THE FACTS

Whereas the facts originally presented by the applicant may be summarised as follows:

The applicant is a Swedish citizen, born in 1937 and resident in L..

On 6 May 1968, the applicant submitted a letter to the Ministry of Education (utbildningsdepartementet) in which he requested that the Minister should exempt him from the obligation to repay a State guaranteed loan of 7,000 Swedish Crowns to a certain bank. He stated that the bank belonged to the capitalist camp in Sweden and that the capitalists were working against the interests of the working class and conducting a terrible war in Vietnam. For this reason he did not wish to support a capitalist enterprise. The letter ended with the words: "Victory to FNL".

According to the applicant, this letter was copied by the Ministry and sent to the Göta Court of Appeal (hovrätt) in J. to which he was attached as an assistant judge (hovrättsfiskal).

On .. June 1968, the Court of Appeal decided that the applicant should be dismissed from his post by the end of the year on the ground that he was not suitable for the post.

His subsequent application for re-employment was refused by the Court in October 1968. The applicant lodged several unsuccessful appeals against his dismissal and the refusal to re-employ him.

The applicant alleged that the forwarding of his letter of 6 May 1968, by the Ministry of Education to the Court of Appeal, which had nothing to do with his letter, amounted to a violation of Article 8 of the Convention.

He submitted that he was subsequently dismissed from his position as a judge because of the political views expressed in the letter, and claimed that his dismissal violated Articles 9 and 10 of the Convention.

The applicant maintained that he was a victim of constant discrimination because of his political opinions and for this reason he had not been accepted for any of the positions in public service for which he had applied. In this respect, he referred to a number of decisions by the King-in-Council whereby his appeals against such refusals had been rejected.

He further complained that he had been refused a student grant for studying medicine abroad and that his family had been denied social security benefits for the same reason.

The applicant also maintained that the Ministry of Justice was attempting to have him committed to a mental hospital and that consequently his home had been visited by police officers who broke some of his ribs.

PROCEEDINGS BEFORE THE COMMISSION

The Commission examined the application on 15 December 1969, and decided, in accordance with Rule 45 (3) (b), of its Rules of Procedure, to give notice thereof to the respondent Government and to invite the Government to submit its written observations on the question of admissibility.

The respondent Government submitted its observations on 2 February 1970. The letter whereby the applicant was invited to submit his observations in reply was, however, returned by the Post Office on the

ground that the post office box number indicated as his last address had been cancelled and that his present address was unknown.

Having been informed of the applicant's address by the Swedish authorities, the Secretary to the Commission wrote, on 4 March 1970, to the applicant who had not been heard from since 8 November 1969, and asked him to confirm that he wished to maintain his application. The applicant then confirmed his wish to pursue the case. His observations in reply were received on 13 May 1970, i.e. 9 days after the time-limit fixed for the submission had expired although he had already been granted a two week extension of the time-limit.

SUBMISSIONS OF THE PARTIES

1. As to the general background

The respondent Government has made the following submissions in this respect:

"The applicant was born on .. August 1937. After completing his university studies, he obtained his law degree in 1960. Subsequently he worked as an apprentice (tingsnotarie) at a district court. From .. October 1964, he worked at the Göta Court of Appeal at J. where he was accepted as an assistant judge as from .. October 1965. In the following year, he worked partly at the Court of Appeal and partly at District Courts falling within the jurisdiction of the Court of Appeal.

On .. June 1968, the Court of Appeal, acting as an administrative body, decided to dismiss the applicant from his employment at the Court. It was indicated that the dismissal should take effect at the end of the year 1968. The decision was taken on the ground of the applicant's"lack of aptitude" for his work.

The applicant subsequently applied for re-employment at the Court of Appeal, but this was refused by the Court's decision of .. October 1968.

At the applicant's request, the Court of Appeal issued, on .. November 1968, a testimonial regarding his work. In this testimonial, it was expressly stated that the applicant had been dismissed on account of his "lack of aptitude".

The applicant lodged appeals from the Court of Appeal's decisions of .. June and .. October 1968. The decision taken in regard to these appeals will be dealt with below.

In 1968 and 1969, the applicant submitted to various public authorities appeals, complaints and applications regarding a great variety of matters. The register of the Minister of Justice alone contains 12 entries in 1968 and 33 entries in 1969 which all relate to requests submitted by the applicant. Some of them concern, directly or indirectly, the applicant's dismissal from the Court of Appeal. Several complaints concern the fact that the applicant had not been appointed to various posts at the Ministries or otherwise in public service.

