the person is detained on remand. However, in assessing whether such a measure may fall within the ambit of Article 3 of the Convention in a given case, regard must be had to the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned. Complete sensory isolation coupled with complete social isolation can no doubt ultimately destroy the personality, and may therefore, in certain circumstances, constitute a form of inhuman treatment which cannot be justified by the requirements of security, the prohibition of torture and inhuman treatment contained in Article 3 of the Convention being absolute in character (cf. No. 5310/71, Ireland v. the United Kingdom, Comm. Report 25.1.76, p. 379, Eur. Court H.R., Series B No. 23, p. 390).

As regards the form of isolation to which the applicant was subjected, the Commission has noted that the applicant was kept in a cell in Vestre Faengsel where he was allowed to listen to the radio and watch television. The Commission further observes that throughout the period when he was kept in isolation the applicant was allowed to exercise in the open air for one hour every day. He had the loan of books from the prison library. He was in contact with prison staff several times every day in connection with inter alia the handing out of food and exercise in the prison yard. Furthermore, he was in contact with various persons in connection with a number of court hearings. Throughout the period of isolation the applicant was not subject to any restrictions with regard to visits by his counsel. After some time he was also allowed to receive controlled visits by his family and could see them twice a week.

The Commission furthermore recalls that the applicant's criminal case concerned fraud and embezzlement on a large scale, involving more than 800 persons and necessitating investigations of financial matters in several countries. The decision to isolate the applicant and the other restrictions to which he was subjected with regard to visits were therefore justified by the nature of the charges against him.

Bearing the aforementioned facts in mind the Commission concludes that the solitary confinement imposed on the applicant during the period of detention on remand was not of such severity as to constitute inhuman or degrading treatment in violation of Article 3 of the Convention.

This part of the application is therefore manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

2. The applicant has also complained that he was not brought to trial within a reasonable time as guaranteed to him under Article 5 para. 3 of the Convention, which reads:

> "Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

The applicant's detention on remand began on 31 January 1980 and under Danish law he remained detained on remand until his release after the judgment of the Court of Appeal on 2 March 1984. However, with regard to the period of time which the Commission must consider under Article 5 para. 3 of the Convention, the Commission recalls the judgment of the European Court of Human Rights in the Wemhoff case (Eur. Court H.R., Wemhoff judgment of 27 June 1968, Series A No. 7) which states that the end of the period of detention with which Article 5 para. 3 is concerned is the day on which the applicant was convicted by the first instance court.

Accordingly the relevant period under Article 5 para. 3 of the Convention runs from the applicant's arrest on 31 January 1980 until the City Court judgment on 1 November 1982, and is therefore 33 months.

The Commission and the European Court of Human Rights have on several occasions been called upon to apply Article 5 para. 3 of the Convention (e.g. Eur. Court H.R., Wemhoff judgment of 27 June 1968, Series A No. 7, Neumeister judgment of 27 June 1968, Series A No. 8, Stögmüller judgment of 10 November 1969, Series A No. 9, Matznetter judgment of 10 November 1969, Series A No. 10, Bonnechaux v. Switzerland, Comm. Report 5.12.79 and Schertenleib v. Switzerland, Comm. Report of 11.12.80).

In the light of this case-law, the Commission points out in the first place that in determining in a given case whether or not the detention of an accused person exceeds a reasonable limit, it is for the national judicial authorities to seek all the facts arguing for or against the existence of a genuine requirement of public interest justifying a departure from the rule of respect for individual liberty. The reasonableness of the duration of detention pending trial cannot be judged in the abstract and it is essentially on the basis of the reasons given in the decisions on applications for release pending trial and of the facts mentioned by the applicant in his appeals that the question whether or not there has been a violation of the Convention has to be determined.

Furthermore, even if the grounds relating to the public interest cited by the national judicial authorities are pertinent and sufficient to justify keeping a person in detention pending trial, that does not exempt the authorities from their obligations under the Convention if they themselves are seen to have prolonged the detention unreasonably.

In the present case the Commission recalls that the judicial authorities relied on the grounds mentioned in Sec. 762 of the Danish Administration of Justice Act when justifying the continuing detention of the applicant: the risk of absconding, the risk that the applicant, if at large, would commit new offences (after 10 April 1980), the danger of suppression of evidence and (from 5 September 1980) also the respect for the public interest.

