CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

INFORMATION NOTE No. 29
on the case-law of the Court
April 2001

The summaries are prepared by the Registry and are not binding on the Court.

Statistical information[1]

		April	2001
I. Judgments delivered			
Grand Chamber		0	10
Chamber I		27(28)	107(110)
Chamber II		40	98
Chamber III		7(8)	64(69)
Chamber IV		6(7)	42(43)
Total		**80(83)**	**321(330)**
II. Applications declared admissible			
Section I		41(42)	61(69)
Section II		14	115(116)
Section III		27	101(105)
Section IV		30	95(97)
Total		**112(113)**	**372(387)**
III. Applications declared inadmissible			
Section I	- Chamber	4	14
	- Committee	61	413
Section II	- Chamber	6	41(42)
	- Committee	32	249
Section III	- Chamber	6	34
	- Committee	131	536(537)
Section IV	- Chamber	2	25(35)
	- Committee	73	542
Total		**315**	**1854(1866)**
IV. Applications struck off			
Section I	- Chamber	1	6
	- Committee	2	15
Section II	- Chamber	0	28(202)
	- Committee	1	11
Section III	- Chamber	1	6
	- Committee	2	12
Section IV	- Chamber	2(4)	2(4)
	- Committee	0	4
Total		**9(11)**	**84(260)**
Total number of decisions[2]		**436(439)**	**2310(2513)**
V. Applications communicated			
Section I		49(50)	128(133)
Section II		5	110(111)
Section III		4	60(62)
Section IV		3	105(109)
Total number of applications communicated		**61(62)**	**403(415)**

[1] The statistical information is provisional.
[2] Not including partial decisions.

Judgments delivered in April 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	0	0
Section I	26	0	0	1(2)[1]	27(28)
Section II	26	14	0	0	40
Section III	5(6)	2	0	0	7(8)
Section IV	0	6(7)	0	0	6(7)
Total	**57(58)**	**22(23)**	**0**	**1(2)**	**80(83)**

Judgments delivered in January - April 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	8(10)	0	1	1[1]	10(12)
Section I	95(97)	10	1	1(2)[1]	107(110)
Section II	68	30	0	0	98
Section III	57(61)	6	1	0	64(68)
Section IV	36	6(7)	0	0	42(43)
Total	**264(272)**	**52(53)**	**3**	**2(3)**	**321(331)**

[1] Just satisfaction.
[2] Of the 256 judgments on merits delivered by Sections, 16 were final judgments.

[* = non-final judgment]

ARTICLE 2

LIFE
Prison suicide: *no violation*.

KEENAN - United Kingdom (Nº 27229/95)
Judgment 3.4.2001 [Section III]

Facts: In 1993 the applicant's 28-year old son, who had a history of disturbed behaviour, including self-harm, was imprisoned following his conviction for an assault on his girlfriend. He was placed in an unfurnished cell and put on a 15-minute watch after his cell-mate reported that he had fashioned a noose from a bed-sheet. Thereafter, several attempts were made to readmit him to ordinary location, but each time he was returned to the health care unit. Following an assault on two hospital officers, he was again placed in an unfurnished cell. He was nevertheless certified fit for adjudication in respect of the assault and was consequently placed in segregation in the punishment block. He indicated that he was feeling suicidal and received counselling, and was again transferred to an unfurnished cell and placed on a 15-minute watch. He was returned to the segregation unit after apparently improving. About ten days later – nine days before his expected release date – he was found guilty of the assault and given 28 additional days in prison. The following morning, both the doctor and a visitor found him calm and relaxed, although disappointed. However, that evening the applicant's son was found hanged in his cell. At the inquest, a verdict of death by misadventure was recorded. The applicant's legal aid was withdrawn in the light of counsel's opinion that, notwithstanding the grave breach of duty by the prison service in keeping a mentally ill prisoner in a punishment cell without proper medical monitoring, an action in negligence would not succeed.
Law: Article 2 – It is common ground that the applicant's son was mentally ill. Although it is disputed whether he was schizophrenic and thus a high suicide risk, the prison authorities were aware that the problem was chronic and involved psychosis with intermittent flare-ups and his behaviour after admittance to prison put them on notice that he exhibited suicidal tendencies. The authorities therefore knew that his mental state was such that he posed a potential risk to his own life although, as his behaviour showed periods of apparent normality, it cannot be concluded that he was at risk throughout his detention. On the whole, the authorities responded reasonably to the conduct of the applicant's son, placing him in hospital care and under watch when suicidal tendencies appeared. There was daily medical supervision and there was no reason to alert the authorities on the day of the incident that attempted suicide was likely. Thus, it is not apparent that the authorities omitted to take any reasonable step. The argument that increased stress resulting from the disciplinary punishment should have been foreseen is speculative and the issues concerning the standard of care prior to the death fall to be examined under Article 3.
Conclusion: no violation (unanimously).
Article 3 – It cannot be disputed that the applicant's son suffered anguish and distress during the period in question, but it is not possible to distinguish with any certainty to what extent the symptoms resulted from the conditions of detention. However, this is not determinative of the issue whether the authorities fulfilled their obligation to protect him from treatment or punishment contrary to Article 3: treatment of a mentally ill person may be incompatible with the standards imposed by Article 3 even if specific ill effects cannot be identified. The absence of entries in the medical records in the 10-day period leading up to the applicant's son's death shows an inadequate concern to maintain full and detailed records of his mental state and undermines the effectiveness of any monitoring or supervision process. This, combined with the lack of informed psychiatric input, discloses significant defects in the medical care provided to a mentally ill person known to be a suicide risk. The belated imposition of a serious disciplinary punishment which may well have threatened his physical and moral resistance is not compatible

with the standard of treatment required in respect of a mentally ill person and must be regarded as constituting inhuman and degrading treatment.
Conclusion: violation (5 votes to 2).
Article 13 – The applicant's complaints are "arguable" for the purposes of this provision in connection with both Article 2 and Article 3. As far as the applicant's son is concerned, he committed suicide the day after the imposition of the disciplinary punishment. There was no remedy which would have offered him the prospect of challenging the punishment and even assuming judicial review would have provided a means of challenging it, it would not have been possible for him to obtain legal aid and lodge an application within such a short time period. The internal avenue of complaint similarly takes an estimated six weeks. Moreover, if he were not in a fit mental state to make use of any available remedies, this would point to the need for automatic review in such cases. As far as the applicant herself is concerned, it is agreed that the inquest was not an effective remedy for the purposes of Article 13. With regard to an action in negligence in respect of injury suffered before death, the Court is not persuaded that a finding of negligence by the courts would in itself be capable of furnishing effective redress and it does not accept that adequate damages would have been recoverable or that legal aid would have been available. As for anguish and fear, there is no evidence that this would be regarded as an "injury". Furthermore, as the mother of a non-dependent adult, the applicant cannot claim damages under the Fatal Accidents Act. In cases of a breach of Articles 2 and 3, compensation for non-pecuniary damage should in principle be available as part of the range of possible remedies. No effective remedy was available to the applicant which would have established where responsibility for the death lay, and this is an essential element of a remedy under Article 13.
Conclusion: violation (unanimously).
Article 41 – The Court awarded the applicant £7,000 (GBP) for non-pecuniary damages in respect of her son, to be held by her for his estate, and £3,000 in her personal capacity. It also made an award in respect of costs and expenses.

LIFE
Death in police custody and effectiveness of investigation: *violation*.

