THE FACTS

Whereas the facts presented by the parties may be summarised as follows:

The Applicant is a Norwegian dentist, born in 1934 and living in Sandejord. His Application was presented by Mr. Johan Hjort, barrister practising at the Supreme Court of Norway.

The facts as represented from the pleadings of the parties appear to be as follows:

1. On 28th July 1949, a Law providing for a public dental service was enacted. For the purpose of implementing this Act the country was divided into districts. In each district there was to be a district dentist responsible to a regional dentist who would be the head of the public dental service in his particular region. It was realised at the time when the Law was enacted that it would be difficult to fill all the positions of district dentists which were to be established, especially in northern Norway.

In 1950, the Ministry for Social Affairs raised the question of increasing the supply of dentists for the public dental service. It was proposed that students admitted to the Norwegian Dental College as well as those studying abroad, were to be required, on beginning their studies, to make a statement in which they undertook, on completing their studies, to work for a period not exceeding two years in the public dental service in any district to which they were assigned by the Ministry. This scheme was brought into effect in 1951 and, in 1954, a Royal Decree was published which amended accordingly the regulations for admission to the Norwegian Dental College.

In 1955, however, some doubt was expressed in student quarters about the legal force of the undertakings which they had been required to make and, on 2nd March 1956, the students graduating that year wrote to the Ministry for Social Affairs stating, inter alia, that they considered themselves legally justified in breaking the agreement. This led to the passing, on 21st June 1956, of a provisional Act relating to obligatory public dental service for dentists. The text of this Act was as follows:

"Provisional Act of 21st June, 1956,

Relating to Obligatory Public Service for Dentists.

Paragraph 1. Persons who in 1955 or later have passed the examination in dentistry in this Kingdom, or have obtained approval of a foreign examination in dentistry giving it the same effect as the Norwegian examination in dentistry pursuant to Act of 8th July 1949, may, on the basis of a decision of the Ministry for Social Affairs, be required for a period of up to 2 years to take a position in public dental service which, though having been advertised, remains vacant.

Unless the dentist concerned agrees to some other arrangement, the assignment shall be given in such a manner that the service can be commenced at latest 3 months after the conclusion of his academic studies or after the termination of such military service as is immediately subsequent to his examination, - or - if the dentist has passed his examination in 1955 - at latest 3 months after this Act enters into force. Assignments may not be made for service which extends beyond 30th June 1963.

Paragraph 2. By public dental service is understood:
1. municipal dental care for schools,
2. Public Dental Service according to the provisions of the Act of 28th July 1949,

3. municipal dental care for children and young people, being respectively below and above the age of obligatory school attendance.

Paragraph 3. For service under paragraph 1. the dentist is entitled to the remuneration which is stipulated for the position to which the assignment applies. The dentist is moreover entitled to a refund of reasonable travelling expenses in connection with his assumption of the post assigned, and for the return journey to his place of ordinary residence. The State is responsible for payment and can claim reimbursement by the county or municipality concerned. The King may issue further regulations concerning the calculation and fixing of the remuneration, etc. under the second paragraph.

Paragraph 4. Contravention of an assignment issued under the authority of this Act is punishable by fine, or by imprisonment up to 3 months.

Paragraph 5. This Act enters into force immediately."

The Government's Bill was introduced by Parliament on 16th March 1956 and was strongly opposed by the Opposition.

However, the Act was passed by Parliament by the majority vote of the Government Party after some members of the Opposition had argued that the Act introduced a compulsory direction of labour and was, therefore, contrary to the Norwegian Constitution and to Article 4 of the Convention. These arguments were rejected by the Government which maintained that this direction of labour was necessary to implement a public dental service.

2. The Act was applied to the Applicant in the following circumstances:

He passed his matriculation examination in 1953 and then applied for admission to the Norwegian Dental College. Alternatively, he asked the Dental College to arrange for him to be sent to one of the foreign universities whose degrees were recognised as equivalent to Norwegian degrees. His application was refused on the ground that the marks he obtained for the entrance examination were not adequate. It was recommended to him that he should sit once more for the matriculation examination with a view to improving his marks but, nevertheless, the Applicant went to Germany on his own initiative and passed a dental examination at the Medical Academy of Düsseldorf in 1957.

An examination diploma from that Academy is recognised in Norway as equivalent to a Norwegian degree and, indeed, the Applicant studied in Düsseldorf together with a number of Norwegian students who had been sent there by the Norwegian Dental College. Since the Applicant started his studies at his own expense, without assistance from the Norwegian Agency for Student Loans, he was not required to give any undertaking to serve in the public dental service after the completion of his studies, nor has he later made any such statement. In fact, such written declarations have been discontinued in 1956 after the promulgation of the Provisional Act.

On his return to Norway, the Applicant, whose first petition for admission into the Norwegian Dental College had been rejected in 1957 while his second had been accepted in 1958, attended a supplementary course at the College which is compulsory for all candidates with a foreign diploma. He passed the test at this course in September 1958 and then carried out his military service until December 1959 as a military dentist. Towards the end of his service he received from the Ministry for Social Affairs a list of vacancies in the public dental service and was asked to indicate the post or posts for which he wanted to apply.

On 2nd November 1959 the Applicant sent a letter to the Ministry for Social Affairs in which he applied for a position in the public dental service in southern Norway but, on 4th December 1959, he was informed

that his application could not be considered and that he would be directed to take over the positions of dentist in the Moskenes district in the region of Nordland. Since he had performed his military service in northern Norway the period of his compulsory assignment was limited to one year and on 7th December 1959 the Applicant applied in vain for a reduction of that period. At a meeting with representatives of the Ministry for Social Affairs, on 14th December 1959, he accepted this post for the period envisaged by the Ministry and took over the position in Moskenes on 11th January 1960. However, he gave up his work on 20th May 1960 and left, having in a letter of 21st March 1960 informed the Ministry for Social Affairs of his intention to do so.

Criminal proceedings were subsequently instituted against the Applicant by writ issued by the Chief of Police of Sandefjord on 3rd November 1960. By decision of the Sandefjord Town Court of 20th February 1961, the Applicant was ordered to pay a penalty of kr. 2,000, or, alternatively, to serve a prison sentence of 30 days for violation of the Provisional Act of 21st June 1956.