With regard to the existence of a danger of suppression of evidence and the danger of new offences, the Commission regards the concern of the Danish authorities justified not only because of the

applicant's acts during the investigation but also in view of the character of the offences of which he was suspected and the complexity of the case which involved several hundred persons and several million Danish crowns.

In order to determine whether in a given case there is a risk of a person absconding, it is necessary to examine the factors relating to the character of the person involved, his morals, his home, his occupation, his assets, his family ties and all kinds of links with the country in which he is being prosecuted. For there to be a risk of an accused person absconding there must be a whole set of circumstances - in particular the expectation of a heavy sentence or the accused's particular aversion to detention, or the lack of well-established ties in the country - giving reason to suppose that the consequences and hazards of absconding will seem to him a lesser evil than continued imprisonment.

With regard to the applicant's situation, the Commission recalls that he had substantial financial ties abroad, in particular in Switzerland, and that the offences brought against the applicant made him liable to a severe prison sentence if convicted.

It is hardly possible in these circumstances to rule out the risk that the applicant would abscond. After reflecting on the various considerations set out here, the Commission is satisfied that the judicial authorities had sufficient reason to believe in a real risk that the applicant, once at large, would escape in order to evade justice.

It nevertheless remains to be considered whether in this case, and with regard to this particular complaint, the Danish judicial authorities displayed the special diligence which the Convention requires in the case of a detained person.

The investigations of the applicant's case continued immediately after his arrest on 31 January 1980. The indictment was served upon him on 4 February 1981 and the trial commenced on 27 April 1981. The period leading up to the trial was therefore approximately 15 months. The Commission recalls that the case concerned financial offences involving several hundred persons in Denmark as well as abroad. Investigations were carried out in several countries in Europe as well as in the U.S.A. During the applicant's detention on remand a total of 48 sessions in court took place where investigative matters as well as other procedural matters had to be determined.

Furthermore, the Commission acknowledges that in a case like this, time must be allowed for all the routine work that the investigating authorities carry out and which the procedural documents only reflect indirectly.

The trial before the City Court commenced on 27 April 1981 and ended on 1 November 1982. Consequently the trial lasted for approximately 18 months. During this period 136 court sessions were held without any substantial adjournments. On this point the Commission therefore finds that no criticism can be made of the conduct of the trial by the judicial authorities.

Having regard to the above-mentioned facts, the Commission therefore concludes that the period of the applicant's detention did not exceed what can be considered reasonable within the meaning of

Article 5 para. 3 of the Convention, and it follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

3a. The applicant has furthermore complained that he was wrongly convicted by the Danish courts.

In this respect the Commission recalls that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. 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 it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention. The Commission refers, on this point, to its constant jurisprudence (see e.g. No. 458/59, Dec. 29.3.60, Yearbook 3 p. 222, No. 1140/61, Dec. 19.12.61, Collection 8 p. 57, and No. 7987/77, Dec. 13.12.79, D.R. 18 p. 31).

It is true that in this case the applicant has also complained that he did not get a fair trial by an impartial tribunal within the meaning of Article 6 of the Convention, and he has referred in this regard both to the proceedings before the Probate Court and to his criminal case.

Insofar as the applicant's complaints relate to the proceedings before the Probate Court, the Commission is not required to decide whether or not the facts alleged by him disclose any appearance of a violation of this provision, as Article 26 of the Convention provides that the Commission "may only deal with the matter... within a period of six months from the date on which the final decision was taken".

In the present case the decision of the Supreme Court which was the final decision regarding the subject of this particular complaint was given on 14 May 1980 whereas the application regarding this complaint was submitted to the Commission on 9 June 1983, that is more than six months after the date of this decision. Furthermore, an examination of the case does not disclose the existence of any special circumstances which might have interrupted or suspended the running of that period.

It follows that this part of the application has been introduced out of time and must be rejected under Article 27 para. 3 of the Convention.

b. Insofar as the applicant's complaints relate to the proceedings in his criminal case, he alleges in particular that the fairness of the proceedings was affected by the publicity given to the criminal matter in the mass media. This publicity, so he submits, was provoked by the prosecution who allegedly branded him as a white collar criminal before the trial had started.