TANLI - Turkey (Nº 26129/95)
*Judgment 10.4.2001 [Section III]

Facts: The applicant's son was taken into custody by gendarmes. Two days later, the applicant was summoned to the police station, where he was told that his son had died of a heart attack. An autopsy carried out by two doctors who were not forensic specialists confirmed the cause of death as a heart attack. The applicant lodged a petition, claiming that his son must have been tortured since he had been in good health before being taken into custody. However, he withdrew the petition and also his request to have a proper forensic examination of the body, fearing for his own safety. Proceedings were nonetheless brought against three policemen, whose account was that the applicant's son had become agitated and collapsed during questioning. They were acquitted after a forensic examination of the exhumed body proved inconclusive due to the advanced state of decomposition. The report criticised the initial autopsy, in particular noting that no dissection of the heart appeared to have been carried out.
The Court considered that fact-finding would not clarify the situation, in view of the time which had passed since the events.
Law: The applicant's son was in good health and had no history of medical problems when taken into custody. The domestic proceedings did not medically establish the cause of death and in particular it has not been shown that the death was due to natural causes. Moreover, it may be accepted that the applicant withdrew his request for a forensic examination due to the inherent strain of undertaking the responsibility for such an exercise and to associated anxieties as to possible adverse reactions.

Article 2 (death) – The autopsy was defective in fundamental aspects and neither *post mortem* examination provided an explanation for the death. The authorities have therefore failed to provide any plausible or satisfactory explanation for the death in police custody and the responsibility of the State is engaged.
Conclusion: violation (6 votes to 1).
Article 2 (effective investigation) – The autopsy was defective and was not carried out by qualified forensic doctors as required by the law, there being no exceptional urgency and no reason why a specialist could not have been involved in the following days. Moreover, the prosecutor did not require the applicant's consent to have a further forensic examination carried out and responsibility for carrying out an effective investigation lies with the authorities. The acquittal of the policemen was not surprising given the defects in the investigation.
Conclusion: violation (unanimously).
Article 3 – There were no marks indicative of torture and no evidence of torture other than the unexplained cause of death. It is not appropriate to draw the inferences proposed by the applicant and, to the extent that it is alleged that the failings in the *post mortem* examination prevented any concrete evidence of ill-treatment coming to light, the complaint falls to be considered under Article 13. Moreover, while the applicant has undoubtedly suffered as a result of his son's death, there is no basis for finding a violation of Article 3 in that respect.
Conclusion: no violation (unanimously).
Article 5 – The Court was not satisfied that the authorities acted without reasonable suspicion that the applicant's son had committed an offence, nor was it persuaded that "unlawfulness" had been made out on the grounds of a lack of proper documentation recording the detention. Moreover, it is not possible to establish what information may have been given to him or when. Under Article 5(3), it is speculation to assume that a violation would inevitably have occurred. On the same basis, it cannot be concluded that the applicant's son was denied the opportunity to challenge the lawfulness of his detention.
Conclusion: no violation (unanimously).
Article 13 – Given the findings under Article 2, no effective remedy was available to the applicant.
Conclusion: violation (unanimously).
Articles 14 and 18 – The complaints under these provisions are unsubstantiated.
Conclusion: no violation (unanimously).
Article 41 – The Court found that there was a causal link between the violation of Article 2 and the loss by the applicant's son's widow and child of the financial support which he provided for them. Noting that the Government had not queried the amount claimed by the applicant, beyond a general assertion that it was excessive, and having regard to the detailed submissions by the applicant concerning the actuarial basis of calculation of the appropriate capital sum to reflect the loss of income due to his son's death, the Court awarded the sum of £38,754.77 (GBP) to be held by the applicant for his son's widow and child. It also awarded £20,000 for non-pecuniary damage, to be held by the applicant for his son’s widow and child, as well as £10,000 for non-pecuniary damage suffered by the applicant in his personal capacity. Finally, it made an award in respect of costs and expenses.

ARTICLE 3

INHUMAN TREATMENT
Suicide of mentally ill prisoner – adequacy of care: *violation*.

KEENAN - United Kingdom (Nº 27229/95)
Judgment 3.4.2001 [Section III]
(See Article 2, above).

INHUMAN TREATMENT
Death allegedly resulting from torture in police custody: *violation*.

TANLI - Turkey (Nº 26129/95)
*Judgment 10.4.2001 [Section III]
(See Article 2, above).

INHUMAN TREATMENT
Interrogation and placement in detention on remand of very elderly person: *inadmissible*.

PRIEBKE - Italy (N° 48799/99)
Decision 5.4.2001 [Section II]
(see below).

DEGRADING TREATMENT
Conditions of detention on remand: *violation*.

PEERS - Greece (Nº 28524/95)
Judgment 19.4.2001 [Section II]

Facts: The applicant, a British national, was arrested in Greece in August 1994 and transferred to Koridallos prison, where he was placed in the segregation unit due to his drug addiction. He declined a transfer to "Delta" wing, where he maintained there was a drug problem which he wished to avoid. He was subsequently transferred to "Alpha" wing, which was the best in the prison. He was convicted of drugs offences in July 1995. He complains about the conditions of his pre-trial detention, in particular in the segregation unit. A delegation of the European Commission of Human Rights visited the prison and essentially confirmed the applicant's description of the accommodation. A report of the Committee for the Prevention of Torture also described similar conditions, and in particular found serious over-crowding with negative repercussions on conditions. The applicant's complaints include the following: the cell, which he shared with another inmate, was very small, the two beds barely leaving enough room to walk between them; it was very hot in summer, with no ventilation; there was one window in the ceiling, which did not open and was so dirty that little light came through; there was an electric light which was insufficient for reading; there was an Asian-type toilet with no screen or curtain; there was no sink in the cell and only one shower for nine cells holding up to three prisoners each. Conditions in Alpha wing were better, but still dirty and over-crowded. In general, there were shortages of blankets and toileteries in the prison. Furthermore, letters addressed to the applicant, including those from the Commission, were opened in his presence. The applicant was released and deported in June 1998.

Law: Article 3 – The applicant did not consent to being detained in the segregation unit, his refusal to be transferred to Delta wing being based on his desire to avoid contact with the drugs which it appears were illegally available there. The Court had regard to the Commission delegates' findings, especially as to the size, lighting and ventilation of the applicant's cell, elements which would not have changed between the time of the applicant's detention and the delegates' visit. The applicant could circulate freely in the segregation unit during the day, and although the unit and its exercise yard were small, this limited possibility of movement must have given some form of relief. Nevertheless, the applicant had to spend at least part of the evening and the entire night in his cell which, although built for one person, was occupied by two, essentially confining the occupants to their beds when the door was locked. Moreover, there was no ventilation in the cell, which could become exceedingly hot in summer. When the door was locked, it was necessary to use the Asian-type toilet, which was not separated from the rest of the cell. While there is no evidence that there was a positive intention of humiliating or debasing the applicant, the absence of any such purpose cannot conclusively rule out a finding of a violation of Article 3, and the fact that the authorities have taken no steps to improve the objectively unacceptable conditions of the applicant's detention denotes a lack of respect. The conditions complained of diminished his human dignity and created feelings of anguish and inferiority capable of humiliating and debasing him and possibly breaking his physical or moral resistance. In sum, the conditions of the applicant's detention in the segregation unit amounted to degrading treatment.
Conclusion: violation (unanimously).
Article 6(2) – The Convention contains no provision providing for separate treatment of convicted and accused persons in prisons and Article 6(2) cannot be interpreted as having been violated on this basis.
Conclusion: no violation (unanimously).
Article 8 – The opening of the applicant's correspondence from the Commission constituted an interference which was prescribed by law and pursued the legitimate aims of preventing disorder or crime. However, there were no compelling reasons for the monitoring of the relevant correspondence, and the risk of the Commission's envelopes being forged in order to smuggle prohibited material into the prison is so negligible that it must be discounted.
Conclusion: violation (6 votes to 1).
Article 41 – The Court awarded the applicant 5,000,000 drachmas (GRD) in respect of non-pecuniary damage.