The Applicant appealed against this judgment to the Supreme Court by notice of appeal dated 28th February 1961. He submitted:

1) that the Provisional Act of 21st June 1956 was invalid as being contrary to the Constitution;
2) that the Act was invalid as it was contrary to the European Convention for the Protection of Human Rights; and
3) that the Act was only intended to apply to students who, before commencing their studies, has made a statement undertaking for a period of not more than two years after the completion of their studies, to serve in the public dental service; and that the Act did not therefore apply to him who had made no such statement.

By decision of the Supreme Court of 16th December 1961 the Applicant's appeal was dismissed. Of the five members of the Supreme Court, three judges held that none of the three objections could be accepted while the other two members of the Court held that objection 3) was valid and that the Applicant should be acquitted. These two judges felt that there was no need to express an opinion on the two other submissions made by the Applicant.

The majority finding of the Court, as pronounced by Justice Hiorthöy, held as follows:

"Defending Counsel's attack on constitutional grounds, on the general validity of the Provisional Act of 21st June 1956 regarding civilian service for dentists is, I think, clearly ill-founded. I do not entirely rule out the possibility that courts may, in extreme cases, find a Law to be inapplicable because it is contrary to certain general principles of law of a constitutional nature, even if it does not violate any definite provision in the Constitution. But it goes without saying that it would take a good deal for a Law, enacted by Parliament (Stortinget) and approved by the King, to be ruled out in this way as being contrary to the spirit and principles of the Constitution. In view of the history and background of the above-mentioned Law, the manner in which it is applied and the restrictions as to time governing both the Law and the orders of assignments which are based on it, it seems to me quite clear that the Law cannot be ruled out on such grounds.
The position is much the same as regards the claim that the Law is invalid, as being contrary to Article 4 of the European Convention of 4th November 1950 for the Protection of Human Rights and Fundamental Freedoms. There is little doubt to my mind that the Convention's stipulation that no one shall be required to perform forced or compulsory labour cannot be reasonably interpreted as applying to the obligations of a public nature arising in the present case. The work in question is of short duration, well-paid, based on the professional qualifications of the person concerned and in immediate continuation

of his completed studies. Even if, at the time, such service is, as may occur in many cases, contrary to the interests of the individual concerned, it is clear to me that it cannot be regarded as an infringement, let alone a violation, of Human Rights. As, therefore, I do not find that there is any conflict between the Convention and the Norwegian Law in question, there is no need for me to go into the question as to which should be given preference in the event of a conflict."

The Applicant has paid the fine imposed upon him.

The allegations of the Applicant

3. Whereas the Applicant's counsel submits that the Act and the order assigning the Applicant to the dental district of Moskenes are contrary to Article 4 of the Convention. His particular submissions in support of this allegation are set out below (paragraphs 6 - 9). He further alleges that Articles 8 and 11 of the Convention have been infringed (paragraph 10).

The claims of the Applicant

4. Whereas, in his letter of 8th June 1962, the Applicant's counsel claims "that the Provisional Act of June 21st, 1956 is invalid as being contrary to Article 4 of the Convention. It follows that the order of the Ministry for Social Affairs directing him to take over the position of district dentist in Moskenes is invalid and that the judgment passed on him by the national courts cannot be enforced."

In his Reply of 1st March 1963 the Applicant's counsel, admitting that his above claims were perhaps misleading, restated his claims to the effect that the Commission, after an examination of the Application

a) should state its opinion that the Provisional Act of 1956, as applied to the Applicant by order of the Ministry, is contrary to Article 4 of the Convention;

b) should make such proposals as it sees fit in accordance with Article 31 of the Convention. He added that the Commission was called upon to decide "the general issue whether or not the Act itself was contrary to the provisions of the Convention".

The submissions of the Parties

5. Whereas the submissions of the Parties may be summarised as follows:

The Respondent Government, in its observations of 7th January 1963, its Reply of 1st June 1963 and its oral submissions on 30th and 31st October 1963 raised the following four objections to the admissibility of the Application:

a. that the Application had been lodged out of time and should be rejected in accordance with Article 27, paragraph (3), of the Convention, for non-observance of the six months' rule laid down in Article 26 (see paragraph 6).

b. that the Application was incompatible with the provisions of the Convention and should be rejected in accordance with Article 27, paragraph (2), of the Convention (see paragraph 7).

c. that the Application was an abuse of the right of petition under Article 25 of the Convention and should be rejected in accordance with Article 27, paragraph (2), of the Convention (see paragraph 8).

d. that the Application was manifestly ill-founded and should be rejected in accordance with Article 27, paragraph (2), of the Convention (see paragraph 51).

6. As regards the contention that the Applicant did not observe the six months' time-limit laid down in Article 26 of the Convention

The Respondent Government, in its observations of 7th January 1963, submitted that the final decision in the criminal proceedings against the Applicant was given by the Supreme Court of Norway on 16th December 1961. Accordingly the six months' time-limit prescribed in Article 26 expired on 16th June 1962. The Application was dated 8th June 1962 but was received and registered by the Secretariat of the Commission on 18th June. Rule 48 of the Rules of Procedure of the Commission stated that, for the purpose of determining any time-limits, the date of the filing of the pleadings with the Secretariat General should alone be taken into consideration. Consequently the Commission could not and did not deal with the matter within the six months' time-limit laid down in Article 26 of the Convention.

The Applicant's Counsel, in his observations of 1st March 1963, agreed that the time-limit expired on 16th June 1962. The Application was dated 8th June 1962, however, and was acknowledged by letter dated 12th June 1962 from the Secretary to the Commission. The application form, which was itself not a necessary document since it might be replaced by equivalent documents, was dated 16th June. This was acknowledged by a letter of 20th June stating that it had been registered on 18th June. The time-limit was pointed out to the Secretary to the Commission who wrote confirming that the effective date of the filing of the Application was 8th June 1962.

7. As regards the contention that the Application is incompatible with the provisions of the Convention

The Respondent Government stated in its observations of 7th January 1963, its Reply of 1st June 1963 and during the oral hearing, that the Application contained three submissions namely:

1. that the Commission was requested to declare the Provisional Act of June 1956 invalid;

2. that the Commission was requested to declare invalid the order of the Ministry of Social Affairs directing the Applicant to take over the position of district dentist in Moskenes;

3. that the Commission was requested to declare that the judgment of the national court could not be enforced.

