volume 2, pages 182, 184).

II. The submissions made by the Applicant Government of the Netherlands in its Application of 27 September 1967, corresponded in substance to the above statements of the Applicant Governments of Denmark, Norway and Sweden.

III. In its observations of 16 December 1967, on the admissibility of the Applications, the Respondent Government contested the competence of the Commission in the present case. It argued that any right of control by the Commission presupposed a legal Government constituted according to the Constitution. The present Greek Government, however, was the product of a revolution. Admittedly a revolutionary government was bound by the international obligations entered into by its predecessors. But the actions by which it maintained itself in power, and which were also the original objects of the revolution, could not logically be subject to the control of the Commission, any more than the reasons justifying the revolution.

The Respondent Government submitted that, in most cases, a revolutionary government would find itself obliged to suspend temporarily, if not all, the rights protected by the Convention, at least the greater part of them. Generally speaking, a revolution created such a disturbance in the life of a State that it seemed meaningless to try to assess the actions of a revolutionary government by the same criteria as would be applicable in normal circumstances or in the case of a simple public emergency threatening the life of the nation within the meaning of Article 15. Any control exercised by the Commission would be equivalent, in the last resort, to an expression of approval or disapproval of the revolution itself. Clearly, this would no longer be "control" in the proper sense of the term but would constitute an interference in a State's internal affairs.

The Respondent Government also referred to the first Cyprus case (Application No 176/56 - *Greece v. United Kingdom*) and to the case of *Lawless against Ireland* (Application No 332/57). It pointed out that the Governments cited before the Commission in those cases were legally constituted Governments. Furthermore, the Commission, when applying Article 15 of the Convention, had recognised the right of those Governments to enjoy a "margin of appreciation" in deciding whether or not a public emergency existed that did in fact threaten the life of the nation and what, if any, exceptional measures were required. In the *Lawless Case*, a member of the Commission had remarked that a government was the best placed to decide what measures should be taken to deal with an emergency. In the opinion of the Respondent Government this observation, which concerned a constitutional Government, applied a fortiori to a Government that had come to power through a revolution.

The Respondent Government, while not itself wishing to comment on a situation in a friendly and allied country, further referred in this connection to the attitude of the Consultative Assembly in regard to the serious events following the revolution in Turkey on 27 May 1960. The former Prime Minister, Mr Menderes, the President of the Republic, Mr Bayar, and the great majority of the Ministers and Members of Parliament belonging to the Democratic Party had been arrested and a purge carried out in the Army and the universities. Fifteen persons, including Bayar, Menderes and Zorlou, were sentenced to death, 31 persons to penal servitude for life and 56 to periods of imprisonment of up to 15 years; 23 persons were acquitted.

The Consultative Assembly of the Council of Europe, however, merely stated its concern as to the arrest and treatment of the Turkish Parliamentarians who had sat in the Assembly. It expressly recognised that it had no right to interfere in Turkish domestic politics and the various statements by members of the Assembly showed that this body intended to do nothing which might offend the Turkish Government.

The Respondent Government also submitted that the failure of the Applicant Governments to bring a case against the Turkish Government under Article 24 of the Convention showed that they realised that they had no right to seize the Commission of a matter which would involve the control of the measures taken by a revolutionary government.

In this letter of 16 December 1967, transmitting the Respondent Government's above observations to the Commission's Secretary, the Permanent Representative of Greece made certain further comments, requesting that they be put before the Commission. In particular, he referred to the letters of 21 September, 27 September and 3 October 1967, respectively, from the Governments of Iceland, Belgium and Luxembourg to the Secretary General of the Council of Europe. In these letters the above Governments stated that they supported, without formally associating themselves with this move, the Applications lodged with the Commission by the Governments of Denmark, Norway, Sweden and the Netherlands.

The Permanent Representative also quoted point 8 of the Consultative Assembly's Resolution 351 (1967) of 26 September 1967, according to which the Assembly "holds itself ready to make a declaration at the appropriate time on the possibility of the suspension of Greece from, or her right to remain a Member of, the Council of Europe". He submitted that the resolution, as well as certain statements made by the Rapporteur of the Assembly's Legal Committee, constituted an anticipated condemnation of Greece by the Assembly. This was bound to influence the Commission unfavourably and seriously to affect its independence in the examination of the present case. It would, apart from any other reason, justify the Respondent Government's refusal to submit its actions to the control of the Commission.

IV. At the hearing before the Commission on 23 and 24 January 1968, the acting Agent of the Respondent Government stated that, as already indicated in his letter of 20 January 1968, his Government did not wish to add anything to the written observations previously submitted.

