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

INFORMATION NOTE No. 33
on the case-law of the Court
August 2001

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

Statistical information[1]

		August	2001
I. Judgments delivered			
Grand Chamber		0	18(20)
Chamber I		0	201(217)
Chamber II		5	127
Chamber III		0	92(99)
Chamber IV / Chambre IV		1	64(71)
Total		**6**	**502(534)**
II. Applications declared admissible			
Section I		1	88(96)
Section II		0	142(143)
Section III		4	168(173)
Section IV		0	119(121)
Total		**5**	**517(533)**
III. Applications declared inadmissible			
Section I	- Chamber	4	55
	- Committee	0	822
Section II	- Chamber	0	61(62)
	- Committee	0	913
Section III	- Chamber	5	67
	- Committee	90	1382(1383)
Section IV	- Chamber	0	60(71)
	- Committee	0	1125(1203)
Total		**99**	**4485(4476)**
IV. Applications struck off			
Section I	- Chamber	1	19
	- Committee	0	19
Section II	- Chamber	0	32(214)
	- Committee	0	20
Section III	- Chamber	0	10
	- Committee	1	27
Section IV	- Chamber	0	4(6)
	- Committee	0	9
Total		**2**	**140(324)**
Total number of decisions[2]		**106**	**5142(5333)**
V. Applications communicated			
Section I		1	244(255)
Section II		0	145(146)
Section III		8	121(123)
Section IV		0	180(184)
Total number of applications communicated		**9**	**690(708)**

[1] A judgment or decision may concern more than one application. The number of applications is given in brackets.
[2] Not including partial decisions.

Judgments delivered in August 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	0	0
Section I	0	0	0	0	0
Section II	5	0	0	0	5
Section III	0	0	0	0	0
Section IV	1	0	0	0	1
Total	**6**	**0**	**0**	**0**	**6**

Judgments delivered in January - August 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	16(18)	0	1	1[1]	18(20)
Section I	150(152)	48(58)	2	1(2)[1]	201(214)
Section II	88	38	0	1[2]	127
Section III	84(91)	7	1	0	92(99)
Section IV	54(60)	10(11)	0	0	64(71)
Total	**392(409)**	**103(114)**	**4**	**3(4)**	**502(531)**

[1] Just satisfaction.
[2] Revision.
[3] Of the 376 judgments on merits delivered by Sections, 20 were final judgments.

[*=judgment not final]

ARTICLE 3

INHUMAN TREATMENT
Conditions of detention in high security prisons: *admissible*.

LORSE and others - Netherlands (N° 52750/99)
VAN DER VEN - Netherlands (N° 50901/99)
Decisions 3.4.2001 and 28.8.2001 [Section I]

The first applicant was convicted of drugs and firearms offences and sentenced to imprisonment. He was detained successively in two high security prisons, the Temporary Extra Security Institution (TEBI) and the Extra Security Institution (EBI), from September 1994 to January 2001. The other applicants in the first application are relatives of his. The applicant in the second application was charged with a number of serious offences and has been in detention on remand in the TEBI since October 1997. The applicants complain about the overly severe conditions of detention in these institutions, conditions which have been considered by the Committee for the Prevention of Torture to amount to inhuman treatment.
Admissible under Articles 3 and 8 (respect for private and family life).

ARTICLE 5

Article 5(1)

LAWFUL DETENTION
Delay in transferring detainees from detention on remand to house arrest: *violation*.

MANCINI - Italy (Nº 44955/98)
*Judgment 2.8.2001 [Section II]

Facts: The applicants were both arrested following an armed robbery. The stolen goods were found in a shop owned by the applicants' firm. The applicants were initially placed under house arrest and then released in December 1996. Suspicion again fell on them after two further armed robberies. In December 1997 the investigating judge ordered their detention pending trial. They appealed against that order. On 7 January 1998 the division that dealt with applications for review of preventive measures at the relevant court ordered their release from pre-trial detention and placed them under house arrest instead, on the ground that the risk of their committing a similar offence was not great enough to justify their detention. However, because no police officers were available, it was not until 13 January 1998 that they were transferred to their homes from the prison where they were being held.
Law: Article 5(1)(c) – For the purposes of Article 5 the applicants had been deprived of their liberty both when in prison and when under house arrest. The problem that arose was the authorities' delay in substituting a less stringent preventive measure, namely house arrest, for detention in prison. The instant case was therefore clearly distinguishable from the other cases in which the Court had examined delays in releasing applicants. Furthermore, in the Ashingdane v. the United Kingdom case (judgment of 28 May 1985) the issue before the Court had been the prolonged failure to transfer the applicant from a "special" psychiatric hospital to an ordinary psychiatric institution where the regime was more liberal; the place

