

Application No. 30936/96  
by Yvonne Th. M. VAN SCHIJNDEL,  
Lutgarde VAN DER HEYDEN and  
Dirk J. LEENMAN  
against the Netherlands

The European Commission of Human Rights (Second Chamber) sitting  
in private on 20 May 1998, the following members being present:

MM J.-C. GEUS, President  
M.A. NOWICKI  
G. JÖRUNDSSON  
J.-C. SOYER  
H. DANELIUS  
Mrs G.H. THUNE  
MM F. MARTINEZ  
I. CABRAL BARRETO  
J. MUCHA  
D. SVÁBY  
P. LORENZEN  
E. BIELIUNAS  
E.A. ALKEMA  
A. ARABADJIEV

Ms M.-T. SCHOEPFER, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection  
of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 23 October 1995  
by Yvonne Th. M. VAN SCHIJNDEL, Lutgarde VAN DER HEYDEN and  
Dirk J. LEENMAN against the Netherlands and registered on 2 April 1996  
under file No. 30936/96;

Having regard to :

- the reports provided for in Rule 47 of the Rules of Procedure of  
the Commission;
- the observations submitted by the respondent Government on  
13 November 1997 and the applicants' failure to reply to these  
observations;

Having deliberated;

Decides as follows:

#### THE FACTS

The first applicant is a Dutch national, born in 1949, who  
resides in Eindhoven, the Netherlands. The second applicant is a  
Belgian national, born in 1946, and resides in Mechelen, Belgium. The  
third applicant is a Dutch national, born in 1956, and resides in  
Namen, Belgium.

In the proceedings before the Commission, the applicants are  
represented by Ms H.D.L.M. Schruer, a lawyer practising in Rotterdam,  
the Netherlands.

The facts of the case, as submitted by the parties, may be  
summarised as follows.

On 15 May 1991 the applicants, accompanied by a group of other  
persons, entered an abortion clinic in the Netherlands and proceeded

to pray on their knees in a corridor in the clinic. The director of the clinic unsuccessfully requested them to leave as they were blocking the thoroughfare. Shortly afterwards the applicants and the other persons involved were forcibly removed from the clinic by the police and brought before the assistant public prosecutor. They were subsequently charged with breach of the peace.

In three separate judgments of 7 September 1992, the Magistrate (politierechter) of the Regional Court (Arrondissementsrechtbank) of 's-Hertogenbosch convicted the applicants of breach of the peace and sentenced each of them to payment of a fine of 250 Dutch guilders, suspended pending a probation period of two years.

In three separate judgments of 23 August 1993, the Court of Appeal (Gerechtshof) of 's-Hertogenbosch rejected the applicants' respective appeals and upheld the judgments of 7 September 1992. Each of the applicants filed an appeal in cassation with the Supreme Court (Hoge Raad) on 1 September 1993.

On 5 September 1994, the Court of Appeal transmitted the applicants' respective case-files to the Supreme Court, where they were received on 15 September 1994. The Supreme Court heard the applicants' case on 10 January 1995.

In his conclusions submitted to the Supreme Court on 21 March 1995, the Procurator General (Procureur-Generaal) to the Supreme Court advised the Supreme Court to reject the applicants' arguments raised in the cassation proceedings.

Although the applicants had not raised this issue in their appeals in cassation, the Procurator General advised the Supreme Court to mitigate the applicants' sentences ex officio in view of the 12½ months which had elapsed between the introduction of the appeal in cassation and the transmission of the applicants' case-files to the Supreme Court and the additional four months it would take before the Supreme Court would examine the appeals.

By three separate judgments of 9 May 1995, the Supreme Court rejected the applicants' appeals in cassation under Article 101a of the Judicial Organisation Act as not prompting a determination of legal issues in the interest of legal unity and development. It found no grounds for quashing the challenged judgments ex officio.

## COMPLAINT

The applicants complain under Article 6 para. 1 of the Convention of the length of the proceedings against them. They complain in particular of the delay between the judgment of the Court of Appeal and the examination of their appeal in cassation by the Supreme Court.

## PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 23 October 1995 and registered on 2 April 1996.

On 10 September 1997 the Commission decided to communicate the applicants' complaint concerning the length of the proceedings and to declare the remainder of the application inadmissible.

The Government's written observations in the Dutch language were submitted on 13 November 1997. By letter of 12 December 1997, these observations were communicated to the applicants' representative, who was invited to submit the applicants' comments in reply before 12 February 1998. When the English translation of the Government's observations was transmitted to the applicant's representative on

22 January 1998, the representative was reminded of the time-limit for the submission of the applicants' comments.

When the time-limit for the submission of the applicants' observations in reply expired on 12 February 1998, no observations in reply had been received nor any request for an extension of the time-limit fixed for that purpose.

By letter of 27 March 1998, the applicants' representative was informed that the Commission would proceed with its examination of the case and was warned that, in view of the circumstances of the case, the Commission could conclude that the applicants do not intend to pursue their application. No reaction on the part of the applicants has been received.

#### REASONS FOR THE DECISION

The Commission recalls that the applicants' representative has been invited on 12 December 1997 to submit the applicants' observations in reply to the observations presented by the respondent Government on the admissibility and merits of the application. The Commission notes that the applicants' representative, whose last correspondence dates back to 10 December 1996, has not replied to this invitation, notwithstanding the reminders sent to her on 22 January 1998 and 27 March 1998.

Having regard to Article 30 para. 1(a) of the Convention, the Commission concludes from the above that the applicants do not wish to pursue their application. Moreover, the Commission finds no special circumstances regarding respect for human rights, as defined in the Convention, which require the continued examination of the application, in accordance with Article 30 para. 1 in fine of the Convention.

For these reasons, the Commission, unanimously,

DECIDES TO STRIKE THE APPLICATION OUT OF ITS LIST OF CASES.

M.-T. SCHOEPFER  
Secretary  
to the Second Chamber

J.-C. GEUS  
President  
of the Second Chamber