The applicant had also addressed a considerable number of complaints to the Parliamentary Ombudsman (justitieombudsmannen) and the Attorney General (justitiekanslern), both of whom are competent to examine complaints against civil servants. In the years 1968 and 1969, 39 such complaints were entered in the register of the Parliamentary Ombudsman, and during the same period the applicant submitted 13 complaints to the Attorney General. In particular, it should be mentioned that the Parliamentary Ombudsman made a thorough investigation of the circumstances in connection with the applicant's dismissal and also dealt at length with a complaint by the applicant regarding the way in which his testimonial had been drafted. The conclusions of the

Parliamentary Ombudsman are laid down in an decision of .. June 1969. In this decision, the Parliamentary Ombudsman pointed out that, according to the legal provisions in force, the applicant could be dismissed from his employment if he had shown "lack of aptitude" for his work. There was no reason to believe that, in reaching its decision, the Court of Appeal had been influenced by any irrelevant circumstances or to question the Court's finding that the applicant was not well suited for his work. On the other hand, the Parliamentary Ombudsman criticised the Court for not having taken a decision earlier in regard to the applicant's further employment or dismissal from the Court, and he also found that the testimonial had not been drafted in a satisfactory manner.

The applicant has not commented on this part of the Government's observations.

2. The forwarding of a letter by the Ministry of Education to the Court of Appeal

(a) Before commenting on the facts relating to this part of the application, the respondent Government has made the following general remarks:

"The applicant invokes Article 8 of the Convention on Human Rights and Fundamental Freedoms which protects everyone's 'right to respect for his private and family life, his home and his correspondence'. Although the applicant does not indicate in what way he fins this provision to be violated, it may be assumed that he considers the alleged action of the Ministry of Education to constitute a violation of his right to respect for his correspondence. The Swedish Government is unable to share this opinion of the interpretation of Article 8.

It is clear that the right to respect for correspondence implies that any person shall have the right freely to correspond with any other person and that censorship or control shall be prohibited. Another aspect of the right to respect for correspondence in that aspect of the right to respect for correspondence is that neither the person who sends a letter nor the person who receives it shall be forced to disclose the contents of that letter. On the other hand, the right to respect for correspondence cannot be so construed as to imply that the person who sends a letter or the person who receives it should be bound by the Convention not to disclose the contents of that letter. Consequently, the act complained of by the applicant cannot, in the opinion of the Swedish Government, amount to a violation of his right of respect for his correspondence as guaranteed by Article 8 of the Convention.

The Swedish Government also wishes to draw the attention of the Commission to the fact that, under Swedish law, everyone shall have free access to public documents, i.e. documents in the custody of public authorities. In accordance with this Rule, the applicant's letter was a public document as soon as it had been received by the Ministry of Education, and no one could be denied the right to take cognizance of the letter. Consequently, if the letter had been communicated to the Court of Appeal, this would not have constituted a breach of professional secrecy, since the letter was in fact available to any person who wished to see it.

As a matter of principle, it is therefore irrelevant whether the Ministry of Education forwarded the letter to the Court of Appeal, as alleged by the applicant, since in any event such a measure could not be contrary to the Convention. It is a different question whether the Court of Appeal, when deciding to dismiss the applicant, was influenced by the contents of the letter, and this question will be examined below under 3.

The Swedish Government therefore submits that the applicant's complaint

regarding the forwarding of his letter is manifestly ill-founded and should be inadmissible in accordance with Article 27, paragraph (2), of the Convention.

(b) As stated above, the Swedish Government finds the applicant's complaint on this point inadmissible, even if the facts alleged by him were true. Nevertheless, in order to provide the Commission with a complete picture of the situation, the Swedish Government has also tried to establish the facts relating to the applicant's complaint.

From the files of the Ministry of Education, it appears that the applicant's letter of 6 May 1968 arrived at the Ministry on 7 May 1968. The contents of the letter are, on the whole, correctly set out in the statement of facts prepared by the Commission's Secretariat. It further appears that, by letter of 8 May 1968, the applicant withdrew the application contained in his previous letter. The letter of withdrawal arrived at the Ministry on 9 May 1968.

There is no indication in the file that the letter of 6 May 1968 was communicated to the Court of Appeal. Nor do the files of the Court of Appeal show that a copy of the letter had been received by the Court or its President. The enquiries which have been conducted by the Government seem to confirm the impression that the letter was never forwarded by the Ministry of Education to the Court.

In these circumstances, the Swedish Government feels justified in contesting the accuracy of the facts on which the applicant has based his present complaint. This is, in the Government's opinion, an additional reason for declaring this complaint inadmissible as being manifestly ill-founded within the meaning of Article 27, paragraph (2), of the Convention."