It is true that the Commission has accepted that in some cases a virulent press campaign can adversely affect the fairness of a trial (cf. No. 1476/62, Dec. 23.7.63 Collection 11 p. 31, and No. 3444/67, Dec. 16.7.70, Yearbook 13 p. 302) and involve the State's responsibility, particularly where it is sparked off by one of the

State's organs. In the present case the respondent Government has denied that the press coverage was instigated by the police or the prosecuting authority and stated that it was probably based on information obtained from the public court hearings which attracted considerable public interest. Furthermore the Government has submitted that the information imparted in connection with the case was only replies to oral questions in accordance with the usual practice as regards the giving of information to the public and the news media. Finally the Government maintain that the few incidents where the applicant was barred from contacting the press were necessary in order to carry out a proper investigation and otherwise of such an insignificant nature that this in no way could have affected the fairness of the trial.

The applicant maintains that nearly all newspaper articles were prejudiced and contained information which could not have been based only on what occurred during the court hearings but officials of the Public Prosecutor's Office must have caused the newspapers to publish false allegations which never resulted in any indictment but only unfairly influenced the proceedings under way. The nationwide television broadcast of the closing of the applicant's offices on the day of his arrest furthermore created effects which subsequently helped the prosecution to prove their case against the applicant. He also maintains that the prosecution's successful attempts to prevent him from contacting the press barred him from obtaining a fair trial.

The Commission has taken note of a number of newspaper articles concerning the applicant's case and has noted that the case was indeed subjected to an extensive press coverage. However, whether or not these articles contained incorrect or biased information, the Commission cannot find it established that what was said about the applicant in the mass media had any impact on the conduct and the outcome of the trial. It is true that the applicant by court decisions of 3 March, 25 July 1980 and 13 August 1980 was refused permission to make certain articles prepared by himself and his counsel available to the press. However, the Commission has not found it established that these incidents were of such a nature that the applicant's right to a fair trial was affected.

c. The applicant further alleges that he was not allowed to call witnesses under the same conditions as the Public Prosecutor. He asked for a large number of witnesses to be heard, but the trial court refused to hear them. The Commission notes, however, that the trial court, in its decisions to that effect, indicated the reasons why it did not consider it possible or necessary to hear certain witnesses. The Court found that their statements would be irrelevant to the case.

Article 6 para. 3 (d) of the Convention, according to which an accused has the right to obtain the examination of witnesses on his behalf, does not give an absolute right to the examination of every witness proposed by the defence (Eur. Court H.R., Engel and others judgment of 6 June 1976, Series A No. 22). In particular a court is justified in refusing to summon witnesses when it considers that their statements could not be of any relevance to the case (see for example No. 4124/69, Dec. 13.7.70, Collection 35 p. 132). The

Commission does not find it to be established in the applicant's case that the Court failed to consider relevant evidence or rejected the applicant's motions in an arbitrary and unfair manner.

d. Regarding the hearing of the witnesses in the Court of Appeal the applicant has also complained that the method used, e.g. reading aloud the statements made by the witnesses in the City Court before the examination by the Court of Appeal, was unfair and to a great extent influenced the outcome of his appeal. With regard to this complaint the Commission recalls that when a witness was heard in the Court of Appeal, his statement in the City Court was first read out and the witness was hereafter asked whether he could stand by his statement. Then followed a further hearing of the witness during which the defence counsel, the prosecutor and the judges could put supplementary questions in order to clarify the situation.

The Commission considers generally that it may reduce the value of the statements of a witness if he is first reminded in detail of what he said when giving evidence before the lower court. However, it notes that the parties were given the opportunity of putting further questions to the witnesses in order to obtain further information or to question the correctness of their evidence. In these circumstances, the Commission finds that the method used was not of such a character that it could render the hearing unfair and it does not therefore constitute a violation of the Convention.

e. Under Article 6 the applicant also maintains that he did not get adequate time and facilities for the preparation of his defence. In particular he has pointed out that the defence had considerable difficulties in obtaining information and data from the prosecution and was refused effective access to the seized material.