It submitted that all three claims were incompatible with the provision of the Convention for the following reasons:

As to 1. The Commission had no competence, either under the Convention or under any general principle of international law, to declare invalid an Act duly passed by the Norwegian Legislative authority. The Supreme Court of Norway decided on 16th December 1961 that the Act was valid and the Commission could in no sense act as a further Court of Appeal.

As to 2. The Commission had no competence to declare on the validity of orders or decisions given by the proper Norwegian administrative authorities. The validity of such orders was also in this case confirmed by decisions of the Sandefjord Town Court and of the Supreme Court and the Commission had no appellate jurisdiction in regard to such orders.

As to 3. The Commission had no competence to decide on the question of the enforcement of a valid decision by the Supreme Court of Norway.

The Government submitted that the Applicant had amended his claims in his counter-observations of 1st March 1963 and that the Convention does not provide for such "re-writing" of an application, particularly when

it is to the benefit of the Applicant and prejudicial to the Government. The Commission, in view of Article 27, paragraph (2), of the Convention, may only consider the petition ("requête") itself. It was further submitted that the Applicant's two new claims were irreconcilable with the provisions of the Convention. These new claims were moreover inadmissible as having been introduced more than six months after the final decision (Article 26 of the Convention). The Commission was not competent to pronounce itself on any "general issues" and the proceedings should be confined to this particular Application which should be considered on the basis of the original petition and not on the claims as later amended. The Commission was not competent to examine the Provisional Act of 1956 in abstracto but only to deal with the circumstances of this particular case (compare Commission's decision in Application Number 290/57).

The Applicant's Counsel, in his counter-observations of 1st March 1963, his rejoinder of 15th July 1963 and during the oral hearing, submitted that the Norwegian Government had accepted the authority of the Commission in accordance with Article 31 of the Convention to state its opinion upon Norwegian law, administrative practices and judicial decisions. It followed that the organs constituted under that international agreement would be entitled to deliver opinions on national enactments and administrative or judicial practices, even if not expressly invested with such powers.

The Applicant's Counsel contested the Government's suggestion that he had rewritten his petition. The issue raised was still the same, namely, whether or not Article 4 of the Convention had been infringed. The objections made by the Government were purely formalistic. There was no material difference between the wording in the Application and in the counter-observations.

In order to decide whether or not a violation of Article 4 had been committed in regard to the Applicant, the Commission had necessarily to look at the Provisional Act and to determine whether or not its provisions complied with the requirements of the Convention. The logical way of approaching the issue raised was first to decide on the compatibility of the Act which was thus the "general issue" and then to look at the individual aspects of the Applicant's case. This method could not be considered an examination in abstracto of the Application as alleged by the Government.

8. As regards the contention that the Application was an abuse of the right of petition

The Respondent Government, in its observations of 7th January 1963, in its Reply of 1st June 1963 and during the oral hearing, submitted that the Application was abusive as, although it was absolutely clear that the Applicant had to bear the full burden of proof, he had relied upon loose and unsubstantiated accusations, leaving it to the Government of Norway to produce all the basic documents in the dispute.

It was further abusive in the sense that the Commission should not be used as a forum for domestic politics. Since Norway was a democracy, in the enactment of almost all laws some divergence of opinion would be manifest in Parliament as well as in the Press. The present enactments were passed in a democratic manner and were purely a matter of domestic politics. The Applicant clearly broke his agreement of 14th December 1959 with the Ministry for Social Affairs for purposes of domestic politics and in this respect the Government referred to the Applicant's letter of 21st March 1960 to the Ministry for Social Affairs in which he alleged that the Act of 1956 was an attempt to "socialise" the profession of dentistry. This allegation was entirely incorrect, as was his statement that the Bill of the 1956 Act was fought by a united Opposition on the basis of its being contrary to the Convention.

The Commission was not competent to decide upon questions raised on such grounds. The behaviour of the Applicant could not be looked upon as acts of good faith deserving protection under the Convention.

The Applicant's Counsel, in his counter-observations of 1st March 1963 and in his preliminary and final rejoinders respectively of 15th July and 29th August 1963, submitted that the question of burden of proof was not important in this case. Clearly he had the burden of proof of his case but the Government had the burden of proof in regard to its contention that the 1956 Act was within the limits of Article 4 of the Convention.

Since the Provisional Act had, a long time previously, been promulgated and prolonged, it was not a question of raising domestic political issues in the Commission.

The question of burden of proof was at this stage of theoretical interest only. The Applicant had made out a prima facie case that a breach of the Convention had occurred. The burden of proof was then shifted so that the Respondent Government would have to prove that the measures taken were not contrary to the Convention. In order to decide this issue, it was obviously necessary for the Commission to evaluate the general issue as to whether or not the Provisional Act of 1956 was compatible with Article 4 of the Convention.

In reply to the allegation that the Applicant had launched "loose and unsubstantiated accusations against a responsible Government" is was pointed out: that a unanimous opposition had fought the Provisional Act in the Storing on the ground that it was against the Convention; that two justices of the Supreme Court had been of the opinion that the Provisional Act could not be invoked against the Applicant; that the Dentists' Association and the whole Federation of Academic Professions had taken steps before the Courts against the compulsory measures; and that the Applicant had brought a specific case before the Commission.

During the oral hearing, Applicant's counsel further submitted that all cases before the Commission had domestic or political aspects and the Commission could not be debarred from looking into issues of domestic policy if it was properly to accomplish its task of protecting human rights. The contentions of the Government were, in this respect, very dangerous for the competence of the Commission in general and, if successful, would render the Commission impotent.

9. As regards the contention that the Application is manifestly ill-founded
a. as regards the question whether or not the service required from the Applicant is "forced or compulsory labour" within the meaning of Article 4, paragraph (2), of the Convention

The Respondent Government, in its observations of 7th January 1963, its Reply of 1st June 1963 and during the oral hearing, submitted that the Applicant had not been subjected to "forced or compulsory labour". It was pointed out that this term should be given a reasonable and working interpretation so as not to prevent a democratic government from enacting measures necessary for extending social benefit to its citizens.

The Respondent Government submitted that, as regards the general background of the case, the Commission should take into account the particular circumstances prevailing in Norway at the time when Parliament passed the Act of 1956.

When trying to give to its citizens all modern social benefits, the Government was faced with exceptional geographical problems. The country was situated in the same latitudes as Greenland, Labrador and Alaska, one-third of it lying north of the Arctic circle. It was barren and mountainous, the coast heavily indented with fjords and fringed by

150,000 islands. Only 4 % of the surface was cultivable. The Act of 1956 was aimed at helping, inter alia, the northern provinces which, though comprising 30 % of the territory, were inhabited by only 10 % of the population, approximately 4 persons per km².