and conditions of the applicant's detention had not ceased to be those pertaining to the lawful detention of a person of unsound mind, and the applicant's right to liberty had not been limited to a greater extent than was permissible under the Convention. The Court had therefore found that the damage suffered by the applicant did not fall within the scope of Article 5(1). The instant case differed from the Ashingdane case in that there was a further factor to consider: the change in the nature of the applicants' place of detention from a public institution to private accommodation. Unlike house arrest, detention in prison entailed fitting into an overall structure, sharing resources with other inmates and joining in activities with them and being subject to the authorities' strict supervision of fundamental aspects of everyday life. In the final analysis, therefore, the situation complained of by the applicants fell within the scope of Article 5(1)(c). While some delay in executing a decision to release a detainee was normal and often inevitable, the authorities nonetheless had to endeavour to keep it to a minimum. The delay of more than three days in transferring the applicants to their homes from the prison in which they were being held was incompatible with Article 5.
Conclusion: violation (4 votes to 3).

ARTICLE 6

Article 6(1) [civil]

ACCESS TO COURT
Striking out of proceedings on the ground of "immunity from suit" applying to statements made to or by investigators during a criminal investigation: *communicated*.

TAYLOR - United Kingdom (N° 49589/99)
[Section III]

The applicant was a solicitor on the Isle of Man. A lawyer employed by the Serious Fraud Office (hereafter, SFO) made a formal written request to the Attorney-General for the Isle of Man to have his assistance in the investigation of a fraudulent financial transaction. In the letter in which he formulated his request, the SFO lawyer also asked for the applicant to be summoned for interview, and presented him in a manner suggesting that the SFO suspected him of being implicated in the fraud. In addition, the SFO lawyer asked the Attorney-General to authorise him to exercise the power to summon on his behalf. At a later stage of the investigation, the SFO lawyer heard R., a staff member of the Law Society. A file note of the interview was made, in which R. declared that the applicant ought to be struck off the roll of solicitors and the SFO lawyer contended that the latter was involved in the fraud. While the applicant was not charged, two other persons were eventually charged with conspiracy to defraud and convicted. One of the two defendants having asked him to give evidence on his behalf, the applicant had had access to a file of documents which included "unused material" disclosed by the prosecution. Among the unused material were the letter addressed to the Attorney-General by the SFO lawyer and the file note of the interview of R. On the basis of these documents, the applicant started an action for libel against the SFO, the Law Society, the SFO lawyer and R. The High Court struck out the action on the ground that the disclosure of the two documents to the defendant's solicitors was subject to an implied undertaking that they would not be used for any purpose other than the defendant's defence. The Court of Appeal dismissed his appeal on the ground of immunity from suit, relying on the fact that the documents in issue were part of the criminal investigation. The applicant appealed to the House of Lords. Lord H. reaffirmed that the disclosure of documents of the prosecution by the

prosecution as unused material generated an implied undertaking that they would not be used for collateral purposes. As regards the immunity from suit, Lord H. held that it concerned those taking part in a trial (judges, advocates and witnesses) regarding anything written or spoken during the proceedings; it was absolute and could not be defeated even by proof of malice. Lord H. considered that this immunity should be extended to those assisting investigators and to investigators themselves, like in the present case, with the exclusion of actions for malicious prosecution.
Communicated under Articles 6(1), 8 and 13.

ACCESS TO COURT
Striking out of proceedings on the ground of "immunity from suit" applying to statements made by an officer of the court during bankruptcy proceedings: *communicated*.