ARTICLE 5

Article 5(2)

INFORMATION ON REASONS FOR ARREST
Adequacy of reasons given for arrest: *no violation*.

H.B. - Switzerland (Nº 26899/95)
Judgment 5.4.2001 [Section II]
(See Article 5(3), below).

Article 5(3)

JUDGE OR OTHER OFFICER AUTHORISED BY LAW
Independence of investigating judge responsible for ordering detention on remand: *violation*.

H.B. - Switzerland (Nº 26899/95)
Judgment 5.4.2001 [Section II]

Facts: The applicant was arrested in connection with unlawful activities concerning a company and brought before an investigating judge, who informed him orally of the grounds for his arrest. The investigating judge issued a detention order which mentioned the grounds of detention stated in the arrest warrant. On the same day, the applicant lodged a hand-written appeal with the cantonal Court of Appeal. Several days later, the investigating judge informed the applicant what the charges against him concerned. The applicant's lawyer lodged a complaint against the applicant's arrest and detention with the Court of Appeal, claiming *inter alia* that he had been given no concrete information about the offences. The applicant's appeals were struck out on the ground that they served no purpose, since he had been released in the meantime. He lodged a public law appeal with the Federal Court on the same basis. He then brought a civil action against the Canton for unlawful detention and was awarded compensation in respect of an initial refusal of access to his lawyer. However, his other complaints were dismissed.
Law: Article 5(2) – The applicant was informed in writing of the offences of which he was suspected immediately on his arrest and was also informed orally by the investigating judge. All this information enabled him to lodge a hand-written complaint on the day of his arrest. He was later informed of further grounds for his arrest and detention and his lawyer lodged another complaint. Bearing in mind that the applicant had specialised knowledge of the financial situation of the company concerned, he was duly informed of the essential legal and factual grounds for his arrest, so as to be able to apply to a court to challenge the lawfulness of his detention.
Conclusion: no violation (unanimously).
Article 5(3) – During the applicant's detention it had not been decided before which of the cantonal criminal jurisdictions he would be tried. However, if a case is referred to the District Court, the investigating judge prepares a final order with a summary description of the facts, the legal description of the offence and the applicable criminal provisions. Since in the ensuing trial, there is no formal bill of indictment and no member of the public prosecutor's office is present, it is the investigating judge who in his final order provides the framework for the facts and their legal qualification within which the District Court then conducts the

trial. The order thus contains substantial elements, and indeed exercises important functions, of a bill of indictment. Consequently, when the investigating judge decided on the applicant's arrest and detention, it appeared that, had the case been referred for trial in the District Court, he would have been entitled to intervene in the subsequent criminal proceedings as a representative of the prosecuting authority. In view thereof, it is unnecessary to examine the situation if the case had been referred for trial to another jurisdiction or whether the investigating judge was in fact independent of the public prosecutor's office.
Conclusion: violation (unanimously).
Article 13 – The applicant no longer wishes to pursue this complaint and there is no reason for the Court to consider it of its own motion.
Conclusion: not necessary to examine (unanimously).
Article 41 – The Court awarded the applicant 2,000 Swiss francs (CHF) in respect of non-pecuniary damage and also made an award in respect of costs and expenses.

ARTICLE 6

Article 6(1) [civil]

APPLICABILITY
Revocation of bankruptcy proceedings : *Article 6 applicable*.

SABLON - Belgium (N° 36445/97)
*Judgment 10.4.2001 [Section III]

Facts: On 14 September 1971 the Nivelles Commercial Court adjudged the applicant bankrupt, following a petition by the National Social Security Office (*Office national de sécurité sociale* – "the ONSS") for non-payment of sums owed by him, and appointed two trustees in bankruptcy, D. and B., who were subsequently replaced by a new trustee, J. In April 1990 the applicant applied to the Nivelles Commercial Court to reopen proceedings with a view to having the bankruptcy order of 14 September 1971 rescinded, availing himself of the *requête civile* remedy whereby civil proceedings may be reopened in certain specified circumstances – for example, if fresh evidence comes to light or it is discovered that forged documents or false evidence were used in the original proceedings. In a judgment of 6 September 1993 the Commercial Court rescinded the bankruptcy order but, in view of the difficulty of restoring the applicant's assets to how they had stood on 14 September 1971 (the date on which he had been adjudged bankrupt), decided that the proceedings should be resumed at a later date. D., B., J. and the ONSS appealed against that judgment. During the appeal proceedings the applicant lodged an appeal against the judgment of 14 September 1971; the Brussels Court of Appeal decided to join his appeal to those lodged against the judgment of 6 September 1993 in view of the close connection between them. At the end of the proceedings, in a judgment of 18 June 1999, the Court of Appeal declared the appeal against the judgment of 14 September 1971 inadmissible on the ground that it had not been lodged within fifteen days after service of that judgment. In a second judgment delivered that same day the Court of Appeal declared inadmissible the applicant's April 1990 application to reopen proceedings, on the ground that the facts which had been adduced by the applicant in support of the application and accepted in the judgment of 6 September 1993 did not satisfy the admissibility criteria for a *requête civile*. The applicant had been aware of those facts before the expiry of the time allowed for lodging an ordinary appeal and, *a fortiori*, for much longer than six months before he had applied to reopen the proceedings. In November 1999 the applicant lodged, *inter alia*, an appeal on points of law against that judgment. In addition, as soon as the judgment of 6 September 1993 rescinding the bankruptcy order had been

delivered, the applicant had instituted various proceedings to secure its enforcement. The proceedings in connection with applications by him to recover the sums held by J. began when he and J. appeared voluntarily in Nivelles Commercial Court in September 1993. The court ordered an interim payment of a specified sum. An application by a third party – the applicant's former wife – to set aside the order was declared admissible but ill-founded, as was an application by the ONSS to join the proceedings. The applicant's former wife and the ONSS appealed against that decision in April 1995. After declaring their appeal admissible in June 1996 and finding in March 1997 that there was no need to issue any interim decisions, the Court of Appeal adjourned the case indefinitely. In December 1993 the applicant had brought a further action in the Nivelles Commercial Court to recover all the sums of money or accounts still in J.'s possession. The court declined jurisdiction in May 1994. The applicant also applied for an attachment, but his application was rejected in June 1994. In April, May and June 1996 he requested a bailiff to serve an order on J. for the immediate payment of all the sums required for restitution of the applicant's assets *in integrum*. That request was refused by the bailiff in question and by others approached by the applicant. In addition, the Nivelles judge dealing with the attachment of property authorised the ONSS to make an interim attachment of a sum held by J. which it was owed by the applicant. The applicant applied as a third party to set aside the attachment order, and in May 1995 the judge ordered the attachment to be lifted. The ONSS appealed and in May 1997 the Brussels Court of Appeal set aside the order lifting the attachment. The Court of Cassation quashed that judgment and remitted the case to the Mons Court of Appeal, where it is apparently still pending. In May 1996 the applicant applied to recover the funds deposited by J. at the Bank for Official Deposits (*caisse des dépôts et consignations*) in connection with the previous proceedings, but his application was not allowed. In August 1995 the applicant applied for a judicial order enjoining P., the trustee in bankruptcy for one D.-J., not to dispose of a collection of Impressionist paintings which the applicant had placed in D.-J.'s care. In a judgment of October 1998 the Nivelles Court rejected the applicant's application. An appeal by the applicant against that judgment is still pending. The applicant complained, *inter alia*, of the length of various proceedings.