While the southern parts of the country benefited from adequate social service, the outlying districts had a deplorable lack of such facilities which seriously affected the social and health conditions of these communities. It was pointed out that in 1946 there was in Oslo one dentist per 650 inhabitants whereas in the provinces of Finmark, Froms and Nordland the ratio was one dentist per 13,000, 6,000 and 5,500 inhabitants respectively. Moreover, adequate dental care was rendered even more difficult by the enormous distances, the difficulties of communication and the arctic weather conditions prevailing during the winter months.

The Acts of 1949 and 1956 were an attempt to overcome these difficulties by making dental care available to the populations of these isolated districts and they should be considered in the light of their humanitarian and social purpose.

The Respondent Government, by the Act of 1949, made provision for free dental treatment for children and young people and for treatment at stipulated fees for others, the dentists employed in the Public Dental Service being public officials. It was, however, found difficult to fill vacant posts as district dentists in the northern areas of the country. To fill the posts created by the 1949 Act, two special measures were introduced:

1. From 1951 the authorities gave permission for qualified students to study dentistry at approved foreign Universities.

2. Students studying at home or abroad were required to accept and sign declarations undertaking to serve for a period of up to two years after final examinations as dentists in a public dental clinic.

As in the present case, students studying abroad without the authorization of the Norwegian authorities were required to sign the declaration form before being admitted to the supplementary courses to obtain licentia practicandi in Norway.

These undertakings only amounted to 'gentlemen's agreements' and from representations made in March 1956, it appeared that the students became aware that the agreements were not legally tenable and that they were legally justified in breaking them. They also stated that they would not comply with any administrative posting under this Agreement.

The letters written by the students in 1956 did not merely contain a refusal by the students to sit on a committee for the distribution of vacant positions in the Public Dental Service but also contained statements from the students that they did not consider themselves contractually bound. A group of 23 students refused to co-operate at all. If the original declarations were considered not binding it was doubtful whether new ones would remedy this, although the students had apparently changed their attitude. Also, new declarations by the 1956 graduates would not bind those graduating prior to or after 1956.

In order to protect the whole programme of the dental welfare service which was threatened by the unco-operative attitude of the students but which had the support of the population of northern Norway, a temporary Act was passed on 21st June 1956 providing for obligatory service for not more than two years by dental students after passing their final examination. This period was reduced to 1 1/2 years by the Act of 28th June 1962. Under Section 4 of the Act of 1956, violation of its provisions was a misdemeanour subject to fine or imprisonment of a maximum of 3 months.

The purely social and humanitarian aspects of this enactment must of themselves be sufficient for the evaluation of the question as to whether or not the Government had acted in conformity with its obligations under the Convention. The Norwegian legislature deemed the Act to be both necessary and reasonable and the Commission had neither the competence nor the necessary facts available to overrule the Government's discretion in this respect.

The Respondent Government then dealt with the allegations regarding particular provisions of the Convention. As to the interpretation of Article 4, the Government submitted that this provision was designed in the light of Nazi excesses and Soviet ideology. Neither the "travaux préparatoires" to the Convention nor previous anti-slavery instruments and "B" mandate agreements defined "forced labour". They did not distinguish between "forced" and "compulsory" labour, nor did the 1926 Slavery Convention or the ILO Conventions of 1930 and 1957. The background of these Conventions, which were dealing with conditions in colonies and other dependent territories, shows that "forced labour" was regarded as not far from "slavery". It was not correct, as alleged by the Applicant, that "compulsory labour" had a wider or different scope than "forced labour".

Paragraph (2) of Article 4, which deals with "forced labour" must be viewed in its context and read in connection with paragraph (1), which deals with slavery and servitude. It was obvious that the Provisional Act of 1956 had imposed upon the Applicant neither slavery nor servitude. The Government had introduced the Act of 1956 in its struggle to improve the lot of the population, as it considered it to be, within reasonable limits, part of the fundamental human rights of the population of Western democracies that they should have a minimum of medical facilities available such as doctors, dentists and hospitals. Article 4 could not allow untimely interference with the necessary and natural functioning of a democratic society and institutions and the obstruction of measures of social importance.

Viewed in its historic context, it was obvious that the Article envisaged the suppression of concentration and labour camps and was never meant to apply to reasonable steps taken by democratic governments to solve pressing humanitarian and social needs.

The Government could not accept the objection that it could only resort to compulsory measures if it was evident that it could not achieve its legitimate ends by other means. The underlying exceptional circumstances must weigh heavily for the decision of the question pending before the Commission, particularly when these facts were of a humanitarian character. In any event, it was not for one individual to decide whether or not the Provisional Act of 1956 was necessary. The Norwegian Parliament and Government promulgated the Act because they deemed it necessary and expedient and it was held to be valid and binding on the Applicant by the Norwegian Courts.

The Government also contested that it had a duty to show that it was impossible to achieve the aims of the Public Dental Service Act of 1949 without resorting to compulsory measures.

The burden of proof was on the Applicant in respect of his allegation that sufficient inducements of pecuniary or other character to attract voluntary personnel had not been used. In any case, this allegation was entirely incorrect. The salary paid to a young and inexperienced dentist was very high and even considered by some to be out of proportion.

The Government did not agree with the Applicant that Article 4 prohibited 3 sorts of measures:

a. slavery or servitude,
b. forced labour,

c. compulsory labour.

The splitting up of this provision was immaterial to the correct interpretation of Article 4 but it must be divided into either 4 or 2 categories, if at all.

As expressly stated in Article 4, provision is made for 2 main categories of violations:

(1) 4, paragraph (1) - slavery or servitude
(2) 4, paragraph (2) - forced or compulsory labour.

Article 4 could not be interpreted as restricting every kind of compulsion in modern society and must therefore be subject to reasonable interpretations as are specifically provided for in other Articles of the Convention.

The ILO Conventions of 1930 and 1957 were of a certain importance for the interpretation of Article 4. Article 2, paragraph (1), of the former contained the following definition of the term "forced or compulsory labour": "... all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". It should not be overlooked, however, that this definition was given for a specific set of problems, namely, the forced labour of nations in colonial or dependent territories and that it was not adopted in the 1957 Convention nor in any other international instrument.

