

THE FACTS

Whereas the facts as presented by the applicant and appearing from the documents submitted by him may be summarised as follows:

A. The applicant is a political refugee from the Soviet Union born in 1920 at Boka in Turkestan and at present living in Bonn, where he works for the Press Club. During the war he fought in the German army and after the defeat of Germany he remained and hid in Germany in order to avoid expulsion or extradition to the Soviet Union.

He is now represented by Rechtsanwältin Y., a lawyer practising at Beuel am Rhein.

B. The applicant has lodged, on 17th January, 1961, a previous Application No. 1003/61 the facts of which were summarised as follows:

"1. Le requérant a réclamé depuis 1960 la tutelle sur son neveu Turdi X., né le 18 janvier 1948, et sa nièce, Ursula X., née le 20 janvier 1947, mais en vain.

Le père des enfants en question, Abadt X., vit depuis la guerre en Allemagne où il s'est marié en 1947. Il a divorcé le .. avril, 1952, et a été placé, par la suite, dans une maison de desintoxication alcoolique de Bayreuth. Il a été cependant libéré sous condition.

Le .. avril, 1960, le Tribunal des tutelles de Munich (Amtsgericht) a déclaré la déchéance de la puissance paternelle sur les enfants Turdi et Ursula X. et a nommé, le .. mai, 1960, l'"Association pour la protection de l'enfant et de la mère" (Verein für Kinder- und Mutterschutz) tuteur.

2. Le requérant a alors porté plainte, le .. juillet, 1960, auprès du Tribunal régional I (Landgericht) de Munich. Dans son recours il a invoqué notamment le lien de parenté entre lui et les enfants - il est le demi-frère d'Abadt X. - et il a demandé de lui transférer la tutelle. X. a en outre affirmé que les enfants étaient de confession musulmane et qu'il était inadmissible de les éduquer dans une institution catholique. Il a demandé, en même temps, de permettre aux enfants de fréquenter une école supérieure (Oberschule).

Le .. août, 1960, le Tribunal régional a ordonné au tuteur d'accepter l'admission des enfants à une école supérieure de Munich. Une demande ultérieure du requérant de restreindre davantage les droits du tuteur, à savoir de lui permettre la communication avec les enfants, a été repoussée le .. août, 1960. Le Stadtjugendamt et la mère des enfants se seraient opposés à un transfert de la tutelle au requérant.

Le .. janvier, 1961, la 13ème Chambre du Tribunal régional a rejeté le recours du requérant du .. juillet, 1960. Le Tribunal a repoussé, en même temps, une plainte d'Abadt X. du .. novembre, 1960.

Maître Z., avocat à Munich, a introduit, au nom du requérant de d'Abadt X., un recours immédiat (sofortige Beschwerde) auprès de la Court d'appel suprême de Bavière (Bayerisches Oberstes Landesgericht).

Nous ne savons pas quelle suite a été donné au dernier recours.

3. Le requérant allègue une violation de la Convention, de la Loi relative à l'Accord du 28 juillet, 1951, concernant le Statut des réfugiés et de la Loi du 25 avril, 1951, relative au Statut des étrangers sans domicile.

En particulier, il se prétend victime d'une violation de l'article 6 (3) a. Il n'aurait pas été "informé, dans le plus court délai, dans une langue qu'il comprend et d'une manière détaillée, de la nature et de la cause de l'accusation portée contre lui". En outre, le procès se serait déroulé dans une langue qu'il ne comprenait pas et par la faute de son interprète il n'aurait pu faire valoir ses droits de manière efficace. De façon générale,

l'éducation des enfants dans une institution catholique serait incompatible avec leur confession.

4. Le requérant demande que tous les frais judiciaires soient pris en charge et qu'on lui confie les soins de son neveu et de sa nièce."

His last communication concerning that application was dated .. March, 1962, and a letter addressed to him by the Commission's Secretary of .. January, 1963, was returned marked "parti sans laisser d'adresse".

Having particular regard to these facts, the Commission decided on 23rd September, 1963, to strike Application No. 1003/61 off its list of cases.

C. On 11th August, 1966, the applicant wrote again and complained about a different matter. The usual application form was sent to him on 19th August, 1966, but he returned the completed form only on 2nd April, 1967.

In his present application he resumes the subject of Application No. 1003/61 and raises a number of further matters without always making it clear whether he wants to complain of them or only refers to them in connection with other complaints.