In reply to the Government's statement that there is no indication in the files to show that the applicant's letter was brought to the attention of the Court, the applicant has stated that only a few formal letters would be found in the file. His letter, on the other hand, was transmitted to the Court in secret and in such circumstances the receipt of the letter would not be recorded in the file. Although the contents of his letter had been reported in the newspapers, the press had only referred to the letter as having been written by a student in Lund without indication of the applicant's professional status and domicile. The applicant contends that he can produce evidence to show that copies of his letter were distributed to the judges at the Court.

3. The applicant' dismissal from the Court of Appeal

(a) As regards the applicant's dismissal from the Court of Appeal, the respondent Government has first discussed the question of whether the applicant has exhausted the domestic remedies at his disposal and, in this connection, has made the following submissions:

"According to the general rules of Swedish administrative law, the applicant was allowed to appeal from the decision regarding his dismissal, and the Supreme Administrative Court (regeringsrätten) was competent to examine such appeal. The time-limit for appealing was three weeks from the day on which the applicant was notified of the decision regarding his dismissal.

The decision of the Court of Appeal to dismiss the applicant was taken on .. June 1968 and the applicant was officially notified on .. July 1968. Consequently, the time-limit for lodging an appeal expired on 25 July 1968. The applicant did not lodge an appeal within the time-limit.

After the expiry of the time-limit, the applicant took certain action in order to have the decision of his dismissal reversed.

By a letter which bears no date but arrived at the Minister of Justice

on 29 August 1968, the applicant "protested" against his dismissal from the Court of Appeal and against the refusal to give him new employment. This letter, however, was not drafted as an appeal and no formal decision was taken on it.

By a letter of 29 September 1968, which arrived at the Minister of Justice on 1 October 1968, the applicant lodged a formal appeal against his dismissal. On .. January 1969, the Supreme Administrative Court declared this appeal inadmissible as being lodged out of time.

The applicant also asked the Supreme Court (Högsta domstolen), by a letter which was dated 28 July 1968 but arrived on 3 September 1968, to quash the decision regarding his dismissal on account of a procedural defect. The Supreme Court declared, on .. October 1968, that it had no competence in the matter and decided to transfer the file to the competent authority. By its above-mentioned decision of .. January 1969, the Supreme Administrative Court also dealt with this request and decided not accept it.

By a further letter which arrived at the Minister of Justice on 6 February 1969, the applicant requested that the decision given on .. January 1969 by the Supreme Administrative Court should be reviewed by the King-in-Council. This application was rejected on .. February 1969 by the King-in-Council, the ground obviously being that the King-in-Council is not competent to review the decisions of the courts.

Further requests were submitted to the Minister of Justice by letters which arrived on 12 and 14 February and 13 March 1969. In these letters, the applicant again asked for a review of his dismissal. Alternatively, he submitted that there were reasons to grant him a restitutio in integrum, since he had been prevented by illness from lodging an appeal in time. These requests were rejected by the Supreme Administrative Court on .. April 1969. In its decision, the Court pointed out, inter alia, that the applicant had adduced no evidence to show that he had in fact, at the time concerned, been prevented by illness from appealing.

As stated above, the applicant also raised the question of his dismissal in a complaint to the Parliamentary Ombudsman who dealt with this question at length in his decision of .. June 1969.

Article 26 of the Convention provides that the Commission may only deal with a matter "after all domestic remedies have been exhausted, according to the generally recognised rules of international law". In the Commission's jurisprudence, this has been held to imply that all "effective and sufficient" remedies must be exhausted (see, inter alia, Application Nos. 343/57 Yearbook, Vol. II, p. 438 and 712/60, Yearbook, Vol. IV, p. 400).

In the present case, there was only one remedy which could be described as "effective and sufficient", namely the appeal from the decision regarding the dismissal to the Supreme Administrative Court. The applicant failed to avail himself of this remedy within the time-limit applicable to such appeals.

It should be added that there are not, in the present case, any special circumstances which might have absolved the applicant from exhausting the remedy which was available to him. As regards his statement to the effect that he had been prevented by illness from appealing in time, the Swedish Government first refers to the observation of the Supreme Administrative Court that the applicant had in no was proved that he had been prevented by illness from appealing during the relevant time. Secondly, the Swedish Government refers to the Commission's jurisprudence according to which illness cannot in itself excuse from compliance with the rules of exhaustion of domestic remedies (see, for instance, Application No. 289/57, Yearbook, Vol. I, p. 149).

