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

Information Note on the Court's case-law

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Anniversary issue with a foreword by the Registrar

The Information Note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases examined during the month in question which the Section Registrars and the Head of the aforementioned Division have indicated as being of particular interest, and of judgments of the Grand Chamber. The summaries are not binding on the Court. In the provisional version the summaries are normally drafted in the language of the case concerned, whereas the final single-language version appears in English and French respectively. The Information Note may be downloaded at http://www.echr.coe.int/echr/NoteInformation/en. A hard-copy subscription is available from publishing@echr.coe.int for EUR 30 (USD 45) per year, including an index.

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Foreword by the Registrar on the occasion of the 100th issue of the Case-Law Information Note

Effective implementation of the European Convention on Human Rights at national level is crucial for the operation of the Convention system. In line with its subsidiary character the Convention is intended to be applied first and foremost by the national courts and authorities. However, this can only become a reality if those courts and authorities are given sufficient access to the Court's judgments and decisions. Moreover such information must also be available to academics and practitioners since they too contribute to ensuring that the Convention performs its rightful role within the national system.

Implementation at national level is therefore largely dependent on the ability of the Court and the Council of Europe to disseminate up-to-date and accurate information on the case-law. This is particularly true because the Convention guarantees as interpreted by the Court evolve. As the Court has held time and again the Convention must be interpreted in a dynamic manner, taking due account of societal developments. As society changes the Convention rights and freedoms agreed over 50 years ago have to be interpreted and applied in a new light. A recent example is the decision in the case of *Paeffgen GmbH v. Germany* (reported in this edition) where the Court found that the exclusive right to use an Internet domain name represented a "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention.

Since 1998 the Court has accordingly adopted a policy of communication which seeks to disseminate as much information as widely as possible within the limits of the resources available to it. The key tool for this is the Internet, through which the Court provides access to all its judgments on the day of delivery and all its Chamber admissibility decisions.

Another very important element in the Court's communication is the Case-Law Information Note, whose 100th issue the present text is celebrating. The note contains summaries of selected judgments and admissibility decisions which guide the reader through the Court's voluminous case-law by pointing to the most recent, relevant jurisprudential developments. The Note is published on a monthly basis on the Court's Internet site and is now available as a separate collection in the same data base as the case-law (HUDOC). It will be possible to use a new full-text search engine to look up case summaries in any of the Information Notes. In addition the Court proposes to introduce shortly RSS feeds to alert interested persons to the publication of a new Information Note.

The Information Note is a crucial tool for anyone wishing to keep abreast of case-law evolution. A reader survey conducted in 2006 showed how much appreciated this publication is in many quarters both within the Contracting States and beyond.

The Wise Persons report of November 2006* calls among other things for the Court's case-law to be more widely disseminated. It also stressed the need to provide translations of the principal judgments into all the national languages. In this context the Case-Law Information Note has a particularly valuable role to play, providing an indication as to which judgments and decisions should be translated.

Ultimately the Court's publications aim to improve the knowledge, and enhance the authority, of the Court's case-law throughout all 47 member States with a view to further consolidation of the subsidiarity principle. It is only when domestic courts are in a position to examine cases from a Convention perspective that this principle can become fully operational. The Court will continue to work towards this goal, in pursuing a pro-active communication policy notably through Case-Law Information Notes.

Erik Fribergh

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* Both the Wise Persons' Report and the Court's opinion thereon are available on the Court's Internet site www.echr.coe.int under Reports/Other Reports.

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LIFE
Proposed deportation to Albania where first applicant alleged his life was at risk because of a blood feud: *inadmissible*.

ELEZAJ and Others - Sweden (N° 17654/05)
Decision 20.9.2007 [Section III]

The first and second applicants are a married couple and Albanian nationals. Their son, the third applicant, was born in 2004. In 2001 the first and second applicants entered Sweden and applied for asylum on the grounds that the first applicant's life was at risk in a blood feud in Albania that had started in the 1950s. The Migration Board found that there was nothing to prevent the applicants from moving to another part of the country and so refused the application in a decision that was upheld on appeal. The applicants subsequently went into hiding and lodged a total of six further applications for a residence permit, none of which were successful. In the course of these proceedings they submitted documents purporting to show, *inter alia*, that the police were powerless to stop blood feuds and that the attempts of voluntary organisations at mediation had failed. The authenticity of certain of these documents was investigated by Swedish Embassy officials who reported that they were forgeries. It also came to light that the local Albanian police had no evidence of the existence of the alleged feud. After the last of these applications was rejected by the Migration Board in 2006 the first applicant was detained by the police and deported. However, he subsequently re-entered the country. The family remained in hiding.

Inadmissible under Articles 2 and 3 – Various sources had indicated that blood feuds remained a problem in Albania. However, it had to be determined whether the applicants themselves ran a real risk. With respect to the question of the applicants' credibility, the Court noted that when information was presented that gave strong reasons to question the veracity of an asylum seeker's submissions, he had to provide a satisfactory explanation for the alleged inaccuracies. The applicants had not provided any detailed information as to whether measures had been taken at the relevant time to try to prevent the feud from being executed, whether the threats had been reported to the police, whether any specific governmental or private authorities had been asked to assist in resolving the conflict, and if so, as to what measures had been carried out. It was apparent from the documentation that the alleged attempts at reconciliation could have been neither numerous nor lengthy and there were even doubts over the existence of some of the NGOs allegedly involved. Other documents relied on had proved to be forgeries and the local police had denied all knowledge of the feud. The applicants had thus failed to establish that the first applicant would face a real and concrete risk of being killed or that the Albanian authorities would not be able to provide appropriate protection: *manifestly ill-founded*.

POSITIVE OBLIGATIONS
De facto impunity of State agents convicted of complicity in the torture and subsequent death of a person in police custody – effectiveness of criminal proceedings: *violation*.

TEREN AKSAKAL - Turkey (N° 51967/99)
Judgment 11.9.2007 [Section II former)]

Facts: In October 1980, one month after the declaration of a state of emergency following the armed forces' military intervention, the applicant's husband was detained for eight days at the gendarmerie station on suspicion of belonging to an illegal organisation. He was then transferred to a sports hall where he underwent questioning for a further eight days, before being imprisoned in the state of emergency surveillance centre. The following day he was admitted to hospital in a pre-comatose state. He died a few days later. An autopsy report revealed wounds, bruises and grazes.
The applicant lodged a complaint in January 1981. In a judgment given in December 1997, which became final in January 2003, the domestic courts sentenced two gendarmerie officers to two years and one

month's imprisonment, finding that they had been complicit in acts of torture. The courts further found that the victim had died as a result of an illness and following torture inflicted by civilians whose identity could not be established. The officers concerned continued to serve in the army throughout the proceedings and after their conviction, until they reached retirement. At the time of the judgment by the Strasbourg Court, their sentences had not been enforced.

Law: Articles 2 and 3 – *Limits of the Court's temporal jurisdiction*: With regard to Turkey's substantive negative obligations (to refrain from torture and intentional killing), the facts complained of had occurred in 1980, that is, prior to 28 January 1987, the starting date for the Court's jurisdiction *ratione temporis* in respect of applications against Turkey: no jurisdiction *ratione temporis* with regard to the substantive aspect of the complaints.
However, the Court dismissed the Government's objection of lack of jurisdiction *ratione temporis* with regard to the effectiveness of the criminal proceedings which ended in 2003 (procedural obligations), while confining its temporal jurisdiction to the proceedings pending on 28 January 1987.
The Court decided also to consider the facts occurring prior to that date in so far as they had created a situation defined in the proceedings to protect the rights guaranteed by Articles 2 and 3 and were relevant for the understanding of facts occurring after the critical date of 28 January 1987.

Procedural aspect: In view of the shortcomings in the criminal proceedings, the failure to meet the requirements of promptness and diligence and the fact that those responsible for the acts complained of had enjoyed effective impunity, the criminal proceedings concerned had been far from rigorous and had not been capable of acting as an effective deterrent to acts such as those in question. The outcome of the proceedings at issue had not provided appropriate redress for the breach of the values enshrined in Articles 2 and 3.
Conclusion: violation of the procedural aspects of Articles 2 and 3 (five votes to two); unnecessary to examine separately the complaint under Article 13 (unanimously).

Article 41 – EUR 45,000 for non-pecuniary damage, to be held by the applicant on her own behalf and on behalf of her three children.

As regards the Court's temporal jurisdiction, see, in particular, *Blečić v. Croatia* [GC], no. 59532/00, ECHR 2006, Information Note No. 84. See also the recent case of *Šilih v. Slovenia*, no. 71463/01, Information Note No. 98.

ARTICLE 3

INHUMAN OR DEGRADING TREATMENT

Unjustified use of truncheons, placement in solitary confinement, handcuffing and lack of adequate medical care of a detainee suffering from schizophrenia: *violation*.

KUCHERUK - Ukraine (N° 2570/04)
Judgment 6.9.2007 [Section V]

Facts: In April 2002 the applicant was charged with hooliganism and theft. At the city hospital he was diagnosed with schizophrenia but certified fit for detention on remand. He was admitted to a psychiatric ward of the regional pre-trial detention centre ("the SIZO"). According to a report drawn up in a psychiatric hospital in May 2002, he was suffering from an acute personality disorder which required compulsory in-patient psychiatric treatment. However, he was transferred back to an ordinary cell in the SIZO where he showed signs of disturbed behaviour and was prone to aggressive violent outbursts. In July 2002 the district court committed him for compulsory psychiatric treatment. While detained in the SIZO medical wing, the applicant became particularly agitated. The prison guards beat him with truncheons and handcuffed him. Two prison officers and a doctor reported that his shoulders and buttocks showed signs of injuries inflicted by truncheons. Following this incident, he spent nine days in solitary

confinement, where he would bang his head against the wall and try to free himself from his handcuffs. The applicant was then transferred back to the psychiatric hospital for compulsory treatment which continued until July 2003. However, he was released from hospital only a month later. The proceedings against him were discontinued in view of his lack of criminal responsibility. His mother filed a criminal complaint against the prison guards in respect of the ill-treatment of her son. More than a month after the incident, he was examined by medical experts. Deep cuts around his wrists and general bruising from blunt instruments were observed but the report remained inconclusive about when and how the injuries had occurred. The governor of the SIZO decided not to bring criminal proceedings. This decision was quashed. In October 2004 the case was taken over by the regional prosecutor's office which also ultimately decided not to bring charges against the prison guards. The applicant's mother challenged that decision and the proceedings are still pending.

Law: Article 3 – *Excessive use of force*: In view of the applicant's earlier agitated behaviour, it could not be said that the prison authorities had been called upon to respond to an unexpected development. The three guards involved had outnumbered the applicant. Furthermore, at no stage of the proceedings had any witnesses stated that the applicant had attempted to attack, or that his behaviour had in any way endangered, the guards or his fellow inmates. The use of truncheons, which had resulted in injuries, had therefore been unjustified and amounted to inhuman treatment.
Conclusion: violation (unanimously).

Handcuffing: The handcuffing of the mentally ill applicant for a period of seven days, without any psychiatric justification or medical treatment for the injuries he had sustained during his forced restraint and/or self-inflicted during his confinement in the disciplinary cell had to be regarded as constituting inhuman and degrading treatment.
Conclusion: violation (unanimously).

Lack of medical care: The forensic experts' recommendation that the applicant be given treatment in a specialised hospital had not been immediately complied with. Indeed, he had been transferred back to an ordinary cell in the SIZO, where he was only examined once by a psychiatrist and ended up assaulting a fellow inmate, a month after his transfer. He had not been provided with appropriate medical treatment while in disciplinary detention. That could not be considered to be adequate and reasonable medical attention in the light of the applicant's serious mental condition.
Conclusion: violation (unanimously).

Lack of an adequate investigation: The initial inquiry into the applicant's complaints of ill-treatment had not satisfied the minimum requirement of independence since the investigating body – the SIZO governor – was a representative of the authority involved. The investigation had been limited to establishing whether the guards had acted in accordance with the relevant regulations and was based only on statements from the guards concerned and the inmates who were present. The forensic examination of the applicant's injuries had not been carried out until 37 days after the use of force and was inconclusive. Moreover, that inquiry had done little to satisfy the need for public scrutiny, as the applicant's mother was not formally informed of the refusal to bring criminal proceedings until six months later and his lawyer was not given access to the case-file until a year after the decision. An independent investigation into the applicant's grievances had commenced more than two years and two months after the incident, when the case was taken over by the regional prosecutor's office. This investigation had not remedied the failings of the initial stages of the proceedings. In particular, there was no indication that the inmates, who had witnessed the incident, had ever been re-interviewed or that any attempts had been made to compensate for the lack of medical information on the applicant's injuries. These failings, which the domestic courts highlighted on three separate occasions when quashing the authorities' decisions not to bring criminal proceedings, coupled with the lack of independence, promptness or public scrutiny, provided a sufficient basis for the conclusion that the investigation, which was still pending, had failed to meet the minimum standards of effectiveness.
Conclusion: violation (unanimously).