MOND - United Kingdom (N° 49606/99)
[Section III]

The applicant, as a trustee in bankruptcy, was responsible for recovering court damages due to the bankrupt for the benefit of the latter's creditors. He claimed that he had accepted the appointment as trustee because the Assistant Official Receiver (hereafter, AOR) had assured him that he had not waived the interest of the creditors in the award of damages. However, the bankrupt, who claimed that the AOR had waived all claims over the award, started proceedings against the applicant, seeking a declaration that the latter had no interest in the award. The applicant defended the proceedings on the strength of the assurances the AOR had given him. The bankrupt was successful and his costs, approximately GBP 110,000, were awarded against the applicant. Consequently, the applicant initiated proceedings against the AOR for negligent misstatement. The High Court found that it had not been established that the AOR's statements were negligent or that a causal link existed between them and the applicant's loss. The Court of Appeal rejected the applicant's subsequent appeal. It considered that the AOR enjoyed absolute immunity of action during the bankruptcy proceedings. The gathering of assets of the bankrupt's estate for the purpose of being distributed to the creditors being part of the bankruptcy proceedings, the court concluded that the AOR was entitled to immunity from suit at the time he made the impugned statements.
Communicated under Article 6(1).

Article 6(1) [criminal]

FAIR HEARING
Use in evidence against accused of tape and video recordings made covertly: *admissible*.

ALLAN - United Kingdom (N° 48539/99)
Decision 28.8.2001 [Section III]

The applicant and another man were arrested on suspicion of having committed a robbery. The applicant's co-accused admitted the offence as well as other similar robberies,while the applicant denied any involvement. The police suspected the applicant and his co-accused of having committed a murder on the occasion of a robbery. They were remanded in custody. With authority granted by the Chief Constable, their cell and visit areas were bugged with audio and video devices; similar authority was obtained for the police station where the applicant was later held. The visits of a friend of the applicant were recorded and a cell-mate

was fitted with recording devices by the police to elicit evidence from the applicant. He gave murder scene; the purported admission was not part of the recordings made and was discussed at the trial. The recorded conversations were adduced in evidence at the trial, the applicant's counsel having unsuccessfully challenged the admissibility in evidence of extracts from the covert tape and video recordings. The judge directed the jury on the possible drawing of inferences from the applicant's silence in police interviews. He was eventually convicted of murder and sentenced to life imprisonment. His requests for leave to appeal were turned down.
Admissible under Articles 6(1) (use of surveillance recordings in evidence), 8 and 13.
Inadmissible under Article 6(1) (right to remain silence): The running of the six month time-limit imposed by Article 35(1) is, as a general rule, interrupted by the first letter from the applicant indicating an intention to lodge an application and giving some indication of the nature of the complaints made. As regards complaints not included in the initial application, the running of the six month time-limit is not interrupted until the date when the complaints are first submitted to the Court. The issue concerning the adverse inference drawn by the jury from the applicant's silence was only raised in a letter of 18 September 2000. If the applicant's solicitors had invoked the issue of fairness of the proceedings in an earlier letter, they had narrowed it down to the use of covert recordings and the evidence of an informant. The issue regarding the applicant's right to silence could not be regarded as so closely connected to the other complaints raised under Article 6 that it could not be examined separately. The final decision in the process of exhaustion of remedies in relation to this complaint being the Court of Appeal judgment of 18 January 1999, this part of the application was therefore introduced out of time.

ARTICLE 8

PRIVATE LIFE
Tape and video recordings made without the knowledge of an accused: *admissible*.

ALLAN - United Kingdom (N° 48539/99)
Decision 28.8.2001 [Section III]
(See Article 6(1) [criminal], above).

FAMILY LIFE
Refusal to renew residence permit following criminal conviction, resulting in separation from wife: *violation*.

BOULTIF - Switzerland (Nº 54273/00)
*Judgment 2.8.2001 [Section II]

Abdelouahab Boultif, an Algerian national, entered Switzerland with a tourist visa in December 1992. On 19 March 1993 he married M.B., a Swiss national. On 11 May 1998 he started a two-year prison sentence for robbery and other offences and on 19 May, the Swiss authorities refused to renew his residence permit. On 3 December 1999 the Federal Aliens' Office ordered Mr Boultif to leave Switzerland by 15 January 2000. At an unspecified date in 2000 he left the country and is currently living in Italy. He complains that the order resulted in him being separated from his wife, who did not speak Algerian and could not be expected to follow him to Algeria.

The European Court of Human Rights considered that the applicant had been subjected to a serious impediment to establish family life, since it was practically impossible for him to live with his family outside Switzerland. In addition, when the Swiss authorities had decided to refuse to renew his residence permit, he only presented a comparatively limited danger to public order. The interference was, therefore, not proportionate to the aim pursued. The Court held, unanimously, that there had been a violation of Article 8 and awarded the applicant 5,346.70 Swiss francs for costs and expenses.