V. The Applicant Governments generally developed the substance of their written submissions. Further, in reply to the Greek Government's arguments, they contended that the Commission was competent to examine the Applications and that the present Greek Government, even if a revolutionary Government was clearly bound by the whole Convention.

The Applicant Governments cited the generally recognised principle of international law that successor governments were required to perform the obligations undertaken on behalf of the state by their predecessors. The rule *pacta sunt servanda* continued to apply even where the new government had come to power in a manner unforeseen in the constitution and it was valid both for recognised and for unrecognised governments. Reference was made in this connection to the writings of Professors Castberg, Castrén, Kelsen, Lauterpacht, O'Connell and Schwarzenberger.

The Applicant Governments concluded that the present Greek Government was bound by the whole Convention of Human Rights to which Greece had been a Party since 1953. It followed that the Commission was competent, under Articles 19 and 24 of the Convention, to examine the Applications. Such examination would not concern the justification or otherwise of the Greek revolution but would relate to the question whether legislative measures and administrative practices of the new

Greek Government were compatible with the Convention. In this connection, it was clear that the Greek Government considered itself bound by the Convention at the time as it had itself invoked Article 15 in its above communications of 3 May and 19 September 1967, to the Secretary General of the Council of Europe. The Applicant Governments submitted that it would be for the Commission, when dealing with the merits of the Applications and not before, to state an opinion as to whether or not the measures and practices complained of were justified under Article 15.

The Applicant Governments further argued that it was irrelevant to the present proceedings that no Application under Article 24 of the Convention had been brought against the Turkish Government following the Turkish revolution of 1960. They equally considered that the Commission was in no way bound or influenced by the action, or lack of action, on the part of the Consultative Assembly of the Council of Europe in the Turkish case, on the one hand, and, on the other hand, in the present case of Greece which, in any event, was different from the Turkish case.

At the hearing before the Commission the Applicant Governments also referred to certain alleged facts and pieces of information which might raise issues under provisions of the Convention and the Protocol which had not been invoked in their written Applications of 20 and 27 September 1968. In reply to a question by the Acting President of the Commission as to the exact scope of their pleadings, the Agent of the Norwegian Government, on behalf of the 4 Applicant Governments, made the following declaration:

"In ... the Scandinavian Applications express reservations to this effect have been made in the following words:

'Reservation is made for a possible later extension of the allegation with regard to other provisions of the Convention.'

For the present state of the proceedings, namely the question of admissibility, it is sufficient for our purpose to refer to Articles 5, 6, 8, 9, 10, 11, 13, 14 and 15, paragraphs (1) and (3), of the Convention. These provisions have all been mentioned in the Applications. When the distinguished Agent for the Government of Sweden and when I as Agent for the Government of Norway mentioned additional Articles as well, it was with a view to further indicating the seriousness of the problems with which we are faced in regard to the situation in Greece, and to stress the importance of having our Applications declared admissible so as to have all facets and aspects of the case examined on their merits in accordance with the provisions of the Convention.

Our present pleadings have been confined to the question of admissibility of our Applications, and what we now ask for is to have our Applications as they stand declared as admissible."

THE LAW

As to the competence of the Commission

Whereas the present Applications were brought under Article 24 (Art. 24) of the Convention which states that any High Contracting Party may refer to the Commission any alleged breach of the Convention by another High Contracting Party; whereas it is not disputed that Denmark, Norway, Sweden and the Netherlands, whose Governments introduced the present Applications, are Parties to the Convention; and whereas Greece ratified the Convention on 28 March 1953;

Whereas the Respondent Government submits that the Commission is not competent to examine the Applications because they concern the actions of a revolutionary Government; whereas the Government does not contest,

however, that it is bound by the international obligations entered into by its predecessor Governments; whereas, in particular, it does not suggest that, following the change of Government on 21 April 1967, Greece has ceased to be a Party to the Convention;

Whereas, nevertheless, in the view of the Respondent Government, the Commission is not competent under the Convention to control the acts of a revolutionary government and, particularly, has no right to examine the situation in relation to Article 15 (Art. 15) of the Convention; whereas the Respondent Government suggests that the Commission, in considering these Applications, would inevitably be bound to review the revolutionary origin of the Government and that such review would be outside the Commission's competence; whereas the Respondent Government submits that the above interpretation of the Convention is supported by the attitude adopted by the Contracting Parties, as well as by the Consultative Assembly of the Council of Europe, in the case of the Turkish revolution of 1960;

Whereas the submissions relating to Article 15 (Art. 15) of the Convention will be dealt with later in the present decision;