Law: Article 6 – According to the Court's case-law, Article 6 did not apply to the examination of an application to reopen civil proceedings. The use of the *requête civile* remedy with a view to rescinding the bankruptcy order was to be regarded as an application to reopen proceedings. Consequently, the proceedings commenced in April 1990 could not at the outset have involved the determination of civil rights and obligations. However, the procedure for dealing with an application to reopen proceedings could be divided into two stages. The first consisted in determining whether the evidence produced in support of the application constituted fresh facts warranting the reopening of a case in which a final judgment had been delivered. If so, a second stage was initiated in which the case is re-examined in its entirety in the light of all the evidence, including the fresh facts. If at the outset the case involved the determination of civil rights and obligations or criminal charges within the meaning of Article 6, it would continue to do so in the event of a decision to reopen proceedings, since such a decision entailed a fresh examination of the merits. In that connection, the Court noted that on 6 September 1993 the Commercial Court had allowed the application to rescind the bankruptcy order and had carried out a fresh examination of the case in its entirety, finding as a result that the applicant should not have been declared bankrupt in 1971. From 6 September 1993 onwards the proceedings to rescind the bankruptcy order had unquestionably been concerned with civil rights and obligations and Article 6 was therefore applicable. The same was true both of the proceedings brought by the applicant to obtain enforcement of the judgment of 6 September 1993 and of his application for restitution of his assets. Article 6 was consequently applicable to the proceedings in issue.

However, on account of such factors as the case's complexity and the applicant's conduct, the proceedings had not exceeded a reasonable time.

Conclusion: no violation (unanimously).

ACCESS TO COURT
Decision by legal aid board of Court of Cassation on whether there are grounds for an appeal on points of law: *admissible*.

DEL SOL - France (N° 46800/99)
Decision 3.4.2001 [Section III]

Mr and Mrs Del Sol were granted a divorce by the *tribunal de grande instance*. The applicant, Mrs Del Sol, appealed against the decree of divorce but the Court of Appeal dismissed her appeal and upheld the decree. She decided to appeal on points of law against the Court of Appeal's judgment and applied to the Court of Cassation's legal aid office. While acknowledging that the applicant's means were insufficient, the office rejected her application for legal aid, stating that there was no serious ground for an appeal on points of law against the impugned judgment. She then appealed against that decision. The President of the Court of Cassation dismissed her appeal, pointing out that the legal aid office's assessment of the facts of the case was not subject to review and finding that there did not appear to be any serious grounds for an appeal on points of law.
Admissible under Article 6(1).

PUBLIC HEARING
Exclusion of public hearing in child residence proceedings: *no violation*.

B. and P. - United Kingdom (Nº 36337/97 and Nº 35974/97)
*Judgment 24.4.2001 [Section III]

Facts: In separate proceedings, each of the applicants sought a residence order in respect of his child following separation from his partner or wife. The applicants applied to have the residence applications heard in open court. These requests were refused, on the ground that the relevant rule provides that "unless the court otherwise directs, a hearing of, or directions appointment in, proceedings to which this Part applies shall be in chambers". The applicants' appeals were dismissed by the Court of Appeal, which confirmed that the respective judges had exercised their discretion properly in refusing to hear the applications in open court. The applicants' applications for residence orders were subsequently dismissed, the judgments being delivered in chambers.
Law: Article 6(1) (public hearing) – Child residence proceedings are prime examples of cases where the exclusion of the press and public may be justified in order to protect the privacy of the child and parties and to avoid prejudicing the interests of justice. To enable the deciding judge to gain as full and accurate a picture as possible of the advantages and disadvantages of the various residence and contact options open to the child, it is essential that the parents and other witnesses feel able to express themselves candidly on highly personal issues without fear of public curiosity or comment. While Article 6 states a general rule that civil proceedings, *inter alia,* should take place in public, it is not inconsistent with that provision to designate an entire class of case as an exception to the general rule where considered necessary in the interests of morals, public order or national security or where required by the interests of juveniles or the protection of the private life of the parties. The English procedural law can therefore be seen as a specific reflection of the general exceptions provided for by Article 6(1). Furthermore, the English courts have a discretion to hold such proceedings in public if merited by the special features of the case, and the judge must consider whether or not to exercise his or her discretion in this respect if requested by one of the parties.
Conclusion: no violation (5 votes to 2).
Article 6(1) (public judgment) – The domestic authorities were justified in conducting the proceedings in chambers in order to protect the privacy of the children and the parties and to avoid prejudicing the interests of justice, and to pronounce the judgment in public would, to a large extent, frustrate these aims. Anyone who can establish an interest may consult or obtain

a copy of the full text of the orders and/or judgments of first instance courts in child residence cases, and the judgments of the Court of Appeal and of first instance courts in cases of special interest are routinely published, thereby enabling the public to study the manner in which the courts generally approach such cases and the principles applied in deciding them. Having regard to the nature of the proceedings and the form of publicity applied by the national law, a literal interpretation of Article 6(1) concerning the pronouncement of judgments would not only be unnecessary for the purposes of public scrutiny but might even frustrate the primary aim of securing a fair hearing.
Conclusion: no violation (5 votes to 2).
Article 10 – In view of the finding that it was justifiable to hold the residence proceedings in chambers and to limit the extent to which the judgments were made available to the general public, it is not necessary to examine separately the complaint under Article 10, namely that the applicants were prevented from disclosing any details of the proceedings or judgments.
Conclusion: not necessary to examine (unanimously).

PUBLIC JUDGMENT
Exclusion of public pronouncement of judgment in child residence proceedings: *no violation*.

B. and P. - United Kingdom (Nº 36337/97 and 35974/97)
*Judgment 24.4.2001 [Section III]
(See above).

REASONABLE TIME
Length of administrative proceedings – period to be taken into account: *violation*.

MESSOCHORITIS - Greece (N° 41867/98)
*Judgment 12.4.2001 [Section II]

Facts: The applicant concluded a contract with the State to carry out public works at a military airport. Pursuant to a decision taken in July 1986 by the military authority on whose behalf the work was performed, the State refused to pay for part of the work that had been carried out on the orders of the relevant State department without having been specified in the contract. In August 1986 the applicant applied to a number of relevant ministries to set aside the decision of July 1986. Following the ministries' tacit rejection of his application, he appealed in January 1987 to the Thessaloniki Administrative Court of Appeal, which declined jurisdiction and referred the case to the Athens Administrative Court. In November 1989 that court allowed the appeal and ordered the State to pay the sum claimed by the applicant. In March 1990 the State appealed on points of law to the Supreme Administrative Court. After thirteen adjournments the Supreme Administrative Court dismissed the appeal in a judgment of September 1997. In May 1999 the State paid the applicant the sum awarded by the courts.
Law: Article 6(1) – The Government alleged that the period to be taken into consideration had begun when the applicant lodged an appeal with the Thessaloniki Administrative Court of Appeal and had ended when the Supreme Administrative Court delivered its judgment. The Court agreed with the applicant that the period had begun with the applications to the various ministries and had ended when the judgments of the Athens Administrative Court of Appeal and the Supreme Administrative Court were enforced – in other words, when the State paid the sum awarded by those courts. Under the domestic legislation applicable to public-works disputes, court proceedings could not be brought until an application had been made to the relevant ministries requesting them to reconsider their decision; that initial application should therefore be taken into consideration in determining when the period in question had begun. Since the courts had awarded the applicant the sum he had claimed, the period had ended when the sum had been paid – in other words, when the judgment had been enforced – in May 1999. Enforcement of a judgment was an integral part of a trial for the purposes of Article 6.

