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EUROPEAN COURT OF HUMAN RIGHTS

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ARTICLE 2

POSITIVE OBLIGATIONS
State's failure to warn population of a foreseen natural disaster and to protect their lives, health, homes and property: *admissible*.

BUDAYEVA and Others - Russia (N° 15339/02 and other applications)
Decision 5.4.2007 [Section I]

The applicants were the victims of a natural disaster (a mountain mudflow) which devastated the town of Tyrnauz in 2000. To protect the town naturally exposed to landslides and mudflows, a mud retention dam had been constructed by the State. However, the maintenance of the dam was sporadic and underfunded. Six months before the disaster, a scientific institution informed the local authorities that the dam had been seriously damaged and that the only way to avoid casualties and mitigate the harm in case of a mudflow was to establish observation posts to warn the civilians. For this purpose, they requested a mandate and financial support. A week before the disaster, they warned the local authorities of the forthcoming mudflow and requested again the setting up of twenty-four hour observation posts. Apparently none of the above measures were implemented. When the mudflow arrived, the dam collapsed and the wreckage increased the volume and destructive force of the debris that descended on the town. The applicants, like many other civilians, were caught in their beds by the disaster. On the following day, when they returned to their homes, reassured that the danger had passed, a succession of mudflows hit the town, causing further casualties and damage. The applicants sustained injuries and psychological trauma and some of them lost relatives. All of them had their flats and possessions flooded and destroyed. They were subsequently provided with replacement housing and some financial aid, however the size of their destroyed homes was not taken into account in this respect. When the applicants sought damages on the grounds that the aid provided by the State had been insufficient to cover their losses the courts refused to hold the State liable for the damage.
Admissible under Articles 2, 8 and 13 of the Convention and Article 1 of Protocol No. 1.

ARTICLE 3

TORTURE
Use by police of threats of ill-treatment to obtain information and a confession from a suspected child kidnapper: *admissible*.

GÄFGEN - Germany (Nº 22978/05)
Decision 10.4.2007 [Section V]

The applicant was arrested on suspicion of having kidnapped an eleven-year-old boy, the youngest son of a well-known banker's family, in order to extort a ransom from his parents. During police questioning he was threatened with "considerable pain" at the hands of an interrogator if he did not disclose the child's whereabouts. The applicant then took the police to the place where he had hidden the body before subsequently confessing to the police, the public prosecutor and a district judge to the kidnapping and killing of the boy. However, before his trial started, he lodged various motions with the trial court seeking orders discontinuing the proceedings and excluding prosecution evidence on the grounds that it had been obtained by coercion. The trial court ruled that all the confessions and statements that had been made by the applicant up to that point were inadmissible in evidence. However, it went on to hold that the rights of the defence had not been infringed to the extent that it was necessary to bar the continuation of the criminal proceedings or to exclude evidence obtained from information in the applicant's statements. At the trial, despite being informed that he had the right to remain silent and that his earlier statements could not be used in evidence against him, the applicant again confessed to the kidnapping and killing. That

confession formed an essential, if not the only, basis for the trial court's findings of fact. The applicant was convicted of murder and kidnapping and sentenced to life imprisonment. He lodged a complaint with the Constitutional Court, but this was dismissed, *inter alia*, on the grounds that there was no violation of fundamental rights if prohibited methods of investigation were remedied by the exclusion of the statements thereby obtained. The police officers involved were subsequently convicted of coercion, after their defence of necessity had been rejected. The applicant brought a claim for compensation against the *Land* for the trauma he alleged he had suffered at the hands of the police. Although the regional court found that the police officers had acted in breach of duty, it ruled that the applicant had already obtained sufficient redress and was not entitled to compensation.
The applicant complains of torture and a breach of his right to a fair trial, including his right not to incriminate himself.

Admissible under Article 3 and under Article 6 in so far as it relates to the decisions not to discontinue the criminal proceedings or to exclude the evidence obtained as a result of the applicant's statements.

INHUMAN OR DEGRADING TREATMENT
Social isolation of the applicant who is the sole prisoner on an island and complains that he is subject to restrictions and prohibitions that do not apply to other high security prisoners: *communicated*.

ÖCALAN - Turkey (N°s 24069/03, 197/04, 6201/06 and 10464/07)
[Section II]

The applicant was sentenced to death for terrorist offences; the sentence was later commuted to life imprisonment. Since 1999 he has been in İmralı Prison, which is situated on an island and of which he is the sole inmate.
The events prior to May 2005 were the subject of the *Öcalan v. Turkey* judgment ([GC], no. 46221/99, Information Note no. 75).
Under a Law of June 2005, restrictions were imposed on meetings between the applicant and his lawyers and limits placed on the confidentiality of what was said at such meetings. Accordingly, the applicant complained of the fact that meetings took place in the presence of an official, that they were recorded on tape and that the documents produced by his lawyers could be examined by the judge or seized. The applicant was subjected to disciplinary sanctions (temporary withdrawal of books and newspapers) on account of remarks exchanged with his lawyers. In addition, under a new Law, some of the applicant's lawyers were deprived for one year of their status as counsel.
The applicant further complained of the conditions of his detention. He considered that his social isolation since 1999 was aggravated by a number of prohibitions which did not apply to other convicted prisoners in Turkey: he was not allowed access to a television set or to make or receive telephone calls, his correspondence was heavily censored and his access to outdoor recreation was restricted. In addition, he argued that the failure to improve sea transport links between the island and the mainland reduced in practice the number of visits by members of his family – already limited in length and frequency – and by his lawyers, and represented a further obstacle to his access to daily newspapers and books.
Communicated under Articles 3 and 8 (conditions of detention) and Articles 6 and 34 (limitation of the confidentiality of meetings with lawyers and prohibition on being represented by certain lawyers).

ARTICLE 5

Article 5(1)(f)

PREVENT UNAUTHORISED ENTRY INTO COUNTRY
Continued detention of an asylum seeker in an airport waiting area following an interim indication by the Court under Rule 39 of the Rules of Court that he should not be removed to his country of origin: *no violation*.

GEBREMEDHIN [GABERAMADHIEN] - France (N° 25389/05)
Judgment 26.4.2007 [Section II (former)]

(see Article 13 below).

ARTICLE 6

Article 6(1) [civil]

APPLICABILITY
Dispute regarding police personnel's entitlement to a special allowance: *Article 6 applicable* (*new approach in cases involving civil servants*).

VILHO ESKELINEN and Others - Finland (N° 63235/00)
Judgment 19.4.2007 [GC]

Facts: The original applicants worked for a district police authority, five of them as police officers and one of them as an office assistant. Under a collective agreement of 1986, they were entitled to a special allowance for working in a remote area. When that allowance was withdrawn in 1988, they were given individual wage supplements to make up the difference. In 1990, after being moved to another duty station even further away from their homes, the applicants lost their individual wage supplements. They maintained, however, that the Provincial Police Command had promised them compensation. In 1991 the Ministry of Finance refused a request for authorisation to pay each applicant a monthly individual wage supplement of 500-700 Finnish marks (EUR 84-118). The applicants subsequently lodged an application for compensation, which was rejected. They appealed, asking for an oral hearing to prove, among other things, that they had been promised compensation. Their appeal was rejected on the ground that, at the relevant time, only the Ministry of Finance (and not the provincial police command) could authorise compensation. The court also found that no compensation had been awarded in other similar cases. The applicants appealed again, requesting an oral hearing and emphasising that allowances had been granted to other police personnel in similar circumstances. In 2000 the Supreme Administrative Court found that the applicants had no statutory right to the individual wage supplements and that it was unnecessary to hold a hearing, given that the alleged promises made by the provincial police command had no bearing on the case.
In 2006, a Chamber of the European Court relinquished jurisdiction in favour of the Grand Chamber.

Applicability of Article 6(1) – The Government questioned the applicability of Article 6 on two grounds. Firstly, the applicants had no “right” to the wage supplement in question. Secondly, under the Court's case-law disputes concerning civil servants (such as police officers) and other staff serving in the police administration over their conditions of service were excluded from the ambit of Article 6. As to the first point, the Court concluded that the applicants could claim to have had a right on arguable grounds and that there was therefore no bar to the applicability of Article 6 in this respect. As to the second point, the

Court recalled that, with a view to removing uncertainty in previous case-law in this area, in the judgment of *Pellegrin v. France* of 1999 it had introduced a functional criterion based on the nature of the employee's duties and responsibilities. The Court had ruled that the only disputes excluded from the scope of Article 6(1) were those concerning public servants whose duties typified the specific activities of the public service in so far as the latter was acting as the depositary of public authority responsible for protecting the general interests of the State or other public authorities. A manifest example of such activities was provided by the armed forces and the police.

The present case, however, had highlighted that the application of the functional criterion could itself lead to anomalous results. At the material time the original applicants had been employed by the Ministry of the Interior. Five of them had been police officers, this entailing direct participation in the exercise of powers conferred by public law and the performance of duties designed to safeguard the general interests of the State. The functions of the office assistant had been purely administrative, without any decision-making competence or other exercise directly or indirectly of public power. Her functions had not been distinguishable from any other office assistant in public or private employment. On a strict application of the *Pellegrin* approach it would appear that the latter applicant would enjoy the guarantees of Article 6(1), whereas there was no doubt that the police officer applicants would not. This would be so irrespective of the fact that the dispute was identical for all the applicants.

Having reviewed the operation of the functional criterion introduced in *Pellegrin*, the Court concluded that it had not simplified the analysis of the applicability of Article 6 in proceedings to which a civil servant was a party or brought about a greater degree of certainty in this area. *Pellegrin* should be understood in the light of the earlier case-law as constituting a first step away from the previous principle that Article 6 did not apply to the civil service. It reflected the basic premise that certain civil servants, because of their functions, were bound by a special bond of trust and loyalty towards their employer. It was evident from the cases decided since, that in very many Contracting States access to a court was accorded to civil servants, allowing them to bring claims for salary and allowances, even in relation to dismissal or recruitment, on a similar basis to employees in the private sector. The domestic system, in such circumstances, perceived no conflict between the vital interests of the State and the right of the individual to protection.

The Court therefore decided to adopt a new approach in this area, according to which in order for the respondent State to be able to rely on the applicant's status as a civil servant to exclude the application of Article 6, two conditions had to be fulfilled. Firstly, the State in its national law must have expressly excluded access to a court for the post or category of staff in question. Secondly, the exclusion must be justified on objective grounds in the State's interest. The mere fact that the applicant was in a sector or department which participated in the exercise of power conferred by public law was not in itself decisive. In order for the exclusion to be justified, it was not enough for the State to establish that the civil servant in question participated in the exercise of public power or that there existed a "special bond of trust and loyalty" between the civil servant and the State, as employer. The State would also have to show that the subject matter of the dispute in issue was related to the exercise of State power or that it had called into question the special bond. Thus, there could in principle be no justification for the exclusion from the guarantees of Article 6 of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of relationship between the particular civil servant and the State in question. There would, in effect, be a presumption that Article 6 applied. It would be for the respondent Government to demonstrate, first, that a civil-servant applicant did not have a right of access to a court under national law and, second, that the exclusion of the rights under Article 6 for the civil servant was justified. In the case under review it was not disputed that the applicants had all had access to a court under national law.

Conclusion: Article 6(1) applicable (twelve votes to five).

Compliance with Article 6 – *Reasonable time*: The period to be taken into consideration for determining whether the reasonable time requirement had been complied with had started to run on the day the applicants lodged their application with the County Administrative Board, in March 1993, because they could not seize the County Administrative Court before receiving, on their rectification request, a decision which could be appealed against. The proceedings had ended with the Supreme Administrative Court's decision of April 2000 and had therefore lasted over seven years. There had been delays in the

proceedings before the County Administrative Board for which the European Court found no sufficient explanation.
Conclusion: violation (fourteen votes to three).

Lack of an oral hearing: As regards the applicants' complaint that they had been denied an oral hearing, the Court noted that they had not been prevented from requesting an oral hearing, although it had been for the courts to decide whether a hearing was necessary. The administrative courts had given consideration to the request and provided reasons for not granting it. Since the applicants had been given ample opportunity to put forward their case in writing and to comment on the submissions of the other party, the requirements of fairness had been complied with and there had been no violation of Article 6 on account of the lack of an oral hearing.
Conclusion: no violation (unanimously).

Article 13 – The Court found that there had been no specific legal avenue whereby the applicants could have complained of the length of the proceedings in question with a view to expediting the determination of their dispute. There had therefore been a violation of Article 13 in that the applicants had no domestic remedy whereby they could enforce their right to a hearing within a reasonable time as guaranteed by Article 6.
Conclusion: violation (fifteen votes to two).