I. As regards the custody of his nephew and niece, the applicant repeats in substance his submissions made in the previous application and submits some further details.

He asks for a reconsideration of this complaint and states that in 1962/63 he changed his address in Bonn four times but always informed the post office in order to have mail forwarded to the new address. In spite of repeated requests he has, however, not submitted any documentary evidence in this respect.

In addition to his previous submissions concerning the proceedings related to the custody of the children, the applicant now alleges that two certificates on a catholic baptism of the children of .. February, 1957, and .. May, 1953, on which the courts had relied in their decisions, particularly the Regional Court of Munich in its decision of .. January, 1961, were in fact falsified or even non-existent. He affirms that these certificates indicate wrong dates of birth of the children. He also alleges, as in his previous Application No. 1003/61, that according to the records of the children's home in Fürth the mother had indicated in 1950 and 1953 that the children were Moslems. In his view these facts prove that the certificates of baptism are falsified. In particular, he submits that he was four times given a power-of-attorney to represent his brother in questions relating to the children. He further states that the responsible persons (Heimleiter) of the catholic institutions where the children had been put on several occasions between 1954 and 1957 informed the schools concerned in writing that the children were catholics and should be educated accordingly. These requests were signed by the responsible persons as "guardians", although the applicant's brother at this time was entitled to exercise the paternal authority.

With regard to the subsequent proceedings it appears from the applicant's present submissions that on .. July, 1961, upon his appeal the Bavarian Supreme Court set aside the decision appointing as guardian the "Association for the Protection of Children and Mothers" since technically not the Association but only its managing committee (Vorstand) could have been appointed. The Court sent the case back for reconsideration pointing out that a guardian of this kind should only be appointed where no appropriate private individual can be appointed. But it appears that on .. August, 1961, the District Court appointed the managing committee of the same association stating that no appropriate individual was available. The applicant obviously never obtained the guardianship over his nephew and niece. On the contrary, by further District Court decisions of .. January, 1963, and .. February, 1964, he was refused and even forbidden any further contact with the children.

On .. December, 1963, the applicant lodged with the Public Prosecutor's Office (Staatsanwaltschaft) in Munich, a request to prosecute three District Court judges who had dealt with the issue of the guardianship, Mr. A., Dr. B. and

Dr. C., for "having estranged the children from the Islam" ("Entislamisierung") and for "acting as Soviet agents" ("Tätigkeit als Sowjetfunktionäre"). On .. January, 1964, the Public Prosecutor's Office informed him that there was no reason to institute criminal proceedings against the judges. An appeal (Beschwerde) lodged by the applicant was dismissed by the Attorney-General (Generalstaatsanwalt) on .. March, 1964. It does not appear that the applicant lodged a request for a judicial decision (Klageerzwingungsverfahren) by the Court of Appeal (Oberlandesgericht).

On .. September, 1965, the applicant represented by Mr. W., a lawyer practising in Bonn, apparently requested that the District Court of Munich should appoint him as a special curator (Pfleger) of the children in religious questions. The Association appointed as guardian was heard and on .. November, 1965, opposed this request pointing out that the children themselves wished to be catholic. Reference was made to the German Act covering the Religious Education of Children, under which a child's religion may not be changed against his will after the age of 12 and the child has the right to decide freely on his religion after the age of 14. The applicant has given no information on the decision taken by the Court in these proceedings. But apparently his request remained without success.

II. In his present application the applicant further alleges that, on .. July, 1962, his half-brother Abad X. was deported to the Soviet Union.

In this respect, it appears that Abad X. had been convicted on .. July, 1962, by the District Court of Munich, of having committed an offense in a state of intoxication (Art. 330a of the Penal Code) and sentenced to 7 months' imprisonment and committed to an institution for alcoholics. The applicant alleges that the director of the "Association for the Protection of Children and Mothers" which acted as guardian of the children, and the director of Stadelheim Prison in Munich where Abad X. was detained had him deported to the Soviet Union against his will.

According to the applicant, two declarations of .. December, 1959, and .. February, 1962, indicating Abad X's consent to the repatriation had been forged by the judges. He also contests the authenticity of a document of .. April, 1961, in which Mrs. D. of Taschkent, the mother of Abad X. and stepmother of the applicant, declares to the Soviet Embassy in Bonn that she is willing to accommodate and support her son Abad X. As a result of this declaration the Soviet Embassy had consented on .. May, 1962, to the repatriation of Abad X. It appears that the expulsion was finally effected on the basis of a decision of the Public Prosecutor's Office in Munich of .. July, 1962. The applicant was not informed about the expulsion of his brother.