The period to be taken into consideration was therefore more than twelve years and eight months. The proceedings in the Supreme Administrative Court alone had lasted seven years and six months and had been adjourned thirteen times through no fault of the applicant. Furthermore, the Supreme Administrative Court's judgment had been delivered in September 1997 but the State had not complied until May 1999.
Conclusion: violation (unanimously).
Article 41 – The Court awarded the applicant 1,000,000 drachmas in respect of pecuniary damage, 1,000,000 drachmas in respect of non-pecuniary damage and 1,000,000 in respect of costs and expenses.

Article 6(1) [criminal]

IMPARTIAL TRIBUNAL
Expression of views by public prosecutor during trial: *inadmissible*.

PRIEBKE - Italy (N° 48799/99)
Decision 5.4.2001 [Section II]

The applicant, a former Nazi officer, was in charge of the German police in Rome from 1943 onwards, under the authority of a colonel. After an attack by the Italian Resistance in which thirty-two German soldiers died, Hitler ordered the execution of ten Italian civilians for each of the German soldiers killed. When a further German soldier died from wounds sustained in the attack, the applicant's superior decided on his own initiative to add ten persons of Jewish origin to the list of civilians to be put to death. The applicant supervised the execution, which took place at a site known as the Ardeatine Caves; three hundred and thirty-five civilians were killed there. After being imprisoned by the Allies at the end of the war, the applicant escaped and emigrated to Argentina, where he remained until 1995. The colonel was brought before the Rome Military Court in 1948 along with five other officers, and was held responsible for the deaths of fifteen persons (the ten civilians of Jewish origin and five persons executed "by mistake") and sentenced to life imprisonment. The court held that the three hundred and twenty others had been executed as a direct consequence of an order from the Führer, which the accused might at the time have considered lawful and carried out without being aware that he was committing a crime. The five other officers against whom charges were brought were acquitted. The court found that they had acted on the order of a superior officer, that they could have been brought before a court martial if they had disobeyed the order in any way and that they were unaware of the reasons why orders for the Ardeatine Caves execution had been issued. In 1994 the applicant gave an interview to a journalist in Argentina. In May 1994 the Rome public prosecutor's office requested his arrest for aiding and abetting the murder of three hundred and thirty-five persons. The applicant was extradited in November 1995 and, on arriving in Italy, was questioned and detained pending trial. He was placed in solitary confinement and was not allowed to receive visits from members of his family. In April 1996 he was committed for trial at the Rome Military Court. At one hearing the representative of the military prosecutor's office took a firm stance in support of the Resistance and described the SS as fanatical volunteers. On 1 August 1996 the Military Court decided that there was no case to answer and ordered the applicant's immediate release. It held that that there were mitigating circumstances (the accused had acted on orders and failure to obey them might have entailed serious consequences for him and his family) warranting the reduction of his sentence to thirty years; accordingly, prosecution for the offence he had committed had been statute-barred since 1966. (Since crimes against humanity – which were not subject to limitation – had not existed in Italian legislation until 1967, the applicant could not have been convicted of an offence not defined by law at the time when it had been committed.) The judgment immediately gave rise to demonstrations, but the Minister of Justice told the

protesters that since Germany had requested the applicant's extradition, the decision to release him would not be enforced. On 3 August 1996 the Rome Court of Appeal confirmed the validity of the applicant's arrest, noting that a German court had issued a warrant to that end, and ordered him to be detained pending extradition. In an order of 7 August 1996 the President of the Court of Appeal decided that all the applicant's correspondence should be screened in advance so as to avoid any risk of his disclosing information that might hinder the extradition proceedings. It is alleged that the legal provision cited in the order was not relevant. On 16 August 1996 the German authorities requested the applicant's extradition. On 15 October 1996 the Court of Cassation, presided over by Judge S., ruling on an appeal on points of law by the military prosecutor's office, set aside the Military Court's judgment on the ground that the trial judges had acted improperly in stating their opinions on the facts of the case. Pursuant to that judgment, the applicant was detained pending trial and, from 18 March 1997, made subject to a compulsory residence order. He made a number of unsuccessful applications against the decision to detain him pending trial. While he was subject to the compulsory residence order, which remained in force at least until November 1998, he was allowed to receive visits from his lawyers and from one person a day (for example, members of his family) and to use the telephone. He was also examined several times by doctors of his choice, who certified that his state of health was incompatible with incarceration. He was tried a second time by the Military Court and on 22 July 1997 was convicted and sentenced to fifteen years' imprisonment with ten years' remission. The court found that the applicant had occupied a senior position within the German command in Rome and had played a prominent role in the Ardeatine Caves killings. The applicant and the military prosecutor appealed against that judgment. At a hearing the applicant requested the appearance of a witness whose father had been arrested in 1943 but released on the applicant's orders. The Military Court of Appeal refused on the ground that it had already heard evidence in relation to the accused's conduct during the war from a large number of witnesses. It did not find that there were any mitigating circumstances and on 7 March 1998 sentenced the applicant to life imprisonment. He appealed on points of law against that judgment, but his appeal was dismissed in a judgment of the First Division of the Court of Cassation, filed at the registry on 1 December 1998; the First Division was likewise presided over by Judge S. The applicant began to serve his sentence in prison. He then requested a stay of execution; that request was granted after experts had found that his state of health was satisfactory but might deteriorate if he was kept in prison. Accordingly, from February 1999 he served his sentence at home. The trial had attracted considerable media attention; journalists and leading politicians delivered damning verdicts on the accused's personality and criticised the judgment of 1 August 1996. The applicant brought libel actions against journalists who had called him an "executioner". However, no action was taken on his complaints on the ground that the term appeared to be justified. Before the Court the applicant complained, *inter alia*, of the domestic courts' lack of impartiality and independence, which in his opinion was illustrated by the fact that the same judge had presided over the division of the Court of Cassation that had ruled on the challenge against certain judges and the division that had examined his appeal on points of law. He argued, *inter alia*, that the various positions adopted by the military prosecutor's office, such as its refusal to examine evidence in his favour and its decision to take no action on his libel allegations, offered further proof of the courts' lack of impartiality and independence. He also criticised the intervention of the Minister of Justice and alleged that the press campaign surrounding the trial had influenced the judges concerned. He further complained of the Military Court of Appeal's refusal to hear evidence from a defence witness and of the overall length of the proceedings. In addition, he alleged that he had been subjected to inhuman and degrading treatment: in spite of his great age, he had been questioned at length on arriving in Italy and subsequently detained pending trial; restrictions had been imposed on him during his time in detention; and he had again been imprisoned, despite his age, following his conviction. Lastly, he maintained that the decision of 7 August 1996 to screen his correspondence amounted to a breach of Article 8.

Inadmissible under Article 6(1): (a) With regard to the applicant's allegations concerning the Court of Cassation's lack of impartiality and the national authorities' bias against him, there

was no evidence to suggest that any doubt should be cast on the personal impartiality of the judges concerned. Furthermore, the guarantees of independence and impartiality enshrined in the Convention did not apply to the Minister of Justice or to the representative of the military prosecutor's office – the latter being one of the parties to the court proceedings. In any event, the statements by the prosecutor's office had merely referred to the values of the Resistance. Moreover, the fact that a member of the executive had sought to defuse the demonstrations sparked off by the trial did not in itself constitute a violation of Article 6. There was therefore no objective basis for the applicant's allegations that the national authorities had entertained preconceptions about his guilt. With regard to his subjective perception of the judges' impartiality, his fears stemmed from the fact that the same judge had presided over the division of the Court of Cassation that had ruled on the challenge against the Military Court judges and the division that had considered his appeal on points of law. While such a state of affairs might give rise to doubts, whether or not they were justified depended on the specific facts of the case – in this case, on the nature of the duties performed by the judge before he had examined the substance of the appeal on points of law. Whereas his task in examining a challenge against judges was to assess whether the judges concerned were in any way ineligible to deal with the case or had expressed particular opinions, when ruling on the outcome of a trial he had to determine whether the proceedings had complied with the law and whether the reasons given by the courts in question formed a sufficient basis for the conviction. The fact that a Court of Cassation judge had already taken decisions, for example in connection with a challenge against a judge, at an earlier stage of the proceedings could not on its own be regarded as sufficient justification for any misgivings as to his impartiality. There was no reason to depart from that conclusion in the present case: manifestly ill-founded.