Article 5 § 1 – *Period from 7 to 22 July 2003*: The court order of 7 July 2003 ending the applicant's compulsory psychiatric treatment had only become final after the expiry of the deadline for appealing. The applicant's detention during that period was therefore covered by the previous order to commit him for such treatment.
Conclusion: no violation (unanimously).

Period from 22 July to 6 August 2003: It did not appear that the court, when ordering the applicant's fresh psychiatric examination, had intended him to be detained. Nor could the court's decision of 7 July 2003, which ended the compulsory treatment order and recommended the resumption of criminal proceedings against the applicant, be regarded as a legal basis for his continued detention after 22 July 2003. The administrative formalities relied upon by the Government could not justify a delay of more than a few hours in releasing the applicant. Nor could the applicant's continued detention in hospital be regarded as a first step in the execution of the order for his release.
Conclusion: violation (unanimously).

Article 41 – EUR 20,000 for non-pecuniary damage.

TRAITEMENT INHUMAIN OU DÉGRADANT
Allegation by the applicant that she was forced by the conduct of the family-allowance-contribution collection agency to continue to work as a prostitute: *no violation*.

V.T. - France (N° 37194/02) Judgment
11.9.2007 [Section II (former)]

Facts: As part of a scheme designed to enable her to give up prostitution, the applicant applied to the Paris social-security and family-allowance contributions agency (the URSSAF) to be registered as a self-employed decorator. She was assisted in making her application by a non-governmental organisation campaigning to put an end to prostitution. The URSSAF official gave the applicant a paper to sign containing a sworn statement to the effect that she was engaged in prostitution and had never worked as a decorator. On the basis of that statement, the URSSAF registered the applicant under the heading of "unspecified occupation" and sent her several demands for the payment of contributions and surcharges for late payment. When the applicant's name was entered also in the "liberal professions" category, the same agency demanded further payments from her. The applicant unsuccessfully challenged payment orders covering a period of several years. She was requested to pay at least EUR 33,000 in contributions, plus at least EUR 5,196 in surcharges.
The applicant submitted that requiring persons engaged in prostitution to pay family-allowance contributions constituted a major obstacle to their reintegration into society, since any income that might be derived from alternative employment schemes would not be sufficient to pay the amounts requested by the URSSAF in respect of the time spent in prostitution. Hence, individuals were left with no choice but to continue working as prostitutes, generating more income and hence more contributions.

Law: For a domestic authority or agency to force someone, by whatever means, to work or continue to work as a prostitute amounted to "inhuman or degrading treatment" within the meaning of Article 3 of the Convention.
There was no reason to doubt the applicant's good faith in wishing to give up prostitution. In view of the method used to calculate the contributions payable to the URSSAF by self-employed persons (including prostitutes) and of the penalties and collection procedures in place, self-employed persons who ceased their activity had to have access to funds in order to be able to pay at a later date the contributions due in respect of their earlier occupation.
The applicant had been requested to pay a total of EUR 40,000 in contributions and surcharges. These considerable sums had been charged to her retrospectively, at a time when she had no income other than that derived from prostitution. The obligation to pay these recurring debts had made it difficult for her to give up prostitution, which was her sole source of income, and had hindered her attempts at reintegration. However, that was not sufficient to conclude that the applicant had been forced as a result to continue

working as a prostitute. Neither the URSSAF nor any other agency or authority had ever required her to pay the contributions and surcharges by continuing to work as a prostitute. The applicant had not provided any real evidence that she had been completely unable to pay by any other means. While the URSSAF had sent her demands for payment systematically over a period of years – although her distress and difficulty in paying were made fairly clear by the fact that she almost invariably challenged the payment orders before the courts – the agency had none the less been willing to put in place measures to assist her, such as payment in instalments. The URSSAF had responded favourably to a request for payment in instalments; however, the applicant had not subsequently requested any other measures of that kind.
Conclusion: no violation (six votes to one); no separate issue under Article 4 (unanimously).

INHUMAN OR DEGRADING TREATMENT
Conditions of detention of a patient who alleged lack of proper medical care – possible administrative practice: *communicated*.

GHVALADZE - Georgia (N° 42047/06)
[Section II]

After being arrested in 2005, the applicant alleged that he had been imprisoned for several months in poor conditions. In particular, prisoners had been detained in a lice-infested cell and had to take turns to sleep for three hours out of every twenty-four. There had been no light or ventilation system. The applicant had not been allowed any exercise. He had been diagnosed with health problems prior to his arrest and was admitted to the prison hospital on several occasions. He was subsequently detained in a closed prison, where he claimed to have been in a state of permanent starvation which aggravated his poor health. An official diagnosis found him to be suffering from eye trauma and recommended that one eye be surgically removed. It further found that his mental state required appropriate treatment in a hospital setting. According to the applicant, in spite of this diagnosis, it was only after pressure had been brought to bear from various quarters that he had been transferred to the prison hospital. He alleged that he had not received appropriate medical care since his arrest and requested that the Government, under Rule 39 of the Rules of Court, provide him with treatment appropriate to his condition in the prison hospital. The request for application of Rule 39 was refused. After six months in hospital the applicant was returned to the closed prison. Before the Court, he produced a medical certificate stating that he had been admitted to hospital with epileptic seizures prior to his arrest. He complained that his conditions of detention were intolerable and that he had received no treatment, and reiterated his request for application of Rule 39. The President of the Chamber examining the case decided to indicate to the Government, under Rule 39 of the Rules of Court, that it was desirable in the interests of the parties and the proper conduct of the proceedings before the Court, and following the applicant's return to prison, that the latter be admitted to a hospital setting where he could receive the appropriate medical care. The applicant was transferred to the prison hospital.
The domestic court found the applicant guilty on two counts of theft and sentenced him to eight years and three months' imprisonment in accordance with the principle of aggregation of sentences (Article 59 § 1 of the Criminal Code as in force after commission of the offences). The longer sentence was seven years and six months and the shorter nine months. After the portion of a previous prison sentence remaining to be served, amounting to two years, seven months and eleven days, had been added (Article 59 § 2 of the Criminal Code as in force after commission of the offences), the final sentence came to ten years and eleven days. The applicant appealed.
Communicated under Articles 3 and 7.

Noting the existence of other applications before it which had already been communicated to the respondent Government, the Court put a question to the parties asking whether there existed within the Georgian prison system an administrative practice consisting of keeping detainees in unsatisfactory conditions, and/or a structural problem underlying the lack of medical treatment in prison. Were this to be the case, the applicant would be exempted from the requirement laid down by Article 35 § 1 to exhaust domestic remedies for the purposes of his complaints under Article 3 of the Convention.

EXPULSION
Risk of deportation to Afghanistan: *deportation would not constitute a violation*.

SULTANI - France (N° 45223/05)
Judgment 20.9.2007 [Section III]

Facts: The applicant, an Afghan national, is a member of the Tajik ethnic group. His father was a Communist party representative in Afghanistan where, after the fall of the Communist regime, the involvement of a Tajik in such activities was regarded as high treason. In particular, the applicant's family encountered hostility from a former warlord who went on to become a prominent local figure and who appropriated the family's possessions. The house of the applicant's family was the target of a grenade attack in which the applicant was wounded in the head and thigh. The applicant and his family left Afghanistan for Pakistan. The applicant stated that he entered France at the end of 2002. He applied for asylum in March 2003. The French Agency for the Protection of Refugees and Stateless Persons (OFPRA) rejected the application and its decision was upheld by the Refugee Appeals Board. In July 2004 the applicant was directed to leave French territory. His family were returned from Pakistan to their village of origin but, according to the applicant, were again forced into exile.
On 14 December 2005 the applicant was arrested in Paris together with other Afghan nationals. He maintained that the French police had carried out targeted arrests based on the nationality of those arrested, with a view to organising a "grouped flight" to deport them. The same day, an order was issued for the applicant's removal to Afghanistan, together with an administrative detention order. He applied to the Paris Administrative Court to have these decisions set aside; his application was rejected on 17 December 2005. The applicant appealed. On 16 December the authorities had adopted a decision refusing him leave to remain. On 19 December the applicant lodged an application with the Court together with a request for application of Rule 39 of the Rules of Court. The following day, under Rule 39, the President of the relevant Chamber of the Court indicated to the French Government that it was desirable to refrain from deporting the applicant to Afghanistan. A grouped flight left France for Afghanistan on 20 December, without the applicant. The applicant was released. On 5 January 2006 the Court extended the interim measure indicated under Rule 39 until further notice. The following day the applicant was summoned by the French authorities to an interview aimed at examining his administrative situation with a view to enforcement of the removal measure. The applicant lodged a second application for asylum which was rejected under an expedited procedure. He appealed to the Refugee Appeals Board. The judgment of the administrative court was upheld on appeal.

Law: Article 3 – *Exhaustion of domestic remedies*: Neither the appeal against the judgment of the administrative court upholding the decisions to remove the applicant nor the appeal to the Refugee Appeals Board had suspensive effect. Where an applicant complained that his removal would expose him to treatment contrary to Article 3, appeals which did not have suspensive effect were not "effective" within the meaning of Article 35 § 1 of the Convention. The preliminary objection was therefore dismissed.

Removal procedure: The applicant's arguments had been examined in depth by the refugee agencies and the administrative courts. As to the risks he alleged if he were to be removed to Afghanistan, the applicant had demonstrated only the existence of an overall situation of violence in that country, without demonstrating to what extent he personally faced a risk of repression.
Conclusion: no violation if the deportation decision were to be enforced (unanimously).

Article 4 of Protocol No. 4 – The fact that the applicant had not been deported on the collective flight of 20 December 2005 was due to the interim measure indicated by the Court on the basis of Rule 39 of its Rules of Court. The Government were therefore wrong to argue that the complaint under Article 4 of Protocol No. 4 had become devoid of purpose.
The applicant had lodged two asylum applications with the French authorities, in which he had the opportunity to set forth his arguments as to why he should not be deported to Afghanistan. The domestic authorities had taken account of the overall context in Afghanistan and of the applicant's statements concerning his personal situation and the risks he would allegedly run if returned to his country of origin.

Accordingly, the applicant's individual circumstances had been examined and that had provided sufficient justification for his deportation.
Conclusion: no violation if the deportation decision were to be enforced (unanimously).

POSITIVE OBLIGATIONS
Lack of adequate investigation into the use of truncheons by prison guards to a detainee suffering from schizophrenia: *violation*.

KUCHERUK - Ukraine (N° 2570/04)
Judgment 6.9.2007 [Section V]

(see "Inhuman and degrading treatment" above).

ARTICLE 5

Article 5 § 1

DEPRIVATION OF LIBERTY
Coercive detention of a mother for failing to comply with a foreign court order requiring her to return the children of the family to the father: *inadmissible*.

PARADIS and Others - Germany (N° 4065/04)
Decision 4.9.2007 [Section V]

The first applicant, a German national, left her Canadian husband in 1997. A Canadian court granted her custody of the four children, but ordered her not to remove them from Canada without her husband's consent. In the summer of 2000 she failed to return with the children from a two-week stay in Germany, where she petitioned for divorce and applied for custody. The Canadian court then granted her husband sole custody and a German court of appeal ordered the first applicant to return the children to her husband. Following her repeated refusals to comply with that order a German district court ordered her coercive detention in order to compel her to reveal the children's whereabouts. The order stipulated that she should be released immediately the children had been returned. The first applicant' appeal was rejected and the Federal Constitutional Court refused to admit her constitutional complaint. She was detained for a six-month period in 2003, but did not disclose the children's whereabouts.

Inadmissible: (a) *Order for detention*: The Court had to examine whether the domestic authorities had struck a fair balance between the importance in a democratic society of securing compliance with a lawful order of a court and the importance of the first applicant's right to liberty. One of the aims of the Hague Convention on the Civil Aspects of International Child Abduction was to secure the swift return of children to their country of habitual residence to prevent their growing accustomed to their illegal retention. In the instant case the children had already been separated from their father for almost two years when the court of appeal ordered their return and almost three years before the district court ordered the first applicant's detention. It was therefore of the utmost importance not to further prolong their illegal retention. Although detention was the most drastic coercive measure available under domestic law, the first applicant was fiercely determined not to return the children, as evidenced by the fact that she had sent them into hiding abroad. In such circumstances, the district court's finding that it would have been futile to impose a coercive payment was not unreasonable and the order for her coercive detention not disproportionate: *manifestly ill-founded*.