It is true that Article 6 para. 3 (b) of the Convention guarantees to an accused person the right to be granted adequate facilities for the preparation of his defence.

In the present case the Commission recalls that a defence counsel was appointed to the applicant when he was arrested and that he was represented by two defence lawyers during his trial before the City Court and the appeal proceedings before the Court of Appeal. According to Sec. 745 of the Administration of Justice Act these defence lawyers had the right to make themselves acquainted with the material produced by the police and the Commission has found no indication that this right was denied them. On the contrary, the City Court decided on 13 February 1980 that under Sec. 745 of the above Act the defence was entitled to receive documents with the exception of internal police files and correspondence. Furthermore, the correspondence submitted by the applicant also shows that at least on one occasion the prosecution invited the applicant and his counsel to come and receive copies of the documents which they found necessary. In these circumstances the Commission finds that the applicant's access to the file or other documents was not restricted to such an extent that the right secured under Article 6 para. 3 (b) was violated.

Furthermore, the Commission notes that a special cell was put at the applicant's disposal due to the complexity of the case and the number and volume of the documents involved. It is true that the

applicant could only work in this cell in the company of one of his lawyers but it nevertheless does not support his claim that his rights of defence were not respected.

f. Under Article 6 the Commission has also considered the applicant's complaint that his case was not determined within a reasonable time. The Commission finds that the period in question lasted from the applicant's arrest on 31 January 1980 to 2 March 1984 when the Court of Appeal pronounced judgment in the case. This is a total of 4 years and 1 month.

The reasonableness of the length of proceedings must be assessed in each instance, according to the particular circumstances. Regard must be had, among other things, to the complexity of the case, the conduct of the accused and the conduct of the judicial authorities.

The present case was undoubtedly a very complex one which concerned economic crimes of great dimensions and committed on an international scale. Investigations had to be carried out in many European countries as well as in the U.S.A. The trial before the City Court lasted from April 1981 to November 1982 with regular hearings on a total of 136 days. More than a hundred witnesses were heard and a substantial number of documents were read out in court. The applicant appealed to the Court of Appeal where the trial commenced in August 1983 due to a postponement requested by the defence and ended in March 1984, with regular hearings on a total of 64 days.

The Commission has already, in its examination of the complaint under Article 5 of the Convention, found that the applicant was brought to trial within a reasonable time. In view of the complexity and volume of the case the Commission cannot find from the information submitted by the applicant any indication of unreasonable delays during the remaining period. Neither is there anything to show that the judicial authorities caused any avoidable delays.

Accordingly the Commission finds that an examination of this complaint also fails to disclose any appearance of Article 6 of the Convention.

g. Consequently, an examination of the applicant's above complaints under Article 6 of the Convention has disclosed no breach of the said Article and this part of the application is therefore manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

4. However, the applicant has also alleged a violation of Article 6 in that his case was not decided by an impartial tribunal, either in the City Court or in the Court of Appeal. The applicant here points out that the presiding judge at the City Court as well as the full Court of Appeal had on numerous occasions decided to detain the applicant on remand before his trial before these courts. Moreover, while the trial was going on before the City Court and the Court of Appeal, these courts decided at regular intervals to prolong the applicant's detention on remand. Furthermore the applicant has also referred to the fact that the City Court on many occasions during the investigation of his case decided at the request of the prosecution to obtain evidence to his detriment from persons and firms in Denmark and abroad.

The respondent Government have contended that the applicant did not at any time request to have a court ruling regarding these complaints and they furthermore consider it of decisive importance that the Danish authorities who apply the law should be afforded the opportunity, in accordance with Article 26 of the Convention, to take a position themselves on these points. The applicant has stated that he repeatedly raised objections in regard to these complaints but that his objections were ignored. Furthermore he maintains that according to the Administration of Justice Act, in particular Sec. 60, he would not have any effective remedy in regard to this complaint.

It is true that under Article 26 of the Convention the Commission may only deal with a complaint after all domestic remedies have been exhausted according to the generally recognised rules of international law. However, if it can be established that the remedies that may exist are ineffective or inadequate, either as a result of an administrative practice or otherwise, the domestic remedies rule does not apply (see for example No. 8462/79, Dec. 8.7.80, D.R. 20 p. 184).