(b) With regard to the fact that no action was taken on the applicant's complaints, the right of access to a court does not extend to the right to institute criminal proceedings against third persons or the right to secure a conviction: manifestly ill-founded.

(c) With regard to the press campaign and its influence on the fairness of the trial, the media interest had been generated by the extremely serious nature of the crime and the context in which it had been committed. Although epithets designed to make an impression on the public had been bandied about, the campaign had for the most part stuck to the reporting of objective facts and public reaction. Harsh comments were inevitable in a sensitive case relating to tragic events and circumstances. In addition, the courts dealing with the case had been composed of professional judges who had been trained to disregard any insinuations that were extraneous to the trial. Lastly, the applicant had been convicted and sentenced following adversarial proceedings and there was nothing to suggest that the assessment of the evidence thus submitted to the judges had been influenced by the statements made in the press: manifestly ill-founded.

(d) The period to be taken into consideration in assessing the length of the proceedings had started on 21 November 1995, the date of the applicant's extradition. No prior date could be considered, since when a person fled from a State governed by the rule of law, it could be presumed that he was not entitled to complain of the length of proceedings conducted during his absence unless he could show that there were sufficient grounds for rebutting that presumption. There were no such grounds in the present case. By awaiting the applicant's extradition before trying him, the Italian authorities had sought to enable him to take part in his own trial, in keeping with the spirit of Article 6. The proceedings had ended on 1 December 1998 when the Court of Cassation's judgment had been filed at the registry. They had therefore lasted three years and ten days, encompassing four tiers of jurisdiction – a period which, given the complex nature of the facts and the absence of any periods of inactivity on the courts' part, was not unreasonable: manifestly ill-founded.

Inadmissible under Article 6(3)(d): The Convention did not afford an accused the unlimited right to obtain the attendance of witnesses. In order to prove that there had been a violation, the applicant would have had to adduce plausible evidence that the appearance of the witness in question was necessary for the establishment of the truth and that the refusal to examine him had constituted an infringement of due process. No such evidence had been adduced. In

any event, the applicant's generosity towards a particular person did not mean that he could not have been responsible for the killings: manifestly ill-founded.
Inadmissible under Article 3: (a) The treatment which the applicant complained that he had been subjected to on arriving in Italy did not reach the minimum level required to fall within the scope of Article 3. With regard to the restrictions imposed on him while he was deprived of his liberty, the complaints concerning his detention pending trial – which had ended on 18 March 1997 when a compulsory residence order had been issued against him – had been lodged out of time. Lastly, while he had been subject to the compulsory residence order, he had not been kept in isolation but had been allowed to receive visits – for example, from doctors monitoring his state of health – and to use the telephone. An overall assessment of the treatment complained of by the applicant revealed that it had not attained the minimum level required for a breach of Article 3: manifestly ill-founded.
(b) With regard to the enforcement of his sentence, although keeping a person aged over eighty-five in prison might raise an issue under the Convention, the applicant had spent no more than three months in prison and had been detained in standard conditions. In view of the short length of time involved, the applicant's satisfactory state of health and the care taken by the Italian authorities in monitoring the situation, the treatment to which he had been subjected following his conviction had not attained the minimum level of severity required to fall within the scope of Article 3: manifestly ill-founded.
Communicated under Article 8.

IMPARTIAL TRIBUNAL
Participation by same presiding judge in decision concerning challenge to first instance judges and in decision on appeal on points of law: *inadmissible.*

PRIEBKE - Italy (N° 48799/99)
Decision 5.4.2001 [Section II]
(see above).

Article 6(2)

PRESUMPTION OF INNOCENCE
Absence of separate prison regime for remand prisoners: *no violation*.

PEERS - Greece (Nº 28524/95)
Judgment 19.4.2001 [Section II]
(See Article 3, above).

PRESUMPTION OF INNOCENCE
Influence of press campaign on judges: *inadmissible.*

PRIEBKE - Italy (N° 48799/99)
Decision 5.4.2001 [Section II]
(see above).

ARTICLE 8

CORRESPONDENCE
Prisoners' correspondence: *violation*.

PEERS - Greece (Nº 28524/95)
Judgment 19.4.2001 [Section II]
(See Article 3, above).

CORRESPONDENCE
Control of correspondence of person held in detention with a view of extradition: *communicated*.

PRIEBKE - Italy (N° 48799/99)
Decision 5.4.2001 [Section II]
(see above).

ARTICLE 10

FREEDOM OF EXPRESSION
Award of damages for defamation: *violation*.

MARÔNEK - Slovakia (Nº 32686/96)
*Judgment 19.4.2001 [Section II]

Facts: In the context of a dispute over occupancy of a flat, the applicant wrote an open letter in which he presented his version of the situation, namely that the other party, A., was occupying the flat unlawfully and preventing the applicant from using it. He called on others with a similar problem to contact him with a view to taking joint action. This version was reproduced in a daily newspaper. A. and his wife brought a civil action against the applicant. The City Court noted that proceedings relating to the right of occupancy were pending and that the applicant had not yet acquired a right to use the flat, as A. was not obliged to leave until he found other accommodation. The applicant claimed that A. did have alternative accommodation. The court found that the truthfulness of the opinions expressed by the applicant had not been proved but were tendentious, distorted and unsubstantiated. It ordered the applicant to apologise in writing for damaging the plaintiffs' honour, to pay damages of 100,000 Slovak korunas (SKK) to each of them, to reimburse their lawyer's fees and to pay the court fees. The newspaper was ordered to publish an apology and pay damages and costs. The appeals lodged by the applicant and the newspaper were rejected by the Supreme Court.
Law: Article 10 – The purpose of the open letter was not exclusively to resolve the applicant's individual problem: in fact, at the end of the letter the applicant called on other persons with a similar problem to take joint action and expressed the view that the resolution of the problem was important for strengthening the rule of law in the newly born democracy. The letter thus raised issues capable of affecting the general interest, namely the housing policy at a period when State-owned apartments were about to be denationalised. Taking the letter as a whole, his statements do not appear excessive. In fact, most of the events on which the applicant relied had been made public in an earlier newspaper article. Most importantly, there was a disparity between the measures complained of and the behaviour they were intended to rectify. In particular, the reasons given by the courts do not appear sufficiently

convincing to justify the relatively high award of damages. In conclusion, there was not a reasonable relationship of proportionality between the measures applied by the courts and the legitimate aim pursued.
Article 41 – In respect of pecuniary damage, the Court awarded the applicant SKK 221,522.50 together with any costs of enforcement proceedings which the applicant might be liable to pay. It found no causal link between the violation and the applicant's claim for compensation for the flat in question and considered that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage awards the full amount, namely SKK 20,070.

ARTICLE 11

FREEDOM OF ASSOCIATION
Obligation to belong to notary association in order to be allowed to practise as private notary: *inadmissible*.