(b) *Length of detention*: The first applicant had been unable to show that the remedy suggested by the Government – an application under section 171 in conjunction with section 109 of the Execution of

Sentences Act – would have been ineffective to lift or limit her detention: *failure to exhaust domestic remedies*.

LAWFUL ARREST OR DETENTION
Continued detention in hospital after a compulsory psychiatric treatment order was lifted: *violation*.

KUCHERUK - Ukraine (N° 2570/04)
Judgment 6.9.2007 [Section V]

(see Article 3 "Inhuman and degrading treatment" above).

ARTICLE 6

Article 6 § 1 [civil]

APPLICABILITY
Absence of compensation for forced labour under the Nazi regime: *Article 6 inapplicable*.

ASSOCIAZIONE NAZIONALE REDUCI DALLA PRIGIONIA DALL'INTERNAMENTO E DALLA GUERRA DI LIBERAZIONE and 275 Others - Germany (N° 45563/04)
Decision 4.9.2007 [Section V]

(see Article 1 of Protocol No. 1 below).

APPLICABILITY
Soldier's inability to challenge decision by the military council to discharge him from service on disciplinary grounds: *Article 6 inapplicable.*

SUKUT - Turkey (N° 59773/00)
Decision 11.9.2007 [Section II]

The applicant, a non-commissioned army officer, received two letters from his superiors informing him that, following surveillance of himself and his family, it had been decided that they did not meet the standards of dress and behaviour expected by the armed forces and that, if the situation did not change, legal proceedings would be brought against them. Following the second letter, the applicant replied that it was an honour for him to serve his country without ties to any particular ideology or political viewpoint. He also stated that his wife's style of dress had no political connotations and was, in her view, a private matter. Three further warning letters were sent to him, to which he replied in similar fashion. The head of the personnel office studied the applicant's confidential service record and the office concluded that he held political and ideological views of an illegal, subversive, separatist and fundamentalist nature. A panel made up of nine high-ranking officers took note of this file and set forth in strict confidence the findings previously made by the personnel office. It voted unanimously in favour of the applicant's early retirement. After the file had been examined by the applicant's most senior commanding officer and had been forwarded to the head of personnel and referred to the Supreme Military Council, an order was given for the applicant's early retirement on disciplinary grounds. In accordance with the Constitution, the order was not subject to any judicial scrutiny.

Inadmissible under Article 6 § 1 – In its judgment in the case of *Vilho Eskelinen* (see Information Note No. 96), the Court ruled that two criteria must be met in order for the respondent State to be able to argue with justification that Article 6 § should not apply to an applicant who was a civil servant. Firstly, national law must have expressly excluded access to a court for the civil servant in question. Secondly, exclusion

from the rights guaranteed by Article 6 had to be justified on objective grounds in the State's interest. In the instant case the applicant had not had a right of access to a court under national law. In addition, the case concerned the applicant's discharge from the army on disciplinary grounds. The discharge had been ordered following a finding by the military authorities that his profile did not match that required in order to continue serving as an officer in the armed forces, as his conduct and actions were considered to undermine military discipline and the principle of secularism. Hence, there was no doubt that the calling into question of the special bond of trust and loyalty between the applicant and the State, as his employer, was central to the case. Exclusion from the rights guaranteed by Article 6 was therefore justified in the applicant's case: *Article 6 inapplicable*.

Inadmissible under Article 8 – The order of the Supreme Military Council finding a breach of military discipline and ordering the applicant's early retirement had not been based primarily on factors relating to the applicant's private and family life or his wife's dress, but on his conduct and actions which had undermined military discipline and the principle of secularism: *manifestly ill-founded*.

Inadmissible under Article 9 – The complaint was not substantiated as the only factors with a bearing on the manifestation of religion or beliefs concerned not the applicant himself but his wife and the fact that she wore an Islamic headscarf: *manifestly ill-founded*.

ACCESS TO COURT
Dismissal of sole ground of appeal on points of law for want of clarity owing to a failure to present the facts of the case as established by the court of appeal: *admissible*.

REKLOS and DAVOURLIS - Greece (N° 1234/05)
Decision 6.9.2007 [Section I]

(see Article 8 below).

FAIR HEARING
Lack of a time-limit for challenging administrative proceedings in the courts: *inadmissible*.

MILLON - France (N° 6051/06)
Decision 30.8.2007 [Section III]

In 1989 the bureau of the regional council authorised the signing of a lease on a service flat for the applicant, and then granted permission for the applicant to use it free of charge on grounds of absolute necessity for his work. The two decisions were published in the region's compendium of administrative decisions. In 1998 a member of the regional council who had apparently learned of the content of the decisions in October 1995 lodged two applications seeking to have them set aside. The administrative court overturned the decisions. The applicant, who had not been a party to the proceedings, lodged two third-party applications with the administrative court to have the above judgments declared null and void. The third-party applications were declared admissible but were rejected on the merits. The administrative court held that the request to have the decisions set aside had been admissible, as the decisions had not been sufficiently publicised and the member of the regional council concerned had not been in office at the time they were taken, with the result that the two-month time-limit for lodging an application could not start to run. The admissibility of the application to set the decisions aside was upheld by the Administrative Court of Appeal and the *Conseil d'Etat*.

Inadmissible under Article 6 § 1 – The Court had previously ruled that one of the essential elements of the rule of law was the principle of legal certainty, which required, above all, that where the courts had finally determined an issue, their ruling should not be called into question. In the present case, however, the applicant had not complained that he had been deprived of his right of access to a court, but of the fact that the legislation in force at the material time did not impose any limit on the period of time during

which an administrative act could be challenged before the courts. Neither Article 6 nor any other provision of the Convention required States to introduce limitation periods or to fix the point at which they started to run: *incompatible* ratione materiae.

FAIR HEARING
Introduction of new legislation after the date of an application for the modification of an order when such application was not regarded as a preliminary to court proceedings: *inadmissible.*

PHOCAS - France (N° 15638/06)
Decision 13.9.2007 [Section III]

The applicant, a civil servant and father of three, had his pension calculated by an order dated July 2003 which did not take account of the child bonus introduced by the Civil and Military Pensions Code and awarded to female civil servants in respect of each of their children. In 2001 the Court of Justice of the European Communities ruled that this provision was contrary to the principle of equal pay. The *Conseil d'Etat* decided in 2002 that another individual who had brought proceedings was entitled to the bonus laid down in the Code. The applicant requested that his pension be revised on the basis of the judgment of the *Conseil d'Etat* and the principle of equal pay for men and women. In August 2003 a new Law amended the provision in question and introduced the concept of interruption of employment. This concept was enshrined in a decree by the *Conseil d'Etat* in December 2003. In September 2003 the Minister of Economic and Financial Affairs rejected the applicant's request as he was unable to demonstrate that he had interrupted his employment on the birth of his children. The applicant lodged an application with the administrative court, arguing that the rights conferred by the Pensions Code should apply to both female and male civil servants, and that the decision on the calculation of his pension was therefore discriminatory. He further argued that the refusal to revise his pension amounted to retrospective application of the new Law. In a series of judgments, the *Conseil d'Etat* held that, while the new Law had retrospectively deprived civil servants whose pensions had been calculated after 28 May 2003 of a claim, which had been certain in principle and in the amount thereof, to payment of the bonus, the retrospective application, which had lasted for less than three months, amounted to justified interference which was proportionate to the aim pursued. In addition, adoption of the provision had not been aimed at influencing the outcome of court proceedings in progress, nor had it had that effect. Accordingly, it had not deprived the persons concerned of their right of access to a court in order to assert their rights. On the basis of these considerations, the administrative court rejected the applicant's application. In view of the case-law of the *Conseil d'Etat*, the applicant did not lodge an appeal on points of law.

Inadmissible under Article 6 § 1 – The intervention by the legislature had come after the date on which the applicant had requested modification of the order calculating his pension. However, that request could not be considered as a preliminary to court proceedings to which the applicant was a party; those proceedings had begun only with the application to the administrative court. There had been no violation of Article 6 § 1 on account of the enactment of the new Law: *manifestly ill-founded*.

Inadmissible under Article 1 of Protocol No. 1 taken in conjunction with Article 14 – The applicant had not had a claim with a sufficient basis in domestic law or, at least, a legitimate expectation of obtaining the bonus he applied for. Neither the law as it stood at the time nor the judgments of the Court of Justice and the *Conseil d'Etat* could award him the bonus payment unconditionally: *incompatible* ratione materiae.

Article 6 § 1 [criminal]

FAIR HEARING
Procedure for examining applications for release on bail in the absence of the applicant or his lawyer: *communicated*.

JOHANNS - Luxembourg (N° 27830/05)
[Section I]

The applicant was arrested and sentenced to seven years' imprisonment. After he had served half of his sentence, his lawyer requested the judge responsible for the execution of sentences to grant the applicant release on licence, as his conduct had always been exemplary and he would be able to return to the marital home and receive the invalidity pension awarded to him previously. The parole board refused the request on the ground that the applicant had not yet demonstrated a real commitment to readjusting to society. The applicant made further applications for release on licence, all of which were rejected on the same grounds. In the space of one year he had eight applications rejected, but neither he nor his lawyer was ever summoned to appear.
Communicated under Article 6 § 1 of the Convention.

REASONABLE TIME
Major financial implications of criminal proceedings on the professional activity of the applicants and their companies: *violation*.

DE CLERCK - Belgium (N° 34316/02)
Judgment 25.9.2007 [Section II]

Facts: The two applicants had set up a large number of companies. They complained of the length of the criminal proceedings against them for offences which included conspiracy, breaches of company law and money laundering. By June 2007 the proceedings, which had begun in November 1990, were still at the stage of finalisation before trial by the *chambre du conseil* of the Brussels Court of First Instance, in accordance with Article 127 of the Code of Criminal Procedure, and had apparently been adjourned pending the completion of certain investigative measures. A large number of searches were conducted in connection with the case, in particular on the premises of various Belgian financial institutions. Checks were carried out into the accounts of companies established in various countries and requests for judicial assistance were sent to several countries. A large number of investigative measures were taken. The public prosecutor's submissions, which were 228 pages long, implicated sixty suspects. The proceedings were still pending when the Strasbourg Court delivered its judgment.

Law: Article 6 § 1 – The preliminary investigation had lasted for approximately sixteen years and ten months. The scope and complexity of criminal proceedings concerning economic and fiscal matters, which were often made more complicated by the involvement of large numbers of suspects, could result in lengthy proceedings. However, the complexity of the present case was not in itself sufficient to justify the length of the proceedings. The applicants' conduct had not contributed to the length of the investigation. As to the conduct of the authorities, there had been a period of at least three years and eleven months during which very little action had been taken on the case. Special diligence was required of the authorities dealing with the case, in view of the very high financial stakes for the applicants, which were linked to their professional activity and the activity of the companies which they ran.
Conclusion: violation (unanimously).

Article 13 – The Government considered that, from 2 October 1998 onwards, the date on which the Law of 12 March 1998 had entered into force, the applicants had had the right under Articles 61a, 136 and 136a of the Code of Criminal Procedure to apply to the indictments division. This, in the Government's view, constituted an "effective remedy". The Court replied that when the application had been lodged on

11 September 2002 no "effective remedy" had existed in domestic law in respect of the applicants' complaints concerning the length of the proceedings. In the alternative, the Court pointed out that it was for the trial judge and not the investigating judge to decide whether the case was being dealt with within a reasonable time and, if that time had been exceeded, to determine the appropriate compensation.
Conclusion: violation (unanimously).

Articles 41 and 46 – The applicants requested that the criminal proceedings against them be terminated immediately, arguing that the Strasbourg Court had the power to give an order to that effect. The Court pointed out that it was for the State itself to choose the means to be used in its domestic legal system to redress a situation which had given rise to a violation. The Convention did not in principle give the Court the power to issue instructions or orders.
While, in some of its judgments, the Court had sought to indicate to the respondent State the type of overall measures it might take, in order to assist it in complying with its obligations under Article 46, this had been in the context of cases involving structural situations affecting large numbers of persons and where dozens of applications of the same type had been made to the Court. The Court had taken a similar approach in relation to the adoption of individual measures in cases concerning the physical liberty of the applicants or the restitution of property, while at the same time, in the latter case, offering the State the choice between restoring the property to the applicants and paying them compensation. The present case, which concerned an investigation which had exceeded a reasonable time, did not fall into any of these categories. While the Court criticised the lack of action by the authorities over a certain period of time, it also noted the extremely complex nature of the investigation. In addition, it accepted that the remedy under Article 136 of the Code of Criminal Procedure might in the future constitute an effective remedy within the meaning of the Convention.
Most importantly, the Court could not instruct the independent judicial authorities of a State Party to the Convention to terminate proceedings instituted in compliance with the law, nor could it instruct the legislature to adopt legislation with a certain content dictated by the Court.
However, in cases where the length of proceedings had been found to be excessive and incompatible with the "reasonable time" requirement laid down in Article 6 § 1, steps needed to be taken to speed up the proceedings and bring them to a conclusion as rapidly as possible, subject to the needs of the proper administration of justice. The applicants' request to the Court to issue the order referred to above was therefore rejected.