More than four years later, on .. September, 1966, after having received copies of the two above-mentioned declarations of .. December, 1959, and .. February, 1962, the applicant lodged with the Federal Attorney-General (Generalbundesanwalt) a request to prosecute the unknown persons responsible for what he considers the political deportation (politische Verschleppung) of his brother. The matter was referred to the Public Prosecutor's Office in Munich as being the competent authority and the enquiry was discontinued on .. January, 1967, on the ground that there was no appearance of a criminal offence. The Public Prosecutor stated that Abad X. himself had applied in person to the Soviet Embassy for his repatriation. In this context the Public Prosecutor also referred to the above-mentioned documents.

Also on .. January, 1967, the Public Prosecutor dismissed a further criminal charge laid by the applicant against four District Court judges of Munich whom he accused of having forged the declaration of Abad X. His brother, having fought in the German army during the war, would never have signed a request for repatriation.

The applicant lodged an appeal against the dismissal of his charges which on .. January, 1967, was rejected by the Attorney-General at the Court of Appeal (Generalstaatsanwalt). In the decision the applicant was informed of the right of the victim of a criminal offence, under Article 172, paragraph 2, of the Code of Criminal Procedure, to request a judicial decision by the Court of

Appeal (Klageerzwingungsverfahren). But it appears that he failed to lodge such a request.

The applicant further states that he has only recently been granted access to certain documents relating to his brother's deportation. On one of these documents he has found a reference to "the efforts of the Eastern Powers to repatriate political emigrants". He submits that this must be a reference to an Agreement of 16th November, 1939, between the German Reich and the Soviet Union concerning resettlement of certain populations in the "zones of interest" of the two countries, or to some subsequent analogous agreement.

III. Further complaints of the applicant concern his obligation to pay alimony for an illegitimate child Gabriel E. born on 17th May, 1952, and the civil and criminal proceedings which were conducted against him in this respect.

After first having contested on .. July, 1952, being the father, since the mother had also had relations with other men, he signed on .. July, 1952, on the ground that he had only recognised the child since the mother Magdalena E. had promised to marry him, but had, in fact, subsequently married another man.

In 1957 and 1959 the District Court of Fürstfeldbruck increased the amount of maintenance to 50 and 65 DM respectively.

In 1961 an action for a further increase was brought before the District Court in Fürstfeldbruck and subsequently referred to the District Court in Bonn where the applicant had taken up residence. The applicant, although admitting intimate relations with the mother of Gabriel E., contested being the father of the child and the mother herself admitted having had relations with other men.

On .. February, 1963, the Court obtained an expert opinion based on the blood groups of the applicant and of the child and concluded that his paternity was not excluded. On .. April, 1963, the Court decided to obtain from a university institute of Munich a further expert opinion based on the hereditary characteristics of the applicant and the child. But the applicant refused several times to appear for the necessary examination in Munich since he had understood from the institute charged with the examination that the opinion could not come to any conclusions in view of his racial particularities as a Turkestani. On .. March, 1964, the District Court in Bonn imposed a fine of 100 DM because of the applicant's refusal to appear for the examination, but upon appeal this decision was quashed by the Regional Court on .. July, 1964.

On .. November, 1964, the applicant, when calling in person on the competent District Court judge Mr. F., was informed that the decision of .. April, 1963, concerning the opinion to be obtained from the Munich university institute had been set aside, but that another expert opinion would be obtained in criminal proceedings which had been instituted in Munich against the applicant for failure to pay maintenance. In fact, the District Court judge, Dr. G., in Munich decided only some days later on .. November, 1964, to obtain such an expert opinion and informed the applicant only in mid-December of this decision which had been known to the District Court judge F. in Bonn already on .. November, 1964.

Thereupon, on .. December, 1964, the applicant challenged Mr. F., as being prejudiced. This challenge was rejected on .. January, 1965, by the Regional Court judge (Landgerichtsrat) H. The applicant lodged an appeal (sofortige Beschwerde) which was rejected by the Court of Appeal on .. April, 1965.

In the meantime, on .. March, 1965, Professor Dr. I., the expert charged by the District Court of Munich had given his expert opinion and concluded that, in all probability, the applicant is the father of Gabriel E.