The jurisprudence of the ILO bodies was also important for determining the scope of Article 4. It was clear that reasonable sanctions for a breach of contract could not be contrary to the Convention on Human Rights. The Greek legislation of 1960 regarding the medical service had the same object as the Norwegian Act of 1956 and was also far from being a violation of the Convention. Criticisms by ILO of various systems of direction of labour in the Eastern European countries were based on facts which differed greatly from the Norwegian Act of 1956, in particular, as to the ideology behind these systems, namely, a general channelling of labour, and the exaggerated, often indefinite, length of the compulsion to work.

The ILO had no objection to the practice that certain work was required as a condition for admission to universities for scholarships of for state-financed studies, or as a condition for the exercise of a profession. If any such scheme had been operative in Norway, the Applicant would have been faced with the same obligation as he now had according to the Provisional Act of 1956 and would have had no standing before the Commission. The conclusion to be drawn from the ILO practices was that the Act of 1956 could in no way be condemned as introducing measures which amounted to forced or compulsory labour.

Article 4, paragraph (2) itself was couched in general terms and an exhaustive definition of the term "forced or compulsory labour" was not possible. The Government submitted that the following factors had bearing on the interpretation of the term "forced and compulsory labour":

1. the scope and purpose of the Act of 29th June 1956;

2. the temporary and provisional character of these legislative measures imposed conditions in no way analogous to conditions of slavery;

3. the duration of the service;

4. the remuneration and social status in which respect the Government pointed out that the salary paid was considerably over average incomes for dentists in southern Norway;

5. the fact that the service was within one's own profession and in immediate connection with graduation or completion of military service;

6. the nature of the sanctions involved for violation of the Act, in particular, the lightness of the penal sanction and the fact that the Applicant in the present case was neither imprisoned nor forced to return to Moskenes, nor deprived of his right to practise as a dentist in the future; and

7. the voluntary or contractual aspects of the present case.

It was also important to consider that the Ministry always endeavoured to take individual considerations into account when posting young dentists as was shown by the reduction of the Applicant's service from two years to one year.

Too broad an interpretation of the Article would make it apply also to career diplomats and officers in the armed forces who were transferred against their wills. Such interpretation was clearly unreasonable but these examples did not differ in any way from the Applicant's case.

The Government then returned to the particular facts of the present case and pointed out that the Applicant knew of the effect of the 1949 and 1956 Acts and voluntarily entered into an agreement with the competent authorities. By his conversations with officials in the Ministry for Social Affairs and his consent to being posted in Moskenes the relationship between the Applicant and the Ministry had assumed a contractual nature which excluded any application of Article 4 of the Convention. In this respect, the Government submitted that the Applicant applied for the supplementary courses in Norway 1 1/2 - 2 years after the promulgation of the Provisional Act of June 1956. He knew of the consequences of his application and did not question his obligation to comply with the request of the Ministry for Social Affairs. It had been stressed repeatedly in official notifications that those students going abroad to study could not expect to obtain a licentia practicandi. Nevertheless, the Applicant applied for admission to these courses, though he was in no way obliged to do so. Furthermore, in December 1959 the Applicant concluded an agreement with the competent Ministry to the effect that he should take over the position as a dentist in Moskenes which he did on 11th January 1960. This agreement, entered into voluntarily by him, was wilfully broken by him four months later. It was not usual to reduce the period to one year and this had been done in only a few cases. The Applicant thanked the Ministry "for handsome treatment".

In the light of his application for the supplementary courses, his application for licentia practicandi and his agreement with the Ministry, it was not possible to pretend that the service required from the Applicant could be termed "forced or compulsory labour" within the meaning of Article 4, paragraph (2), of the Convention. In this respect, reference was made to the Supreme Court's decision of 16th December 1961.

The Applicant's Counsel, in his counter-observations his rejoinder and during the oral hearing, submitted that the service required from the Applicant constituted "compulsory labour" within the meaning of Article 4 of the Convention.

The conditions in northern Norway might call for a special solution but it did not follow that they justified compulsory measures. The Government could only resort to such measures if it was evident that it could not achieve its legitimate ends by other means and it had a duty to show that it would be impossible otherwise to achieve the aims of the Public Dental Service Act, 1949. The Applicant challenged the suggestion that it would entail "heavy financial implications for the State Budget" to carry out the scheme by means of economic inducement

to dentists to fill the vacant posts. It was not the duty of a small group of dentists to shoulder the burden for the whole nation.

It was true that the 1949 Act was passed unanimously, but this might not have been so had it been thought that it would be necessary to resort to compulsory labour. It was wrong to use the unanimity vote in 1949 on the Public Dental Service as an argument to justify the later compulsory measures provided for in the Act of 1956. As to the background of the Act of 1956, it was submitted that students were required as from 1951 to sign a declaration to work in the Public Dental Service as a condition for admission to the Dental College, but it was doubtful whether the authorities had legal power to enforce these declarations. This was remedied by the Decree of 1954.

In 1955 the odontological students did not claim that the Decree of 1954 was illegal but that the above condition could not be imposed before the Decree came into force.

The letter from the graduating students dated 2nd March 1956 gave the impression of a threat. Examination of the letter did not, however, reveal a refusal to fulfil the obligations undertaken in the declarations but only unwillingness to serve on a committee set up to allocate the vacant posts. The attitude of the students did not make legislation necessary. It was a misunderstanding that 23 students refused to co-operate. The Government could have counted on the co-operation of all, or practically all, of the odontological students but it refused to try and find a voluntary solution to the problem. The new declarations given in exchange for a withdrawal of the Draft Bill would have been enforceable as contracts.

It was stated that the Government had asserted that the Act was only intended to apply to students who had, at the commencement of their studies, stated that they would serve up to two years, after completing their studies, in the public dental service. It would therefore not be unreasonable in its effects, since it did not impose obligations which had not been accepted by the students when they began their studies.

It was submitted that, as maintained by certain parliamentarians during the debate in 1956, the Act of 1956 was unnecessary. This aspect was relevant in considering if that Act was a breach of the Convention.

It could not be accepted that the social and humanitarian aspects of the enactment were sufficient for the appreciation of the question whether the Government had acted in conformity with its obligations under the Convention or not. It was wrong to assume that an idealistic goal was decisive in the issue whether or not a State was acting within the obligations of the Convention. The ends could not justify the means. The order to post the Applicant to Moskenes should be considered in relation to Article 4 of the Convention and not solely to the motives behind the measures taken. Neither the period of service nor the pay was relevant to the case since it was not a question of the degree of hardship but the fact that the service was compulsory.