Consequently, the Swedish Government is of the opinion that the applicant has failed to comply with Article 26 of the Convention and that this present complaint is inadmissible according to Article 27, paragraph (3), of the Convention."

The applicant has submitted in reply that he has not been "in default" with his appeals to the "Swedish King". According to him such "appeals will be sent to the Swedish Government's Council" and it results from the jurisprudence of the Supreme Administrative Court that no time-limit has to be observed. The Court's decision of .. January 1969, is therefore contrary to its usual practice. Moreover, in July 1969, the applicant consulted a psychiatrist in order to overcome the shock his dismissal had caused him (1). The psychiatrist allegedly prescribed very strong drugs which affected the function of the applicant's brain until he, on his own initiative, stopped taking the drugs in August, 1969.

(b) Although maintaining that the applicant's complaint regarding his dismissal is inadmissible on the formal ground of non-exhaustion of domestic remedies, the respondent Government has submitted the following additional information, regarding the circumstances in connection with the applicant's dismissal;

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(1) The applicant has indicated, in this connection, that the drugs were prescribed in July "1969". It should be noted, however, that he has stated elsewhere in his observations that he consulted a psychiatrist in July 1968 and he also invoked bad health in support of his application to the Supreme Administrative Court for a restitutio in integrum in February/March 1969.

"During the investigation carried out by the Parliamentary Ombudsman, the President of the Court of Appeal submitted a detailed memorandum on the facts leading up to the applicant's dismissal.

It appears from this memorandum that in 1965 the Court of Appeal had only very hesitantly decided to accept the applicant as an assistant judge at the Court. The main reason why he was accepted was that several judges at the Court believed that he would develop favourably during the following years. After working for some months at the Court of Appeal, the applicant was in March 1966 transferred to the Vadsbo District Court at M.. While the applicant's task at the Court of Appeal had been to assist the judges, his work at the District Court consisted in the exercise of independent judicial functions. In July 1966, the Chief Judge at the District Court informed the President of the Court of Appeal that the applicant's work at the District Court had been far from satisfactory. In view of these critical remarks, the President of the Court of Appeal ordered the applicant to return to the Court of Appeal where he would again assist the appeal judges in their work. In October 1966, the applicant returned to the Court of Appeal. Although his subsequent work at the Court of Appeal was not wholly satisfactory, he was again, in March 1967 entrusted with judicial functions at the District Court of N.. In February 1968, the President of the Court of Appeal received further information about the applicant from the Chief Judge and one other senior judge at the N. District Court. It then appeared that the applicant's work at the District Court had not been up to the standard that must be required of a person exercising judicial functions. It was agreed that, for the time being, the applicant should be given a warning and that he should be asked to improve his work considerably. In May 1968, the President was informed that no improvement had been noticed, and at this stage the President found it necessary to bring the matter to the attention of the Court of Appeal at a plenary session so as to permit the Court to consider the proper action to be taken in regard to the applicant. The matter was discussed at a plenary session of the Court on 29 May 1968. At the

following plenary session on .. June 1968, the Court of Appeal decided to dismiss the applicant.

In his memorandum, the President of the Court of Appeal also dealt with the applicant's allegation that the Court's decision had been influenced by the contents of the applicant's letter of 6 May 1968 to the Ministry of Education. In this regard the President stated that, at the end of the discussion during the Court's plenary session on 29 May 1968, one of the participants had referred to a letter which the applicant was reported to have sent, earlier in May, presumably to the Ministry of Education and in which FNL had been mentioned. Information about this letter had appeared in the press. The President had then given an account of the contents of this letter, as he remembered it from the newspaper reports. He and other members of the Court had emphasised that this letter was obviously quite irrelevant for the decision which the Court should take in regard to the applicant. At the same time, it had also been pointed out that the Court could not avoid that the applicant or other persons might wrongly interpret the applicant's dismissal as being occasioned by his letter to the Ministry of Education but that this should obviously not prevent the Court from taking such action as was justified for other reasons. The President's memorandum finally contains an express statement to the effect that the applicant's letter had not been distributed to the members of the Court, nor was the President aware that the text of the letter had in any other way been available to the members of the Court.

In the opinion of the Swedish Government, the memorandum of the President of the Court of Appeal gives a very clear picture of the fact on which the Court based its decision to dismiss the applicant from his functions at the Court. It appears that, for a long time, the applicant's work had not been found satisfactory and that the decision to dismiss him was only taken after the Court had given him every possible chance to improve his work. It is clear that the Court was well aware of the serious effects which a dismissal would have on the applicant's personal situation, but that, on the other hand, the Court had to take into account the interests of justice which require that persons exercising judicial functions must have sufficient qualifications to perform their important duties. It is significant that the Parliamentary Ombudsman found no reason to criticise the decision to dismiss the applicant as such, but merely the fact that the Court had waited so long before deciding whether or not the applicant should be allowed to remain in the judicial career.