On .. July, 1965, the applicant then submitted that his relations with the mother had in fact been outside the possible period of conception. He further submitted that, when signing the declaration of paternity of .. July, 1952, he had not intended to recognise the child as his own but to adopt it in view of the intended marriage with the mother, which only had to be postponed pending

receipt of certain necessary papers. According to him he had misunderstood the sense of the declaration due to his insufficient knowledge of German and the court official had falsified the document.

In view of the applicant's previous attitude the District Court of Bonn rejected these submissions as being untrue and gave judgment against the applicant on .. July, 1965. This decision was given by Judge H. who in the meantime had been moved from the Regional Court to the District Court and had replaced Judge F. It appears that the applicant had unsuccessfully tried to challenge him on the basis of Article 41, paragraph 6, of the Code of Civil Procedure which excludes judges who have participated in a decision under review.

The applicant appealed from the District Court judgment of .. July, 1965, to the Regional Court and requested free legal aid for the appeal proceedings. The latter request was rejected on .. July, 1966, on the ground that his appeal offered no sufficient prospect of success. On .. July, 1966, the Regional Court ordered a supplementary blood grouping test on the basis of two new scientific methods (Duffy and Gmx). The Court requested the applicant to pay within a certain time-limit 200 DM in advance for the expenses of this expert opinion but the applicant failed to do so even after the Court had extended the time-limit and only requested a further extension on the ground that he could not afford the amount since he was on holiday. In view of the fact that the case had already been pending since 1961 the Court informed the applicant that no further extension could be granted, and when he failed to comply with the order within the time-limit, it proceeded with the case on the basis of the evidence previously obtained, in particular the two expert opinions of .. February, 1963, and .. March, 1965.

On .. October, 1966, the Regional Court rejected his appeal and confirmed the District Court decision that the applicant was to be considered as the father of Gabriel E. The amount of maintenance to be paid for the child up to the age of 18 was fixed at 80 DM per month as of .. March, 1963, at 90 DM as of .. September, 1963, and at 100 DM as of .. January, 1966.

The applicant alleges an improper and illegal procedure by the Regional Court of Bonn. In this respect he alleges that Judge H. who had first decided as a Regional Court judge on the challenge against the District Court Judge F., and later replaced that judge in the District Court and given the District Court judgment, later acted again as judge of the Regional Court in the appeal proceedings. According to the orders and the judgment given by the Regional Court in the appeal proceedings, Judge H. did, however, not participate in any of these decisions.

It appears that the applicant intended to challenge the judges of the Regional Court panel dealing with his case, but that his first lawyer, Dr. W., then withdrew from the case and that a new lawyer Mrs. V. although first appearing prepared to challenge the judges finally failed to do so and apparently also withdrew from the case.

In his application the applicant complains generally that the decisions as to his paternity are wrong. He states that it is impossible, according to the circumstances, that he was the father of Gabriel E. He quotes from statements of certain scientists of Frankfurt who found that the expert opinion of Professor I. was based on wrong assumptions. He complains that the expert failed to examine early photographs of him and photographs of his relatives and to compare them with the appearance of the child. With regard to the document of .. July, 1952, according to which he had recognised that he was the father, he repeats that this did not reflect properly his intentions and declarations. He states that in the course of the proceedings before the District Court of Bonn, he had "invalidated" ("kraftlos gemacht") this declaration and the subsequent judgments on the basis of Article 6, paragraph (3) (a), of the Convention. He accuses the judges who dealt with his case of bias and hostility against foreigners in particular against political refugees from the Soviet Union, and alleges that the paternity suit has been instigated by Soviet agents who try to ruin him financially. He affirms that he has suffered economic losses in the amount of 150,000 DM.

IV. The applicant further complains about the criminal proceedings conducted against him in Munich both because of his failure to pay alimony for Gabriel E. and because of defamation concerning Judge A.

In this respect it appears that on .. November, 1962, the Youth Welfare Office of the City of Munich (Stadtjugendamt) in its capacity as guardian of Gabriel E. laid with the Public Prosecutor's Office in Bonn charges against the applicant of having failed to support the child (Unterhaltspflichtverletzung) within the meaning of Article 170 b of the Penal Code. These charges were referred to the Public Prosecutor's Office in Munich, apparently on the ground that the charges also covered the period when the applicant was still living in and near Munich. The applicant, however, considers this decision as a violation of Articles 8 and 9 of the Code of Criminal Procedure which provide that criminal proceedings may also be conducted in the district where the applicant actually has his residence or where he had been arrested. He also considers that no criminal proceedings could have been instituted before the civil paternity suit in Bonn had been finally decided.