O.V.R. - Russia (N° 44319/98)
Decision 3.4.2001 [Section III]

The applicant was authorised by the authorities to open her own private notary practice. In order to comply with the Notary Act which provides that private practising notaries should become members of a notary association, the applicant applied for membership of such an association. She withdrew her application after having been informed that membership was subject to the payment of a fee which she deemed unacceptably high. As a result, the notary association requested the City Court to divest her of the right to practise as a private notary. The City Court issued an interim decision whereby she was prevented from practising until her case was decided on the merits. She appealed to the Regional Court, which quashed the interim decision and referred the case back to the City Court. The proceedings were adjourned to allow the Constitutional Court to examine the constitutionality of the impugned provisions of the Notary Act. However, the City Court reopened the proceedings before the Constitutional Court's decision and suspended the applicant's right to practise. On the applicant's appeal, the Regional Court adjourned the proceedings pending the Constitutional Court's decision. The Constitutional Court finally held that the compulsory membership of the notary association was not unconstitutional. Consequently the Regional Court confirmed the City Court's decision suspending the applicant's right to practise as a private notary.
Inadmissible under Article 11: Regulatory bodies of the liberal professions are not associations within the meaning of this provision; their object is to regulate and promote the professions while exercising at the same time important public law functions for the protection of the public. They remain integrated within the structures of the State and therefore cannot be compared to trade unions. In view of the Notary Act and the statutory functions of the notary chambers, it appears that these chambers cannot be considered as association within the meaning of Article 11. Moreover, it has not been established that the applicant was prevented from forming or joining an association which would have promoted her professional interests. Her complaint thus falls outside the scope of Article 11: incompatible *ratione materiae*.

ARTICLE 13

EFFECTIVE REMEDY
Availability of remedy in respect of prison suicide: *violation*.

KEENAN - United Kingdom (Nº 27229/95)
Judgment 3.4.2001 [Section III]
(See Article 2, above).

ARTICLE 35

ADMISSIBILITY
Final nature of decisions on inadmissibility and absence of appeal.

SABLON - Belgium (N° 36445/97)
*Judgment 10.4.2001 [Section III]
(see Article 6(1), above).

ARTICLE 44

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three month time limit for requesting referral to the Grand Chamber) (see Information Note No. 26):

MAGYAR - Hungary (Nº 32396/96)
Judgment 11.1.2001 [Section II]

IORILLO - Italy (Nº 45875/99)
C. a.r.l. en liquidation - Italy (no. 1) (Nº 45882/99)
C. a.r.l. en liquidation - Italy (no. 2) (Nº 45883/99)
VERINI - Italy (no. 1) (Nº 46982/99)
VERINI - Italy (no. 2) (Nº 46983/99)
RAVIGNANI - Italy (Nº 46984/99)
M.Q. - Italy (Nº 46985/99)
IANNI - Italy (Nº 46986/99)
ARIENZO - Italy (Nº 46987/99)
SILVIA RICCI - Italy (Nº 46988/99)
CIABOCCO - Italy (Nº 46989/99)
GALLO - Italy (Nº 46990/99)
PAOLELLI - Italy (Nº 46991/99)
VERINI - Italy (no. 3) (Nº 46992/99)
ANTONINI and others - Italy (Nº 46993/99)
MANCINELLI - Italy (Nº 46994/99)
BERTO - Italy (Nº 46995/99)
FRACCHIA - Italy (Nº 46996/99)

G. GIAPPICHELLI EDITORE S.R.L. - Italy (Nº 46997/99)
CIUFFETELLI - Italy (Nº 46999/99)
P.I. - Italy (Nº 47000/99)
BALDINI - Italy (Nº 47001/99)
STORTI - Italy (Nº 47002/99)
PICCOLI - Italy (Nº 47003/99)
CANTÙ - Italy (Nº 47004/99)
Judgments 16.1.2001 [Section III]

AKTAŞ and others - Turkey (Nº 19264/92)
ATAK and others - Turkey (Nº 19265/92)
BALTEKIN - Turkey (Nº 19266/92)
BILGIN and others - Turkey (Nº 19267/92)
SANİYE BILGIN and others - Turkey (Nº 19268/92)
BOZKURT and others - Turkey (Nº 19269/92)
İLHAN BUZCU and others - Turkey (Nº 19270/92)
NURİYE BUZCU - Turkey (Nº 19271/92)
ÇALKAN and others - Turkey (Nº 19272/92)
ÇAPAR - Turkey (Nº 19273/92)
HAMDİ ÇELEBI - Turkey (Nº 19274/92)
YUSUF ÇELEBI - Turkey (Nº 19275/92)
ÇIPLAK - Turkey (Nº 19276/92)
DANIŞ - Turkey (Nº 19277/92)
EROL - Turkey (Nº 19278/92)
GÖÇMEN and others - Turkey (Nº 19279/92)
GÖKGÖZ - Turkey (Nº 19280/92)
GÖKMEN and others - Turkey (Nº 19281/92)
AYŞE IŞIK and others - Turkey (Nº 19283/92)
YILMAZ IŞIK and others - Turkey (Nº 19284/92)
CEMİL KARABULUT and others - Turkey (Nº 19285/92)
SEFER KARABULUT - Turkey (Nº 19286/92)
ÖZEN - Turkey (Nº 19287/92)
ÖZTEKIN - Turkey (Nº 19288/92)
Judgment 30.1.2001 [Section I]

BASIC - Austria (Nº 29800/96)
PALLANICH - Austria (Nº 30160/96)
Judgments 30.1.2001 [Section III]

Article 44(2)(c)

On 4 April 2001 the Panel of the Grand Chamber rejected request for referrral of the following judgments, which have consequently become final:

DEMIRAY - Turkey (N° 27308/95)
Judgment 21.11.2000 [Section III]

The case concerns the responsibility of gendarmes for the death of a person detained on remand.

HOLZINGER - Austria (no. 2) (Nº 28898/95)
Judgment 30.1.2001 [Section III]

The case concerns the effectiveness of an application under Section 91 of the Courts Act as a remedy in respect of the length of court proceedings.

ANAGNOSTOPOULOS and others - Greece (N° 39374/98)
Judgment 7.11.2000 [Section III]

The case concerns legislative intervention in pending court proceedings.

TAMMER - Estonia (Nº 41205/98)
Judgment 6.2.2001 [Section I]

The case concerns the conviction of a journalist for using insulting words in relation to the wife of a well-know politician.

LEONI - Italy (N° 43269/98)
Judgment 26.10.00 [Section II]

The case concerns the dismissal of a cassation appeal as out of time, although the failure to comply with the formalities was due to the lower court.

M.A.I.E. S.N.C. - Italy (N˚ 45893/99)
Judgment 7.11.2000 [Section III]

TOR DI VALLE COSTRUZIONI S.p.a. (no. 1) - Italy (N˚ 45862/99)
TOR DI VALLE COSTRUZIONI S.p.a. (no. 2) - Italy (N˚ 45863/99)
TOR DI VALLE COSTRUZIONI S.p.a. (no. 3) - Italy (N˚ 45864/99)
TOR DI VALLE COSTRUZIONI S.p.a. (no. 4) - Italy (N˚ 45865/99)
TOR DI VALLE COSTRUZIONI S.p.a. (no. 5) - Italy (N˚ 45866/99)
TOR DI VALLE COSTRUZIONI S.p.a. (no. 6) - Italy (N˚ 45867/99)
Judgments 9.11.2000 [Section II]

P.V. - France (N˚ 38305/97)
Judgment 14.11.2000 [Section III]

PICCONI - Italy (N˚ 46509/99)
Judgment 21.11.2000 [Section I]

CATANIA and ZUPELLI - Italy (Nº 45075/98)
Judgment 21.12.2000 [Section IV]

SALZANO - Italy (Nº 44404/98)
Judgment 27.2.2001 [Section I]

These cases concerns the length of civil proceedings.