In the present case the Commission recalls that the Danish system, which is set out in the respondent Government's observations and recalled below, was introduced in 1978 and is now an established practice in Denmark. Moreover, it is consistent with the Administration of Justice Act. The applicant could not, therefore, have pointed at any breach of Danish law when complaining about this situation. In these circumstances the Commission finds that no effective remedies were available within the meaning of Article 26 of the Convention in regard to this complaint. Accordingly the Commission does not reject this complaint for non-observance of the domestic remedies rule.

With regard to the substance of this complaint, the Commission recalls the system operating in Denmark where a case is investigated and brought before the court by the police and the prosecutor. Depending on the particular circumstances of the case the prosecutor may request the court to detain the applicant on remand and the court may decide to do so when the requirements set out in Sec. 762 of the Administration of Justice Act are fulfilled. The period of detention is under constant judicial control in that it may never exceed four weeks without a new court decision. When, as in the present case, the trial lasts for more than a month the trial court also determines whether it is necessary to keep the accused in detention. When deciding on the question of detention the court must be satisfied under Sec. 762 para. 1, that there is a justified reason to believe that the suspect has committed the offence and that there is specific reason to believe that the suspect,if at large, will abscond or commit new offences or impede the ongoing investigation. Under paragraph 2 of the same Section, detention may furthermore be imposed, if the public interest so requires, and there is a particularly strong suspicion indicating that the suspect has committed the offence.

The Government have submitted that under the Danish system there is a clear line of distinction between the functions of the police and the prosecution and the functions of the court which entails that throughout the investigation process the court exercises only supervisory functions and remains entirely neutral. There is no

concurrence of the functions of the prosecuting authority and the judge. The judges are only to take a position on questions in dispute between the police and the accused and to ensure that the conditions laid down in the Administration of Justice Act are fulfilled. However, the court must intervene if an investigative measure is deemed to involve such a severe interference with citizens' rights that it could only be instituted by court order.

The applicant has emphasised that the judge who presided at the City Court trial as well as the judges at the Court of Appeal were to a large extent the same judges who decided to detain him on remand both before his trial and during his trial before these courts. For judges who had participated in such decisions and, concerning the City Court, also in numerous decisions to obtain evidence from persons and firms in Denmark and abroad, it was in the applicant's view next to impossible to acquit him after he had been detained on remand for more than four years.

The Commission has made a preliminary examination of the above aspect and has found that it raises serious issues as to the interpretation and application of Article 6 of the Convention, and that these issues can only be determined after an examination on their merits. This complaint is therefore admissible, no other reason for rejecting it having been found.

5. The applicant has also complained that during his detention on remand he was refused permission to forward certain information to the press. The Commission has already examined the factual circumstances of this particular complaint in regard to the question of a fair trial as set out above. However, the applicant has also in this respect invoked Article 10 of the Convention.

It is true that Article 10 of the Convention secures to everyone inter alia the right to impart information.

However, the Commission is not required to decide whether or not the facts alleged by the applicant disclose any appearance of a violation of this provision, as Article 26 of the Convention provides that the Commission "may only deal with the matter ... within a period of six months from the date on which the final decision was taken".

In the present case the court decisions relating to this particular complaint were given on 3 March, 25 July and 13 August 1980, whereas the application concerning this complaint was submitted to the Commission on 9 June 1983, that is more than six months after the date of the domestic decisions. Furthermore, an examination of the case does not disclose the existence of any special circumstances which might have interrupted or suspended the running of that period.

It follows that this part of the application has been introduced out of time and must be rejected under Article 27 para. 3 of the Convention.

6. The Commission has finally considered the applicant's complaint under Article 1 of the Fourth Protocol to the Convention, that he was imprisoned on the ground of inability to fulfil a contractual obligation. However, the information and documents

submitted by the applicant do not indicate that he was detained for any reasons other than those stated in the court decisions and judgments. It follows, therefore, that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission

DECLARES ADMISSIBLE without prejudging the merits of the case the applicant's complaint that his case was not heard by an impartial tribunal (point 4 above)

and

DECLARES INADMISSIBLE the remainder of the application

Secretary to the Commission

(H. C. KRÜGER)

Acting President of the Commission

(G. SPERDUTI)