Article 1 of Protocol No. 1 alone or in conjunction with Article 14 – The applicants complained that the national authorities and courts had wrongfully applied the national law when refusing their claim. The Court recalled that for a claim to be regarded as an "asset" attracting the protection of Article 1 of Protocol No. 1 it had to have a sufficient basis in national law, for example where there was settled case-law of the domestic courts confirming it. In the case under review it followed from the implementing instruction that the applicants had not had a legitimate expectation of receiving an individual wage supplement since, as a consequence of the change in duty station, their entitlement to the wage supplement had ceased. Nor was there under the domestic law any right to be compensated for commuting costs. As regards Article 14 of the Convention, there could be no room for its application unless the facts at issue fall within the ambit of one or more of them.
Conclusion: no violation (unanimously).

Article 41 – EUR 2,500 to each of the applicants in respect of non-pecuniary damage.

For further information, please see Press Release no. 243.

RIGHT TO A COURT
Decision of Italian and French courts to decline jurisdiction to try the merits of a dispute concerning the performance of a contract of employment: *admissible*.

GUADAGNINO - Italy and France (N° 2555/03)
Decision 12.4.2007 [Section II]

The applicant, who is now in retirement, worked at the research institute Ecole française de Rome ("the institute") on the basis of individual contracts governed by Italian law. While she was in her post, a Law entered into force laying down new criteria for civil servants' salaries. The applicant requested the institute to recalculate her accrued entitlements in the light of the new criteria and to upgrade her post. When her request was refused she applied to the magistrate's court, acting as an employment tribunal, seeking recognition of her right to a professional qualification corresponding to the work she had been performing and payment of the difference between the remuneration she had received and that to which she considered herself entitled. The institute argued that the Italian courts did not have jurisdiction in the matter and applied to the Court of Cassation for a preliminary ruling on the issue of jurisdiction. It argued that the institute was a branch of the French State and that its activities came under the direct supervision of the French Ministry of Education. It maintained that the applicant's work formed part of the institute's

official activities and that her claims were not of an exclusively pecuniary nature – in which case the matter would have been subject to Italian law – but related also to her professional qualifications. The Court of Cassation, sitting in plenary, ruled that the Italian courts lacked any competence in the matter. It found that the applicant's work, which concerned the dissemination of French culture and civilisation abroad through the publication of literary and scientific works, was part of the official activity of the French Ministry of Education and was governed by French law. The fact that the contractual relationship had been governed by Italian private law was not significant for the purposes of determining which courts had jurisdiction. The applicant's requests, relating in particular to her professional status within the institute, had not been of a purely pecuniary nature. The applicant was dismissed as she had reached the retirement age of 60. She brought proceedings against the institute before the magistrate's court seeking to have her dismissal set aside, to be reinstated in her post and to be paid the difference in remuneration arising out of implementation of the new collective agreements. She argued that the retirement age in Italy was 65 years. The Court of Cassation held that the Italian courts were not competent to rule on applications concerning the lawfulness of the applicant's dismissal, which involved an assessment of her work. It referred to its established case-law, according to which disputes involving staff of French cultural institutions fell within the jurisdiction of the French courts. However, it considered that the Italian courts had jurisdiction in relation to the request for payment of the difference in remuneration, which was an exclusively pecuniary issue. The applicant applied to the French *Conseil d'Etat* seeking to have the decision dismissing her set aside, to be reinstated in her post and to be paid the salary she should have received since her dismissal. The *Conseil d'Etat* rejected the application, finding that the French administrative courts did not have jurisdiction. In its view, the joint wish expressed by the parties at the time the applicant was recruited was for the employment contract to be governed by Italian law. Moreover, the applicant's position as publications assistant was not governed by any provision of French law: *admissible*.

ACCESS TO COURT
Immunity from suit of members of the Judicial Service Commission in respect of opinions expressed in the exercise of their duties: *inadmissible*.

ESPOSITO - Italy (N° 34971/02)
Decision 5.4.2007 [Section III]

The applicant is a judge who was the subject of an automatic transfer to a different post by the Judicial Service Commission ("the Commission"). During the procedure, two members of the Commission made a number of statements which the applicant considered to be defamatory. At the request of several members of the Commission, it was decided to publish a record of the transfer procedure in the Commission's official bulletin. The applicant appealed against this decision before the regional administrative court, which ordered that its execution be stayed. An appeal was lodged against the court's decision. The applicant alleged that his transfer had been reported by the *Televideo* service of the State channel Rai, by a large number of privately owned television stations and in the press. He applied to the court seeking compensation from the two members of the Commission concerned, alleging that the statements they had made during the transfer procedure had sullied his honour and infringed his right to a good reputation. The two members in question argued that they should enjoy immunity under a Law which stipulated that members of the Judicial Service Commission could not be prosecuted for opinions expressed in the exercise of their duties. The applicant replied that the immunity clause in question applied only in the context of criminal proceedings. The court rejected the applicant's claim for compensation. Referring to a judgment of the Constitutional Court, it considered that the immunity in question should apply to civil and disciplinary proceedings as well as to criminal proceedings, in order to shield members of the Judicial Service Commission from interference in the exercise of their duties. A subsequent appeal by the applicant was dismissed, except in respect of one of the members of the Commission whose remarks, in the appeal court's view, had gone beyond what was normal in such a situation, and who was ordered to pay compensation. The member in question lodged an appeal on points of law, arguing that the immunity clause covered any statement made within the Judicial Service Commission. For his part, the applicant lodged an appeal directed against the two Commission members. Before the Court of Cassation, the

applicant requested three of the judges to withdraw from the case on account of their links with one of the Commission's members. The applicant's lawyer requested that the case be examined by the plenary Court of Cassation. He also requested the President to ensure, in the interests of impartiality, that the panel was made up of judges who had had no links of any kind with the Commission member or with his own client. The request was rejected. The applicant invited two judges of the plenary court panel to withdraw on account of their links with the member of the Judicial Service Commission. If they did not withdraw, his request was to be regarded as an application for their removal. He noted that one of the judges had not withdrawn. However, the plenary court rejected his application for removal. The applicant then requested that this decision be set aside on account of a breach of the rules of procedure. He again asked the judge to withdraw, given that he was now the President of the Division in which the Commission member sat, but to no avail. The Court of Cassation held a plenary hearing at which it allowed the appeal lodged by the Commission member. It dismissed the applicant's appeals on the ground that the guarantees laid down by the law were broader in scope than had been maintained by the applicant, extending to the sphere of civil liability in cases concerning expressions of opinion linked directly to a vote conducted in the course of the Commission's work and relating to the subject under discussion. The part of the judgment concerning the member of the Judicial Service Commission was quashed and remitted to a different division of the Court of Appeal.

Inadmissible under Article 6(1) with regard to the judges' immunity – The defamation proceedings and the judges' immunity came within the sphere of civil rights and obligations. The applicant had, in substance, been deprived of the opportunity of obtaining any form of redress for the damage he alleged. It followed that an assessment as to whether the statements made by the two members of the Judicial Service Commission were truthful or defamatory had either not been carried out by the lower courts or had been set aside by the Court of Cassation. The latter had held that such an assessment was legitimate only if the preliminary question whether the impugned remarks had been relevant to the debate in the Judicial Service Commission was answered in the negative. In the Court's view, the judgment of the Court of Cassation could not be compared to a decision on the applicant's right to protection of his reputation, and the Court could not consider a degree of access which was limited to the possibility of putting a preliminary question sufficient to ensure the applicant's right of access to a court. Accordingly, there had been interference with his right of access to a court. The immunity conferred on the judges had a legal basis, which stipulated that members of the Judicial Service Commission could not be punished for opinions expressed in the course of their duties and relating to the subject under discussion. The relevant legislation had in principle been accessible to the applicant. However, the applicant objected to the interpretation of the provision in question by the Court of Cassation sitting in plenary. He alleged that the phrase “may not be punished” constituted an exemption from criminal liability which was confined to the criminal sphere and should not have been applied in the context of the civil proceedings to which he had been a party. The Court observed that the plenary Court of Cassation had interpreted the scope of the law more widely than the applicant had, taking the view in particular that the guarantees contained in the provision in question would be rendered meaningless if the members of the Judicial Service Commission were exposed to civil liability when acting in an official capacity. Such an interpretation did not manifestly run counter to the legislation concerned and the aim which it pursued, and could not be said to be arbitrary. The interference in question was provided for by domestic law as interpreted by the highest court in Italy. The authors of the Constitution had intended the Judicial Service Commission to act, among other things, as a guarantor of the autonomy and independence of the judiciary. Hence, there was an arguable need to allow its members freedom of expression and to prevent partisan complaints from interfering with the exercise of the Commission's functions. In the circumstances, the Court considered that the immunity of Commission members pursued legitimate aims, namely to protect free debate within the Commission and uphold the system of separation of powers enshrined in the Constitution. Whether the guarantees and immunities enjoyed by the members of the Commission were justified had to be assessed in the light of that institution's role and functions. The role of the Commission as guarantor of the autonomy and independence of the judiciary could call for enhanced protection of the right to freedom of expression of its members in relation to remarks made during meetings. The immunity in question in the present case was absolute in nature and had been applied in both the criminal and civil spheres. However, it applied only to statements made by members of the Commission in the exercise of their duties and in relation to the subject under discussion. It was therefore aimed at protecting the interests of the Judicial

Service Commission as a body rather than those of its individual members. The remarks at issue had not been made public. As to the applicant's allegation that his automatic transfer had been reported in the media, the Court observed that the information conveyed to the public had related not to the allegedly defamatory remarks but to the objective fact of the judge's transfer, which was not as such the subject of the present application. The application of a rule conferring absolute immunity on members of the Judicial Service Commission could not be considered to exceed the margin of appreciation enjoyed by the State in limiting the individual's right of access to a court. Hence, the fair balance which had to be struck in the matter between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights had not been upset: *manifestly ill-founded*.

Inadmissible under Article 6(1) with regard to the existence of an impartial tribunal – From a subjective viewpoint, individual judges were assumed to be impartial unless it was proven otherwise. There was nothing in the instant case to suggest any prejudice or bias on the part of the Division President of the Court of Cassation. The question whether the applicant's fears could be considered to be objectively justified was also crucial. The applicant's fear of impartiality was based on two circumstances: the fact that the Division President worked in the same place as the judge who was the defendant in the civil proceedings, and the fact that a Division President who had withdrawn was replaced not by another Division President but by a substitute judge. On that basis, the applicant's fears could not be said to be objectively justified. In particular, the Court noted that the evidence before it did not demonstrate that there had been any personal ties of friendship between the judge and the Division President going beyond the strictly professional sphere. The sole fact that a judge had or had once had professional dealings with one of the parties to the proceedings did not in itself give rise to a conflict of interest such as to justify the judge's withdrawal from the case. The Division President had not been subordinate to the judge and had not been susceptible to any pressure arising out of a hierarchical relationship between them. Furthermore, there was no objective reason to doubt that the judge whose removal the applicant sought did not regard the oath he had sworn on taking office as taking precedence over any social commitments. Finally, with regard to the replacement of the Division President by a substitute judge, the Court considered that this fact did not give rise to any objectively justified doubts as to the impartiality of the court in question: *manifestly ill-founded*.

Inadmissible under Article 8 (inability to obtain redress for the allegedly defamatory remarks made within the Judicial Service Commission) – The essential questions raised by the applicant's procedural complaint under Article 6(1) of the Convention as to whether the impugned rules pursued a legitimate aim and were proportionate were the same as those raised by the substantive complaint concerning the right to respect for private life guaranteed by Article 8: *manifestly ill-founded*.

Inadmissible under Article 13 – The same considerations as to the facts which had led the Court to reject the applicant's complaints under Articles 6(1) and 8 prompted it to conclude that the applicant did not have an arguable complaint under Article 13: *incompatible* ratione materiae.

Inadmissible under Article 14 – The applicant had not demonstrated that he had been treated differently compared with other persons in a comparable situation. The immunity conferred on members of the Judicial Service Commission in respect of opinions expressed in the exercise of their duties and relating to the subject under discussion was in accordance with the law, pursued legitimate aims and was proportionate to those aims. There had thus been objective and reasonable grounds for the situation complained of by the applicant: *manifestly ill-founded*.

Article 6(1) [criminal]

FAIR HEARING
Conviction allegedly based on evidence obtained through threats of ill-treatment: *admissible*.

GÄFGEN - Germany (Nº 22978/05)
Decision 10.4.2007 [Section V]

(see Article 3 above).

FAIR HEARING
Restrictions on access to case file in lustration proceedings resulting in politician's temporary disqualification from public office: *violation*.