As to the interpretation of Article 4, the Applicant submitted that this provision, taken as a whole, prohibited three different kinds of infringement on the individual's liberty, namely:

a) slavery or servitude,
b) forced labour,
c) compulsory labour.

It was wrong to equate b) with c).

Clearly, "compulsory labour" covered a wider field than "forced labour". This was evident from the French and German terms: "travail obligatoire" and "Pflichtarbeit" have wider scope than "travail forcé" and "Zwangsarbeit".

The events during and after World War II were important in ascertaining the immediate motives of the Convention but it was incorrect to maintain that the intention only was to prevent future inhumanities comparable with war crimes. The preparatory works on the Convention showed clearly the intention of establishing a much wider scope than merely to prevent outright criminal acts.

It was to describe only one side of the picture to say that Article 4 of the Convention "was not meant to ... allow untimely interference with the necessary and natural functioning of democratic societies". The other aspect was the side of the individual. It was clear that the individual and the State would often hold different opinions as to what "the necessary and natural functioning" of society demanded in terms of individual sacrifice. To strike a balance, paragraph (3) of Article (4) of the Convention had been adopted and a compulsory measure must come under one of its four heads. It was not open to doubt that paragraph (2) was applicable in the present case. By a "sensible and reasonable interpretation" no other result could be arrived at. The protection of the individual should not give way to the convenience of the State.

The fundamental right of a minimum of facilities was irrelevant to the issue; these social services had nothing to do with the fundamental human rights as defined in the Convention. It was more relevant to ask if these measures could only be rendered through compulsory measures and, if this was the case, were these measures contrary to the Convention?

The Applicant could not accept the contention that his comparison with career diplomats and regular officers was valid since the latter accepted transfers as a normal part of their chosen professions. It was a different matter to force a small number of people in a special profession into the temporary employment of the State and direct them to take up work at places against their own wishes. This was a clear case of compulsion.

The Applicant submitted that the ILO Conventions and the European Convention must be interpreted along the same lines. It was true that the 1930 Convention mainly aimed at suppressing forced labour in overseas colonial territories but it was obvious that the protection should not be less effective in respect of the populations of more civilised and advanced countries. The provisions of the 1930 Convention proved that the liberty of the individual was considered more important than the speeding up of the economic development of a territory. The definition of "forced or compulsory labour" in Article 2, paragraph (1), of the 1930 Convention was highly relevant to the present case.

The Applicant concluded that the 1956 Act would have been considered contrary to the ILO Conventions if it had been submitted to the ILO bodies for examination.

The specification under the headings (a) to (c) of Article 1 of the ILO Convention of 1957 gave a broad illustration of what was considered as "forced or compulsory labour". It showed clearly that these terms could not be given a narrow and restrictive interpretation. In particular, heading (b), which suppressed forced or compulsory labour "as a method of mobilising and using labour for purposes of economic development", was important in the present case. The public dental service was a special aspect of a broad economic development. The Applicant referred in particular to certain practices in the Eastern European countries which had been criticised by ILO authorities and which showed a certain similarity to the Norwegian Act of 1956.

Concerning the factors enumerated by the Government as having bearing on the interpretation of the term "forced or compulsory labour", the Applicant made the following observations:

re 1. Purpose of the Act: - The Government had not shown that the Act was necessary in order that society would function in a reasonable and natural manner.

re 2. Temporary character of the measures: - The Act was promulgated in 1956 and prolonged until 1966. Ten years was a long period and this was also the expert opinion of the organisation of dentists which had protested.

re 3. Duration of the obligatory service: - Two years (now 18 months) was a considerable hardship but the duration was of no relevance in respect of Article 4 of the Convention.

re 4. The remuneration and social status: - It was an exaggeration to say that dentists performing obligatory service were among the highest paid officials, also that they achieved high and advanced positions in the Norwegian Health Service. Remuneration, however, had no bearing on the question of whether or not the compulsory service was within the scope of the Convention.

re 5. The service was within the Applicant's chosen profession and in immediate connection with graduation: - It was misleading to compare the compulsory service demanded in the present case with other kinds of service which students of various kinds must undertake as part of their education. In these cases the students could decide for themselves whether or not they would accept the different postings and thereby complete their education.

re 6. The nature of the sanctions involved: - This was only of importance in the appreciation of the degree of hardship and was irrelevant to the principle involved.

The "contractual aspects" of the case, which were stressed by the Respondent Government, were not relevant: First, they had no bearing on the fundamental issue of the case, i.e. whether or not the 1956 Act was contrary to the Convention. Secondly, the term 'agreement' was misleading since the Applicant was faced with an order directing him to Moskenes. It was a necessary element in a contract that both parties had freedom of action. The Applicant, however, knew that he was under the threat of a criminal prosecution. The fact that he accepted this alternative did not make his behaviour a breach of contract. It was also contested that, by applying for the supplementary courses at the Norwegian Dental College, he had entered into a contractual relation with the Government. The Applicant could not know that the Act of 1956 applied to him. Indeed, the dissenting minority in the Supreme Court was of the opinion that it did not. The fact that the Applicant applied for certain posts in the Public Dental Service was also irrelevant since appointment to one of these posts would have had as it bases a voluntary agreement. He did not get one of these posts, however, but was sent to Moskenes by a compulsory order.

Furthermore, the "contractual" point of view now taken by the Respondent Government had not been argued by the prosecution in the national courts. The Government had not sued the Applicant for breach of contract but he had been charged with a violation of the Act of 1956 and the prosecution had chosen to defend the Act on its merits. The Government should not be entitled to use arguments before the Commission which had not been used before the national courts.

It had not been a special favour to the Applicant to reduce his service to one year and to give him the position as a Class A dentist. The reduction to one year was the usual practice in difficult districts and the choice of class was left to the dentist himself.

b. As regards the question of the applicability of Article 4, paragraph (3), sub-paragraph (c), of the Convention - "any service exacted in

case of an emergency or calamity threatening the life or well-being of the community"

The Respondent Government, during the oral hearing, submitted as a subsidiary argument and without prejudice to its main conclusion, that no violation of Article 4, paragraph (2), had occurred. It submitted that, if a rigid and strict interpretation were given to paragraph (2), the exceptions in paragraph (3) should correspondingly be given a wider interpretation in order to make the Article as a whole reasonable and workable. In respect of sub-paragraph (c), the Government emphasised the extraordinary geographical conditions of northern Norway.