At the District Court in Munich the case was first dealt with by Judge Dr. G. The applicant questions the impartiality of this judge and alleges that the judge's wife has been his opponent in the proceedings concerning the custody of his niece and nephew but he has failed to explain this allegation. In particular, he complains of the decision of .. November, 1964, by Judge Dr. G. to obtain an expert opinion from Professor Dr. I. It appears that subsequently the case was dealt with by another judge, Mrs. J., who on .. May, 1967, convicted the applicant and sentenced him to 5 months' imprisonment for the failure to pay maintenance for the child. The applicant was given credit for a period of detention on remand from .. October to .. November, 1965, and the remainder of the sentence was suspended on probation. The applicant has failed to provide any details with regard to his arrest and detention on remand but complains that, as a consequence, he lost both his employment and his apartment and was even refused unemployment benefits for 4 weeks since he refused to accept a job as dish-washer.

By the District Court judgement of .. May, 1967, the applicant was also convicted of having made defamatory statements (üble Nachrede) about District Court Judge A. of Munich who had dealt with the proceedings concerning the custody of his niece and nephew. In a letter to a superior he had called Judge A. a "liar" and accused him of having intimate relations with the divorced wife of Abad X. and of having conspired with her with a view to having the children brought to the Soviet Union.

The applicant lodged with the Regional Court of Munich I an appeal (Berufung) from the conviction and sentence of .. May, 1967. The date for the appeal hearing was fixed for .. February, 1968, but the applicant has given no information on the outcome of the appeal proceedings.

V. As a result of the applicant's refusal to pay alimony for the illegitimate child, the competent administrative authority of the City of Bonn, (Oberstadtdirektor - Ordnungsamt) refused several times since .. April, 1961, to prolong the applicant's international travel document or to issue a new one, on the ground that he might try to shirk his obligation to pay maintenance. Against the last of these decisions dated .. February, 1965, the applicant appealed to the Administrative Court at Cologne but apparently without success.

On .. May, 1967, the applicant's lawyer made a new request to the above-mentioned authority to have an international travel document issued to the applicant for a journey abroad. On .. May, 1967, the authority, under Article 19, paragraph (2) No. 4, of the Aliens Act of 1965, formally prohibited the applicant from going abroad on the ground that there was an immediate danger that he would shirk his liability to pay maintenance. At the same time the applicant was requested under Article 3 of the Aliens Act to apply for an international travel document as an identity paper for his stay in the Federal Republic. The applicant was informed of his right to object (Widerspruch einlegen) to this order within a month from receipt. Whether he

has subsequently seized the competent Administrative Court is not clear. The applicant has only submitted a carbon copy of a letter of .. July, 1967, in which he protests against the decision of .. May, 1967.

The applicant submits that this decision is contrary to the Geneva Convention on the Status of Refugees and of the German Statute of 25th April, 1951, on the Status of Displaced Persons (über die Rechtsstellung Heimatloser Ausländer) and complains that by reason of the prohibition to go abroad he has been unable to carry out a number of important professional missions and has suffered considerable financial losses and claims damages. The applicant considers that he has been "interned" since 1961.

He alleges that in 1963/1964 and again at present the authorities are preparing his expulsion or extradition to the Soviet Union where he would be subjected to torture and severe punishment for his anti-communist activities. In this respect he submits a copy of a letter of November, 1963, from the lawyer of the "Association for the Protection of Children and Mothers" to the Ministry of Interior of North-Rhine-Westphalia in which the lawyer complains of the applicant's continuous interferences with the education of his niece and nephew and suggests to "bring him to his senses" by a threat of extradition. On .. October, 1963, also the competent administrative authority of the City of Munich requested the analogous authority in Bonn, to take against the applicant measures under the Aliens Ordinance (Ausländerpolizeiverordnung). The authority in Bonn, however, informed the applicant on .. May, 1967, that they had not intended his expulsion in 1963 and 1964. The applicant has submitted no details and evidence with regard to his allegation that his expulsion is at present being prepared.