MATYJEK - Poland (Nº 38184/03)
Judgment 24.4.2007 [Section IV]

Facts: A 1997 law on disclosing work for or service in the State's security services or collaboration with them between 1944 and 1990 by persons exercising public functions (the "Lustration Act") provided for sanctions if the lustration court found a declaration made pursuant to the Act to be untrue. These included dismissal from public office and a ten-year ban on holding certain legal or political posts. Separate legislation restricted access to classified information.
The applicant, who had been a member of the parliament, declared that he had not collaborated with the communist-era secret services. In 1999 proceedings were instituted against him on the ground that he had lied in his declaration by denying his cooperation with the secret services. In order to consult the case file the applicant had to attend the so-called "secret registry" of the lustration court. He was not permitted to make copies of documents or to take away any notes. Following hearings *in camera* a court of appeal, sitting as a first-instance lustration court, found in December 1999 that he had lied in his declaration and had in fact collaborated with the secret services. The operative part of the judgment was served on him but the reasoning was deemed "secret" and so could only be consulted at the "secret registry". In February 2000 the same court of appeal, now acting as the second-instance lustration court, dismissed an appeal by the applicant. Following a further appeal in cassation the Supreme Court quashed the judgment and remitted the case for rehearing by the second-instance lustration court on the ground that a motion by the applicant to call two additional witnesses had been disregarded. Later in 2000 the head of the state security bureau lifted the confidentiality restrictions in respect of all the existing case materials. In 2001, following a hearing in public, the court of appeal quashed the judgment and remitted the case to the first-instance lustration court. In a judgment following hearings held partly *in camera* that court again found the applicant to have lied in his declaration. The applicant's further appeals were dismissed.

Law: States adopting lustration measures had to ensure that persons affected thereby enjoyed full procedural guarantees. While there could be situations in which there was a compelling State interest in keeping documents produced under the former Communist regime secret, this would only arise exceptionally given the considerable time that had elapsed since the documents were created. It was for the Government to prove the existence of such an interest in the individual case. A system, under which the outcome of the trial depended to a considerable extent on the reconstructed actions of former secret services, while most of the relevant materials continued to be classified secret and any decision to declassify was in the hands of the current secret services, put the person concerned at a clear disadvantage. Four factors pointed to a lack of adequate safeguards in the instant case. Firstly, at least part of the documents relating to the applicant's case had been classified "top secret" and the power to lift that rating lay with the head of the state security bureau. That situation was inconsistent with procedural fairness. Secondly, although after the institution of the proceedings the applicant was given access to his court file, this had been subject to a number of restrictions: he could make no copies of documents and could only consult confidential documents in the secret registry of the lustration court. Any notes had to

be made in special notebooks that were subsequently sealed and deposited in the secret registry and could not be used before the lustration court. Similar rules applied to notes taken during hearings, the vast majority of which were held *in camera*. Identical restrictions applied to the applicant's lawyer. Even though the confidentiality of some of the documents was lifted in December 2000, limitations had continued to apply to new documents subsequently added to the case file. Regard being had to what was at stake for the applicant in the lustration proceedings – his good name and the risk of a ban on holding public office for ten years – it was important for him to be given unrestricted access to the files, unrestricted use of his notes and the possibility of obtaining copies of relevant documents. Thirdly, the Government's argument that the Commissioner of the Public Interest was subject to like restrictions on access to confidential documents at the trial stage was rejected, as under domestic law he had the same powers as a public prosecutor, including a right of access to all documentation relating to the person concerned created by the former security services. Lastly, despite the fact that the judgments of December 1999 and February 2000 were of crucial importance to the applicant, in that the latter judgment triggered the loss of his parliamentary seat, he had only been notified of their operative parts and had had no alternative but to attend the secret registry if he wished to consult the written reasons.
The confidentiality of the documents and the limitations on the applicant's access to the case file, as also the privileged position of the Commissioner of the Public Interest in the proceedings, had severely curtailed the applicant's ability to refute the allegations against him. Accordingly, the lustration proceedings and the cumulative application of the rules had placed an unrealistic burden on the applicant in practice and did not respect the principle of equality of arms.
Conclusion: violation of Article 6(1) taken together with Article 6(3) (unanimously).

Article 41 – Finding of a violation in itself sufficient just satisfaction.

See also *Turek v. Slovakia* (no. 57986/00), reported in Information Note no. 83.

ARTICLE 8

PRIVATE LIFE
Requirement of father's consent for the continued storage and implantation of fertilised eggs: *no violation*.

EVANS - United Kingdom (N° 6339/05)
Judgment 10.4.2007 [GC]

Facts: In July 2000 the applicant and her partner J. started fertility treatment. In October 2000, during an appointment at the clinic, the applicant was diagnosed with a pre-cancerous condition of her ovaries and offered one cycle of *in vitro* fertilization (IVF) treatment prior to the surgical removal of her ovaries. During the consultation she and J. were informed that they would each need to sign a form consenting to the treatment and that, in accordance with the provisions of the Human Fertilisation and Embryology Act 1990 ("the 1990 Act"), it would be possible for either of them to withdraw his or her consent at any time before the embryos were implanted in the applicant's uterus. The applicant considered whether she should explore other means of having her remaining eggs fertilised, to guard against the possibility of her relationship with J. ending. J. reassured her that that would not happen. In November 2001 the couple attended the clinic for treatment, resulting in the creation of six embryos which were placed in storage. Two weeks later the applicant underwent an operation to remove her ovaries. She was told she would need to wait for two years before the implantation of the embryos in her uterus. In May 2002 the relationship between the applicant and J. ended and subsequently, in accordance with the 1990 Act, he informed the clinic that he did not consent to her using the embryos alone or their continued storage. The applicant brought proceedings in the High Court seeking, among other things, an injunction to require J. to give his consent. Her application was refused in October 2003, J. having been found to have acted in good faith, as he had embarked on the treatment on the basis that his relationship with the applicant would continue. In October 2004 the Court of Appeal upheld the High Court's judgment. Leave to appeal was refused.

The applicant complained that domestic law permitted her former partner effectively to withdraw his consent to the storage and use of the embryos, thus preventing her from ever having a child to whom she was genetically related.

Law: Article 2 – For the reasons given by the Chamber in its judgment of 7 March 2006, namely that the issue of when the right to life began came within the State's margin of appreciation (see Information Note no. 84), the embryos created by the applicant and J. did not have a right to life.
Conclusion: no violation (unanimously).

Article 8 – *Nature of the rights*: "Private life" incorporated the right to respect for both the decisions to become and not to become a parent. However, the applicant had not complained that she was in any way prevented from becoming a mother in a social, legal, or even physical sense, since there was no rule of domestic law or practice to stop her from adopting a child or even giving birth to a child originally created *in vitro* from donated gametes. Her complaint was, more precisely, that the consent provisions of the 1990 Act had prevented her from using the embryos she and J. had created together, and thus, given her particular circumstances, from ever having a child to whom she was genetically related. That more limited issue, concerning the right to respect for the decision to become a parent in the genetic sense, fell within the scope of Article 8. The dilemma central to the case was that it involved a conflict between the Article 8 rights of two private individuals: the applicant and J. Moreover, each person's interest was entirely irreconcilable with the other's, since if the applicant was permitted to use the embryos, J. would be forced to become a father, whereas if J.'s refusal or withdrawal of consent was upheld, the applicant would be denied the opportunity of becoming a genetic parent. In the difficult circumstances of the case, whatever solution the national authorities might adopt would result in the interests of one of the parties being wholly frustrated. The legislation also served a number of wider, public interests, such as upholding the principle of the primacy of consent and promoting legal clarity and certainty.

Positive obligation or interference: It was appropriate to analyse the case as one concerning positive obligations. The principal issue was whether the legislative provisions as applied in the case struck a fair balance between the competing public and private interests involved. In that regard, the findings of the domestic courts that J. had never consented to the applicant using the jointly created embryos alone were accepted.

Margin of appreciation: The issues raised by the case were undoubtedly of a morally and ethically delicate nature. In addition, there was no uniform European approach in the field. Certain States had enacted primary or secondary legislation to control the use of IVF treatment, whereas in others that was a matter left to medical practice and guidelines. While the United Kingdom was not alone in permitting storage of embryos and in providing both gamete providers with the power freely and effectively to withdraw consent up until the moment of implantation, different rules and practices were applied elsewhere in Europe. It could not be said that there was any consensus as to the stage in IVF treatment when the gamete providers' consent became irrevocable. While the applicant contended that her greater physical and emotional expenditure during the IVF process, and her subsequent infertility, entailed that her Article 8 rights should take precedence over J.'s, it did not appear that there was any clear consensus on that point either. In conclusion, therefore, since the use of IVF treatment gave rise to sensitive moral and ethical issues against a background of fast-moving medical and scientific developments, and since the questions raised by the case touched on areas where there was no clear common ground amongst the Member States, the margin of appreciation afforded to the respondent State had to be a wide one and extend in principle both to the State's decision whether or not to enact legislation governing the use of IVF treatment and, once having intervened, to the detailed rules it laid down in order to achieve a balance between the competing public and private interests.

Compliance: The remaining question, therefore, was whether, in the special circumstances of the case, the application of a law which permitted J. effectively to withdraw or withhold his consent to the implantation in the applicant's uterus of the embryos created jointly by them struck a fair balance between the competing interests. The fact that it had become technically possible to keep human embryos in frozen storage gave rise to an essential difference between IVF and fertilisation through sexual intercourse,

namely the possibility of allowing a lapse of time, which might be substantial, to intervene between the creation of the embryo and its implantation in the uterus. It was therefore legitimate and desirable for a State to set up a legal scheme which took that possibility of delay into account. The decision as to the principles and policies to be applied in this sensitive field was primarily for each State to determine. The 1990 Act was the culmination of an exceptionally detailed examination of the social, ethical and legal implications of developments in the field of human fertilisation and embryology, and the fruit of much reflection, consultation and debate. It placed a legal obligation on any clinic carrying out IVF treatment to explain the consent provisions to a person embarking on such treatment and to obtain his or her consent in writing. That had occurred in the applicant's case, and the applicant and J. had both signed the consent forms required by the law. However, the Act also permitted the gamete providers to withdraw their consent at any time until the embryo was implanted in the uterus. While the pressing nature of the applicant's medical condition had required her to make a decision quickly and under extreme stress, she had known, when she consented to have all her eggs fertilised with J.'s sperm, that they would be the last eggs available to her, that it would be some time before her cancer treatment was completed and any embryos could be implanted, and that, as a matter of law, J. would be free to withdraw his consent to implantation at any moment. While the applicant had criticised the national rules on consent for the fact that they could not be disapplied in any circumstances, the absolute nature of the law was not, in itself, necessarily inconsistent with Article 8. Respect for human dignity and free will, as well as a desire to ensure a fair balance between the parties to IVF treatment, underlay the legislature's decision to enact provisions permitting of no exception to ensure that every person donating gametes for the purpose of IVF treatment would know in advance that no use could be made of his or her genetic material without his or her continuing consent. In addition to the principle at stake, the absolute nature of the rule served to promote legal certainty and to avoid the problems of arbitrariness and inconsistency inherent in weighing, on a case by case basis, what had been described by the domestic courts as "entirely incommensurable" interests. Those general interests were legitimate and consistent with Article 8. Given these considerations, including the lack of any European consensus on the point, the Court did not consider that the applicant's right to respect for the decision to become a parent in the genetic sense should be accorded greater weight than J.'s right to respect for his decision not to have a genetically-related child with her.
Conclusion: no violation (thirteen votes to four).

Article 14 – It was unnecessary to decide whether the applicant could properly complain of a difference of treatment as compared to another woman in an analogous position, since the reasons given for finding that there was no violation of Article 8 also afforded a reasonable and objective justification under Article 14.
Conclusion: no violation (thirteen votes to four).

PRIVATE LIFE
Monitoring of telephone communications by the authorities in the absence of a prosecutor's warrant against a named suspect or a legislative framework affording adequate safeguards against arbitrariness: *violation*.

DUMITRU POPESCU - Romania (N° 2) (N° 71525/01)
Judgment 26.4.2007 [Section III]

Facts: The applicant was the majority shareholder in an aircraft charter company. He was arrested on suspicion of smuggling and criminal conspiracy and accused of being involved in trafficking cigarettes that had arrived illegally at a military airport. He was committed to stand trial in the regional military court. The public prosecutor submitted to the court transcripts and cassettes of the applicant's telephone conversations that had been intercepted by the Romanian intelligence services. Relying in particular on the content of the transcripts and the list of telephone calls between the defendants, the regional military court found the applicant guilty of smuggling and criminal conspiracy and sentenced him to twelve years' imprisonment. The conviction was upheld on appeal and the Supreme Court of Justice dismissed an application by the applicant to have the conviction quashed.