In any event, the Swedish Government finds it established that the decision to dismiss the applicant was exclusively based on considerations concerning his professional qualifications. The applicant's letter to the Ministry of Education - which was apparently known to the Court only through reports in the press - did not in any way influence the position taken by the Court. Consequently, there is no appearance of a violation of the applicant's right of freedom of thought (Article 9 of the Convention) or freedom of expression (Article 10 of the Convention) or of any other right guaranteed by the Convention, and the applicant's complaint regarding his dismissal is therefore also inadmissible as being manifestly ill-founded within the meaning of Article 27, paragraph (2), of the Convention.

(c) The Swedish Government wishes to add that the applicant, at the time of his dismissal, was not a holder of a judgeship. His functions were of a less independent character and the fundamental principle of the irremovability of judges did not apply to him. Consequently, his dismissal does not give rise to any question of an interference with the independence of the judiciary, which is one important aspect of the protection afforded by Article 6 of the Convention.

In order to elucidate this point further, the Swedish Government finds it essential to give the Commission some general information on the Swedish judicial career.

The principle of the irremovability of judges is laid down in Section 36 of the Swedish Constitution. This principle applies to all holders of judgeship. In addition to permanent judges, there are, however, civil servants who belong to the judicial career. This training extends over very long periods, during which the person concerned usually works at many different courts or different levels. During some periods, his main task is to prepare cases for the courts and to assist judges in their work. During other periods, he is himself given assignments as a judge, but not on a permanent basis. Insofar as he exercises judicial functions, he acts in full independence, but at the same time the permanent judges are expected to observe the way in which he performs this work so as to make sure that he is not later appointed a judge without having the necessary personal and professional qualifications. The terms of his employment are similar to those of an ordinary civil servant, which means that he may, in exceptional cases, be dismissed from his employment.

In the present case, the applicant was still, at the time of his dismissal, in the beginning of his judicial career. The account given in the President's memorandum shows that in the years preceding his dismissal he worked partly at the Court of Appeal, where his task was merely to assist the judges, and partly at two different District Courts, where he performed the functions of a judge. This was part of his training, and it was found that he did not have sufficient qualifications for such judicial work. According to the rules applicable to his employment, he could be dismissed, inter alia, on the ground of "lack of aptitude" for his work and these rules constituted the legal basis for the decision of the Court of Appeal."

The applicant's observations in reply may be summarised as follows:

The applicant maintains that his dismissal was entirely due to his political views and constitutes a violation of his right to freedom of expression guaranteed under Article 10 of the Convention. According to him, he had repeatedly criticised the Government and his letter of 6 May 1968 was only one of his actions in this respect. He claims that he has never acted "politically illegally" or neglected his judicial duties. The applicant states that he had in April 1968 been warned by a counsellor at the Minister of Justice that he would be dismissed unless he discontinued his political activities.

The applicant refers to the statements made by the President of the Court of Appeal in his memorandum as being false and wrong. He contends that no complaints were ever made regarding the way he carried out his work. This is borne out by a part of the President's memorandum which the respondent Government has not mentioned and where it is stated that the applicant had never committed any breach of duty, nor could any specific action on his part be relied on in order to prove his "lack of aptitude". In this connection, the applicant refers to the case of another assistant judge, Mr. B.., who had been active in the public discussion on the Vietnam question and who allegedly also had to leave the Göta Court of Appeal.

The applicant requests that the judges of the Court and Mr. B. should be heard as witnesses by the Commission.

4. The refusal to give the applicant re-employment at the Court of Appeal and to give him other employment in public service, the refusal to give the applicant a student grant for studies abroad and to give his family social security benefits

In regard to the facts relating to the present complaints, the respondent Government has made the following observations:

"(a) From the files available to the Government, it appears that by letter of 18 September 1968, the applicant applied for re-employment

at the Court of Appeal. This was refused by the Court on .. October 1968. The applicant appealed from this decision and his appeal was rejected by the King-in-Council on .. February 1969.

It further appears that the applicant has repeatedly applied for employment at different Government departments or otherwise in public service. He has, on many occasions, sent in his name as a candidate for specific posts, and he has often appealed from decisions to appoint other candidates. In some cases, he has also submitted complaints to the Parliamentary Ombudsman.