The Applicant's Counsel submitted that there was no emergency in the provinces of northern Norway which could justify a compulsory direction of dentists to posts which had not been filled on a voluntary basis, and that the situation did not amount to a threat to the life or well-being of these communities. He referred to the ILO Convention of 1930, which in its Article 2, paragraph (2), sub-paragraph (d) gave examples of what could be termed cases of emergency, namely, war, fire, flood, famine, earthquake and epidemic diseases. Public dental care could not be considered to fall within any of these categories. Furthermore, the term "emergency" could not be construed so as to apply to an Act which had been in force for more than seven years and would remain in force for yet three more years. The exception for emergencies envisaged only short-termed situations of extraordinary nature, quite different from the one existing in northern Norway.

c. As regards the question of the applicability of Article 4, paragraph (3), sub-paragraph (d), of the Convention - "any work or service which forms part of normal civic obligations"

The Respondent Government, in its observations of 7th January 1963, its Reply and during the oral hearing, submitted without prejudice to its main conclusion, that it was a part of "normal civic obligations" for a young dentist to serve in the public dental service and, in any event, for the Applicant to fulfill the agreement which he entered into with the Ministry for Social Affairs, to serve one year as a district dentist in Moskenes.

The Applicant's Counsel submitted that the compulsory service imposed upon dentists was not a part of the general civic obligations of all nationals but affected only a very limited group of people. The Act of 1956 was clearly not covered by paragraph (3), sub-paragraph (d). Two conditions inherent in this clause were that the service must be "normal" that was part of the usual and ordinary obligations in the State, and must be a "civic obligation", that was to say, the kind of work or service which could be asked on an equal basis from all or a substantial part of the citizens. Neither of these conditions was fulfilled.

10. As regards the alleged violations of Articles 8 and 11 of the Convention

As regards the alleged violations of Articles 8 and 11 of the Convention

The Respondent Government made no submissions in respect of these alleged violations.

The Applicant's Counsel, in his rejoinder and during the oral hearing, submitted that the compulsory direction of dentists to posts in which they did not wish to serve would amount to an unwarranted interference with their rights to respect for private and family life under Article 8 and with their freedom of association under Article 11. He referred, in respect of the latter issue, to the ILO Conventions Numbers 87 and 98 concerning the Freedom of Association and the Right to Bargain Collectively.

THE LAW

As regards the contention that the Applicant did not observe the six months' time-limit laid down in Article 26 (Art. 26) of the Convention

Whereas Article 26 (Art. 26) provides that "the Commission may only deal with a matter ... within a period of six months from the date on which the final decision was taken"; whereas the decision of the Supreme Court, which was the final decision in this case, was given on 16th December 1961;

Whereas, in regard to this Application, the first letter sent by the Applicant's counsel to the Secretary of the Commission was dated 8th June 1962; whereas this letter arrived at the Council of Europe on 12th June 1962;

Whereas the Respondent Government has submitted that the date of the filing of this Application should be considered as 18th June 1962, being the date on which the Application was entered in the special register provided for in Rule 13 of the Commission's Rules of Procedure; whereas, in this connection, the Government has referred to Rule 48, paragraph (2), of the Rules of Procedure which provides as follows: "... For the purpose of determining any time-limit, the date of the filing of the pleading with the Secretariat-General of the Council of Europe shall alone be taken into consideration";

Whereas it is necessary to distinguish in the introduction of an Application between its deposit with the Secretariat-General and its registration by the Commission; and whereas, if Rule 48, paragraph (2) is applicable to the introduction of an Application, it is clear, particularly from the French text, that the date of its deposit is at the latest the date of its acknowledged arrival in the Secretariat-General; and whereas, since the Application in the present case was dated 8th June and arrived in the Secretariat-General on 12th June, the time limit required by Article 26 (Art. 26) was observed;

Whereas, consequently, the Commission unanimously rejects this first objection made by the Respondent Government as to the admissibility of the present Application.

As regards the contention that the Application is incompatible with the provisions of the Convention

Whereas the Respondent Government has contended that the Application is incompatible with the provisions of the Convention in that the Applicant, in his application form, claims a form of redress which is outside the competence of the Commission; whereas it was further submitted by the Government that the claims as "re-written" by the Applicant in his counter-observations of 1st March 1963 also fell outside the scope of the competence of the Commission;

Whereas it is true that the Convention does not confer upon the Commission any competence to declare invalid an Act passed by a national parliament, or to declare invalid an administrative order issued by a competent national authority or to give a decision that a judgment of a national court cannot be enforced;

Whereas, however, in his application form, the Applicant, in unequivocal terms, made the allegation that the Provisional Act of 1956, as applied to the Applicant, violates Article 4 (Art. 4) of the Convention; whereas he has thus clearly indicated the legal basis of his Application and left no doubt as to the issue of which he seized the Commission in pursuance of Article 25 (Art. 25) of the Convention, so that the precise form in which he summarised his claims may be disregarded;

Whereas, in respect of the "amendments" to the claims contained in the Applicant's counter-observations of 1st March 1963, the Commission finds that he has not amended the substance of the Application in a manner which amounts to a "re-writing" of the Application; whereas the text of these counter-observations make it clear that the basic issue raised by the Applicant was still the conformity of the application to himself of the Provisional Act of 1956 with Article 4 (Art. 4) of the Convention;

Whereas, therefore, the Commission has competence to examine and pronounce upon the allegations contained in the Application;

Whereas, consequently, the Commission unanimously rejects this second objection made by the Respondent Government as to the admissibility of the present Application.