Law: Article 8 – Only a broad interpretation of the Law in question could allow it to be taken as a legal basis for the interference with the applicant's rights. As far as the interception of the applicant's telephone calls was concerned, it was not clear from the case file whether the prosecutor had given specific permission for the applicant's telephone to be tapped. As to the safeguards provided by law to ensure the minimum degree of protection required by the rule of law in a democratic society, the Court noted a lack of independence on the part of the authorities empowered to authorise the interference. In cases where there was a threat to national security, the law allowed the intelligence services to intercept telephone conversations for a period of six months simply by obtaining authorisation from the prosecutor. The latter could extend the authorisation for consecutive three-month periods and the law did not lay down any overall time-limit. Hence, measures which seriously interfered with the right of individuals to respect for their private life had been left to the public prosecutor's discretion. The Court had previously found that Romanian prosecutors, acting as members of the Procurator-General's Office, did not satisfy the requirement of independence from the executive. Furthermore, permission by the prosecutor to carry out telephone tapping was not subject to any prior scrutiny and could not be appealed against before an independent and impartial tribunal. The only remedy provided for by law against such decisions was an appeal to a higher-ranking prosecutor. Under the applicable national legislation, persons whose telephone calls were being intercepted were not informed of this fact at any time and the law made no provision for an appeal before the courts. Nor was there any *ex post facto* review of such measures by an independent and impartial authority. Neither the intelligence service nor the public prosecutor was obliged to include in the investigation file held by the court determining the criminal charges the documents on the basis of which they had respectively sought and given authorisation to intercept calls. These shortcomings in the law appeared to have resulted, in the instant case, in the courts responsible for determining the criminal charges against the applicant being wholly unable to verify whether the authorisation issued by the public prosecutor had been justified. They had therefore confined themselves to ascertaining that the tapping as such and the records and transcripts of the intercepted calls had satisfied the formal requirements laid down. The mere fact that the law permitted individuals to apply to the defence and public order committees of both houses of the national Parliament could not compensate for the absence of any prior or *ex post facto* review of telephone tapping by an independent and impartial judicial authority. Moreover, the law did not empower the parliamentary committees to impose any penalty or measure in the event of a breach of the law by the authorities which had intercepted calls or authorised their interception. The public prosecutor was not obliged to give details in the authorisation of the telephone numbers being tapped, nor were there any safeguards in place concerning the need to keep recordings intact and in their entirety or to destroy them. The public prosecutor had included in the case file extracts from the transcripts of the applicant's calls that had been intercepted. While this might be understandable in certain circumstances, the person in question nevertheless had to be given an opportunity to listen to the recordings or challenge their authenticity; hence the need to keep them intact until the end of the criminal proceedings and to include in the investigation file those items of evidence which the person concerned considered relevant to his or her defence. Finally, the only national authority which could have certified that the recordings were genuine and reliable, by conducting a voice comparison, was the Romanian intelligence service, the very authority responsible for intercepting calls, recording them in writing and verifying their authenticity. Where there were doubts as to whether a recording was genuine or reliable, there should be a clear and effective means of submitting it for expert assessment by a public or private agency independent from the agency which had carried out the telephone tapping. The Code of Criminal Procedure ("the CCP") now contained numerous safeguards concerning the interception and transcribing of telephone calls, the storage of relevant information and the destruction of information which was not relevant. However, these changes to the legislation had occurred quite some time after the facts complained of by the applicant. In addition, it appeared that the public prosecutor still had powers to order surveillance measures in the event of a presumed threat to national security.
Conclusion: violation (unanimously).

Article 6(1) – While it was true that the regional military court, sitting as a court of first instance, had declined to refer to the Constitutional Court the objection as to the allegedly unconstitutional nature of the relevant Article of the CCP, this omission had been rectified at the appeal stage. The Constitutional Court had ruled that the national legislation in question was compatible with Article 8 of the Convention and with the principles established by the Court's case-law in the matter. The national courts could – of their

own motion or at the request of the parties – rule out the application of provisions of domestic law which they considered to be incompatible with the Convention or the protocols thereto. In determining the criminal charges against the applicant, the domestic courts had admitted the recordings of the applicant's phone calls as evidence against him, in accordance with the Article of the CCP governing the use of telephone recordings as evidence in criminal proceedings. In that connection the applicant and his lawyer could have consulted the public prosecutor's notes containing the transcripts of the applicant's conversations which had been included in the investigation file by the President of the regional military court. The applicant's allegations before the national courts as to the unlawful nature of the telephone tapping related exclusively to a breach of the domestic legal provisions on account of the fact that the public prosecutor had not issued an authorisation relating to him personally and of the absence of a full transcript of the calls intercepted by the intelligence services. Under Romanian procedural law, items of evidence did not have a pre-determined value and were not "graded"; their probative value depended on the personal conviction of the judges with regard to all the evidence before them, with no particular item of evidence being presumed to carry greater weight than another. The recordings at issue had not constituted the sole evidence subjected to a fully independent assessment by the courts. The regional military court and the higher courts had compared the recordings with other pieces of evidence.
Conclusion: no violation (unanimously).

Article 41 – The finding of a violation of Article 8 constituted sufficient just satisfaction for the non-pecuniary damage sustained.

PRIVATE LIFE
CORRESPONDENCE
Monitoring of a State employee's telephone, e-mail and internet usage without a statutory basis: *violation*.

COPLAND - United Kingdom (N° 62617/00)
Judgment 3.4.2007 [Section IV]

Facts: The applicant was employed by a college of further education, a statutory body administered by the State, as a personal assistant to the principal. From the end of 1995 she was required to work closely with the deputy principal. Her telephone, e-mail and internet usage were subjected to monitoring at the deputy principal's instigation. According to the Government, this was in order to ascertain whether the applicant was making excessive use of college facilities for personal purposes. The monitoring of her telephone usage consisted of analysis of the college telephone bills showing telephone numbers called, the dates and times of the calls and their length and cost; the monitoring of her internet usage took the form of analysing the web sites visited, and the times, dates and durations of the visits; and the monitoring of her e-mails took the form of analysis of e-mail addresses and dates and times at which e-mails were sent. The college did not have a policy on monitoring at the material time. Nor there was any general right to privacy in English law although legislation was subsequently introduced providing for the regulation of the interception of communications and the circumstances in which employers could record or monitor employees' communications without their consent.

Law: The College was a public body for whose acts the Government were responsible for Convention purposes. The question therefore related to the State's negative obligation not to interfere with the applicant's private life and correspondence.

Scope of private life – Telephone calls from business premises were prima facie covered by the notions of "private life" and "correspondence". It followed logically that e-mails sent from work should be similarly protected, as should information derived from the monitoring of personal internet usage. The applicant had been given no warning that her calls would be liable to monitoring and therefore had a reasonable expectation as to the privacy of calls made from her work telephone. The same expectation ought to apply to her e-mail and internet usage.

Interference – The mere fact that the data may have been legitimately obtained by the college, in the form of telephone bills, was no bar to finding an interference. Nor was it relevant that it had not been disclosed to third parties or used against the applicant in disciplinary or other proceedings. The collection and storage of personal information relating to the applicant's use of the telephone, e-mail and internet, without her knowledge, therefore amounted to an interference with her right to respect for her private life and correspondence.

"*In accordance with the law*" – In order to fulfil the requirement of foreseeability, the law had to be sufficiently clear in its terms to give individuals an adequate indication as to the circumstances in which and the conditions on which the authorities were empowered to resort to the measures concerned. The Government's submission that the college was authorised under its statutory powers to do "anything necessary or expedient" for the purposes of providing higher and further education was unpersuasive. Moreover, it had not been submitted that any provisions existed at the relevant time, either in the general domestic law or the governing instruments of the college, regulating the circumstances in which employers could monitor the use of telephone, e-mail and the internet by employees. Thus, while leaving open the question whether the monitoring of an employee's use of a telephone, e-mail or internet at the place of work might be considered "necessary in a democratic society" in certain situations in pursuit of a legitimate aim, the Court concluded that, in the absence of any domestic law regulating monitoring at the material time, the interference was not "in accordance with the law".
Conclusion: violation (unanimously).

Article 41 – EUR 3,000 in respect of non-pecuniary damage.

PRIVATE AND FAMILY LIFE
HOME
Complaints by people living near an airport of nuisance caused by works to lengthen a runway: *communicated*.

FLAMENBAUM - France (N° 3675/04)
AKIERMAN and 16 Others- France (N° 23264/04)
[Section III]

The applicants live at a distance of between 800 metres and 3.5 kilometres from the main runway of an airport. They unsuccessfully challenged a decision to extend the runway after the airport was classified in a higher category. The decision to lengthen the runway was taken after public inquiries in which local residents, municipalities and associations were consulted. Authorisation was given for a 450-metre extension on the basis of opinions from the commissioner appointed to conduct an inquiry and a central committee on aviation easements, and the report of a commission of inquiry. The applicants brought legal proceedings challenging the extension of the runway, without success. After the extended runway began operating, they successfully requested an expert report designed in particular to assess noise levels in the surrounding area. On the basis of the expert report they lodged claims for compensation in respect of the damage they had allegedly sustained as a result of the extension of the runway (the cost of insulating their houses against the increased noise levels and a substantial drop in the market value of their properties). The domestic courts dismissed their claims, observing in particular that the level of disturbance did not go beyond what persons living in the vicinity of an airport might be expected to tolerate in the public interest. *Communicated* under Article 8 (prior consultation and effective protection of the applicants' right to respect for their private and family life and their homes) and Article 1 of Protocol No. 1 (alleged reduction of between 70 and 90% in the market value of their properties, without compensation being paid).

PRIVATE AND FAMILY LIFE
Social isolation of the applicant who is the sole prisoner on an island and complains that he is subject to restrictions and prohibitions that do not apply to other high security prisoners: *communicated*.

ÖCALAN - Turkey (N°s 24069/03, 197/04, 6201/06 and 10464/07)
[Section II]

(see Article 3 above).

ARTICLE 9

FREEDOM OF RELIGION
Employment terminated on account of religious beliefs: *violation*.

IVANOVA - Bulgaria (N° 52435/99)
Judgment 12.4.2007 [Section V]

Facts: The applicant, employed as a non-academic school staff, was a member of a Christian Evangelical Group, known as "Word of Life", which pursued clandestine activities due to the authorities' refusal to register it. Its meetings were periodically thwarted by the police and media waged a campaign against it, calling for the dismissal of its members and naming, among others, the applicant in this respect. Following the inquiries by the regional prosecutor's office and the National Security Service, the regional governor and a Member of Parliament threatened the educational inspector with dismissal unless he took radical measures to curb the religious activities at the school and dismiss the principal. In October 1995 the principal was dismissed for, *inter alia*, not having dismissed members of staff who were followers of Word of Life and for tolerating its activities. Later on, the applicant was put under pressure to resign or renounce her faith as the education inspector threatened her with dismissal irrespective of her work performance. She refused. In a radio interview the Member of Parliament singled out the applicant's post as still being occupied by a member of Word of Life. In December 1995 a new principal dismissed her on the ground of not meeting the requirements for the post. A new roster of posts for the school was approved, effective as of January 1996, which transformed the applicant's post into a new one, with essentially the same duties and responsibilities, but requiring a university degree. The applicant brought proceedings before the district court claiming that her dismissal had been unlawful and had amounted to religious discrimination. The court dismissed her claims and she appealed unsuccessfully.

Law: At the heart of the case was the question whether the applicant's employment had been terminated solely as a result of the school's need to change the requirements for her post, as the Government had claimed, or whether, as she argued, she had been dismissed because of her religious beliefs. The Government's submissions on that point had been somewhat ambiguous and contradictory. By assessing the sequence of events in their entirety, the Court reached the conclusion that the applicant's employment had been terminated, in reality, because of her religious beliefs and affiliation with Word of Life. That constituted an interference with her right to freedom of religion at variance with Article 9. The fact that the applicant's employment had been terminated in accordance with the applicable labour legislation – by introducing new requirements for her post which she failed to meet – did not eliminate the substantive motive for her dismissal. The Court considered the State's responsibility to be engaged by the fact that the applicant was employed as a non-academic staff member at the school, which was under the direct supervision of the Ministry. Moreover, it noted activities such as the breaking up of gatherings of Word of Life around the country and the involvement of other authorities and officials in the events in question. Those events hinted at a policy of intolerance on the part of the authorities during the relevant period towards Word of Life, its activities and followers. The dismissal of the applicant soon after the appointment of a new principal appeared to have resulted directly from the implementation of that policy.
Conclusion: violation (unanimously).

Article 41 – EUR 589 in respect of pecuniary damage and EUR 4,000 in respect of non-pecuniary damage.

ARTICLE 10

FREEDOM OF EXPRESSION
Elected councillors and newspaper editor found guilty of libel and defamation for having asserted that the local council had ignored public opinion: *violation*.