ARTICLE 11

FREEDOM OF ASSOCIATION
Legal prohibition on freemasons holding public offices: *violation.*

GRANDE ORIENTE D'ITALIA DI PALAZZO GIUSTINIANI - Italy (N° 35972/97)
*Judgment 2.8.2001 [Section IV]

Facts: In 1996 the Marches region enacted a regional law laying down the principles governing appointments to public offices within its gift. The law requires candidates for such posts to produce a declaration certifying that they are not Freemasons. The applicant association is an Italian Masonic Order enjoying the status of an association governed by private law. Acting through its Grand Master, it complained of the damage it had suffered on account of the law in question.
Law: Article 11 – The Convention applied to associations, even if their activities were thought by the national authorities to undermine the constitutional foundations of the State and to need restricting. That was all the truer in the case of an association which, like the applicant association, had not in fact been suspected of undermining the constitutional order. The obligation on candidates for public office to declare that they did not belong to a Masonic lodge might damage the applicant association by causing its members to leave and harming its prestige. There had consequently been interference and the applicant association could claim to be a victim. The interference had been prescribed by law, as the impugned measure was provided for in the 1996 regional law. The Government maintained that the law had been passed in order to reassure the public at a time when the role of certain Freemasons in public life in Italy was the focus of national debate. The aim of the interference in issue had therefore been to strengthen national security and protect public order. As to whether it was necessary in a democratic society even though few members of the applicant association were likely to be faced with the dilemma of choosing between the association and the posts covered by the 1996 law, freedom of association was of such importance that it could not be restricted – a principle that would remain valid even if just one member of the applicant association was a candidate for public office, in so far as that person did not commit any reprehensible act by being members of the association. Moreover, the applicant association was affected by decisions taken by its members. In the end, therefore, the measure in issue did not appear necessary in a democratic society. It remained to be determined whether the measure was justified by the last sentence of Article 11(2), under which States were entitled to impose lawful restrictions on the exercise of the right to freedom of association by members of certain categories, including the administration of the State. While it was, in principle, for the national authorities to interpret and apply domestic law, the applicant association in the instant case had had no possibility of challenging the constitutionality of the impugned provision in the courts. Consequently, the legal position had been sufficiently clear to enable the applicant association to regulate its conduct; the requirement of foreseeability had therefore been satisfied and the restriction in issue had been lawful within the meaning of Article 11(2). As to whether the posts covered by the 1996 law fell within the category of the administration of the State, that concept had to be interpreted narrowly, regard being had to

the post held by the official concerned. In the Vogt v. Germany case (judgment of 26 September 1995, Series A no. 323) the Court had refrained from determining whether a teacher was part of the administration of the State. In the instant case, however, the link between the posts covered by the 1996 law and the Marches region was probably not as close as that which had existed between Mrs Vogt, a teacher appointed to a permanent civil-service post, and her employer. Accordingly, the interference was not justified by the second sentence of Article 11(2).
Conclusion: violation (unanimously).
Article 41: The Court awarded 10,000,000 Italian lire for costs and expenses.

FREEDOM OF ASSOCIATION
Disciplinary sanction imposed on a judge on account of his membership of a masonic lodge: *violation*.

N.F. - Italy (Nº 37119/97)
*Judgment 2.8.2001 [Section II]