See also the judgment in *Stratégies et Communications and Dumoulin v. Belgium*, no. 37370/97, 15 July 2002, Information Note No. 44. As regards the right to an effective remedy before a domestic court by which to complain of a breach of the obligation under Article 6 § 1 to hear cases within a reasonable time, see *Kudła v. Poland* [GC], no. 30210/96, ECHR 2000-XI.

Article 6 § 2

PRESUMPTION OF INNOCENCE
Administrative courts' interpretation of judgment by criminal court acquitting the applicant on the benefit of the doubt: *violation*.

VASSILIOS STAVROPOULOS - Greece (N° 35522/04)
Judgment 27.9.2007 [Section I]

Facts: The applicant was granted the use of accommodation by the Workers' Housing Association after stating, in accordance with the legislation in force, that he did not own any other property suitable for use as accommodation. It later emerged that the applicant was the owner of a building in the same region. The administrative board of the housing association revoked the order entitling the applicant to the accommodation in question and decided to institute proceedings against him for fraud and making an intentionally false statement concerning the condition of his property. The applicant was convicted at first instance but was acquitted on appeal of all the charges. The court of appeal considered, on the basis of the

principle that any reasonable doubt must benefit the accused (*in dubio pro reo)*, that the applicant's guilt had not been established. In the meantime, the applicant applied to the administrative court seeking to have the administrative board's decision overturned. The administrative court upheld the decision and rejected the application, finding that the applicant had omitted to include the building he owned in his declaration of property and had failed to demonstrate that the omission had not been intentional. The applicant appealed. Following his acquittal he filed additional pleadings with the administrative court of appeal, requesting it to take the appeal court judgment into consideration. He argued that his acquittal in the criminal proceedings was proof that the omission had not been intentional. The administrative court judgment was upheld and the applicant's request refused on the ground that the administrative court was not bound by the findings of the criminal courts. The applicant lodged an appeal on points of law, arguing that the administrative court had ruled on his guilt in disregard of the judgment of the criminal court and without giving valid reasons. The Supreme Administrative Court quashed the disputed judgment on the ground that, although the administrative court of appeal was not bound by the judgment of the criminal court, it should nevertheless have taken it into consideration. The administrative court of appeal dismissed a fresh appeal by the applicant and upheld the judgment in question. It observed that the applicant had omitted to declare all his property and had failed to demonstrate that the omission had not been deliberate. Hence, the deliberate omission had, by itself, resulted in his failing to qualify for accommodation provided by the housing association. With regard to the applicant's arguments concerning his acquittal, the administrative court of appeal held that the criminal courts had not found that no offence had been committed on account of an absence of malicious intent, but had acquitted the applicant because of doubts as to his guilt. The applicant appealed on points of law and the Supreme Administrative Court dismissed the appeal on the same grounds as the administrative court of appeal.

Law: *Dismissal of the preliminary objection of failure to exhaust domestic remedies*: Although he had not relied explicitly on the principle of presumption of innocence, the applicant had advanced arguments which amounted in substance to a complaint that his rights under Article 6 § 2 had been infringed. Accordingly, he had given the Supreme Administrative Court the opportunity to prevent or provide redress for the alleged violation.

Applicability: Both domestic law and the case-law of the Supreme Administrative Court accepted the existence of a link between administrative and criminal proceedings since, although the administrative courts were not obliged to follow the conclusions adopted by the criminal courts, they had to take them into account in arriving at their decision.

Article 6 § 2 – In accordance with the principle of *in dubio pro reo*, there should be no qualitative difference between an acquittal for lack of evidence and an acquittal resulting from a finding that the person's innocence was beyond doubt. No distinction was made between acquittals on the basis of the reasons given by the criminal court. The operative provisions of the corresponding judgments had to be complied with by any other authority ruling directly or indirectly on the criminal liability of the person concerned. In finding that the applicant's omission had been intentional, the administrative courts had relied explicitly and without reservations on the fact that he had been acquitted on account of doubts as to his guilt. They had expressed themselves in terms which overstepped the administrative context of the dispute and had left no doubt as to the applicant's presumed intention not to include in his declaration all the properties owned by him. Their reasoning had therefore been incompatible with the principle of presumption of innocence.
Conclusion: violation (six votes to one).

Article 41 – EUR 10,000 for non-pecuniary damage.

PRESUMPTION OF INNOCENCE
Finding by *Conseil d'Etat* of a breach of disciplinary rules on the basis of the factual findings of a criminal court when dismissing charges on the ground that a prosecution was statute barred: *inadmissible*.

MOULLET - France (N° 27521/04)
Decision 13.9.2007 [Section III]

The applicant was prosecuted for bribery, fraud, and complicity in fraud adversely affecting the interests of the municipal authority which employed him as a civil servant. By way of penalty, two successive orders were made suspending him from his duties on account of the criminal proceedings instituted against him. The proceedings were discontinued by the indictment division of the court of appeal on the ground that the facts of which the applicant stood accused were covered by the three-year limitation period for criminal offences. The applicant applied to be reinstated in his post. When he received no reply from the mayor he applied to the administrative court to have the implicit refusal of his request overturned. The administrative court rejected his application. He lodged an appeal on points of law with the *Conseil d'Etat*, which quashed the impugned judgment on the ground that the applicant's suspension should be lifted following discontinuation of the proceedings. The mayor ordered the applicant's retirement on disciplinary grounds but the order was overturned by the administrative court. The mayor again ordered the applicant's automatic retirement, on the basis of the findings of the indictment division of the court of appeal. The applicant applied to the administrative court, which ordered that the decision be overturned. In a separate judgment, the administrative court overturned the implicit refusals by the mayor to reinstate the applicant and restore his full entitlements. The applicant and the municipality appealed against both judgments. The administrative court of appeal joined the appeals. It reduced the amount the municipal authority had been ordered to pay in compensation for pecuniary damage and upheld the amount awarded for non-pecuniary damage. Both parties appealed on points of law. The *Conseil d'Etat* quashed the judgment of the administrative court of appeal, in the light, in particular, of the facts established by the investigating judge in the criminal proceedings.

Inadmissible: With regard to the existence of criminal charges, the Court noted that the applicant had not been formally identified as the perpetrator of a criminal offence by the highest administrative court. The *Conseil d'Etat* had confined itself to noting the substantive facts – admittedly contested by the applicant – as they emerged from the documents in the case file submitted to the administrative court of first instance, which had been debated freely and in adversarial proceedings, and had refrained from drawing any conclusions as to their classification in criminal law. Hence, in so far as the administrative courts were not bound by a decision to discontinue the proceedings given by an investigating judge, it had been for the administrative court to make a sovereign assessment of the facts of which the applicant had been accused and whether the penalty imposed had been appropriate, in the light of the law on the civil service. Consequently, the *Conseil d'Etat* had confined itself to assessing the implications of the facts of which the applicant was accused for the duty of probity incumbent on all local authority employees. The domestic authorities had maintained their decision strictly within the administrative sphere. As to the possible existence of a link between the criminal proceedings and the impugned administrative proceedings, the Court observed that the outcome of the former had not been decisive for the latter since, despite the fact that the criminal proceedings had been discontinued, it had still been legally possible to take action against the applicant before the relevant disciplinary bodies. Irrespective of the decision given following the criminal proceedings, the administrative proceedings in question, which were entirely autonomous in terms of the conditions in which they were conducted and the procedural rules governing them, were not therefore a direct corollary to the criminal proceedings. In that respect the present case differed from other cases in which the Court had held that the proceedings at issue were directly linked to a set of criminal proceedings and that Article 6 § 2 applied. In conclusion, the Court considered that Article 6 § 2 was not applicable in the present case: *inapplicable*.

Article 6 § 3 (c)

DEFENCE THROUGH LEGAL ASSISTANCE
Lack of legal assistance during police custody: *case referred to the Grand Chamber*.

SALDUZ - Turkey (N° 36391/02)
Judgment 26.4.2007 [Section II]

The applicant was convicted for aiding and abetting the Kurdistan Workers' Party ("PKK", an illegal organisation) and sentenced to imprisonment. Before the Court he complained about the unfairness of the proceedings against him as the submissions of the principal prosecutor at the Court of Cassation had not been communicated to him and as he had been denied the assistance of a lawyer during his police custody. In its Chamber judgment the Court held, unanimously, that there had been a violation of Article 6 § 1 on account of the non-communication of the prosecutor's submissions. It further held, by five votes to two, that there had been no violation of Article 6 § 3 (c) on account of the lack of legal assistance during police custody.
The case was accepted for referral to the Grand Chamber at the applicant's request.

ARTICLE 7

Article 7 § 1

NULLA POENA SINE LEGE
Confiscation of land and buildings by a criminal court – despite the owners' acquittal – on the grounds of unlawful construction in a coastal area: *Article 7 applicable – admissible*.

SUD FONDI Srl and Others - Italy (N° 75909/01)
Decision 30.8.2007 [Section II]

The applicant companies owned plots of land by the sea, on which they constructed buildings after obtaining permission from the municipal authorities. The public prosecutor's office, after finding that the buildings had been constructed illegally since the site was in a conservation area, ordered their preventive seizure. On an appeal from the applicants, however, the Court of Cassation quashed the measure and ordered that the buildings be returned to the owners, as the development plan for the area did not feature any prohibition on building on the site. Meanwhile, the public prosecutor's office entered the representatives of the applicant companies in the register of persons against whom a criminal prosecution had been brought. The criminal proceedings ended with a judgment of the Court of Cassation which upheld the illegal nature of the building schemes and the building permits issued. The court pointed out that there was an absolute prohibition on building on the land in question, which was subject to statutory landscape requirements. The accused were acquitted on the ground that no wrong or criminal intent could be attributed to them and that they had committed an "unavoidable and excusable error" in interpreting regional provisions which were "obscure and badly phrased" and were at variance with the national legislation. The Court of Cassation also took account of the conduct of the administrative authorities, in particular the fact that, on obtaining planning permission, the applicants had received reassurance from the director of the relevant municipal agency, that the prohibition for conservation purposes which the building schemes infringed had not been mentioned in the area development plan and that the relevant national authorities had not intervened. The Court of Cassation nevertheless ordered the confiscation of all the buildings and land, a measure which it said was mandatory in cases of illegal development, even when the builders had not been convicted of a criminal offence.
Following the judgment, ownership of the land in question was transferred to the municipal authorities, which proceeded to occupy the land and buildings. The buildings already constructed or under

construction covered an area of 7,000 square metres, while the remaining confiscated land accounted for 50,000 square metres. Three buildings were demolished.

Article 7 *applicable* (*preliminary objection dismissed*): The applicant companies or their representatives had been acquitted, as no mental element in the offence had been established. The confiscation nevertheless amounted to a "penalty", as it was linked to a "criminal offence" based on general legal provisions. Furthermore, the criminal court had found the building schemes to be actually illegal, the confiscation had been ordered on objective grounds, without it being necessary or possible to establish intent or negligence on the part of the applicants, and the penalty had been chiefly intended to prevent further breaches of the law rather than to secure pecuniary compensation for damage (85% of the confiscated land had not been built on, hence there had been no real encroachment on the countryside). The severity of the penalty was also a factor – under the applicable legislation, it covered all the land included in the building scheme (50,000 square metres in practice) – as was the fact that the 2001 Building Code identified such confiscation as one of the applicable criminal penalties. *Admissible*.

Admissible under Article 1 of Protocol No. 1.

ARTICLE 8

PRIVATE LIFE
Photograph of new-born baby taken without the consent of the parents: *admissible*.