On .. and .. July, 1968, the applicant telephoned and added to his submissions that it was becoming more and more apparent that the Ministry of Interior took an extremely hostile attitude towards him and that compatriots of his living in Munich had been questioned by the authorities as to whether he should be expelled to the Soviet Union. On .. July, 1968, the applicant submitted his travel document issued by the German authorities with reference to the Geneva Convention of .. July, 1951, on the status of refugees. This passport is valid up to 10 July, 1969, but bears the mention "prohibition to leave the country (Ausreiseverbot)".

The applicant has also referred to the situation of political refugees in the Federal Republic in general. He has stated in particular that Soviet agents are allowed to murder or kidnap such refugees without any action being taken by the Federal Republic.

VI. With regard to the above-mentioned proceedings before the District Court of Bonn and the Administrative Court of Cologne and some further proceedings before the Labour Court of Bonn, the applicant had to pay several amounts of court and lawyers' fees.

By a decision (Kostenfeststellungsbeschluss) of .. August, notified on .. August, 1967, the Registrar (Urkundenbeamter der Geschäftsstelle) of the District Court of Bonn ordered the applicant to pay certain fees to Mr. W. who had been one of his lawyers in the paternity suit. The applicant raised an objection (Erinnerung) on .. and .. September, 1967, but on .. September, 1967, the District Court rejected this objection as being raised out of time.

Another lawyer who had acted for him in the paternity suit, Mrs. V., obtained on .. August, 1967, a judgment of the District Court for her fees and on .. September, 1967, a further decision of the registry for the costs involved in the action for payment of fees. On .. September, 1967, in a letter addressed both to Mrs. V and Mr. W. the applicant protested against his obligation to pay the lawyers's fees since he considered that both lawyers had not represented him adequately and requested that the lawyers should repay the fees already received.

For the execution of the various decisions to pay court and lawyers' fees a number of orders attaching the applicant's salary at the Press Club, were issued on .. August, .. September, .. and .. October, 1967. From the documents

submitted by the applicant it appears that he raised before the District Court of Bonn objections (Erinnerung) against two of these orders issued on .. August and .. September, 1967. These objections were rejected on .. October, 1967, upon his appeal (sofortige Beschwerde) by the Regional Court. The Courts stated that contrary to the applicant's assumptions, only the part of the salary exceeding a certain minimum fixed by law (pfändbarer Teil) would be affected by the distraint orders. As to the further submissions by which the orders had been made, the Court pointed out that such submissions could not be made in an objection concerning only the execution measure itself.

The applicant complains generally that by the various execution measures he no longer has sufficient means for his living.

Whereas the applicant's complaints may be summarised as follows:

He alleges violations of Articles 2, 3, 4, paragraph (1), 6, 7, 8, 9, 13, 14 and 17 of the European Convention on Human Rights, of numerous provisions of the Geneva Convention on the Status of Refugees and of various German legal provisions.

The applicant requests that the civil and criminal decisions concerning the obligation to pay alimony for Gabriel E. and the prohibition to travel abroad should be set aside and that he should be granted damages. He demands an investigation of his charges against the judicial authorities in connection with the deportation of his brother and the proceedings concerning the custody of his niece and nephew and reintegration of the two children in the religious and ethnical group of their father. He also requests the Commission to investigate the alleged plans of the authorities to deport him to the Soviet Union.

THE LAW

I. As to the complaints concerning the question of the guardianship and religious education of the applicant's niece and nephew;

Whereas the applicant reintroduces certain complaints concerning the guardianship over his nephew and niece and their religious education which were already raised in his previous Application No. 1003/61; Whereas, however, their complaints were not determined by the Commission which struck this application off its list of cases as the applicant, having moved, failed to keep the Commission informed of his change of address;

Whereas, as in his previous application, the applicant first complains generally that, although being the uncle of the two children and having been specifically entrusted with their education by their father, Abad X., he was not awarded guardianship over them; whereas the Commission has examined this complaint under Article 8 (Art. 8) of the Convention which guarantees everyone the right to respect for the family life; whereas, in order that this provision should be applicable, it must be shown that such a link existed between the applicant and the two children as can be considered to establish family life within the meaning of Article 8 (Art. 8); whereas the Commission finds that, in the circumstances of the present case, the relationship between the uncle and nephew and niece cannot be said to amount to such a link; whereas in this respect it is particularly observed that the applicant and his brother's children are not, and have not been, living together in the same household;

Whereas in these circumstances the decision concerning the guardianship of the children did not affect the applicant's family life within the meaning of Article 8 (Art. 8); whereas consequently there is no appearance of a violation of Article 8 (Art. 8);