Facts: The applicant, a judge, joined a Masonic lodge. The Minister of Justice and Principal State Counsel at the Court of Cassation instituted disciplinary proceedings against judges who were Freemasons after a list had been provided by the National Council of the Judiciary. The applicant was summoned before the disciplinary section of the National Council of the Judiciary and given a warning. He appealed on points of law but the appeal was dismissed. Subsequently the National Council of the Judiciary twice indicated that it was not in favour of the applicant's promotion in view of the disciplinary sanction that had been imposed on him.
Law: Article 11 – The disciplinary sanction had amounted to interference with the applicant's freedom of association. In order to determine whether that interference had been prescribed by law, it had to be established not only that it had some basis in law but also that the relevant provisions were both accessible and foreseeable in their effect. In the instant case the disciplinary sanction had had a basis in law, namely Article 18 of a 1946 decree, which was public and accessible. As regards foreseeability, the provision was of a general nature and did not specify whether and in what way judges could exercise their right to freedom of association. However, in guidelines issued in 1990 the National Council of the Judiciary had emphasised that problems might arise if members of the judiciary were also members of lawful associations which, like the Freemasons, were governed by specific rules of conduct. Although the guidelines had been primarily concerned with membership of the Freemasons, the wording used to refer to that society had been equivocal. The guidelines had stated clearly only that "naturally, members of the judiciary are prohibited by law from joining the associations proscribed by Law no. 17 of 1982". With regard to other associations, the guidelines had alerted the Minister of Justice to the need to look into the advisability of placing restrictions on judges' freedom of association, and had referred in that connection to all associations whose members were united by particularly strong bonds of hierarchy and solidarity. The wording of the 1990 guidelines had consequently not been sufficiently clear to enable even a person well versed in the law, such as the applicant, to realise that membership of a Masonic lodge could lead to a disciplinary sanction. Since the requirement of foreseeability had not been satisfied, the interference could not be regarded as having been prescribed by law.
Conclusion: violation (four votes to three).
Article 8 – As regards the disclosure of the applicant's membership of the Freemasons, the concept of "private life" encompassed a person's physical and psychological integrity. The guarantee in Article 8 of the Convention was primarily intended to ensure the development, without outside interference, of the personality of each individual in his relations with other human beings. In the instant case the applicant had failed to establish that disclosure to the press of his membership of the Freemasons had caused him any damage in that regard;

indeed, he had acknowledged that anyone could have discovered that he was a member by consulting the list of members.
Conclusion: no violation (unanimously).
Articles 8, 9 and 10 read separately or in conjunction with Article 14, and Article 11 taken together with Article 14 – In the light of the Court's reasoning in respect of Article 11, it was unnecessary to examine separately the applicant's complaint under Article 8 inasmuch as it concerned the imposition of a disciplinary sanction on account of his membership of the Freemasons or his complaints under any of the other Articles relied on.
Conclusion: no need to examine separately (unanimously).
Article 41: The Court awarded the applicant 20,000,000 Italian lire in respect of the damage sustained, and 27,312,012 Italian lire for costs and expenses.

ARTICLE 34

VICTIM
Association complaining of measures affecting its members: *victim status accepted*.

GRANDE ORIENTE D'ITALIA DI PALAZZO GIUSTINIANI - Italy (Nº 35972/97)
*Judgment 2.8.2001 [Section IV]
(See Article 11, above).

ARTICLE 35

Article 35(1)

SIX MONTH PERIOD
Running of six months time-limit interrupted only when complaints first submitted to the Court.

ALLAN - United Kingdom (N° 48539/99)
Decision 28.8.2001 [Section III]
(See Article 6(1) [criminal], above).

ARTICLE 44

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three month time limit for requesting referral to the Grand Chamber) (see Information Note No. 30):

J.B. - Switzerland (Nº 31827/96)
Judgment 3.5.2001 [Section II]

HUGH JORDAN - United Kingdom (Nº 24746/95)
McKERR - United Kingdom (Nº 28883/95)
KELLY and others - United Kingdom (Nº 30054/96)
SHANAGHAN - United Kingdom (Nº 37715/97)
Judgments 4.5.2001 [Section III]

SCHEELE - Luxembourg (Nº 41761/98)
Judgment 17.5.2001 [Section II]

ALTAY - Turkey (N° 22279/93)
Judgment 22.5.2001 [Section I]

BAUMANN - France (Nº 33592/96)
VERMEERSCH - France (Nº 39273/98)
Judgments 22.5.2001 [Section III]

DENIZCI and others - Cyprus (Nº 25316-21/94 and 27207/95)
Judgment 23.5.2001 [Section IV]

FISCHER - Austria (Nº 37950/97)
Judgment 29.5.2001 [Section II]

K.P. - Finland (Nº 31764/96)
METZGER - Germany (Nº 37591/97)
Judgments 31.5.2001 [Section IV]

ARTICLE 1 OF PROTOCOLE No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS
Prolonged building prohibition: *no violation*.

COOPERATIVE LA LAURENTINA - Italy (Nº 23529/94)
*Judgment 2.8.2001 [Section II]

Cooperativa La Laurentina, a cooperative with limited liability under Italian law, alleged that that for more than thirty-five years the Rome city council had not adopted a plan implementing the general development plan and that this inertia had deprived it of the possibility of obtaining a building permit and had affected its right to use its land.