REKLOS and DAVOURLIS - Greece (N° 1234/05)
Decision 6.9.2007 [Section I]

The applicants are the parents of a child who was placed immediately after birth in a sterile unit under the constant surveillance of clinic staff, who were the only persons authorised to enter the unit. On the following day, the child's mother was given two photographs of the baby, viewed face on, taken by a professional photographer attached to the clinic. The applicants complained to the management of the clinic about the photographer's intrusion into an area to which only clinic staff should have had access and about the possible inconvenience caused to their new-born baby by having his face photographed, particularly as it had been done without their prior consent. When the hospital failed to respond positively to their complaint, the applicants applied to the court of first instance and, acting on behalf of their child, claimed non-pecuniary damage for an alleged infringement of his personality rights. The court rejected the claim as ill-founded, ruling that, in any event, the new-born child's personality rights could not have been infringed, as his psychological and emotional state was not developed immediately after birth, nor could the image of his face on a photograph adversely affect his future development. On an appeal by the applicants, the court of appeal upheld the impugned decision. The Court of Cassation dismissed their appeal on points of law as too vague, as they had not specified the factual circumstances on which the court of appeal had based its decision to dismiss their appeal.

Admissible under Article 6 § 1 – *Preliminary objection of failure to exhaust domestic remedies joined to the merits* – The ground on which the Court of Cassation had declared the appeal on points of law inadmissible, namely that the appellant had not set out the facts of the case as established by the court of appeal after evidence had been taken, was linked to the substance of the complaint.

Admissible under Article 8 (following dismissal of the preliminary objection of failure to exhaust domestic remedies): As control over one's image was a core component of personal development, Article 8 could come into play solely on account of the fact that the person in question had not had the opportunity to object beforehand to his image being reproduced. In addition, the photographer had kept the negatives of the photographs, which he could have used in the future against the wishes of the child and/or his parents. Article 8 was therefore applicable.

PRIVATE LIFE
Dismissal of libel action against an official newspaper without verifying the truthfulness of the impugned statements: *communicated*.

PETRENCO - Moldova (N° 20928/05)
[Section IV]

The applicant is a university professor. In 2002 the official newspaper of the Moldovan Government published an article stating that he owed his studentship and further career as a historian to his co-operation with the Soviet Secret Services as an informant. The domestic courts dismissed his libel action, qualifying the impugned statements as value judgements. The Supreme Court omitted to comment on the expert linguistic report attached to the applicant's appeal according to which the author had directly insulted the applicant and the article had damaged the applicant's honour and dignity and his professional reputation.
Communicated under Article 8.

PRIVATE AND FAMILY LIFE
Refusal to register the forename "Axl" even though other requests to take that name had been granted: *violation*.

JOHANSSON - Finland (N° 10163/02)
Judgment 6.9.2007 [Section IV]

Facts: The applicants, Finnish nationals, decided to give the name "Axl Mick" to their son born in 1999. The local population registration authority refused to register this forename as this form of spelling did not comply with Finnish name practice. The applicants' appeal was rejected. An administrative court found that according to the Names Act, a name which was incompatible with domestic name practice could nonetheless be accepted if a person, on the basis of nationality, family relations or some other special circumstance, had a connection with a foreign State and the proposed forename accorded with the name practice of that State, or for other valid reasons. The court concluded that the arguments presented by the applicants were insufficient to allow the forename "Axl" to be registered. This decision was upheld by the Supreme Administrative Court.

Law: The Court accepted that the protection of the child from an unsuitable name, such as ridiculous or whimsical names, and the preservation of a national name practice were in the public interest. It observed that the domestic authorities have a broad discretion in applying the Names Act in each particular case. The name "Axl" had been used within the family circle since the applicants' son's birth in 1999 without any difficulty and could not be seen to differ vastly from names which were commonly used in Finland, such as "Alf" and "Ulf". The name was not ridiculous or whimsical, nor was it likely to prejudice the child, and it appeared that it had not done so. It was also pronounceable in the Finnish language and used in some other countries. Had a vowel not been elided, it would automatically have been officially registered as a forename. The name could not therefore be deemed unsuitable for a child.
The Court attached particular importance to the fact that the name "Axl" had not been "new", since three persons named "Axl" had been officially registered by the time the applicants' son had been born. Subsequently, at least two more children have been given this name and four of the five children were Finnish nationals. It was therefore apparent that this name had already gained acceptance in Finland, and it had not been contended that this has had any negative consequences for the preservation of the cultural and linguistic identity of Finland. Given the above considerations, in particular the fact that the name "Axl" had been accepted for official registration in other situations, it was difficult for the Court to accept the national authorities' grounds for not registering the same name for the applicants' child. As the public interest considerations relied on by the Government could not be said to have outweighed the interests claimed by the applicants under Article 8 in having their son officially registered under a forename of their choosing, a fair balance had not been struck.
Conclusion: violation (unanimously).

Article 41 – EUR 2,000 for non-pecuniary damage.

PRIVATE AND FAMILY LIFE
Failure to introduce implementing legislation to enable a transsexual to undergo gender-reassignment surgery and change his gender identification in official documents: *violation*.

L. - Lithuania (N° 27527/03)
Judgment 11.9.2007 [Section II]

Facts: The applicant was registered as a girl at birth in 1978 but, from an early age, regarded himself as a male and in 1997 sought medical advice about gender reassignment. Although he was diagnosed as a transsexual his doctor initially refused to prescribe hormone therapy in view of uncertainty as to whether or not full gender reassignment could be legally carried out. He was therefore forced to follow the hormone treatment unofficially. Following the adoption of the new Civil Code in 2000, which for the first time introduced a right to gender-reassignment surgery in Lithuanian law, the applicant underwent partial reassignment surgery. However, he agreed with the doctors to defer any further surgical steps pending the introduction of implementing legislation on the conditions and procedure for gender reassignment. The implementing legislation has not yet been enacted following strong opposition to the bill in the Parliament. The applicant remained a female under domestic law and although he was eventually permitted to change his name to one that was not gender sensitive, his personal code on his new birth certificate and passport and on his university diploma continued to identify his gender as female. He thus faced considerable embarrassment and difficulties in daily life and found himself ostracised to the point where he had become suicidal.

Law: Article 3 – While the applicant had suffered understandable distress and frustration the circumstances were not of such an intense degree, involving exceptional, life-threatening conditions, as to fall within the scope of this provision.
Conclusion: no violation (six votes to one).

Article 8 – Lithuanian law recognised transsexuals' right to change not only their gender but also their civil status. However, there was a gap in the legislation in that there was no law regulating full gender-reassignment surgery. Until that law was adopted there did not appear to be suitable medical facilities reasonably accessible or available in Lithuania. The applicant was consequently in the intermediate position of a pre-operative transsexual, having undergone partial surgery, with certain important civil-status documents having been changed. Until he underwent the full surgery, his personal code would not be amended and he therefore remained a woman in significant aspects of his private life, such as employment and overseas travel. The legislative gap had left the applicant in a situation of distressing uncertainty with regard to his private life and the recognition of his true identity. Budgetary restraints in the public-health service might have justified some initial delays in implementing the rights of transsexuals under the Civil Code but not a delay of over four years. Given the limited number of people involved, the budgetary burden would not have been unduly heavy. The State had therefore failed to strike a fair balance between the public interest and the applicant's rights.
Conclusion: violation (six votes to one).

Article 12 – The applicant's complaint that that his inability to complete his gender-reassignment had prevented him from marrying and founding a family was premature, in that, should he complete full gender-reassignment surgery, his status as a man would be recognised together with the right to marry a woman.
Conclusion: no separate examination necessary (six votes to one).

Article 41 – The State could satisfy the applicant's claim for pecuniary damage by the adoption of the requisite subsidiary legislation within three months of the judgment becoming final. Failing that, it was to

pay the applicant EUR 40,000 towards the cost of having the final stages of the necessary surgery performed abroad. The applicant was also awarded EUR 5,000 for non-pecuniary damage.

PRIVATE AND FAMILY LIFE
Ten-year residence prohibition imposed on juvenile delinquent: *case referred to the Grand Chamber.*

MASLOV - Austria (N° 1638/03)
Judgment 22.3.2007 [Section I]

The applicant, a Bulgarian national born in 1984, lawfully entered Austria with his parents and two siblings at the age of six. In 1999 he was convicted of burglary, extortion and assault and given an 18-month prison sentence. His second conviction in 2000 was for a series of burglaries and resulted in a 15-month sentence. He was released from prison in May 2002 and deported to Bulgaria in December 2003 after a 10-year residence prohibition had been imposed on him.
In its Chamber judgment the Court considered that the residence prohibition imposed on the applicant had been lawful under domestic law and had "pursued the legitimate aim" of preventing disorder and crime. However, having regard to the nature of the offences which had been non-violent and a result of juvenile delinquency, the applicant's good conduct following his release from prison in May 2002 and his lack of ties with his country of origin, a ten-year residence prohibition appeared disproportionate to that "legitimate aim". The Court therefore held, by four votes to three, that there had been a violation of Article 8.
The case was accepted for referral to the Grand Chamber at the Government's request.

PRIVATE AND FAMILY LIFE
Inability of resident foreign nationals to obtain permanent-resident status owing to level of fees charged: *communicated*.

PONOMARYOV and Others - Bulgaria (N° 5335/05)
[Section V]

The applicants are three Russian nationals who have been residing in Bulgaria since 1994. On attaining their majority they applied for permanent-resident status. However, they did not pay the prescribed fee as it was beyond their and their parents' means. As a result, they became liable to pay secondary-school fees from which they would have been exempt had they been in possession of a permanent-residence permit. They were informed that failure to pay the fees would result in their being barred from classes and not receiving a certificate confirming completion of the relevant school year. Although in the first applicant's case the decision concerning the issue of a certificate was later overturned by the domestic courts, the applicants' liability to pay the school fees was confirmed. The first two applicants subsequently acquired permanent-resident status.
The applicants complained, *inter alia*, that they had been prevented by unreasonably high fees from obtaining permanent-resident status and had consequently also become liable to pay substantial fees to complete their secondary-school education. They further complained of discriminatory treatment.
Communicated under Articles 8 and 14 (in conjunction with Article 8) and under Article 2 of Protocol No. 1.

FAMILY LIFE
Ruling by the domestic courts that applicant was not entitled to restitution of bonds pledged by her husband to a creditor: *inadmissible*.

SCHAEFER - Germany (N° 14379/03)
Decision 4.9.2007 [Section V]

The applicant was married under the matrimonial property regime of the community of increased assets. Under this regime the property of spouses does not become joint property, but any increase in the assets of either spouse during the marriage is equalized on termination of the community. However, there are limitations on the spouses' right to dispose of their assets: in particular, a spouse may only agree to dispose of the entirety of his or her assets with the other spouse's consent.
In 1989 the applicant's husband pledged, without the applicant's consent, four bonds (worth a total of DEM 232,000) to a bank as security for a loan. The bank subsequently called in the loan and used the sums due to the husband on the redemption of the bonds to repay part of the loan. The applicant brought an action against the bank under section 1365 of the Civil Code for restitution of the bonds or payment of DEM 232,000, arguing that the pledge of the bonds was void as she had not given her consent. Her claim was dismissed and her further appeals to a court of appeal and to the Federal Court of Justice likewise failed, with the latter holding that the bank had effected a valid set-off against which section 1365 afforded no protection. The Federal Constitutional Court declined to consider the applicant's constitutional complaint.

Inadmissible: The Court proceeded on the assumption that the subject-matter of the case – the applicant's inability to claim restitution from her husband's creditor – was covered by the notion of "family life". It noted that the German courts had had to weigh the applicant's individual interest in preserving the economic basis of her family against the creditor's interest in the repayment of the loan granted to her husband. The latter interest had to be considered an interest of the community as a whole as it concerned the legitimate aim of protecting the rights of others while allowing the contractual claims of private parties to be enforced served legal certainty and could thus be seen as being in the interest of the economic well-being of the country, another legitimate aim under Article 8 § 2. The Federal Court of Justice had found, in a thoroughly reasoned judgment, that a spouse's interest did not outweigh the creditor's interest under all circumstances or shield the applicant from all reductions of the family's assets, in particular those resulting from compulsory execution or set-offs. Having regard to the State's margin of appreciation in securing the economic basis of the individual's family life, the domestic courts had not failed to strike a fair balance between the conflicting interests: *manifestly ill-founded*.

ARTICLE 10

FREEDOM OF EXPRESSION
Withdrawal from newspaper stands and destruction of an issue containing a politically sensitive article by the applicant on the instructions of the editor-in-chief of the municipally-owned newspaper: *admissible*.