In August 1968, the applicant applied for a student grant for studying theology at the University of Lund. His letter indicated that, in the first place, he wished his application to concern studies of medicine in France. His application, insofar as it concerned studies in France, was rejected by two decisions of the Central Student Grant Committee (Centrala Studiehjälpsnämnden) in December 1968 and January 1969. In March 1969 a student grant was given to him by the Student Grant Committee (Studiehjälpsnämnden) of Lund for studies of theology at the University of Lund. The applicant complained of the decision of the Central Student Grant Committee to the Parliamentary Ombudsman, but this complaint was unsuccessful. The Ombudsman stated, in his decision of 9 June 1969 that he found no circumstances which might corroborate the applicant's statement according to which the Committee, when refusing him a student grant for studies abroad, had been influenced by irrelevant motives.

As regards the applicant's complaint that his family had been denied social security benefits, the substance of the applicant's complaint cannot be determined on the basis of the very scarce information contained in the statement of facts. The Swedish Government can confirm however, that the applicant had apparently, in some cases, applied to local authorities for social relief and that such applications had been rejected.

(b) The question arises in what way the present complaint could involve any of the provisions of the Convention. The applicant himself does not seem to invoke, on this point, any specific articles of the Convention. Moreover, it is obvious that the rights involved, i.e. the right to employment in public service, the right to receive a student grant or social security benefits, are not covered by any provision of the Convention.

According to the statement of facts, however, the applicant complains that he is a victim of constant discrimination because of his political opinions and that this was the reason why he had not been accepted for any of the positions for which he had applied. It was possible that he maintains that, for the same reason, he was denied a student grant for studies in France and social security benefits. The Swedish Government therefore wishes to make some comments on the compatibility of the present complaints with Article 14 of the Convention which deals with discrimination.

In this respect, it must be remembered that Article 14 only affords protection against discrimination in regard to the rights and freedoms guaranteed by the Convention. The Swedish Government has already pointed out that the right to employment in public service and the right to receive student grants or social security benefits are not covered by any provision insofar as they concern discrimination in respect of these rights, fall entirely outside the scope of Article 14. These complaints are therefore incompatible with the Convention and inadmissible according to Article 27, paragraph (2), of the Convention.

(c) It may be added that the Swedish Government has found no appearance of any discrimination against the applicant in any of the files relating to the present complaints of the applicant. Insofar as the application for re-employment at the Court of Appeal is concerned,

it is obvious that the decision of the Court was based on the same considerations as were behind the decision regarding his dismissal, namely that the applicant did not have sufficient qualifications for a post in the judicial career. As regards the other unsuccessful applications for employment in public service, the Government has found no indication of any decision of a discriminatory nature. In some of the files concerned, there are in fact statements by the public authorities concerned which set out the reasons for the appointment of another candidate and clearly show that the choice was made on entirely objective and non-discriminatory grounds. In respect of the student grant, the Central Student Grant Committee has quite satisfactorily explained why the applicant was not given such a grant for medical studies in France. The main reason was that the applicant had already a university education for which he had been given a student grant by the State. As regards social security benefits, the Swedish Government is uncertain about the facts which the applicant complains of. Nevertheless, it can be stated that certain applications for social relief which the applicant submitted to local authorities were rejected on grounds which could in no way be considered discriminatory.

In reply, the applicant has repeated his allegations that he has been refused employment on account of his political views. He refers to a number of further occasions on which he did not obtain positions for which he had applied although he was, in his own opinion, the most qualified candidate. He also maintains that he has been denied social security benefits as a result of intervention by the Government. The refusal of a student grant has furthermore been upheld by the Ministry of Education.

5. The attempts to have the applicant committed to a mental hospital and the visit to his home by police officers

On this point, the respondent Government has first stated that the applicant's allegation that the Minister of Justice is attempting to have him committed to a mental hospital is completely untrue and without foundation. This part of the application should therefore be declared inadmissible as being manifestly ill-founded within the meaning of Article 27, paragraph (2), of the Convention.

In the absence of any indications of date, place and circumstances in general, the Government has found itself unable to make a statement as to the applicant's reference to a visit to his home by police officers. It is not clear whether the applicant has exhausted the domestic remedies available to him, and it is not clear in what way the alleged visit by police officers could be considered a violation of the Convention. The Government therefore concludes that, in the present state of the file, this complaint is also manifestly ill-founded and inadmissible according to Article 27, paragraph (2), of the Convention.

The applicant has only stated in reply that his home at V. was visited in his absence by police officers in September 1968, although, in his opinion, there was no "legal reason" for such a visit.

According to him, the Central Student Grant Committee asked, in August 1968 for the medical case sheet concerning the applicant's recent consultation of a psychiatrist. The applicant submits that the Committee on which the Government is represented had no reason to see this case sheet.