Whereas, secondly, the applicant complains specifically that his niece and nephew are estranged from their own Moslem religion by being brought up in a Catholic institution and alleges in this respect a violation of Article 9 (Art. 9) , which protects the right of freedom of religion;

Whereas in this respect the question might arise whether the applicant, although not a direct victim of the alleged violation of the right of his niece and nephew to religious freedom, can nevertheless be considered in the circumstances of the case as having such moral interest in their religious education and as being so affected, albeit indirectly, by the alleged violation as to be considered a victim within the meaning of Article 25 (Art. 25); whereas, however, the Commission does not find it necessary to determine this question since in any event there is no appearance of a violation of the children's right to religious freedom; whereas the Commission observes in this respect that, under the German law concerning the religious education of children, any child from the age of 14 has the right to determine freely his religion; whereas the applicant's niece and nephew are at present 21 and 20 years old and whereas there is nothing to suggest that they are prevented from freely exercising this right; whereas consequently there can no longer possibly exist any violation of Article 9 (Art. 9) of the Convention;

Whereas it follows that the applicant's complaints concerning his niece and nephew are manifestly ill-founded both as regards the question of guardianship and of the religious education; whereas therefore these complaints must be rejected in accordance with Article 27, paragraph (2) (Art. 27-2), of the Convention;

II. As to the complaints concerning the expulsion of the applicant's brother Abad X.

Whereas the applicant further alleges that in 1962 his brother Abad X. was deported to the Soviet Union against his will and in spite of the fact that having fought in the German army during the war, he had the status of a refugee; whereas the applicant complains that the criminal charges, which he laid in 1966 and 1967 against judges and other persons responsible for the alleged political deportation of his brother, were not proceeded with; whereas in this respect it is observed that the Convention, under the terms of Article 1 (Art. 1), guarantees only the rights and freedoms set forth in Section I of the Convention; and whereas, under Article 25, paragraph (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 right to have criminal proceedings instituted against judges or other persons is not as such included among the rights and freedoms guaranteed by the Convention; whereas in this respect the Commission refers to its previous decisions, No. 2646 (Collection of Decisions, Vol. 19, page 89) and No. 2942 (Collection of Decisions, Vol. 23, page 51); whereas it follows that this part of the application is incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

III. As to the complaints concerning the civil proceedings and decisions under which the applicant has to pay alimony for the illegitimate child;

Whereas, in regard to the proceedings and the decisions in the District Court and Regional Court of Bonn, an examination of the case as it has been submitted, including an examination made *ex officio*, does not disclose any appearance of a violation of the rights and freedoms set forth in the Convention and especially in the Articles invoked by the applicant; whereas, in respect of the judicial decisions complained of, the Commission has frequently stated that in accordance with Article 19 (Art. 19) of the Convention its only task is to ensure observance of the obligations undertaken by the Parties in the Convention;

Whereas, in particular, it is not competent to deal with an application alleging that errors of law or fact have been committed by domestic courts, except where the Commission considers that such errors might have involved a possible violation of any of the rights and freedoms limitatively listed in the Convention; whereas, in this respect, the Commission refers to its decisions No. 458/59 (*X. v. Belgium* - Yearbook III, p. 233) and No. 1140/61 (*X. v. Austria* - Collection of Decisions, Vol. 8, p. 57); and whereas there is

no appearance of a violation in the proceedings complained of; whereas it 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;

IV. As to the complaints concerning the criminal proceedings against the applicant;

Whereas the applicant also complains of the criminal proceedings conducted against him in Munich and of his conviction on .. May, 1967, by the District Court;

Whereas in this respect it is first 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; whereas the applicant has failed to supply any information as to the result of the appeal which he lodged with the Regional Court and whereas thus it is not clear whether these appeal proceedings are still pending; whereas there would also exist the possibility of a further appeal (Revision) to the Court of Appeal (Oberlandesgericht); whereas, therefore, the applicant has not shown that he has exhausted the remedies available to him under German law;

Whereas, moreover, an examination of the case as it has been submitted, 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, paragraph (3) (Art. 26, 27-3), of the Convention has not been complied with by the applicant;

Whereas in any event an examination of the complaints concerning the criminal proceedings as they have been submitted, does not disclose an appearance of a violation of the rights and freedoms set forth in the Convention and in particular in the Articles invoked by the applicant; whereas it 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;