LOMBARDO and Others - Malta (N° 7333/06)
Judgment 24.4.2007 [Section IV]

Facts: The first three applicants are Nationalist Party councillors elected to a local council, whereas the fourth one, Mr Zammit, is the editor of a local newspaper. In 2001 a dispute arose between the central government and the local council about a road project. The matter was brought before the domestic courts and gave rise to discussion in the local council and press. During a council meeting the applicants unsuccessfully tabled a motion calling for a public meeting to be held about the project. Later in 2001 the first three applicants published an article in the local newspaper, referring to the disagreement about the project and stating that the council "had not consulted the public" and was "ignoring public opinion" on the matter. As a result, the council sued the applicants, in their capacity as authors and editor of the article, for libel and defamation. The applicants challenged that claim, arguing that the article amounted to fair comment in view of the rejection of their motion to hold a public meeting. In their opinion, the council's efforts to examine the issues relating to the dispute had not involved public consultation. The Court of Magistrates found the article libellous and defamatory on the ground that the allegations of fact by the first three applicants had not been proved. On the contrary, public consultation had taken place from the outset: three public meetings had taken place between 1995 and 2001; an urban planner's report had been made public; a questionnaire had been distributed to local residents and the Minister responsible for roads and the Director of the Department of Roads had spoken in public about their discussions with the local council. The Court of Magistrates further noted that Mr Zammit had been aware of the controversy, had believed the comments to be justified and had given the Local Council the opportunity to reply. The applicants were ordered to pay approximately EUR 4,800 in damages. The judgment was subsequently upheld on appeal, except for the damage award which was reduced to approximately EUR 1,400. The Civil Court rejected the applicants' constitutional complaint, noting in particular that the amount of damages had been reduced and had been ordered as a result of civil rather than criminal proceedings. The Constitutional Court upheld that judgment.

Law: The parties disagreed as to whether that interference with the applicants' freedom of expression had pursued the legitimate aim of protecting the reputation or rights of others. The Court considered that the latter, in exceptional circumstances, could justify a measure banning statements which had criticised the acts or omissions of an elected body such as a council. In the present case, the Court was prepared to assume that that aim could be relied on. The main issue was therefore whether the interference had been "necessary in a democratic society". Freedom of expression was especially important for elected representatives, who drew attention to the electorate's preoccupations and defended public interests. Moreover, the Court of Magistrates had acknowledged that the fourth applicant had believed the comments in the article to have been justified and had invited the local council to reply.
The limits of permissible criticism were wider for politicians than for a private citizen and were wider still with regard to a government. It followed that an elected political body such as a local council should also be expected to display a higher degree of tolerance to criticism. There was little scope for restricting political speech or debate on questions of public interest such as the subject matter of the applicants' article. Moreover, political debate did not require unanimous agreement as to the interpretation of particular words. The rejection of the applicants' motion had provided a sufficient factual basis for the allegation that the local council had not consulted the public so as to allow that allegation to be construed as a value judgment. Even assuming it had not been a value judgment, the interpretation given by the

applicants was not manifestly unreasonable. The allegation concerning public opinion having been ignored was clearly a value judgment which was not susceptible of proof. Nothing showed that those value judgments had not been made in good faith and the distinction between statement of fact and value judgment was less important where the statements had been made in the course of a lively political debate.
The damages which the applicants had been ordered to pay represented a sanction which was likely to discourage the applicants from criticising the local council in the future. The applicants' statement had not exceeded the acceptable limits of criticism and the domestic courts had overstepped the narrow margin of appreciation afforded to them to restrict discussion on matters of public interest. In sum, the interference had been disproportionate to the aim pursued and had not been "necessary in a democratic society".
Conclusion: violation (unanimously).

Article 41 – EUR 1,460 in respect of pecuniary damage.

ARTICLE 11

FREEDOM OF ASSOCIATION
Bad-faith denial of re-registration, resulting in the applicant association's loss of legal status: *violation*.

CHURCH OF SCIENTOLOGY MOSCOW - Russia (N° 18147/02)
Judgment 5.4.2007 [Section I]

Facts: The applicant is a religious association with the status of a legal entity and was officially registered in 1994. In 1997 the Religions Act entered into force, obliging all religious associations which previously had been granted the status of a legal entity to bring their articles of association into conformity with the Act and to re-apply for registration before the end of 2000. The applicant applied 11 times for re-registration to the Moscow Justice Department between 1998 and 2005. On several occasions the applications were not processed on the ground that a complete set of documents had not been provided. The competent district court later gave specific reasons for the refusal, namely that the applicant had failed to produce originals of their charter and other documents. It further held that the book submitted by the applicant did not provide sufficient information on the basic tenets of Scientology's creed and practice. Four applications were left unexamined on the ground that the time-limit for re-registration had expired. In the meantime, the district court held that the Justice's Department refusals to re-register the applicant had been unlawful and inconsistent with international standards of law. It concluded that the Justice Department had, in essence, used subterfuge to avoid re-registration of the applicant and pointed out that an association with no status as a legal entity was prevented from renting premises for religious ceremonies and worship, receiving and disseminating religious literature or holding a bank account. The court's decision became binding and enforceable in December 2000. However, the Justice Department refused to comply with it and, in 2001 it was quashed by way of supervisory review. In 2003 the applicant filed a further complaint against the Justice Department on account of its persistent refusal to re-register the association. Ultimately, the courts found that the refusal to examine the applicant's amended charter had had no lawful basis and the Justice Department was ordered to re-examine the application for re-registration. Most recently, the Justice Department refused the applicant's last application on a new ground, notably the failure to produce a document proving the applicant's presence in Moscow for at least fifteen years.

Law: There had been interference with the applicant's rights to freedom of association in that it had not been re-registered and was restricted in exercising the full range of its religious activities. The Justice Department had refused to process four applications for re-registration on account of the applicant's alleged failure to submit a complete set of documents. The Department had not specified what information or document had been missing, claiming that it had not been competent to do so. Not only had that approach been inconsistent; it had also prevented the applicant from being able to amend their application and re-submit it. Furthermore, that approach had run counter to domestic law which required

any refusal to be justified. Consequently, the Justice Department had acted in an arbitrary manner and the refusals had not been "in accordance with the law". The reasons specified by the district court, namely the applicant's failure to produce originals of certain documents, had had no foundation in law, since neither the Religions Act nor any other regulatory document contained that requirement. Moreover, the requirement to enclose originals with each application would have been excessively difficult, even impossible, given that the Justice Department was under no legal obligation to return the documents enclosed with applications. In any case, the Justice Department did have in its possession the originals at issue which had never been returned since their inclusion in the first application for re-registration. Therefore, the district court's decision that the applicant had been responsible for not providing adequate documentation had no factual or legal basis. Furthermore, the court had not explained why the book submitted by the applicant had not contained sufficient information on the basic creed tenets and practices of Scientology, and therefore had failed in its task to clarify the applicable legal requirements and give the applicant clear instructions on how to prepare a complete and adequate application. As regards the applicant's failure to secure re-registration within the established time-limit, it had been a direct consequence of arbitrary rejection of its earlier applications by the Justice Department. Finally, the latest requirement to produce the document showing the applicant's fifteen-year presence in Moscow had also been unlawful, as the Constitutional Court had ruled that no such document should be required from organisations which had existed before the entry into force of the Religions Act in 1997, which was the applicant's case. Since it had not been proven that the applicant had breached domestic law or any regulation governing their associative life and religious activities during their three years' existence, the reasons given to deny re-registration had had no legal basis. The authorities had not acted in good faith and had neglected their duty to be neutral and impartial vis-à-vis the applicant's religious community.
Conclusion: violation of Article 11 read in the light of Article 9.

Article 41 – EUR 10,000 in respect of non-pecuniary damage.

ARTICLE 13

EFFECTIVE REMEDY
Lack of a remedy with automatic suspensive effect against an order refusing an asylum seeker held in an airport waiting area entry to French territory and requiring his removal: *violation*.

GEBREMEDHIN [GABERAMADHIEN] - France (N° 25389/05)
Judgment 26.4.2007 [Section II (former)]

Facts: The applicant is an Eritrean national. In 1998 he and his family were displaced from Ethiopia to Eritrea, where he worked as a reporter and photographer for an independent newspaper. In 2000 he and the newspaper's editor-in-chief were arrested, apparently on account of their professional activities. Both men were imprisoned for several months. In September 2001 the applicant fled the country. He was arrested and questioned about his friend, and was subjected to ill-treatment. He was imprisoned for six months before managing to escape from the prison hospital, where he had been transferred after contracting tuberculosis. He fled to Sudan from where, believing his life to be in danger, he travelled on to South Africa. Using a Sudanese passport in a different name and without any travel papers, he arrived at Charles de Gaulle airport in Paris. On 1 July 2005 he applied for leave to enter French territory in order to lodge an application for asylum with the French authorities. He was placed in the airport's waiting area. On 5 July 2005, after interviewing the applicant, the French Refugees and Stateless Persons Agency (OFPRA) issued the opinion that the applicant should not be admitted to France on account of inconsistencies in his claims which suggested that he had tried to falsify his past. The following day the Interior Ministry refused the applicant admission to French territory on grounds of asylum and gave directions for his removal to Eritrea or any other country where he might be legally admissible. If the applicant had been granted leave to enter the country, he would have been issued with a safe conduct by the border police, authorising him to enter the country and remain there for eight days with a view to

lodging an asylum application with the relevant authority under the ordinary-law asylum procedure. Persons who are not admitted are removed immediately.
The applicant made an urgent application to the administrative court requesting leave to enter the country with a view to applying for asylum. He reiterated his claims that he had been persecuted and his life had been threatened. The urgent applications judge rejected his application on the following day, 8 July 2005. The applicant lodged an application with the European Court of Human Rights, which on 15 July 2005 indicated to the French Government, under Rule 39 of the Rules of Court (interim measures) that it was desirable not to remove him to Eritrea for the time being. The applicant was still being held in the waiting area in Roissy airport. On 20 July 2005 the French authorities, on the basis of the indication from the European Court, granted the applicant leave to enter France and to remain there for eight days in order to visit the prefecture and apply for a temporary residence permit on grounds of asylum. The applicant took the appropriate action and was granted a French residence permit valid for one month, enabling him to lodge an application for asylum with OFPRA. In November 2005 OFPRA granted him refugee status.

Law: Article 13 in conjunction with Article 3 – Under French law, a decision refusing entry to the country acted as a bar to lodging an application for asylum; moreover, such a decision was immediately enforceable, with the result that the person concerned could be removed straight away to the country he or she claimed to have fled. In the instant case, following the application of Rule 39 of the Rules of Court, the applicant had ultimately been given leave to enter the country and had hence been able to lodge an application for asylum with OFPRA, which granted him refugee status. From that point on the Geneva Convention of 28 July 1951 relating to the Status of Refugees stood in the way of his expulsion. The applicant was accordingly no longer a victim of the alleged violation of Article 3.
The Court considered that the applicant's allegations as to the risk of ill-treatment in Eritrea were sufficiently credible to make his complaint under Article 3 an “arguable” one. The applicant could therefore rely on Article 3 taken in conjunction with Article 13. The latter provision required that foreign nationals whom it had been decided to remove to a country where there was real reason to believe that they ran the risk of being subjected to ill-treatment contrary to Article 3 should have access to a remedy against that decision which had suspensive effect. In the case of asylum seekers who claimed to run such a risk and who had already been granted leave to enter French territory, French law provided for a procedure which met some of these requirements. The procedure did not apply, however, to persons claiming to run such a risk who turned up at the border after arriving at an airport, for instance. In order to lodge an asylum application with OFPRA, foreign nationals had to be on French territory. If they turned up at the border, they could not make such an application unless they were first given leave to enter the country. If they did not have the necessary papers to that effect, they had to apply for leave to enter on grounds of asylum. They were then held in a “waiting area” while the authorities examined whether or not their intended asylum application was “manifestly ill-founded”. If the authorities deemed the application to be “manifestly ill-founded”, they refused the person concerned leave to enter the country. He or she was then automatically liable to be removed without having had the opportunity to apply to OFPRA for asylum. While the individual in question could apply to the administrative courts to have the ministerial decision refusing leave to enter set aside, such an application had no suspensive effect and was not subject to any time-limits. Admittedly, he or she could apply to the urgent applications judge, as the applicant had done without success. However, this remedy did not have automatic suspensive effect either, with the result that the person could also be removed before the judge had given a decision. Given the importance of Article 3 and the irreversible nature of the harm that might occur if the risk of torture or ill-treatment materialised, it was a requirement of Article 13 that, where a State Party decided to remove a foreign national to a country where there was real reason to believe that he or she ran a risk of this nature, the person concerned must have access to a remedy with automatic suspensive effect (a remedy with such effect “in practice” was not sufficient). The applicant had not had access to such a remedy while in the waiting area.
Conclusion: violation (unanimously).