SALIYEV - Russia (N° 35016/03)
Decision 27.9.2007 [Section I]

In 2001 the applicant wrote an article alleging that a high-level official, one of the leaders of the pro-government political party, had been involved in an illegal purchase of shares of a local energy-producing company. The article was accepted for publication by a municipally-owned newspaper. In the morning the issue containing the applicant's article was sent to subscribers and to State libraries. In contrast, the 2,000 copies which had been given to the distribution company to be sold at the street newspaper stands were withdrawn shortly afterwards and later destroyed. The editor-in-chief had to sign a backdated order for the withdrawal of the copies. Some days later, he handed in his resignation to the Town Mayor, his employer. He explained, in a letter to the company concerned by the article, that the

decision to withdraw the issue had been taken by the head of the distribution company. However, he denied this during a preliminary inquiry into the applicant's complaint. In 2003 the investigator decided not to open a criminal investigation, finding that the decision to withdraw the copies had been taken by the editor-in-chief himself, without any coercion, and in order to avoid the lawsuits and litigation which might have followed the publication of the article, and to protect the editorial staff. The investigator concluded that no interference with freedom of the press had occurred. The applicant unsuccessfully challenged this decision before the court. His civil law suit was also dismissed. In the months following this incident he tried to publish the article in several regional and national newspapers, but to no avail.
Admissible.

ARTICLE 11

FREEDOM OF ASSOCIATION
Dissolution of a political party in the electoral context due to its failure to comply with the statutory minimum membership requirement: *communicated*.

REPUBLICAN PARTY OF RUSSIA - Russia (N° 12976/07)
[Section I]

In 2002 the applicant was registered as a party by the Ministry of Justice. In 2005-2006, the Ministry of Justice repeatedly refused to register the applicant's new address and the names of the persons elected by the party conference to represent it, as the party had not submitted documents to show that the conference had been held in accordance with law and its articles of association. Before the courts, the applicant argued that the Ministry had not been empowered to verify the legitimacy of its general conference, since domestic law authorised such verification only before the registration of a new party or of amendments to the articles of association. The courts upheld the Ministry's decision.
In March 2007 the Supreme Court ordered the dissolution of the applicant party on the grounds that it had not complied with the minimum membership requirement enshrined in the Political Parties Act, which was amended in 2004 to increase the minimum number from ten thousand to fifty thousand members. The Act provided that a party which had not complied with that requirement had to be either reorganised into a public association or dissolved. However, only political parties were entitled by the Act to nominate candidates for elections. The applicant party is thus precluded from participating in the forthcoming parliamentary election in December 2007.
Communicated under Article 11.

ARTICLE 13

EFFECTIVE REMEDY
Complaint of length of criminal proceedings – whether an effective remedy existed in Belgium: *violation*.

DE CLERCK - Belgium (N° 34316/02)
Judgment 25.9.2007 [Section II]

(see Article 6 § 1 above).

ARTICLE 14

DISCRIMINATION (Article 1 of Protocol No. 1)
Compensation law excluding from benefits certain categories of forced labourers: *inadmissible*.

ASSOCIAZIONE NAZIONALE REDUCI DALLA PRIGIONIA DALL'INTERNAMENTO E DALLA GUERRA DI LIBERAZIONE and 275 Others - Germany (N° 45563/04)
Decision 4.9.2007 [Section V]

(see Article 1 of Protocol No. 1 below).

DISCRIMINATION (Article 1 of Protocol No. 1)
Refusal to grant father a child bonus in the assessment of his pension rights following introduction, with retrospective effect, of new legislation applicable solely to males: *inadmissible*.

PHOCAS - France (N° 15638/06)
Decision 13.9.2007 [Section III]

(see Article 6 § 1 above)

DISCRIMINATION (Article 3 of Protocol No. 1)
Inability of Netherlands nationals resident in Aruba to vote in elections to the Netherlands Parliament: *inadmissible*.

SEVINGER and EMAN - Netherlands (N°s 17173/07 and 17180/07)
Decision 6.9.2007 [Section III]

(see Article 3 of Protocol No. 1 below).

ARTICLE 35

Article 35 § 1

EFFECTIVE DOMESTIC REMEDY (France)
Decision concerning deportation when there was a risk of treatment proscribed by Article 3 – remedy with no suspensive effect: *preliminary objection dismissed*.

SULTANI - France (N° 45223/05)
Judgment 20.9.2007 [Section III]

(see Article 3 above).

EFFECTIVE DOMESTIC REMEDY (France)
Criminal complaint and application to be joined as a civil party in respect of conditions of pre-trial detention that were incompatible with human dignity: *non-exhaustion* (Article 3).

CANALI - France (N° 26744/05)
Decision 13.9.2007 [Section III]

While in prison the applicant lodged a criminal complaint concerning his conditions of detention and applied to be joined to the proceedings as a civil party. He complained that the toilets were located in the cell without being partitioned off, so that he had to use the facilities in view of other prisoners, that there was a lack of hygiene owing to the failure to mend a leak in the toilets and a lack of pressure in the toilet flush and that there was a danger of electrocution owing to the presence of a loose electrical socket close to a water inlet pipe. He relied on Article 3 of the Convention and Article 225-14 of the Criminal Code. Under the latter it was a punishable offence, in particular, to house an individual known to be vulnerable and dependent in conditions which were incompatible with human dignity.
The investigating judge declared the application inadmissible. On an appeal by the applicant, however, the investigation division of the court of appeal ordered a judicial investigation into the facts complained of. The appellate court considered that the prisoner was in a vulnerable situation, that the coercive measures to which he was subject should not undermine his dignity, that his detention amounted at least in part to housing and that he should enjoy a decent standard of hygiene. It added, in particular, that leaving aside the legal impossibility of holding the prison authorities criminally liable, it was for the investigating judge to verify in each case whether the conditions and the abuse complained of were actually incompatible with human dignity.

Inadmissible under Article 3 – The investigation division of the relevant court of appeal had ordered an investigation into the question whether the applicant's conditions of detention were compatible with human dignity. The facts giving rise to the applicant's complaints had therefore been put before the French courts, which were still in a position, should the facts be established, to remedy the alleged violation. Accordingly, as the investigation was still pending, the complaint was *premature*.

Article 35 § 3

ABUSE OF THE RIGHT OF PETITION
Applicants fail to provide crucial information to the Court but disclose contents of friendly-settlement negotiations before it: *inadmissible*.

HADRABOVÁ and Others - Czech Republic (N^os 42165/02 and 466/03)
Decision 25.9.2007 [Section V]

The applicants complained that the length of certain civil proceedings had been excessive and that they had had no effective remedies at their disposal in respect of those delays. The case was transmitted to the Government for observations in reply. In May 2006 the Government submitted complementary observations concerning the introduction of a new domestic remedy in cases relating to the length of proceedings. In a letter of June 2006 counsel informed the Court that the applicants did not wish to use the new remedy and insisted on pursuing their applications. In August 2007 the Government reported that in April 2007 the applicants had sought compensation by using the new domestic remedy and that in July 2007 the Ministry of Justice had awarded them certain amounts. The Government further noted that in their compensation request the applicants had expressly referred to the proposals prepared by the Registry with a view to securing a friendly settlement.
The Court joined the cases and noted that according to Rule 47 § 6 of the Rules of Court applicants shall keep the Court informed of all circumstances relevant to their application. It further recalled that an application may be rejected as abusive under Article 35 § 3 of the Convention, among other reasons, if it was knowingly based on untrue facts. Incomplete and therefore misleading information may also amount

to abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information. In the circumstances of the present case, the applicants, represented by legal counsel both in the domestic proceedings and the proceedings in Strasbourg, had not furnished any plausible explanation for the failure to inform the Court about the fact that they had applied for compensation one month and two weeks before submitting their comments on the Government's complementary observations on the functioning of the new domestic remedy. Having regard to the importance of the information at issue for the proper determination of the present cases, such conduct was contrary to the purpose of the right of individual petition, as provided for in Article 34 of the Convention.
Moreover, according to Article 38 § 2 of the Convention, friendly-settlement negotiations are confidential and that Rule 62 § 2 of the Rules of Court further stipulates that no written or oral communication and no offer or concession made in the framework of the attempt to secure a friendly settlement may be referred to or relied on in contentious proceedings. The Court reiterated the importance of the principle that friendly settlement negotiations are confidential and that communications made by the parties within the context of such negotiations are not to be relied upon in contentious proceedings. On the basis of the documents submitted by the Government it was clear that in their application for compensation the applicants had explicitly referred to the Registry's proposal prepared within the framework of friendly-settlement negotiations. Such behaviour constituted a breach of the above mentioned rule of confidentiality which must also be considered as an abuse of the right of application. *Inadmissible*.

COMPETENCE *RATIONE TEMPORIS*
Acts of torture and death prior to date when Court acquired jurisdiction *ratione temporis*, but trial after that date: *partial jurisdiction* ratione temporis (procedural obligations).

TEREN AKSAKAL - Turkey (N° 51967/99)
Judgment 11.9.2007 [Section II (former)]

(see Article 3 above).

ARTICLE 41

JUST SATISFACTION
Just satisfaction in respect of State's failure to enact implementing legislation: *State to introduce relevant legislation within set time frame or, in default, pay a specified amount in respect of pecuniary damage*.

L. - Lithuania (N° 27527/03)
Judgment 11.9.2007 [Section II]

(see Article 8 above).

JUST SATISFACTION
Request by applicants for order requiring an immediate halt to criminal proceedings which the Court had found to be unduly protracted: *request for an injunction refused*.

DE CLERCK - Belgium (N° 34316/02)
Judgment 25.9.2007 [Section II]

(see Article 6 § 1 above).

ARTICLE 46

INDIVIDUAL MEASURES
Request by applicants for order requiring an immediate halt to criminal proceedings which the Court had found to be unduly protracted: *application for an injunction refused*.

DE CLERCK - Belgium (N° 34316/02)
Judgment 25.9.2007 [Section II]

(see Article 6 § 1 above).

ARTICLE 1 OF PROTOCOL No. 1

POSSESSIONS
Absence of compensation for forced labour under the Nazi regime: *inadmissible*.

ASSOCIAZIONE NAZIONALE REDUCI DALLA PRIGIONIA DALL'INTERNAMENTO E DALLA GUERRA DI LIBERAZIONE and 275 Others/ - Germany (N° 45563/04)
Decision 4.9.2007 [Section V]

The applicants are an association and 275 Italian nationals who were subjected to forced labour in labour camps during the Second World War. In August 2000 a law entered into force which provided for the establishment of a public-law foundation "Remembrance, Responsibility and Future" to oversee a scheme to compensate former forced labourers. However, under the law, the former prisoners of war and civilians were entitled to benefits only if they were subjected to forced labour in a concentration camp, a ghetto or under similar conditions. Some of the applicants were denied compensation by the Foundation's partner, the International Organisation for Migration. Some of them unsuccessfully lodged administrative and constitutional complaints. *Inadmissible*:

Article 5 – In so far as the applicants complained that the Federal Republic of Germany had failed to acknowledge the illegality of the forced labour, deportation and detention, the Convention imposed no specific obligation on the Contracting States to provide redress for wrongs or damage caused prior to their ratification of the Convention. This also applied to the legal situation of the Federal Republic of Germany which was considered to be the continuation of the German *Reich*: *incompatible* ratione materiae.

Article 1 of Protocol No. 1 – When the Foundation Law had entered into force there had been no legal provision, whether of an international or of a domestic character, supporting the applicants' claims against the Federal Republic of Germany. Furthermore, the applicants had been unable to point to any case-law in their favour. They could not therefore claim to have had a legitimate expectation of compensation for their detention and forced labour during the Second World War: *incompatible* ratione materiae.

Article 14 in conjunction with Article 1 of Protocol No. 1 – The present case was distinguishable from the case of *Stec and Others v. the United Kingdom* (see Information Note no. 85) for the following reasons. Both the present case and *Stec* concerned non-contributory benefits which were partly funded by general taxation. However, while *Stec* dealt with a supplementary regular payment and a regular retirement pension in the framework of social security, the subject of the instant case was a one-off payment granted as compensation for events which had occurred even before the Convention entered into force and represented, in a wider sense, a settlement of damages caused by the Second World War. The payments were made outside the framework of social security legislation, and could not be likened to the payments in *Stec*. The facts of the present case did not fall within the ambit of Article 1 of Protocol No. 1 and, therefore, did not attract the protection of Article 14 in conjunction with that Article: *incompatible* ratione materiae.

Article 6 § 1 – In so far as the applicants complained of a lack of judicial review of the decisions rendered by the Foundation's partner organisations, the present case was distinguishable from the case of *Woś v. Poland* (see Information Note no. 73) in which the Court held that a compensation scheme under the Polish-German Reconciliation Foundation for former forced labourers, which was distinct from the system as set up by the Foundation Law, fell within the ambit of Article 6 of the Convention. In that case, the Court found that the applicant met the requirements and therefore enjoyed, at least on arguable grounds, a right to compensation. As the applicants were clearly excluded from benefits under the Foundation Law and no provision prior to this law entitled them to any payment, they could not claim to have had a right to compensation, even on arguable grounds. Article 6 § 1 of the Convention did not apply to the facts of the present case: *incompatible* ratione materiae.