SAVINO - Italy (N° 45854/99)
Judgment 9.11.2000 [Section II]

These cases concern the length of criminal proceedings which the applicants joined as *parties civiles*.

CAMPS - France (N° 42401/98)
Judgment 24.10.2000 [Section III]

The case concerns the length of administrative proceedings.

DELGADO - France (N° 38437/97)
Judgment 14.11.2000 [Section III]

The case concerns the length of two sets of proceedings relating to employment.

IKONOMITSIOS - Greece (N° 43615/98)
Judgment 19.10.2000 [Section II]

ZARMAKOUPIS and SAKELLAROPOULOS - Greece (N° 44741/98)
Judgment 19.10.2000 [Section II]

RÖSSLHUBER - Austria (N° 32869/96)
Judgment 28.11.2000 [Section III]

These cases concern the length of criminal proceedings.

Other judgments delivered in April 2001

Article 5(3)

AKIN - Turkey (Nº 34688/97)
Judgment 12.4.2001 [Section II]

The case concerns the applicant's detention for eleven days before being brought before a judge – friendly settlement.

Article 6(1)

LOGOTHETIS - Greece (Nº 46352/99)
*Judgment 12.4.2001 [Section II]

The case concerns the failure of the authorities to comply with a court judgment – violation.

M.L. and others - Italy (Nº 53507/00)
Judgment 5.4.2001 [Section II]

CHAHED - France (Nº 45976/99)
Judgment 10.4.2001 [Section III]

RIBEIRO FERREIRA RUAH - Portugal (Nº 38327/97 and Nº 38329/97)
FERREIRA MARTINS - Portugal (Nº 39579/98)
FERREIRA DA SILVA - Portugal (Nº 41018/98)
JARDIM TRAVASSOS MOURA - Portugal (Nº 41390/98)
Judgments 12.4.2001 [Section IV]

Di DECO - Italy (Nº 44362/98)
Judgment 12.4.2001 [Section II]

The cases concern the length of civil or administrative proceedings – friendly settlement.

STANČIAK - Slovakia (Nº 40345/98)
MESSOCHORITIS - Greece (Nº 41867/98)
*Judgments 12.4.2001 [Section II]

The cases concern the length of civil or administrative proceedings – violation.

BÁNOŠOVÁ - Slovakia (Nº 38798/97)
ČAPČÍKOVÁ - Slovakia (Nº 38853/97)
Judgments 19.4.2001 [Section II]

HABABOU - France (Nº 48167/99)
Judgment 24.4.2001 [Section IV]

LEMORT - France (Nº 47631/99)
Judgment 26.4.2001 [Section III]

The cases concern the length of civil or administrative proceedings – friendly settlement.

MEFTAH - France (Nº 32911/96)
*Judgment 24.4.2001 [Section III]

The case concerns the failure to notify an unrepresented appellant of the hearing of his appeal to the Court of Cassation and the consequent failure to communicate to him the observations of the *avocat général* – violation.

SILVA BRÁS - Portugal (Nº 41128/98)
Judgment 12.4.2001 [Section IV]

The case concerns the length of criminal proceedings which the applicant joined as *assistente* – friendly settlement.

ARVELAKIS - Greece (Nº 41345/98)
*Judgment 12.4.2001 [Section II]

GUERRESI - Italy (Nº 32646/96)
Judgment 24.4.2001 [Section I]

FERRARIN - Italy (Nº 34203/96)
AGGIATO - Italy (Nº 35207/97)
DAVINELLI - Italy (Nº 39714/98)
CANCELLIERI - Italy (Nº 39997/98)
F.C. - Italy (Nº 40457/98)
IALONGO - Italy (Nº 40458/98)
IARROBINO and DE NISCO - Italy (Nº 40662/98)
ROTELLINI et/and BARNABEI - Italy (Nº 40693/98)
GUARINO - Italy (Nº 41275/98)
DI DONATO and others - Italy (Nº 41513/98)
MAURANO - Italy (Nº 43350/98)
SCHIAPPACASSE - Italy (Nº 43536/98)
MATERA - Italy (Nº 43635/98)
ARGANESE - Italy (Nº 44970/98)
C.P. - Italy (Nº 44976/98)
ICOLARO - Italy (Nº 45260/99)
TOMMASO PALUMBO - Italy (Nº 45264/99)
S.G., S.M. et/and P.C. - Italy (Nº 45480/99)
MOTTA - Italy (Nº 47681/99)
*Judgments 26.4.2001 [Section II]

The cases concern the length of criminal proceedings – violation.

Article 6(1) and Article 1 of Protocol No. 1

PAVESE - Italy (Nº 32388/96)
TIEGHI - Italy (Nº 33253/96)
DE LEONARDIS - Italy (Nº 33529/96)
Judgment 5.4.2001 [Section II]

S.A. and/et D.D.L. - Italy (Nº 30973/96)
Judgment 12.4.2001 [Section II]

TARDUCCI - Italy (Nº 31460/96)
D.L. and M.A. - Italy (Nº 31926/96)
L.M.G. - Italy (Nº 32655/96)
M.P. and others - Italy (Nº 32664/96)
GEFIMA IMMOBILIARE S.r.l. - Italy (Nº 33943/96)
Judgments 19.4.2001 [Section II]

The cases concern the prolonged inability for the applicants, to recover possession of their apartments, as a result of the absence of police assistance – friendly settlement.

Article 1 of Protocol No. 1

GÜNAL - Turkey (Nº 19282/92)
ALI ÖZTÜRK - Turkey (Nº 19289/92)
HASAN ÖZTÜRK - Turkey (Nº 19290/92)
KAMIL ÖZTÜRK - Turkey (Nº 19291/92)
MEHMET ÖZTÜRK - Turkey (Nº 19292/92)
MUHSIN ÖZTÜRK - Turkey (Nº 19293/92)
MUSTAFA ÖZTÜRK - Turkey (Nº 19294/92)
SABRI ÖZTÜRK - Turkey (Nº 19295/92)
YUNUS ÖZTÜRK - Turkey (Nº 19296/92)
MEHMET SANCAR - Turkey (Nº 19297/92)
ŞÜKRÜ SARI - Turkey (Nº 19298/92)
MUSTAFA SEZER - Turkey (Nº 19299/92)
BURHAN SÜLÜN - Turkey (Nº 19300/92)
MEHMET SAHIN and others - Turkey (Nº 19301/92)
AZIZ ŞEN and others - Turkey (Nº 19302/92)
CELAL ŞEN and KEZIBAN ŞEN - Turkey (Nº 19303/92)
IBRAHIM TAŞDEMIR - Turkey (Nº 19304/92)
MAHIR TAŞDEMIR and others - Turkey (Nº 19305/92)
MEHMET TAŞDEMIR - Turkey (Nº 19306/92)
ZEKERIYA TAŞDEMIR - Turkey (Nº 19307/92)
ZEKERIYA YILMAZ - Turkey (Nº 19308/92)
ZEKIYE YILMAZ - Turkey (Nº 19309/92)
HAMIT YILMAZ - Turkey (Nº 19310/92)
BAYRAM YÜKSEL - Turkey (Nº 19311/92)
ŞAKIRE ZENGIN - Turkey (Nº 19312/92)
*Judgments 10.4.2001 [Section I]

These cases concern the delay in payment of additional compensation awarded following expropriation, and in particular the inadequacy of the rate of interest compared to the rate of inflation – violation.

Article 41

ALMEIDA GARRETT, MASCARENHAS FALCÃO and others - Portugal (just satisfaction) (Nº 2813/96 and Nº 30229/96)
Judgment 10.4.2001 [Section IV]