As regards the contention that the Application was an abuse of the right of petition

Whereas the Respondent Government has contended that the Application was abusive on the grounds that it was designed to make use of the Commission as a forum for domestic politics and that it relied upon loose and unsubstantiated accusations;

Whereas, in respect of the first submission, the Commission refers to its decision on the admissibility of Application Number 332/57 (Lawless v. Ireland - Yearbook II, page 308 [338] in which it held as follows:

"Whereas the fact that the Applicant was inspired by motives of publicity and political propaganda, even if established, would not by itself necessarily have the consequence that the Application was an abuse of the right of petition"; whereas the Commission has taken into consideration the undisputed fact that the present case raises issues which caused considerable political interest in Norway; whereas, nevertheless, the Commission does not find it established that the Applicant has unduly emphasised the political aspect of his case in the present proceedings;

Whereas, in respect of the second submission, the Commission finds that the allegations made by the Applicant were sufficiently clear and substantiated as to permit the Commission to pronounce upon the issues raised;

Whereas, therefore, the present Application does not constitute an abuse of the right of petition under Article 25 (Art. 25) of the Convention;

Whereas, consequently, the Commission unanimously rejects this third objection made by the Respondent Government as to the admissibility of the present Application.

As regards the contention that the Application is manifestly ill-founded

Whereas the majority, consisting of six members out of the ten members present and voting, consider that the service of Iversen in Moskenes was not forced or compulsory labour within the meaning of Article 4 (Art. 4) of the Convention;

Whereas the Commission has had regard to the importance of the question of principle raised in the Application, and has had further regard to the exhaustive written and oral submissions made to it by both parties in which all the material facts have been set out; whereas, consequently, the Commission has thought it right to depart, in the exceptional circumstances of this case, from its usual practice and to indicate to vote by which the decision upon the issue of admissibility was taken;

Whereas four members of the majority, considering that: although Article 4, paragraph (3) (Art. 4-3), of the Convention delimits the scope of Article 4, paragraph (2) (Art. 4-2) by declaring that four categories of work or service do not constitute forced or compulsory labour for the purpose of the Convention, the expression "forced or compulsory labour" is not defined in the Convention and no authoritative description of what it comprises is to be found elsewhere; the concept of compulsory or forced labour cannot be understood solely in terms of the literal meaning of the words, and has in fact come to be regarded, in international law and practice as evidenced in part by the provisions and application of ILO Conventions and Resolutions on Forced Labour, as having certain elements, and that it is reasonable, in the interpretation of Article 4, paragraph (2) (Art. 4-2), of the Convention, to have due regard to those elements; these elements of forced or compulsory labour are first, that the work or service is performed by the worker against his will and, secondly, that the requirement that the work or service be performed is unjust or oppressive or the work or service itself involves avoidable hardship; the attribution of these elements to "forced and compulsory labour" in Article 4, paragraph (2) (Art. 4-2) of the Convention is not inconsistent with the other provisions of that Article or of the Convention; it is true that the Provisional Act of 1956 imposed obligatory service, but since such service was for a short period, provided favourable remuneration, did not involve any diversion from chosen professional work, was only applied in the case of posts not filled after being-duly advertised, and did not involve any discriminatory, arbitrary or punitive application, the requirement to perform that service was not unjust or oppressive; the Law of 1956 was properly applied to Iversen when he was directed to take up the post at Moskenes; further, in the particular case of the Applicant, the hardship of the post was mitigated by the reduction in the required term of his service from 2 years to 1 year; hold that the service of Iversen in Moskenes was manifestly not forced or compulsory labour under Article 4, paragraph (2) (Art. 4-2), of the Convention and they therefore find it unnecessary to express any opinion on the applicability to the case of Article 4, paragraph (3) (Art. 4-3) of the Convention;

Whereas two members of the majority, considering that:

the situation in 1956 and 1960 of the public dental service and school dental care in northern Norway was regarded by the Norwegian Government as an emergency threatening the well-being of the community in northern Norway; in particular, in 1956, the Norwegian Government was confronted, in the exercise of its function, recognised in the Convention, of protecting public health, with a situation of the public dental service in northern Norway which had two elements; the inherent difficulties of administering the service caused by the scattered character of towns and settlements and the severe climate and intractable terrain; and a regional shortage of qualified dentists; in the opinion of the Norwegian Government, there was the threat of a breakdown in the supply of volunteers from among whom the public dental service in northern Norway had hitherto been maintained; the Law of 1956 was enacted by the Norwegian Parliament after a full and public debate; the Commission has frequently held that, although a certain margin of appreciation should be given to a government in determining the existence of a public emergency within the meaning of Article 15 in its own country, the Commission has the competence and the duty to examine and pronounce upon the consistency with the Convention of a government's determination of this question (cf. Lawless Report, page 85); in the analogous circumstances of the present case, the Commission cannot question the judgment of the Norwegian Government and Parliament as to the existence of an emergency as there is evidence before the Commission showing reasonable grounds for such judgment; hold therefore, having regard to Article 4, paragraph (3) (Art.4-3) of the Convention, that the service of Iversen at Moskenes was service

reasonably required of him in an emergency threatening the well-being of the community and was not forced or compulsory labour; whereas the majority thus finds that this part of the Application must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas to this decision the minority of four members attaches the following statement:

I. The minority is of the opinion that the conditions under which the Applicant was required to perform his work in Moskenes, as regards, for instance, salary, time-limit and professional facilities, do not as such exclude the applicability of Article 4, paragraph (2) (Art. 4-2), of the Convention, since the work in question was imposed upon the Appellant subject to penal sanctions;

II. The same members find that the question of the applicability of Article 4, paragraph (3), sub-paragraph (c) (Art.4-3-c) of the Convention requires further examination;

III. Having thus regard to the complexity of the legal problems raised by the Application and in view of the number of opinions which were in the course of the deliberations put forward in the Commission and even among the six members forming the majority which voted in favour of the inadmissibility of this part of the Application, the members forming the majority which voted in favour of the inadmissibility of this part of the Application, the members of the minority do not find it possible to declare this part of the Application inadmissible as manifestly ill-founded and are therefore of the opinion that it should be declared admissible.

As regards the alleged violation of Articles 8 and 11 (Art. 8, 11) of the Convention

Whereas the Applicant has alleged, in general, that orders directing persons to take up work in places other than their place of residence constitute violations of the right of family life guaranteed under Article 8 (Art. 8) and also of the right to free association with others as guaranteed under Article 11 (Art. 11)

Whereas the Commission unanimously finds that in the present case the Applicant has failed to produce any facts substantiating his allegations that the order issued by the Ministry for Social Affairs on 14th December 1959 to the effect that the Applicant should take up his duties as a dentist in Moskenes constituted a violation of the rights or freedoms guaranteed in Article 8 or 11 (Art. 8, or 11) whereas it follows that this part of the Application is manifestly ill-founded and must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2) of the Convention:

Now therefore the Commission declares this application INADMISSIBLE.