Article 5(1)(f) – After being placed in the “waiting area” of the airport on 1 July 2005, and before being granted leave to enter France on 20 July, the applicant had been subject to a “deprivation of liberty”. On 15 July the Court decided to indicate to the French Government, under Rule 39 of the Rules of Court, that it would be desirable in the interests of the parties and the proper conduct of the proceedings before the

Court not to remove the applicant to Eritrea until midnight on 30 August 2005. Accordingly, from 15 July 2005 onwards, the Government could not remove the applicant to Eritrea without being in breach of their obligations under the Convention. However, there was nothing to prevent them from removing him to a different country provided that it was established that the authorities of that country would not send him on to the country referred to by the Court. Accordingly, the applicant's detention for that purpose, after Rule 39 had been applied, could be said to amount to the "lawful" detention of a person "against whom action [was] being taken with a view to deportation or extradition" within the meaning of Article 5(1)(f) of the Convention. In addition, where, following the application of Rule 39, the authorities had no option but to end the deprivation of the person's liberty with a view to his deportation, and that implied granting him leave to enter the country, it could prove necessary to keep him in detention for the time strictly necessary for the authorities to verify whether his entry into the country was lawful. This could be said to amount to the "lawful detention of a person to prevent his effecting an unauthorised entry into the country" within the meaning of Article 5(1)(f).
The Government argued that this had been the case in relation to the applicant and the Court saw no evidence to suggest that, between 15 and 20 July, the applicant had been arbitrarily deprived of his liberty. In short, the Court accepted that the applicant's detention in the "waiting area" after 15 July 2005 had amounted to the "lawful detention of a person to prevent his effecting an unauthorised entry into the country" within the meaning of Article 5(1)(f).
Conclusion: no violation (unanimously).

Article 41 – Non-pecuniary damage: finding of a violation sufficient.

EFFECTIVE REMEDY
Lack of effective investigation into the State's liability for the damage caused by a foreseen natural disaster: *admissible*.

BUDAYEVA and Others - Russia (N° 15339/02 and other applications)
Decision 5.4.2007 [Section I]

(see Article 2 above).

ARTICLE 34

HINDER THE EXERCISE OF THE RIGHT OF PETITION
Limits on the confidentiality of meetings between a convicted prisoner and his lawyers and ban on some of them representing him: *communicated*.

ÖCALAN - Turkey (Nos 24069/03, 197/04, 6201/06 and 10464/07)
[Section II]

(see Article 3 above).

ARTICLE 37

Article 37(1)(c)

CONTINUED EXAMINATION NOT JUSTIFIED
Burning of houses belonging to Roma villagers and authorities' failure to prevent the attack and to carry out an adequate criminal investigation: *struck out of the list*.

KALANYOS and Others - Romania (N° 57884/00)
GERGELY - Romania (N° 57885/00)
Judgments 26.4.2007 [Section III]

Facts: The cases concern the burning of houses belonging to Roma villagers by local population, the poor living conditions of the victims and the authorities' failure to prevent the attack and to carry out an adequate criminal investigation, depriving the applicants of their right to bring a civil action to establish liability and recover damages (see Information Note no. 75).

Law: By unilateral declarations, the Government accepted that the events at issue had constituted violations of Articles 3, 6, 8, 13 and 14 of the Convention and undertook to pay each of the applicants EUR 30,000-36,500 in compensation as well as costs and expenses. They also undertook to adopt several general measures involving the judicial system, the educational, social and housing programmes and aimed at fighting discrimination against the Roma in the county concerned, stimulating their participation in the economic, social, educational, cultural and political life of the local community, supporting positives changes in public opinion in their respect, as well as preventing and solving conflicts likely to generate violence. The applicants requested the Court to dismiss the Government's proposals and to continue the examination of the merits of the cases.
The Court noted that although the violations complained about were of a very serious and sensitive nature, they had already been exhaustively addressed in the case of *Moldovan v. Romania ((no. 2)*, nos. 41138/98 and 64320/01, Information Note no. 77). Moreover, the Government had acknowledged these violations and proposed several individual and general measures with a view to redressing the situation and to remedy the flaws in the judicial system. The implementation of the measures proposed in the *Moldovan* case had already started under the supervision of the Committee of Ministers. Therefore, the Court did not address the allegations of their ineffectiveness, as their examination fell entirely to the Committee of Ministers within the execution proceedings. The Court was satisfied with both the general and individual measures proposed by the Government. Having regard to the nature of the Government's admissions as well as the scope and extent of their various undertakings, together with the amount of compensation proposed, respect for human rights did not require the Court to continue the examination of the applications.
Conclusion: struck out of the list of cases (unanimously).

ARTICLE 38

Article 38(1)(a)

FURNISH ALL NECESSARY FACILITIES
Refusal by respondent Government to disclose documents from ongoing investigation into the disappearance of the applicant's husband: *failure to comply with Article 38*.

BAYSAYEVA - Russia (N° 74237/01)
Judgment 5.4.2007 [Section I]

Facts: The case concerned the disappearance of the applicant's husband, who was last seen leaving home for work in a neighbouring village in Chechnya on the morning of 2 March 2000 on a route that would have taken him through a Russian military checkpoint. The Government stated that a special operation had been conducted by the security forces that day to identify members of illegal armed groups thought to have participated in an ambush. Various people had been detained, but the applicant's husband was not on the list. The applicant claimed that she had been told by witnesses that her husband had been taken from the checkpoint by Russian soldiers and beaten. Although she had repeatedly attempted to enlist the help of prosecutors at various levels to locate her husband, the prosecutor's office had not given instructions for a search until three months later. At the beginning of August 2000 the applicant was stopped by a masked man in military uniform who claimed he could reveal who was behind her husband's disappearance for a fee. She paid him the next day and was shown a video, dated 2 March 2000, in which her husband could be seen lying on the ground in a brown sheepskin coat, being kicked by a soldier. He was then seen being led away by soldiers in the direction of buildings that had been partially destroyed. The applicant obtained photographs, a sketch map allegedly showing where her husband was buried and later a copy of the videotape from the man, who told her that the prosecutor's office was already aware of its existence. This was confirmed by the prosecuting authorities. A few weeks later the applicant accompanied an investigator to the location indicated on the sketch map. It turned out to be within a military compound near the checkpoint through which her husband would have passed. They were denied entry. In December 2001 she returned there with two investigators and located the building shown on the videotape. They also dug up a piece of brown cloth, resembling rotten sheepskin, at a site which the investigators considered might be a burial place. They had intended to return there but the next day the applicant was told that the two investigators had died when their car had blown up on their way to the prosecutor's office. She claimed she was warned to stop searching for the body if she did not wish to put her and her children's safety at risk. In August 2003 the prosecutor's office informed the applicant that her husband had been wounded in the shooting near the village and taken away in a vehicle by unidentified persons. The investigation had been adjourned because the culprits could not be identified. In February 2004 and December 2005 the European Court of Human Rights asked the Russian Government for a copy of the complete case file. The Government submitted certain documents, but stated that disclosure of the remaining documents would violate Article 161 of the Code of Criminal Procedure, which allowed the divulgation of information from the preliminary investigation file only in so far as it did not infringe the lawful interests of the parties to the proceedings or prejudice the investigation. The investigation into the abduction was continuing.

Law: Article 2 – (a) *Substantive aspect* – It was established that the applicant's husband's apprehension coincided with a special security operation. Since the videotape evidence was undisputed, the last sighting of the applicant's husband's was of his detention by State servicemen. There had been no news of him since, his name had not been found in any detention-facility records and the Government had not submitted any plausible explanation as to what had happened to him after his detention. In the context of the conflict in Chechnya, a person's detention by unidentified servicemen without any subsequent acknowledgement could be regarded as life-threatening. The applicant's husband's absence without any news for over six years supported that assumption. Moreover, the stance taken by the prosecutor's office

and the other law-enforcement authorities after the news of his detention was reported to them by the applicant had significantly contributed to the likelihood of his disappearance, as the necessary steps had not been taken in the crucial first days or weeks after his detention. The conduct of the prosecutor's office in the face of the applicant's well-established complaints raised a strong presumption of at least acquiescence in the situation and cast doubt on the objectivity of the investigation. The applicant's husband therefore had to be presumed dead following his unacknowledged detention by State servicemen. The authorities had not cited any grounds to justify the use of lethal force by their agents. It followed that liability for his presumed death was attributable to the Russian Government.
Conclusion: violation on account of the disappearance (unanimously).

(b) *Procedural aspect* – The authorities had been informed of the disappearance within a matter of days. However, the investigation was not opened until almost three months later. When it did begin, it was plagued by inexplicable delays in performing the most essential tasks. By themselves these delays were sufficient to compromise the effectiveness of the investigation. While some explanation could be found in the exceptional circumstances prevailing in Chechnya, the delays clearly exceeded acceptable limits. In addition, the videotape had been available to the authorities as far back as 2000. Yet by February 2006 the persons filmed had still not been identified, let alone questioned. It did not appear that the investigators had identified or questioned the servicemen who had manned the checkpoint or carried out the special operation. Nor had the information about the possible burial place been adequately investigated. Over a period of six years the investigation had been adjourned and reopened at least 12 times. The applicant had not been kept properly informed of progress. In the light of these circumstances and the inferences to be drawn from the Government's presentation of the evidence, the Court concluded that the authorities had failed to carry out an effective criminal investigation.
Conclusion: violation on account of the failure to hold an effective investigation (unanimously).

Article 3 – (a) *the applicant's husband* – Neither the witness statements nor the video recording contained evidence to support the allegations that the applicant's husband had been ill-treated upon arrest. The episode depicted in the videotape did not in itself appear to attain the requisite threshold of severity.
Conclusion: no violation (unanimously).

(b) *the applicant* – The applicant had suffered, and continued to suffer, distress and anguish as a result of her husband's disappearance and her inability to find out what had happened. The manner in which her complaints had been dealt with by the authorities constituted inhuman treatment.
Conclusion: violation (unanimously).

Article 5 – The applicant's husband's detention by the federal authorities had not been logged in any custody record and there was no official trace of his subsequent whereabouts or fate. That in itself was a most serious failing, since it enabled those responsible for an act of deprivation of liberty to conceal their involvement in a crime, cover their tracks and escape accountability for the fate of a detainee. Furthermore, the absence of detention records containing details of the date, time and location of detention, the name of the detainee, the reasons for the detention and the name of the person effecting it, was incompatible with the very purpose of Article 5. Further, the authorities should have been alert to the need to carry out a thorough and prompt investigation into the applicant's complaints that her husband had been detained by security forces in life-threatening circumstances. They had, however, failed to take prompt and effective measures to prevent his disappearance. Accordingly, he had been held in unacknowledged detention without any of the safeguards provided by Article 5.
Conclusion: violation (unanimously).

Article 13 – The applicant's complaints were clearly “arguable”. She should therefore have had access to effective and practical remedies capable of leading to the identification and punishment of those responsible and to an award of compensation. However, since the criminal investigation was ineffective, it had consequently undermined the effectiveness of any other remedy, including civil remedies, that may have existed.
Conclusion: violation of Article 13 in conjunction with Articles 2 and 3.

Article 38(1)(a) – A government's obligation to assist the Court in its investigation of the application became applicable once the case was declared admissible. The Russian Government had failed to comply with a request to provide the entire case file or to furnish almost any documents from it. Article 161 of the Russian Code of Criminal Procedure did not preclude the disclosure of documents from a pending investigation file, but rather set out a procedure for and limits to such disclosure. The Government had failed to specify the nature of the documents concerned or the reasons why they could not be disclosed. In a number of comparable cases before the Court, the Government had submitted the documents from the investigation files in response to similar requests without any reference to Article 161. Their explanations did not, therefore, suffice to justify withholding key information requested by the Court.
Conclusion: failure to comply (unanimously).

Article 41 – EUR 1,732 for pecuniary damage and EUR 50,000 for non-pecuniary damage.

See also, on the question of Article 38 compliance, *Shamayev and Others v. Georgia and Russia* (no. 36378/02), reported in Information Note no. 74; *Bazorkina v. Russia* (no. 69481/01); and *Imakayeva v. Russia* (no. 7615/02) – Information Note no. 91.

ARTICLE 1 OF PROTOCOL No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS
State's failure to warn population of a foreseen natural disaster and to protect their lives, health, homes and property: *admissible*.

BUDAYEVA and Others - Russia (N° 15339/02 and other applications)
Decision 5.4.2007 [Section I]

(see Article 2 above).

PEACEFUL ENJOYMENT OF POSSESSIONS
Failure to compensate people living near an airport for alleged drop in value of properties caused by works to lengthen a runway: *communicated*.