See also *Poznanski and Others v. Germany*, in Information Note no. 99.

POSSESSIONS
Court orders prohibiting the use and requiring the cancellation of domain names that infringed third-party rights: *inadmissible*.

PAEFFGEN GMBH (I-IV) - Germany (N^os 25379/04, 21688/05, 21722/05 and 21770/05)
Decision 18.9.2007 [Section V]

The applicant company was engaged in e-commerce and acquired several thousand Internet domain names from the registration authority for a fee. Under the terms of the domain contracts, the names were sold without any warranty that their registration and use did not infringe third-party rights. Subsequently, various sets of proceedings were brought against the applicant company by third parties who alleged that the registration and use of certain domains infringed their intellectual-property rights. These led to court orders prohibiting the applicant company from using or disposing of the relevant domains and requiring it to apply for their cancellation. The orders were upheld on appeal. The applicant company complained that the absolute prohibition on its using the domain names had disproportionately interfered with its rights of property as a more limited order requiring it to refrain from specific infringements would have sufficed.

Inadmissible: The contracts with the registration authority gave the applicant company an open-ended right to use or transfer the domains registered in its name. The exclusive right to use the domains had an economic value and therefore constituted a "possession". The prohibition on using or disposing of the domains clearly served to control the use of its property. The orders requiring the applicant company to apply for the cancellation of the domains served to prevent it from continuing to violate third-party rights. Since the "possessions" were mere contractual rights to the exclusive use of the domain names and the contracts expressly stated that the domain holder was responsible for verifying whether third-party rights were liable to be infringed, these orders also constituted measures of control of the use of property. The measures taken were in accordance with domestic law and served to further the legitimate general interest of maintaining a functioning system of protection for trademarks and/or names. While it was true that the domestic courts had found it necessary to place an absolute prohibition on the use of the domains concerned, the applicant company had failed to demonstrate more limited ways of using them which would not have risked interfering with the rights of others and had been clearly notified that registration did not imply freedom from third-party claims. Accordingly, the orders could not be considered excessive, especially as the applicant company had hardly used the domains. The orders had thus struck a fair balance between the protection of the applicant company's possessions and the requirements of the general interest and the applicant company had not had to bear an individual and excessive burden: *manifestly ill-founded*.

CONTROL OF THE USE OF PROPERTY
Loss of registered land by application of the law on adverse possession: *no violation*.

J.A. PYE (OXFORD) LTD and J.A. PYE (OXFORD) LAND LTD - United Kingdom (N° 44302/02)
Judgment 30.8.2007 [GC]

Facts: The second applicant company was the registered owner of a plot of 23 hectares of agricultural land with development potential that was occupied by a farmer and his wife under a grazing agreement. In December 1983 the farmer was instructed to vacate the land as the grazing agreement was about to expire. However, he remained in occupation without permission and continued to use the land for grazing. In 1997 the farmer registered cautions at the Land Registry against the applicant companies' title on the ground that he had obtained title by adverse possession. The applicant companies applied to the High Court for cancellation of the cautions and repossession of the land. The farmer contested their claims under the Limitation Act 1980, which provided that a person could not bring an action to recover land after the expiration of 12 years of adverse possession by another, and under the Land Registration Act 1925, which provided that after the expiry of the 12-year period the registered owner held the land in trust for the adverse possessor. The High Court found in favour of the farmer, holding that the applicant companies had lost their title to the land under the 1980 Act and that the farmer was entitled to be registered as the new owner. Although the Court of Appeal reversed that decision on the ground that the farmer did not have the necessary intention to possess the land, the House of Lords restored the order of the High Court. However, Lord Bingham of Cornhill stated that the decision was one he had reached "with no enthusiasm" and added: "Where land is registered it is difficult to see any justification for a legal rule which compels such an apparently unjust result, and even harder to see why the party gaining title should not be required to pay some compensation". The value of the land was disputed but on any estimate came to several million pounds sterling.
The Land Registration Act 2002 – which does not have retroactive effect – now enables a squatter to apply to be registered as owner after ten years' adverse possession and requires that the registered owner be notified of the application. The registered proprietor is then required to regularise the situation (for example, by evicting the squatter) within two years, failing which the squatter is entitled to be registered as the owner.

Law: (a) *Applicability*: There was nothing in the Court's case to support the Government's contention that the case should be considered only under Article 6 of the Convention and indeed it would be unusual for the Court to decline to deal with a complaint under one head solely because it was capable of raising different issues under a separate provision. The applicant companies had lost the ownership of 23 hectares of agricultural land as a result of the operation of the 1925 and 1980 Acts. Article 1 of Protocol No. 1 was therefore applicable.

(b) *Nature of the interference*: The applicant companies had lost their land as a result of the operation of the generally applicable rules on limitation periods for actions for the recovery of land. The statutory provisions were part of the general land law and were concerned to regulate, among other things, limitation periods in the context of the use and ownership of land as between individuals. It followed that the applicant companies were affected not by a "deprivation of possessions", but by a "control of use" of the land.

(c) *Aim of the interference*: The 12-year limitation period for actions for the recovery of land in itself pursued a legitimate aim in the general interest. However, there also existed a general interest in the extinguishment of title at the end of that period. The States had a wide margin of appreciation in this sphere as it concerned the implementation of social and economic policies and the Court would only interfere if the legislature's judgement as to what was in the public interest was manifestly without reasonable foundation. That was not the case here: a large number of member States possessed similar mechanisms, while the fact that the statutory amendments introduced in 2002 had not abolished the relevant provisions of the earlier legislation showed that the traditional general interest remained valid. Moreover, even where, as here, title to real property was registered, it had to be open to the legislature to attach more weight to lengthy, unchallenged possession than to the formal fact of registration. To

extinguish title where the former owner was prevented, as a consequence of the application of the law, from recovering possession of the land could not be said to be manifestly without reasonable foundation.

(d) *Fair balance*: As to whether a fair balance had been struck between the demands of the general interest and the interest of the individuals concerned, the relevant rules had been in force for many years before the applicants acquired the land and it was not open to them to say that they were not aware of the legislation, or that its application to their case had come as a surprise. While no clear pattern had emerged from the comparative materials as regards the length of limitation periods, the fact was that very little action would have been required on the applicant companies' part to stop time running: for example, they could have requested rent or other payment or brought an action for recovery of the land. Nor was the absence of compensation relevant as (a) the Court's case-law on compensation for the deprivation of possessions was not directly applicable to cases concerning the control of their use and (b) a requirement for compensation would sit uneasily alongside the concept of limitation periods, whose aim was to further legal certainty by preventing parties from pursuing an action after a certain date. The applicant companies had not been without procedural protection (they could have brought an action for repossession or sought to show that the occupiers had not as a matter of law been in "adverse possession"). Although (by requiring notice of an application for adverse possession to be given by the squatter) the 2002 Act had now put registered owners in a better position than the applicant companies had been, legislative changes in complex areas such as land law took time to bring about and judicial criticism of legislation could not of itself affect the conformity of the earlier provisions with the Convention. Likewise, while it was not disputed that the land concerned would have been worth a substantial amount, limitation periods, if they were to fulfil their purpose, had to apply regardless of the size of the claim, so that the value of the land was not of any consequence. In sum, the requisite fair balance had not been upset.
Conclusion: no violation (ten votes to seven).

DEPRIVATION OF PROPERTY
Confiscation of land and buildings by a criminal court – despite the owners' acquittal – on the grounds of unlawful construction in a coastal area: *admissible.*

SUD FONDI Srl and Others - Italy (N° 75909/01)
Decision 30.8.2007 [Section II]

(see Article 7 above).

ARTICLE 2 OF PROTOCOL No. 1

RIGHT TO EDUCATION
Exclusion of foreign nationals from secondary-school classes owing to their inability to pay fees levied on aliens without permanent-resident status: *communicated*.

PONOMARYOV and Others - Bulgaria (N° 5335/05)
[Section V]

(see Article 8 above).

ARTICLE 3 OF PROTOCOL No. 1

VOTE
Inability of Netherlands nationals resident in Aruba to vote in elections to the Netherlands Parliament: *inadmissible*.

SEVINGER and EMAN - Netherlands (N^{os} 17173/07 and 17180/07)
Decision 6.9.2007 [Section III]

Aruba was part of the Netherlands Antilles until 1986, when it obtained internal autonomy and became a country within the Kingdom of the Netherlands with its own Constitution and a freely elected parliament. Unlike other Netherlands nationals, including those resident outside the territory of the Kingdom of the Netherlands, residents of Aruba are not entitled to vote in elections to the Lower House of the Netherlands Parliament, the sole body with power to legislate in areas such as external relations, defence and citizenship. Nevertheless, the Aruban representative assembly does have power, *inter alia*, to examine and report on bills before the Lower House, to designate special delegates, to attend the parliamentary debate and to propose amendments. Any bill to which the minister plenipotentiary or special delegates have stated their opposition can only be adopted by a qualified majority.
The applicants were Netherlands nationals, resident in Aruba. In 2006 they applied for registration on the electoral register for the Lower House. Their requests were refused n the grounds that they had not resided in the Netherlands for the requisite ten-year period. Their appeals against that decision were dismissed.

Inadmissible under Article 3 of Protocol No. 1 – The applicants were Netherlands nationals resident in Aruba. As such they were not residents of the Netherlands since, although part of the Kingdom, Aruba did not form an integral and territorial part of the Netherlands itself. The applicants therefore had the right to vote in elections to the Aruban Parliament. The Aruban elections conformed to the requirements of Article 3 of Protocol No. 1 in that they provided opportunities for the free expression of the opinion of the people of Aruba concerning their internal affairs at reasonable intervals by secret ballot. As regards Kingdom matters, legislative power was exercised by the legislature of the Kingdom, namely the Netherlands Parliament and the Kingdom Government.
Although (with certain exceptions) the Charter did not confer on Netherlands nationals residing in Aruba a right to vote for the Lower House, they could vote in the elections to the Aruban Parliament, which in turn was entitled to send special delegates to the Netherlands Parliament who could express their opinion in respect of Kingdom affairs. In this manner, Netherlands nationals residing in Aruba were able to influence decisions taken by the Lower House on Kingdom affairs. Having regard to the relatively small amount of Kingdom affairs in comparison with the amount of Netherlands internal affairs, it could not reasonably be said that Netherlands nationals residing in Aruba were affected by the acts of the Lower House to the same extent as Netherlands nationals residing in the Netherlands. Accordingly, taking into account the State's wide margin of appreciation, the fact that the applicants were not entitled to vote for members of the Lower House could not be regarded as unreasonable or arbitrary: *manifestly ill-founded*.

Inadmissible under Article 14 in conjunction with Article 3 of Protocol No. 1 – The legislature had granted a right to vote for members of a representative body to all Netherlands nationals regardless of where they resided. From this point of view all Netherlands nationals were thus in a comparable situation. However, it was only Netherlands nationals residing in Aruba who were entitled to vote for members of the Parliament of Aruba. Therefore, the applicants' situation was not relevantly similar to that of Netherlands nationals not residing in Aruba, who were not eligible to vote for the Parliament of Aruba. Further, the obligation to satisfy a length-of-residence requirement was not, in principle, an arbitrary restriction of the right to vote. Accordingly, to the extent that the applicants were in a relevantly similar situation as the persons with whom they sought to compare themselves, the impugned difference in treatment was justified. Lastly, the Court distinguished a separate case (*M.G. Eman and O.B. Sevinger v. College van burgemeester en wethouders van Den Haag*, C-300/04) involving the applicants in which the

European Court of Justice had given a preliminary ruling that their inability to vote in elections to the European Parliament had infringed their right to equal treatment. In that case the applicants had been completely denied any opportunity to express their opinion in European Parliamentary elections, whereas in the instant case they did have a say – albeit an indirect one – in Kingdom matters: *manifestly ill-founded*.

ARTICLE 4 OF PROTOCOL No. 4

INTERDICTION DES EXPULSIONS COLLECTIVES D'ETRANGERS
Risk of deportation on a collective flight used to deport illegal immigrants: *deportation would not constitute a violation*.

SULTANI - France (N° 45223/05)
Judgment 20.9.2007 [Section III]

(see Article 3 above).

