

THE FACTS

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

The applicant is a German citizen born in 1897 and residing at Haar.

He complains about Article 85, paragraph (1), of the German Federal Law on Compensation for the Victims of Nazi Persecution (Bundesentschädigungsgesetz). This Article provides that a widow of a victim of a Nazi persecution has the right to a widow's pension, if a pension had been granted to her deceased husband under this Act. However, this is limited to such persons only who married before 29 June 1956. Consequently a widow is not entitled to such a pension if she had married the victim of Nazi persecution after this date.

It appears that the applicant who has been married since .. June, 1957, draws a pension under the said law. He is ill and is nursed by his wife. The applicant complains that in the case of his decease his wife, who does not work, would not be entitled to get a widow's pension owing to the above mentioned provisions. It appears that on .. September 1966, the applicant lodged a constitutional appeal (Verfassungsbeschwerde) with the Federal Constitutional Court (Bundesverfassungsgericht). He alleged that Article 5, paragraph (1), of the law on compensation for victims of Nazi persecution was of a discriminatory character, since widows of civil servants are refused a pension only if they contracted the marriage when already retired and if there exists a disparity of more than twenty years. It appears that the Federal Constitutional Court rejected the applicant's appeal on .. September, 1966, on the grounds that it was out of time since according to Article 93, paragraph (2), of the law on the Federal Constitutional Court, a constitutional appeal which challenges directly a law, has to be lodged within a year after the date when it became valid.

The applicant now alleges violations of Articles 8, 12 and 14 of the Convention.

THE LAW

Whereas, firstly, in regard to the applicant's complaint as to the German Federal Law on Compensation for Victims of Nazi Persecution, which provides that a widow of such victim is entitled to draw a widow's pension only if she was married before 29 June 1956, it is to be observed that the Convention, under the terms of Article 1 (Art. 1), guarantees only to 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 a pension is not as such included in among the rights and freedoms guaranteed by the Convention; whereas in this respect the Commission refers to its previous decisions, in particular No. 2116/64 (Collection of Decisions, Vol. 23, p. 12);

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), thereof;

Whereas, the applicant also complains that he is a victim of a violation of Article 14 (Art. 14) of the Convention which guarantees freedoms of discrimination on any ground "such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other

status"; whereas the applicant alleges that he had been discriminated against by the said German law since under other existing legislation, no such time-limit regarding marriage has been set up; whereas it is to be observed that the guarantee of Article 14 (Art. 14) has no independent existence in the sense that, under the terms thereof, it relates solely to rights and freedoms set forth in the Convention; and whereas it has already been stated that the Commission has no competence *ratione materiae* mentioned widow's pension since no right to a pension is guaranteed under the Convention;

Whereas it follows that his complaint under Article 14 (Art. 14) is equally outside the jurisdiction of the Commission and, consequently, incompatible with the Convention (Article 27, paragraph (2) (Art. 27-2));

Whereas, finally, in regard to the applicant's complaint that the above mentioned law interfered with his rights under Article 8 (Art. 8) of the Convention, and 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 in particular in Article 8 (Art. 8); 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.

Now therefore the Commission DECLARES THIS APPLICATION INADMISSIBLE