FLAMENBAUM - France (N° 3675/04)
AKIERMAN and 16 Others- France (N° 23264/04)
[Section III]

(see Article 8 above).

DEPRIVATION OF PROPERTY
Compensation for loss of title to land on which the Army had placed landmines refused on grounds of twenty-year continual occupation by the State: *violation*.

ARİ and Others – Turkey (N° 65508/01)
Judgment 3.4.2007 [Section II]

Facts: The applicants were the owners of land on which the army had laid mines. Several years later, alleging *de facto* expropriation, they requested that the land be entered in the land register in the State's name and claimed compensation.
Under the applicable legislation, compensation for deprivation of property was not paid automatically by the authorities, but had to be claimed by the individuals concerned within twenty years of the date of *de facto* occupation of the property. The court established that the land had been mined more than twenty

years previously, in the 1950s, and had been assigned for use by the gendarmerie command since that time. Noting that the land had been occupied by the authorities in the public interest for an unbroken twenty-year period, the court held that the conditions laid down by the Expropriation Act could be said to have been met and dismissed the applicants' claim for compensation. The Defence Ministry requested that the mined land be entered in the land register in the State's name. On the basis of the Expropriation Act, the title to the property was transferred from the applicants to the State.

Law: The cancellation of the applicants' title to the property recorded in the land register and the transfer of the property to the Defence Ministry had had the effect of depriving the applicants of their "possession". The consequence of applying section 38 of the Expropriation Act (Law no. 2942) had been to deprive them of any possibility of obtaining compensation.
Conclusion: violation (unanimously).

Article 41 – EUR 240,000 for pecuniary damage.

See also *Börekçioğulları (Çökmez) and Others v. Turkey*, no. 58650/00, 19 October 2006, Information Note no. 90, and *I.R.S. and Others v. Turkey*, no. 26338/95, 20 July 2004, Information Note no. 66.

ARTICLE 3 OF PROTOCOL No. 1

STAND FOR ELECTION
Temporary limitations on the applicant's political rights following the dissolution of his party by the Constitutional Court: *violation*.

KAVAKÇI - Turkey (N° 71907/01)
Judgment 5.4.2007 [Section III]

Facts: In April 1999 the applicant had been elected to the Turkish Grand National Assembly as a member of *Fazilet Partisi* (the Virtue Party). In May 1999 she was stripped of her Turkish nationality under the Nationality Act, on the ground that she had acquired US nationality without the prior approval of the Turkish authorities. After marrying a Turkish national in October 1999 she re-acquired Turkish nationality. In March 2001 the President of the National Assembly stripped the applicant of her status as member of Parliament, as the decision depriving her of Turkish nationality had become final.
In June 2001 the Constitutional Court dissolved *Fazilet Partisi* on the ground that the party, which had based its political programme in particular on the issue of wearing the Islamic headscarf, had become a centre of activities contrary to the constitutional principle of secularism. In arriving at its conclusion, the court took account of the actions and statements of the party's Chair and some of its leaders and members. The applicant was accused of making certain statements in public and of taking an oath before the National Assembly wearing an Islamic headscarf, at the instigation of members and leaders of the party. As an ancillary measure, the Constitutional Court banned the applicant (and four other party members) from becoming founder members, ordinary members, leaders or auditors of any other political party for five years. Two members were removed from their parliamentary seats.

Law: The temporary restrictions imposed on the applicant's political rights when *Fazilet* was dissolved had been intended to preserve the secular nature of the Turkish political system. Given the importance of that principle for democracy in Turkey, the measure had pursued the legitimate aims of preventing disorder and protecting the rights and freedoms of others.
As to whether the sanction had been proportionate, the constitutional provisions concerning the dissolution of political parties in force at the relevant time had been very broad in their scope. All actions and statements by party members could be imputed to the party for the purposes of finding the latter to be a centre of activities contrary to the Constitution and ordering its dissolution. No distinction was made according to the degree of involvement of members in the activities in question.

In the instant case some party members, including its Chair and deputy Chair, whose situation had been comparable to that of the applicant, had not had sanctions imposed on them.
The Court considered that the sanction imposed on the applicant had not been proportionate to the legitimate aims pursued.
Conclusion: violation (unanimously).

Article 41 – Non-pecuniary damage – finding of a violation sufficient.

Other judgments delivered in April

Andrulewicz v. Poland (Nº 43120/05), 3 April 2007 [Section IV]
Baştimar and Others v. Turkey (Nº 27709/02), 3 April 2007 [Section II]
Cooperative Agricola Slobozia-Hanesei v. Moldova (Nº 39745/02), 3 April 2007 [Section IV]
Kreisz v. Hungary (Nº 12941/05), 3 April 2007 [Section II]
Necip Kendirci and Others v. Turkey (Nº 10582/02, Nº 1441/03 and Nº 7420/03), 3 April 2007 [Section II]
Tereszczenko v. Poland(Nº 37326/04), 3 April 2007 [Section IV]

Aleksandr Popov v. Russia (Nº 38720/03), 5 April 2007 [Section I]
Donichenko v. Ukraine (Nº 19855/03), 5 April 2007 [Section 19855/03]
Furman v. Russia (Nº 5945/04), 5 April 2007 [Section I]
Ilıcak v. Turkey (Nº 15394/02), 5 April 2007 [Section III (former)]
Khvorostina and Others v. Russia (Nº 20098/03), 5 April 2007 [Section I]
Laghouati v. Luxembourg (Nº 33747/02), 5 April 2007 [Section I]
Nastou v. Greece (No. 2) (Nº 16163/02), 5 April 2007 [Section I] (just satisfaction)
Novković v. Croatia (Nº 43437/02), 5 April 2007 [Section V]
Sılay v. Turkey (Nº 8691/02), 5 April 2007 [Section III (former)]
Stoimenov v. former Yugoslav Republic of Macedonia (Nº 17995/02), 5 April 2007 [Section V]
Todor Todorov v. Bulgaria (Nº 50767/99), 5 April 2007 [Section V]

Barta v. Hungary (Nº 26137/04), 10 April 2007 [Section II]
Emin Yildiz v. Turkey (Nº 32907/03), 10 April 2007 [Section II]
Öner Kaya v. Turkey (Nº 9007/03), 10 April 2007 [Section II]
Panarisi v. Italy (Nº 46794/99), 10 April 2007 [Section II]

Atıcı v. Turkey (no. 2) (Nº 31540/02), 12 April 2007 [Section III]
Bedir and Others v. Turkey (Nº 52644/99), 12 April 2007 [Section III]
Bulinwar OOD and Hrusanov v. Bulgaria (Nº 66455/01), 12 April 2007 [Section V]
Demirel and Ateş v. Turkey (Nº 10037/03 and Nº 14813/03), 12 April 2007 [Section III]
Dremlyugin v. Russia (Nº 75136/01), 12 April 2007 [Section I] (striking out)
Ganchev v. Bulgaria (Nº 57855/00), 12 April 2007 [Section V]
Gaydukov v. Russia (Nº 75038/01), 12 April 2007 [Section I] (striking out)
Glushakova v. Russia (Nº 38719/03), 12 April 2007 [Section I]
Grechko v. Russia (Nº 75037/01), 12 April 2007 [Section I] (striking out)
Grigoryev and Kakaurova v. Russia (Nº 13820/04), 12 April 2007 [Section I]
Güven and Others v. Turkey (Nº 68694/01), 12 April 2007 [Section III]
Hacı Özen v. Turkey (Nº 46286/99), 12 April 2007 [Section III]
Hajduković v. Croatia (Nº 38303/02), 12 April 2007 [Section I]
Ivan Vasilev v. Bulgaria (Nº 48130/99), 12 April 2007 [Section V]
Kletsova v. Russia (Nº 24842/04), 12 April 2007 [Section I]
Korolev v. Russia (Nº 25550/05), 12 April 2007 [Section I]
Kozimor v. Poland (Nº 10816/02), 12 April 2007 [Section IV]
Kwiatkowski v. Poland (Nº 20200/02), 12 April 2007 [Section IV]
Laaksonen v. Finland (Nº 70216/01), 12 April 2007 [Section IV]
Mevlüt Kaya v. Turkey (Nº 1383/02), 12 April 2007 [Section III]
Mizyuk v. Russia (Nº 9253/06), 12 April 2007 [Section I]
Neofita v. Russia (Nº 3311/06), 12 April 2007 [Section I]
Novaković v. Croatia (Nº 43446/02), 12 April 2007 [Section I]
Oleg Zolotukhin v. Russia (Nº 75032/01), 12 April 2007 [Section I] (striking out)
Ovciarov v. Moldova (Nº 31228/02), 12 April 2007 [Section IV]
Pello v. Estonia (Nº 11423/03), 12 April 2007 [Section V]

Petrović v. Croatia (Nº 38292/02), 12 April 2007 [Section I]
Saplenkov v. Russia (Nº 8190/02), 12 April 2007 [Section I] (striking out)
Serdar Çakmak v. Turkey (Nº 29600/02), 12 April 2007 [Section III]
Sevostyanov v. Russia (Nº 76736/01), 12 April 2007 [Section I] (striking out)
Shabalin v. Russia (Nº 75027/01), 12 April 2007 [Section I] (striking out)
Shishlov v. Russia (Nº 75035/01), 12 April 2007 [Section I] (striking out)
Šoštarić v. Croatia (Nº 39659/04), 12 April 2007 [Section I]
Święcicki v. Poland (Nº 25490/03), 12 April 2007 [Section IV]
Tangün and Others v. Turkey (Nº 38128/02), 12 April 2007 [Section III]
Terziev v. Bulgaria (Nº 62594/00), 12 April 2007 [Section V]
Terzin-Laub v. Croatia (Nº 43362/02), 12 April 2007 [Section I]
Turğay v. Turkey (Nº 21085/02), 12 April 2007 [Section III]
Usanov v. Russia (Nº 75030/01), 12 April 2007 [Section I] (striking out)
Uslu v. Turkey (Nº 33168/03), 12 April 2007 [Section III]
Vasil Angelov v. Bulgaria (Nº 61662/00), 12 April 2007 [Section V]
Yambolov v. Bulgaria (Nº 68177/01), 12 April 2007 [Section V]
Zeleni Balkani v. Bulgaria (Nº 63778/00), 12 April 2007 [Section V]

Asito v. Moldova (Nº 40663/98), 24 April 2007 [Section IV] (just satisfaction - friendly settlement)
B. v. Finland (Nº 17122/02), 24 April 2007 [Section IV]
Berecová v. Slovakia (Nº 74400/01), 24 April 2007 [Section IV]
Juha Nuutinen v. Finland (Nº 45830/99), 24 April 2007 [Section IV]
Szadejko v. Poland (Nº 39031/05), 24 April 2007 [Section IV]
V. v. Finland (Nº 40412/98), 24 April 2007 [Section IV]
W. v. Finland (Nº 14151/02), 24 April 2007 [Section IV]

Aleksandr Shevchenko v. Ukraine (Nº 8371/02), 26 April 2007 [Section V]
Çapan v. Turkey (no. 2) (Nº 29849/02), 26 April 2007 [Section II]
Chadimová v. Czech Republic (Nº 50073/99), 26 April 2007 [Section II (former)]
Çiftçi v. Turkey (Nº 39449/98), 26 April 2007 [Section II (former)]
Colaço Mestre and SIC Sociedade Independente de Comunicação, S.A. v. Portugal (Nº 11182/03 and Nº 11319/03), 26 April 2007 [Section II (former)]
Dumitru Popescu v. Romania (no. 1) (Nº 49234/99), 26 April 2007 [Section III]
Durdan v. Romania (Nº 6098/03), 26 April 2007 [Section III]
Erbiceanu v. Romania (Nº 24959/02), 26 April 2007 [Section III]
Funke v. Romania (Nº 16891/02), 26 April 2007 [Section III]
Girya and Others v. Ukraine (Nº 17787/02), 26 April 2007 [Section V]
Kahraman v. Turkey (Nº 42104/02), 26 April 2007 [Section II (former)]
Kolosenko v. Ukraine (Nº 40200/02), 26 April 2007 [Section V]
Konstatinov v. Netherlands (Nº 16351/03), 26 April 2007 [Section III]
Kozyyakova v. Russia (Nº 16108/06), 26 April 2007 [Section I]
Laudon v. Germany (Nº 14635/03), 26 April 2007 [Section V]
Makropoulou v. Greece (Nº 646/05), 26 April 2007 [Section I]
Patera v. Czech Republic (Nº 25326/03), 26 April 2007 [Section II (former)]
Prischl v. Austria (Nº 2881/04), 26 April 2007 [Section I]
Psarakis v. Greece (Nº 624/05), 26 April 2007 [Section I]
Saint-Adam and Millot v. France (Nº 72038/01), 26 April 2007 [Section II (former)]
Salduz v. Turkey (Nº 36391/02), 26 April 2007 [Section II]
Strateychuk v. Ukraine (Nº 25543/02), 26 April 2007 [Section V]
Sylla v. Netherlands (Nº 14683/03), 26 April 2007 [Section III] (just satisfaction)
Üçak and Others v. Turkey (Nº 75527/01 and Nº 11837/02), 26 April 2007 [Section II (former)]
Vozhigov v. Russia (Nº 5953/02), 26 April 2007 [Section III]

Judgments which have become final

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).