ARTICLE 1 OF PROTOCOL No. 7

LAWFULLY RESIDENT
Alleged inability to put case against an exclusion order imposed after refusal of leave to enter the territory: *Article 1 of Protocol No. 7 inapplicable.*

YILDIRIM - Romania (N° 21186/02)
Decision 20.9.2007 [Section III]

The applicant, a Turkish citizen, took up residence by himself in Romania while his family was living in Germany. He was granted a one-year residence permit in order to carry on commercial activities, but did not request its renewal. He set up a limited-liability trading company in the country, with its registered office in the flat he had bought. The applicant said that on his return from Hungary one night, he had been granted free entry into Romania, an entry visa having been stamped in his passport. The following day, however, officers of the border police went to his flat and accompanied him to the Hungarian border. After questioning him, they cancelled his visa and requested him to leave Romania without giving him any reasons. According to the Government, the applicant had turned up at the border post the same day. The police noted that a restriction had been imposed on his entry into Romania and cancelled the visa in his passport. The applicant did not challenge the measure. From that date on, he was refused leave to enter Romania. The Romanian Interior Ministry declared him an undesirable alien and imposed a five-year exclusion order on him. According to the Ministry, the measure in question amounted to a refusal of leave to enter the country and the law did not require any official documents to be drawn up recording such a refusal. The ministerial order was overturned by the court of appeal. The Ministry lodged an appeal which was upheld by the Supreme Court of Justice. The latter found that the State could refuse the applicant leave to enter the country in the interests of national security. The applicant sold his flat and his company was dissolved.

Inadmissible under Article 1 of Protocol No. 7 – Since the applicant had not been resident in Romania, he had been refused leave to enter the country rather than being deported. He had previously held a valid residence permit which gave him the right to reside in Romania; however, when it expired, he had not taken any steps to have it renewed. Foreign nationals whose visa or residence permit had expired could not, in principle, be regarded as lawfully resident in the country. The short-term entry visas which the applicant had been granted did not allow him to remain in Romania for longer than two months. The word 'resident' was intended to exclude application of the Article in question to foreign nationals who had not yet undergone immigration controls or who had been given leave to enter a country in transit or for a short

period. At the time the Romanian authorities had imposed the exclusion order on the applicant, he had not been lawfully resident in the country, given that he did not possess a valid residence permit. Consequently, Article 1 of Protocol No. 7 did not apply in the instant case: *incompatible* ratione materiae.

Inadmissible under Article 8 – The applicant had not had a valid residence permit or a right of residence. In addition, he had not demonstrated the existence of a genuine and effective private life in Romania prior to the refusal to grant him leave to enter. His family had been living in Germany, where he had visited them frequently and where he now lived. The only ties the applicant claimed to have with Romania were of a pecuniary nature, namely the fact that he had set up a company there and bought a flat which he had since sold. These factors alone were not sufficient to enable him to obtain a permanent right of residence and to rely on the guarantees provided by Article 8: *manifestly ill-founded*.

Inadmissible under Article 2 of Protocol No. 4 – The provision in question was designed solely to secure to persons lawfully resident in a country, whether or not they were nationals, the right to move freely within the country and to choose freely their residence there. Hence, it did not guarantee, as such, the right for a foreign national to enter or reside in a particular country and did not apply to foreign nationals who had no residence permit: *incompatible* ratione materiae.

Inadmissible under Article 1 of Protocol No. 1 – As to the applicant's inability to make use of his flat, he had sold it before the exclusion order was imposed on him and before he lodged this complaint with the Court. It followed that he could not claim to be a victim: *manifestly ill-founded*.

With regard to the applicant's inability to run his company, the latter was a limited-liability company. The instruments creating it showed that a third party had been appointed as manager with full powers. The company had continued to operate even after the measure complained of and had been dissolved on the ground that it did not meet the procedural requirements laid down by the law. In any event, Article 1 of Protocol No. 1 did not confer on foreign nationals who possessed property in another country the right to reside there permanently in order to make use of their property. Furthermore, the measure in question had not affected the applicant's rights over his shares in the company or any profits it might have made: *manifestly ill-founded*.

RULE 39 OF THE RULES OF COURT

PROVISIONAL MEASURES
Application of Rule 39 of the Rules of Court to enable an ailing prisoner to be admitted to hospital to receive appropriate medical care.

GHVALADZE - Georgia (N° 42047/06)
Decision 11.9.2007 [Section II]

(see Article 3 above).

Other judgments delivered in August/September

The list of "other" judgments rendered during the month in question (i.e. judgments which have not been reported in the form of a summary) has been discontinued. Please refer to the Court's Internet page: http://www.echr.coe.int/ECHR/EN/Header/Case-Law/Case-law+information/Lists+of+judgments/ for alphabetical and chronological lists of all judgments as well as for a list of all Grand Chamber judgments.

Referral to the Grand Chamber

Article 43 § 2

The following cases have been referred to the Grand Chamber in accordance with Article 43 § 2 of the Convention:

SALDUZ - Turkey (N° 36391/02)
Judgment 26.4.2007 [Section II]

(see Article 6 § 3 (c) above).

MASLOV - Austria (N° 1638/03)
Judgment 22.3.2007 [Section I]

(see Article 8 "Private and family life" above).

Judgments having become final under Article 44 § 2 (c)[1]

Article 44 § 2 (c)

On 24 September 2007 the Panel of the Grand Chamber rejected requests for referral of the following judgments, which have consequently become final:

Andrey Frolov v. Russia (205/02) – Section I, judgment of 29 March 2007
Andrulewicz v. Poland (43120/05) – Section IV, judgment of 3 April 2007
Apostolidi and Others v. Turkey (45628/99) – Section IV, judgment of 27 March 2007
Aslan v. Romania (32494/03) – Section IV, judgment of 24 May 2007
Bączkowski and Others v. Poland (1543/06) – Section IV, judgment of 3 May 2007
Baysayeva v. Russia (74237/01) – Section I, judgment of 5 April 2007
Benediktov v. Russia (106/02) – Section I, judgment of 10 May 2007
Chadimová v. The Czech Republic (50073/99) – former Section II, judgment of 26 April 2007
Durdan v. Romania (6098/03) – Section IV, judgment of 26 April 2007
Church of Scientology Moscow v. Russia (18147/02) – Section I, judgment of 5 April 2007
Huohvanainen v. Finland (57389/00) - Section IV, judgment of 13 March 2007
Ilicak v. Turkey (15394/02) – Section IV, judgment of 5 April 2007
Irfan Bayrak v. Turkey (39429/98) – Section II, judgment of 3 May 2007
Kamil Uzun v. Turkey (37410/97) – Section II, judgment of 10 May 2007
Konstatinov v. the Netherlands (16351/03) – Section IV, judgment of 26 April 2007
Kontrová v. Slovakia (7510/04) – Section IV, judgment of 31 May 2007
Laudon v. Germany (14635/03) – Section V, judgment of 26 April 2007
Matyjek v. Poland (38184/03) – Section IV, judgment of 24 April 2007
Mehmet Ali Miçooğullari v. Turkey (75606/01) – Section II, judgment of 10 May 2007
Naydenkov v. Russia (43282/02) – Section I, judgment of 7 June 2007
Păduraru v. Romania (63252/00) – Section IV, judgment (just satisfaction) du 15 March 2007
Patera v. The Czech Republic (25326/03) – former Section II, judgment of 26 April 2007
Pobegaylo v. Ukraine (18368/03) – Section V, judgment of 29 March 2007
Aleksandr Shevchenko v. Ukraine (8371/02) – Section V, judgment of 26 April 2007
Shinkarenko v. Ukraine (31105/02) – Section V, judgment of 7 June 2007
Skugor v. Germany (76680/01) – Section V, judgment of 10 May 2007
Taşatan v. Turkey (60580/00) – Section II, judgment of 10 May 2007
Tysiąc v. Poland (5410/03) – Section IV, judgment of 20 March 2007
Üçak and Others v. Turkey (75527/01 and 11837/02) – former Section II, judgment of 26 April 2007
Ulusoy and Others v. Turkey (34797/03) – Section II, judgment of 3 May 2007
Väänänen v. Finland (10736/03) – Section IV, judgment of 20 February 2007
Vasilyev v. Ukraine (11370/02) – Section V, judgment of 21 June 2007
W.S. v. Poland (21508/02) – Section IV, judgment of 19 June 2007
Wende and Kokówka v. Poland (56026/00) – Section IV, judgment of 10 May 2007
Zwierzyński v. Poland (34049/96) – former Section I, judgment (revision) du 6 March 2007

[1] The list of judgments having become final pursuant to Article 44(2)(b) of the Convention has been discontinued. Please refer to the Court's database HUDOC which will indicate when a given judgment has become final.

Statistical information[2]

Judgments delivered	August-September	2007
Grand Chamber	1	8(9)
Section I	9	256(283)
Section II	12	214(295)
Section III	14(15)	176(199)
Section IV	17(19)	194(227)
Section V	17	160(171)
former Sections	4	29(31)
Total	**74(77)**	**1037(1215)**

Judgments delivered in August-September 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	1	0	0	0	1
Section I	9	0	0	0	9
Section II	12	0	0	0	12
Section III	14(15)	0	0	0	14(15)
Section IV	17(19)	0	0	0	17(19)
Section V	17	0	0	0	17
former Section I	0	0	0	0	0
former Section II	4	0	0	0	4
former Section III	0	0	0	0	0
former Section IV	0	0	0	0	0
Total	**74(77)**	**0**	**0**	**0**	**74(77)**

Judgments delivered in 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	8(9)	0	0	0	8(9)
Section I	241(267)	1	10	4(5)	256(283)
Section II	213(294)	1	0	0	214(295)
Section III	166(189)	3	3	4	176(199)
Section IV	171(180)	17(41)	2	4	194(227)
Section V	157(168)	2	1	0	160(171)
former Section I	0	0	0	1	1
former Section II	22(24)	0	0	2	24(26)
former Section III	4	0	0	0	4
former Section IV	0	0	0	0	0
Total	**982(1135)**	**24(48)**	**16**	**15(16)**	**1037(1215)**

[2] 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		**August**	
I. Applications declared admissible			
Grand Chamber		0	0
Section I		0	27(5)
Section II		4	20
Section III		0	8
Section IV		0	12(2)
Section V		0	16
Total		**4**	**83(7)**
II. Applications declared inadmissible			
Grand Chamber		0	1
Section I	- Chamber	0	32
	- Committee	215	3208
Section II	- Chamber	3	64(22)
	- Committee	0	1715
Section III	- Chamber	11	46
	- Committee	0	2463
Section IV	- Chamber	0	34
	- Committee	0	1526
Section V	- Chamber	3	60(3)
	- Committee	144	4004
Total		**376**	**13153(25)**
III. Applications struck off			
Grand Chamber		0	1
Section I	- Chamber	0	75
	- Committee	5	80
Section II	- Chamber	7	61(21)
	- Committee	0	44
Section III	- Chamber	9	62
	- Committee	0	37
Section IV	- Chamber	2	85
	- Committee	0	28
Section V	- Chamber	0	30
	- Committee	6	85
Total		**29**	**588(21)**
Total number of decisions*		**409**	**13824(53)**

* Not including partial decisions

Applications communicated	**August**	**2007**
Section I	0	424
Section II	24	534
Section III	0	481
Section IV	28	268
Section V	10	208
Total number of applications communicated	**62**	**1915**

Decisions adopted		**September**	**2007**
I. Applications declared admissible			
Grand Chamber		0	0
Section I		8	35(7)
Section II		1	21
Section III		2	8
Section IV		0	12(2)
Section V		0	16
Total		**11**	**92(9)**
II. Applications declared inadmissible			
Grand Chamber		0	1
Section I	- Chamber	8	40
	- Committee	666	3874
Section II	- Chamber	13	77(22)
	- Committee	613	2328
Section III	- Chamber	18	64
	- Committee	769	3232
Section IV	- Chamber	7	41
	- Committee	767	2293
Section V	- Chamber	27	87(5)
	- Committee	439	4443
Total		**3327**	**16480(27)**
III. Applications struck off			
Grand Chamber		0	1
Section I	- Chamber	19	94
	- Committee	12	92
Section II	- Chamber	15	76(21)
	- Committee	27	71
Section III	- Chamber	12	74
	- Committee	11	48
Section IV	- Chamber	9	94
	- Committee	12	40
Section V	- Chamber	8	38
	- Committee	10	95
Total		**252**	**723**
Total number of decisions*		**3590**	**17295(36)**

* Not including partial decisions.

Applications communicated	**September**	**2007**
Section I	122	546
Section II	184	718
Section III	47	528
Section IV	56	324
Section V	100	308
Total number of applications communicated	**509**	**2424**