Whereas the Commission was established under Article 19 (Art. 19) of the Convention with the task to ensure, together with the Court, the observance of the engagements undertaken by the High Contracting Parties in the Convention; whereas the Assembly has no such functions under the Convention; whereas it follows that its action, or lack of action, in one case cannot be relevant before the Commission in proceedings instituted under the Convention in another case; whereas it is clear, therefore, that the Commission's competence in respect of the present Applications cannot be considered in relation to the attitude adopted by the Consultative Assembly in 1960 and 1961 with regard to the Turkish revolution;

Whereas it is further to be observed that the failure of a Contracting Party to make an application under Article 24 (Art. 24) of the Convention in one case does not preclude its right to seize the Commission of another case in accordance with this Article; whereas, in this connection, it is again quite irrelevant whether or not the cases concerned are in fact comparable; whereas, consequently, the Commission's competence in respect of the present Applications again cannot be considered in relation to the attitude adopted by the Contracting Parties in the case of the Turkish revolution of 1960;

Whereas, finally, there is no other basis, either in international law in general or under the terms of the Convention in particular, which could support the Respondent Government's thesis that the Commission cannot examine its acts as being those of a revolutionary Government;

Whereas, on the contrary, it is clear from Article 15 (Art. 15) of the Convention, read together with Articles 19, 24 and 25 (Art. 19, 24, 25), that the Commission is competent to examine the acts of governments also in political situations of an extraordinary character, such as after a revolution;

Whereas, indeed, as stated by the Commission's Principal Delegate before the Court in the Lawless Case, it is often "in times of disturbance and danger which may well have their source in political tension" that the most fundamental guarantees of the Convention assume their greatest importance (Lawless Case, ECHR, Series B, 1960 - 61, page 395); whereas, consequently, the Respondent Government's above objection to the competence of the Commission must be rejected as unfounded;

Whereas the Commission has also noted an observation made by the Greek Permanent Representative in his letter of 16 December 1967;

Whereas in that letter the Representative submitted that the

Consultative Assembly's Resolution 351 (1967) of 26 September 1967 constituted an anticipated condemnation of Greece which was bound to influence the Commission unfavourably and seriously to affect its independence;

Whereas, in this respect, the Commission recalls that the Consultative Assembly has no competence to deal with applications alleging violations of the Convention; whereas it is also clear that the Commission, in the exercise of its functions under Article 19 (Art. 19) of the Convention, is limited to a consideration of the substance of the case-file before it and thus acts in complete independence as regards any outside body;

Whereas, furthermore and in particular, there is no basis for the suggestion that, in the carrying out of its task, the Commission might be subject to influence as a result of any declarations of the Assembly;

Whereas it follows that the above submission of the Greek Permanent Representative is equally unfounded;

As to other questions of admissibility

Whereas the Commission has examined *ex officio* whether there are any other grounds for declaring the present Applications inadmissible; Whereas, in determining the question of admissibility, the provisions of Article 26 and Article 27, paragraph (3) (Art. 26, 27-3), of the Convention concerning the exhaustion of domestic remedies according to the generally recognised rules of international law do not apply to the present Applications, the object of which is to determine the compatibility with the Convention of legislative measures and administrative practices in Greece;

Whereas, in this respect, the Commission refers to its decision, given in the first Cyprus Case, on the admissibility of Application No 176/56 (Yearbook, Volume 1, pages 182, 184);

Whereas the provisions of Article 27, paragraphs (1) and (2) (Art. 27-1, 27-2), of the Convention refer only to petitions submitted under Article 25 (Art. 25) and not to applications made by Governments and are therefore inapplicable to the present case;

Whereas, in particular, an application under Article 24 (Art. 24) cannot be rejected in accordance with paragraph (2) of Article 27 (Art. 27-2) as being manifestly ill-founded; whereas it follows that the question whether such an application is well-founded or not is solely a question relating to the merits of the case; whereas, therefore, the effects of derogations made by the Government of Greece under Article 15 (Art. 15) of the Convention cannot be considered at the present stage of admissibility (see Application No 176/56 *loc cit*); whereas, consequently, the Commission is bound to reserve for an examination of the merits of this case the question whether the legislative measures and administrative practices in Greece, which form the subject of the present Applications, were or are justified under Article 15 (Art. 15);

Whereas no other ground for declaring the Applications inadmissible has been found;

As to the reservation made by the Applicant Governments

Whereas the Commission has noted the declaration by the Applicant Governments reserving their right to extend their original allegations should new information so require; and whereas it reserves itself the right to decide on the admissibility of any subsequent extension of the original Applications;

Now therefore the Commission

Declares admissible:

1. the Application of the Government of Denmark of 20 September 1967;
2. the Application of the Government of Norway of 20 September 1967;
3. the Application of the Government of Sweden of 20 September 1967;
4. the Application of the Government of the Netherlands
of 27 September 1967.