V. As to the complaints concerning the applicant's travel document and the alleged threat of his deportation;

Whereas the applicant complains on the one hand that, since 1961, he was refused a travel document and, on .. May, 1967, was expressly forbidden to leave the Federal Republic; whereas on the other hand he alleges that the German authorities are preparing his expulsion to the Soviet Union;

Whereas with regard to these complaints it is first recalled 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 that, under Article 25, paragraph (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 certain further rights and freedoms have been added by the provisions of the First Protocol to the Convention (P1), which, under Article 5 of the First Protocol (P1-5), shall be regarded as additional Articles to the Convention; whereas the examination of any complaint not relating to one of the rights and freedoms thus guaranteed is outside the competence of the Commission *ratione materiae*; whereas both the rights claimed by the applicant are not as such included among the rights and freedoms guaranteed by the Convention and the First Protocol (P1); whereas with regard to the right to leave a country and to be granted the necessary papers for this purpose the Commission refers to its previous decisions on the admissibility of Applications No. 1976/61, T. against the Federal Republic of Germany, and 1925/63, F. against Belgium; whereas, as regards the right not to be expelled from a particular country, the Commission refers to its decisions on the admissibility of Applications No. 1802/62, Yearbook of the European Convention on Human Rights, Vol. VI, pages 462 (478) and No. 3040/67, Collection of Decisions, Vol. 22, pages 133 (136); whereas it follows that

this aspect of the application is incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas the Commission has also had regard ex officio to the Fourth Protocol (P4) to the Convention which entered into force for the Federal Republic on 1st June, 1968, and which, in Article 2, paragraph (2) (P4-2-2), protects the freedom to leave any country and in Article 4 (P4-4) forbids collective expulsion of aliens; whereas, however, Article 6, paragraph 2 of this Protocol (P4-6-2) provides that "the right of individual recourse recognised by a declaration made under Article 25 (Art. 25) of the Convention ... shall not be effective in relation to this Protocol unless the High Contracting Party concerned has made a statement recognising such right ... in respect of all or any of Articles 1 to 4 of the Protocol (P1-1, P1-2, P1-3, P1-4)"; whereas it follows that for the time being the Commission has no competence to examine any individual application directed against the Federal Republic of Germany in the light of the provisions of the Fourth Protocol (P4);

Whereas the Commission has finally had regard to the applicant's allegation that the German authorities prepared his expulsion to the Soviet Union and that in view of his past and present political activities he would risk severe punishment and inhuman treatment in that country;

Whereas it is true that, according to the Commission's constant jurisprudence, the deportation or extradition of a foreigner to a particular country may in exceptional circumstances give rise to the question whether there would be "inhuman treatment" within the meaning of Article 3 (Art. 3) of the Convention ; whereas in this respect, the Commission refers to its decisions on the admissibility of Applications No. 984/61, Collection of Decisions, Vol. 6, pages 256 (260) and No. 3040/67, Collection of Decisions, Vol. 22, pages 133 (138); whereas, however, the applicant has failed to submit an element of proof to support his allegation that the German authorities have decided upon, or are at least preparing, his expulsion to the Soviet Union; whereas the Commission observes in this connection that according to the documents submitted by the applicant he appears to be recognised as a political refugee under the Geneva Convention of 28th July, 1951, which is also in force in the Federal Republic of Germany, and whereas, consequently, any expulsion to the Soviet Union would be excluded under German law; whereas consequently the Commission finds that the complaint is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

VI. As to the complaints concerning the distraint orders made against the applicant for the enforcement of his obligation to pay court and lawyer's fees;

Whereas, with regard to the distraint orders made against him, the applicant only complains generally that by the various execution measures he no longer has sufficient means for his living; whereas, in this respect again, it is recalled that the Commission is only competent *ratione materiae* to examine the alleged violation of one of the rights and freedoms set forth in the Convention and the First Protocol (P1); whereas the question to what extent a person's livelihood may be affected by any of the provisions of the Convention or the First Protocol (P1);

Whereas in this context the Commission refers to its previous decisions on the admissibility of Applications No. 159/56 (Yearbook Vol. I, documents and decisions 1955-57, page 202) and No. 2498/65 (M. against Austria, unpublished decision of 6th February, 1967) where it was stated that no right to an adequate standard of living is as such included among the guaranteed rights and freedoms; whereas it follows that the applicant's above-mentioned complaint is also incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Now therefore the Commission declares this application inadmissible.