6. The applicant's arrest by the police at H. and the "torture" to which he was subjected after his arrest

The respondent Government points out in its observations that there is no indication of the date of the applicant's arrest and "torture". Nevertheless, the Government has made certain enquiries about this complaint and, in particular, attempts have been made to obtain information from the records of the police at H..

On the basis of these investigations, the Government has submitted that the records of the H. police prior to 8 November 1969 contain no entry about any arrest of the applicant and the local police authorities are unaware of the events referred to by the applicant.

The Government submits that it is clearly the task of the applicant to set out the relevant facts pertaining to his complaint and, if the Commission wishes to examine this complaint further, the Government would suggest that the applicant be requested to provide further information about the incident concerned (date and place of arrest and "torture", names of police officers involved, etc.). On the basis of such further information, the Government is prepared to present its final view on the admissibility of this complaint.

The applicant has stated in reply that, at the end of September 1969 he was kidnapped by a police car in H. and brought to the police station where he was kicked and beaten. When he was subsequently thrown out, one policeman told the applicant to withdraw any complaints he had made to an international institution. The applicant contends that it is obvious that the records of the H. police will not give any information in this respect. He claims that he had pains for several months and offers to submit X-ray pictures taken in January 1970 as evidence.

THE LAW

Whereas the applicant first complains that the Ministry of Education forwarded to the Court of Appeal a letter sent by him to the Ministry and he alleges thereby a violation generally of Article 8 (Art. 8) of the Convention;

Whereas the said Article guarantees to everyone the right to respect for his private and family life, his home and his correspondence;

Whereas it is assumed that the applicant considers that the alleged forwarding of the letter constituted an interference with his right to respect for his correspondence;

Whereas the respondent Government has submitted in its observations that there is no evidence in the records of the Ministry of Education or of the Court of Appeal of the letter ever having been transmitted by the Ministry or received by the Court or its President and that enquiries carried out by the Government seem to confirm that the letter was never forwarded by the Ministry; whereas in his observations in reply the applicant has merely repeated his contention that the letter was transmitted without in any way substantiating his allegation;

Whereas, however, the provisions of Article 8 (Art. 8) of the Convention as to respect for correspondence cannot be taken to imply that a public authority to which a letter has been submitted should be prevented from communicating this letter, or disclosing its contents, to another authority;

Whereas it follows that, even assuming that the letter had in fact been forwarded by the Ministry as alleged by the applicant, this part of the application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, insofar as the applicant complains of his dismissal from his position as an assistant judge at the Court of Appeal, it is first to be observed that the Convention, under the terms of Article 1 (Art. 1), guaranteed only the rights and freedoms set forth in Section I of the Convention; and whereas, under Article 25 (1) (Art. 25-1) only the alleged violation of one of those rights and freedoms by a Contracting Party can be the subject of an application presented by a person, non-governmental organisation or group of individuals; whereas

otherwise its examination is outside the competence of the Commission ratione materiae;

Whereas the Commission has repeatedly held that no right to hold a position in public service is as such included among the rights and freedoms guaranteed in the Convention (see. e.g. applications Nos. 273/57, X. v. Federal Republic of Germany, Yearbook, Vol. I p. 207 and 1103/61, X. v. Belgium, Yearbook, Vol. V, p. 168); whereas it follows that the application is in this respect incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), thereof;

Whereas, however, the applicant further alleges that he was dismissed because of the political opinions expressed by him in his above letter the contents of which were indisputedly known to the Court when it considered the question of his dismissal, and that, in these circumstances, his dismissal constituted a violation of Articles 9 and 10 (Art. 9, 10) of the Convention, the Commission may only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law;

Whereas the respondent Government has submitted that, in order to comply with Article 26 (Art. 26), the applicant was obliged to lodge an appeal with the Supreme Administrative Court within a period of three weeks from the date on which he was notified of the decision of 28 June 1968 whereby his dismissal was ordered;

Whereas it is clear that the applicant did not avail himself of this possibility within the time-limit provided by the relevant provisions of Swedish law; whereas the Commission has frequently held that an applicant's failure to observe the time-limits imposed on proceedings under national law means that he had not satisfied the obligation to exhaust the domestic remedies laid down in Article 26 (Art. 26) of the Convention;

Whereas in this respect the Commission refers to its previous decisions on the admissibility of applications Nos. 352/58, X. v. Federal Republic of Germany, Yearbook, Vol. II, p. 342, and No. 2366/64 X. v. Federal Republic of Germany, Yearbook, Vol. X, p. 208;