Araguas v. France (Nº 28625/02)
Arnolin and Others v. France (Nº 20127/03, Nº 31795/03, Nº 35937/03, Nº 2185/04, Nº 4208/04, Nº 12654/04, Nº 15466/04, Nº 15612/04, Nº 27549/04, Nº 27552/04, Nº 27554/04, Nº 27560/04, Nº 26566/04, Nº 27572/04, Nº 27586/04, Nº 27588/04, Nº 27593/04, Nº 27599/04, Nº 27602/04, Nº 27605/04, Nº 27611/04, Nº 27615/04, Nº 27632/04, Nº 34409/04 and Nº 12176/05)
Beler and Others v. Turkey (Nº 61739/00, Nº 61740/00, Nº 61753/00, Nº 61757/00 and Nº 61760/00)
Hıdır Kaya v. Turkey (Nº 2624/02)
Kříž v. Czech Republic (Nº 26634/03)
Mezl v. Czech Republic (Nº 27726/03)
Moğul v. Turkey (Nº 40217/02 and Nº 40218/02)
Özkan and Adıbelli v. Turkey (Nº 18342/02)
SCI Les Rullauds and Others v. France (Nº 43972/02)
Judgments 9.1.2007 [Section II]

Gossa v. Poland (Nº 47986/99)
Kommersant Moldovy v. Moldova (Nº 41827/02)
Kwiecień v. Poland (Nº 51744/99)
Mihalachi v. Moldova (Nº 37511/02)
Orel v. Slovakia (Nº 67035/01)
Sito v. Poland (Nº 19607/03)
Trojańczyk v. Poland (Nº 11219/02)
Uoti v. Finland (Nº 61222/00)
Judgments 9.1.2007 [Section IV]

Augusto v. France (Nº 71665/01)
Kuznetsov and Others v. Russia (Nº 184/02)
Mamidakis v. Greece (Nº 35533/04)
Mammadov (Jalaloglu) v. Azerbaijan (Nº 34445/04)
Russian Conservative Party of Entrepreneurs and Others v. Russia (Nº 55066/00 and Nº 55638/00)
Shneyderman v. Russia (Nº 36045/02)
Smoje v. Croatia (Nº 28074/03)
SWIG v. Russia (Nº 307/02)
Judgments 11.1.2007 [Section I]

Herbst v. Germany (Nº 20027/02)
Mkrtchyan v. Armenia (Nº 6562/03)
Quattrone v. Italy (Nº 67785/01)
Judgments 11.1.2007 [Section III]

Galimullin and Others v. Ukraine (Nº 7516/04)
Guseynova v. Ukraine (Nº 19175/05)
Kolosay v. Ukraine (Nº 25452/03)
Mazurenko v. Ukraine (Nº 14809/03)
Parkhomenko v. Ukraine (Nº 5531/04)
Petrova v. Ukraine (Nº 33635/03)
Rakitin v. Ukraine (Nº 7675/04)

Stefanova v. Bulgaria (Nº 58828/00)
Sukhopar v. Ukraine (Nº 16267/04)
Judgments 11.1.2007 [Section V]

Akgül v. Turkey (Nº 65897/01)
Atay and Others v. Turkey (Nº 61693/00, Nº 61695/00, Nº 61696/00, Nº 61699/00, Nº 61705/00, Nº 61710/00, Nº 61712/00, Nº 61714/00, Nº61733/00 and Nº 62627/00)
Avci (Cabat) and Others v. Turkey (Nº 77191/01)
Chiesi SA v. France (Nº 954/05)
Domah and Others v. France (Nº 3447/02)
Eisenchteter v. France (Nº 17306/02)
Halil Gündoğan v. Turkey (no. 2) (Nº 67483/01)
Kranta v. Turkey (Nº 31277/03)
Menvielle v. France (no. 2) (Nº 97/03)
Okuyucu and Bilmen v. Turkey (Nº 65887/01)
Sakçi v. Turkey (Nº 8147/02)
Seidel v. France (no. 3) (Nº 21764/03)
Solmaz v. Turkey (Nº 27561/02)
Veli Tosun v. Turkey (Nº 62312/00)
Judgments 16.1.2007 [Section II]

Bąk v. Poland (Nº 7870/04)
Bogdanowicz v. Poland (Nº 38872/03)
Bujniţa v. Moldova (Nº 36492/02)
Trznadel v. Poland (Nº 26876/03)
Wedler v. Poland (Nº 44115/98)
Wolf v. Poland (Nº 15667/03 and Nº 2929/04)
Young v. United Kingdom (Nº 60682/00)
Judgments 16.1.2007 [Section IV]

A.J. Hadjihanna Bros (Tourist Enterprises) Ltd. and Hadjihannas v. Cyprus (Nº 34579/05)
Alliance Capital (Luxembourg) SA v. Luxembourg (Nº 24720/03)
Chitayev and Chitayev v. Russia (Nº 59334/00)
Kaplan v. Austria (Nº 45983/99)
Kot v. Russia (Nº 20887/03)
Vasilev v. Greece (Nº 2736/05)
Judgments 18.1.2007 [Section I]

Bulgakova v. Russia (Nº 69524/01)
Estrikh v. Latvia (Nº 73819/01)
Kezic v. Slovenia (Nº 76395/01)
Klimenko v. Russia (Nº 11785/02)
Oberwalder v. Slovenia (Nº 75567/01)
Subinski v. Slovenia (Nº 19611/04)
Judgments 18.1.2007 [Section III]

Khurkunov v. Ukraine (Nº 5079/04)
Kulikov v. Ukraine (Nº 36367/04)
Lapinskaya v. Ukraine (Nº 10722/03)
Rashid v. Bulgaria (Nº 47905/99)
Shchiglitsov v. Estonia (Nº 35062/03)
Silka v. Ukraine (Nº 3624/03)
Stanimir Yordanov v. Bulgaria (Nº 50479/99)
Zavřel v. Czech Republic (Nº 14044/05)
Judgments 18.1.2007 [Section V]

Almeida Azevedo v. Portugal (Nº 43924/02)
Çetinkaya and Çağlayan v. Turkey (Nº 3921/02, Nº 35003/02 and Nº 17261/03)
Cretello v. France (Nº 2078/04)
Falakaoğlu and Saygılı v. Turkey (Nº 22147/02 and Nº 24972/02)
Falakaoğlu v. Turkey (no. 3) (Nº 16229/03)
Kahraman Korkmaz and Others v. Turkey (Nº 47354/99)
Kepeneklioğlu v. Turkey (Nº 73520/01)
Kondu v. Turkey (Nº 75694/01)
Lilja v. Sweden (Nº 36689/02)
Judgments 23.1.2007 [Section II]

Aja International Trade B.V. v. Greece (Nº 22879/02)
Andriotis and Andrioti v. Greece (Nº 389/03)
Aon Conseil and Courtage S.A. and Christian de Clarens S.A. v. France (Nº 70160/01)
Arbeiter v. Austria (Nº 3138/04)
Belyayev v. Russia (Nº 24620/02)
Denisov v. Russia (Nº 21823/03)
Elmaliotis and Konstantinidis v. Greece (Nº 28819/04)
Eski v. Austria (Nº 21949/03)
Makarov v. Russia (Nº 21074/03)
Vereinigung Bildender Künstler v. Austria (Nº 68354/01)
Judgments 25.1.2007 [Section I]

Carjan v. Romania (Nº 42588/02)
Iorga v. Romania (Nº 4227/02)
Morea v. Italy (Nº 69269/01)
Negoita v. Romania (Nº 9862/04)
Sissanis v. Romania (Nº 23468/02)
Judgments 25.1.2007 [Section III]

Aslan and Özsoy v. Turkey (Nº 35973/02 and Nº 5317/02)
Çobanoğlu and Budak v. Turkey (Nº 45977/99)
Ekinci and Akalin v. Turkey (Nº 77097/01)
Kazim Gundogan v. Turkey (Nº 29/02)
Judgments 30.1.2007 [Section II]

Pielasa v. Poland (Nº 66463/01)
Judgment 30.1.2007 [Section IV]

Statistical information[1]

Judgments delivered	April	2007
Grand Chamber	2	4
Section I	32	118(119)
Section II	10(12)	69(128)
Section III	20(21)	81(87)
Section IV	19	97(119)
Section V	17	59(67)
former Sections	11(13)	19(21)
Total	**111(116)**	**447(545)**

Judgments delivered in April 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	2	0	0	0	2
Section I	22	0	9	1	32
Section II	10(12)	0	0	0	10(12)
Section III	17(18)	0	2	1	20(21)
Section IV	18	0	0	1	19
Section V	17	0	0	0	17
former Section I	0	0	0	0	0
former Section II	8(10)	0	0	0	8(10)
former Section III	3	0	0	0	3
former Section IV	0	0	0	0	0
Total	**97(102)**	**0**	**11**	**3**	**111(116)**

Judgments delivered in 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	4	0	0	0	4
Section I	106(107)	0	10	2	118(119)
Section II	69(128)	0	0	0	69(128)
Section III	74(80)	1	3	3	81(87)
Section IV	85(88)	11(30)	0	1	97(119)
Section V	57(65)	1	1	0	59(67)
former Section I	0	0	0	1	1
former Section II	13(15)	0	0	1	14(16)
former Section III	4	0	0	0	4
former Section IV	0	0	0	0	0
Total	**412(491)**	**13(32)**	**14**	**8**	**447(545)**

[1] The statistical information is provisional. A judgment or decision may concern more than one application: the number of applications is given in brackets.

Decisions adopted		April	2007
I. Applications declared admissible			
Grand Chamber		0	0
Section I		1(5)	13(5)
Section II		3	5
Section III		0	4
Section IV		0	10(2)
Section V		2	11
Total		**6(5)**	**43(7)**
II. Applications declared inadmissible			
Grand Chamber		0	0
Section I	- Chamber	2	16
	- Committee	230	1577
Section II	- Chamber	12	28(22)
	- Committee	199	956
Section III	- Chamber	4	16
	- Committee	255	1170
Section IV	- Chamber	2	28
	- Committee	197	1296
Section V	- Chamber	9	24
	- Committee	215	2053
Total		**1125**	**7164(22)**
III. Applications struck off			
Grand Chamber		0	0
Section I	- Chamber	8	41
	- Committee	5	40
Section II	- Chamber	4	22(21)
	- Committee	5	29
Section III	- Chamber	5	28
	- Committee	3	18
Section IV	- Chamber	4	32
	- Committee	3	13
Section V	- Chamber	3	15
	- Committee	4	28
Total		**44**	**266(21)**
Total number of decisions[1]		**1175**	**7473(50)**

[1] Not including partial decisions.

Applications communicated	April	2007
Section I	35	215
Section II	63	248
Section III	41	224
Section IV	19	147
Section V	14	108
Total number of applications communicated	**172**	**942**

Articles of the European Convention of Human Rights and Protocols Nos. 1, 4, 6 and 7

Convention

Article 2 :	Right to life
Article 3 :	Prohibition of torture
Article 4 :	Prohibition of slavery and forced labour
Article 5 :	Right to liberty and security
Article 6 :	Right to a fair trial
Article 7 :	No punishment without law
Article 8 :	Right to respect for private and family life
Article 9 :	Freedom of thought, conscience and religion
Article 10 :	Freedom of expression
Article 11 :	Freedom of assembly and association
Article 12 :	Right to marry
Article 13 :	Right to an effective remedy
Article 14 :	Prohibition of discrimination
Article 34 :	Applications by person, non-governmental organisations or groups of individuals

Protocol No. 1

Article 1 :	Protection of property
Article 2 :	Right to education
Article 3 :	Right to free elections

Protocol No. 4

Article 1 :	Prohibition of imprisonment for debt
Article 2 :	Freedom of movement
Article 3 :	Prohibition of expulsion of nationals
Article 4 :	Prohibition of collective expulsion of aliens

Protocol No. 6

Article 1 :	Abolition of the death penalty

Protocol No. 7

Article 1 :	Procedural safeguards relating to expulsion of aliens
Article 2 :	Right to appeal in criminal matters
Article 3 :	Compensation for wrongful conviction
Article 4 :	Right not to be tried or punished twice
Article 5 :	Equality between spouses