Whereas, moreover, an examination of the case as it has been submitted, including an examination made ex officio, does not disclose the existence of any special circumstances which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal;

Whereas, in particular, the Commission has considered the applicant's statement that he was prevented for a certain period from appealing against his dismissal on the ground that he was under the influence of drugs prescribed on account of the shock caused by that dismissal;

Whereas the Commission observes that the applicant has offered no evidence to support his contentions in this respect; whereas it should furthermore be noted that, in its decision of .. January 1969 on the applicant's request for a restitutio in integrum, the Supreme Administrative Court found that the applicant had failed to establish that he had been unable to make an appeal in time for reasons of bad health; whereas the Commission does not find therefore that the applicant has established his contention in this respect;

Whereas, the Commission has next considered the applicant's subsequent attempts to obtain a review of his dismissal, either by challenging before the Supreme Administrative Court the Court of Appeal's initial decision of .. June 1968 or by his appeals and complaints to the King-in-Council and Supreme Court respectively; whereas such proceedings could not have rectified the wrong of which he now complains and therefore cannot be considered as in any way being

equivalent remedies to a duly lodged appeal to the Supreme Administrative Court such as would under international law, relieve him from the obligations of making such appeal; whereas, in particular, as regards the applicant's application to the Supreme Administrative Court for a re-opening (resting) of the proceedings or a restitutio in integrum, the Commission refers mutatis mutandis to its decision on the admissibility of application No. 1739/62 (X. v. Sweden, Collection of Decisions, Vol. 13, p. 99), where it held that the extraordinary remedies (särskilda rättsmedel) mentioned in Chapter 58 of the Swedish Code of Procedure (rättegångsbalken) could not be regarded as effective and sufficient remedies as the proceedings relating to these remedies do not, until successful, affect the validity of the final decision impugned;

Whereas, therefore, the condition as to exhaustion of domestic remedies laid down in Articles 26 and 27 (3) (Art. 26, 27-3) of the Convention has not been complied with by the applicant as regards this part of the application;

Whereas, insofar as the applicant complains of the refusal of the authorities concerned to re-employ him at the Court of Appeal, to give him other employment in the civil service, to give him a student grant for studies abroad or to grant his family certain social security benefits, it is re-called that the Commission is only competent ratione materiae to examine an application under Article 25 (Art. 25) if the applicant alleges a violation of one of the rights and freedoms set forth in the Convention; whereas, in addition to what has been said above concerning the right to hold a position in the public service, no right to obtain such a position or to be given a student grant or social security benefits is as such guaranteed by the Convention;

Whereas it follows that the application is also in this respect incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2) thereof;

Whereas the applicant also alleges that he is a victim of constant discrimination on political grounds and that this is the reason why he had not been accepted for any of the posts for which he had applied or been given a student grant or social security benefits;

Whereas, however, Article 14 (Art. 14) of the Convention only prohibits any discrimination on the grounds mentioned therein "of the rights and freedoms set forth in the Convention"; whereas, the Commission has already found that no right to obtain a post in public service or to receive a student grant or social security benefits is as such guaranteed by any of the provisions of the Convention;

Whereas it follows that, in this respect the application is again incompatible with the provisions of the Convention and must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2) thereof;

Whereas, the applicant further complains that the Minister of Justice is attempting to have him committed to a mental hospital and complains of the alleged visit to his home by police officers; whereas the respondent Government has submitted that the allegation that the Ministry has made any attempt to have him committed to a mental hospital is completely untrue and without foundation; whereas the Government has also pointed out that the applicant has failed to submit any particulars regarding the alleged visit to his home or to explain in what way this visit could be considered a violation of the Convention;

Whereas the Commission finds that the applicant has in no way substantiated his allegations and it fully respects the Government's submissions in this respect; whereas, consequently the Commission does not find that there is any appearance of a violation of the rights and freedoms set forth in the Convention; whereas if follows that this part

of the application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, insofar as the applicant complains of having been arrested by the police and ill-treated at the H. police station, it is again to be observed that, under Article 26 (Art. 26) of the Convention, the Commission may only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law; and whereas the applicant has failed to show that he has taken any steps to raise this complaint before the competent courts and authorities in Sweden; whereas, therefore, he has not exhausted the remedies available to him under Swedish law; whereas, moreover, an examination made ex officio, does not disclose the existence of any special circumstances which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal; whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Articles 26 and 27 (3) (Art. 26, 27-3), of the Convention has again not been complied with by the applicant.

Now therefore the Commission DECLARES THIS APPLICATION INADMISSIBLE