The Court found that, during an initial period lasting until 1974, the applicant company's right to build had not been affected in substance, but it had been subject to a condition, namely, the adoption either of a detailed development plan on the initiative of the State or a development agreement on the initiative of a private entity.
The Court considered that there had been no uncertainty as to the nature of the land or its possible use because the applicant company had known since 4 March 1966 that it was subject to the general development plan and that it could not obtain a building permit unless the conditions fixed by the general development plan were satisfied.
The lack of a detailed development plan had indisputably led the authorities to reject the applications for a building permit. It was therefore incumbent on the Court to assess the impact which the council's inertia had had on the applicant company's position and, accordingly, whether it could have counteracted that inertia.
In that connection, the Court noted that the applicant company could have signed a development agreement and that there was no evidence that such a move would have stood absolutely no chance of success. The Court considered that this possibility was sufficient to ensure protection of the right to peaceful enjoyment of possessions, and noted that the applicant company had not taken any action in that regard.
Consequently, even if the authorities had delayed in adopting the detailed plan, the failure of the applications for a building permit was also attributable to the conduct of the applicant company.
During a second period, after 1974, the applicant company's land had not any longer corresponded to the cooperative's object, since from then on it could be used only for building houses. However, the Court was of the opinion that the applicant company's rights as an owner had for the most part been preserved because (a) it was aware that the value of the land had considerably increased; (b) it had been able to continue receiving rent for the property on the land; and (c) above all, it could have sold the land, but had not shown that it had ever attempted to do so.
In the circumstances, the Court concluded that the conduct of the national authorities had not made the applicant company's right of property unstable and uncertain to such an extent that the fair balance which must be struck between the public interest and the private interest could be said to have been upset.
The European Court of Human Rights held, unanimously, that there had been no violation of Article 1 of Protocol No. 1 of the European Convention on Human Rights.

PEACEFUL ENJOYMENT OF POSSESSIONS
Prolonged building prohibition: *violation*.

<u>ELIA s.r.l. - Italy</u> (Nº 37710/97)
*Judgment 2.8.2001 [Section II]
(See Appendix).

APPENDIX

Elia s.r.l. v. Italy judgment - extract from press release

The Court held, by six votes to one, that there had been a violation of Article 1 of Protocol No. 1 to the Convention. It reserved the question of the application of Article 41 (just satisfaction) of the Convention

Principal facts

The applicant, Elia Srl, is an Italian private company, whose registered office is in Rome. It owns approximately 65,000 square metres of land in the municipality of Pomezia.
Under the general town-development plan for Pomezia, which was put to the vote by the municipal authorities in 1967 and approved by the Lazio regional authority in 1974, the applicant company's land was set aside for the creation of a park for the general public. Consequently, an absolute ban on building on the land was imposed with a view to its being expropriated. The ban lapsed in 1979. From that point on, pending a decision by the Pomezia municipal authorities on its future use, the land was subject to the rules in Law no. 10 of 1977 and to the building restrictions applicable thereunder.
In 1995 the Pomezia municipal authorities resolved to adopt a detailed town-development plan and imposed a fresh absolute ban on building with a view to the expropriation of the applicant company's land. The detailed development plan was adopted in 1999.
The applicant complained that the restrictions on the use of the land over an extended period without compensation had infringed its right to the peaceful enjoyment of its possessions, in breach of Article 1 of Protocol No. 1 to the European Convention on Human Rights.

Decision of the Court

Article 1 of Protocol No. 1 to the Convention

The Court noted that a ban had been imposed under the general town-development plan on building on the applicant company's land with a view to its expropriation. After the expiry of the relevant period the ban had remained in force under the rules laid down by Law no. 10 of 1977. Lastly, a further ban on building had been imposed under the detailed development plan, again with a view to expropriation.
The Court considered that that situation amounted to an interference with the applicant company's right to peaceful enjoyment of its possessions and came within the first sentence of Article 1 of Protocol no. 1. Accordingly, it had to examine whether a fair balance had been struck between the requirements of the general interest of the community and the applicant company's right to peaceful enjoyment.
The Court found that during the period concerned the applicant company had been in a state of total uncertainty regarding the future of its property. That uncertainty had remained from 1979 to 1995, despite the applicant company's requests for information from the municipal authorities and its appeals to the administrative courts.
The Court further considered that the bans on building throughout the period concerned had prevented the applicant company from having full enjoyment of its property and had aggravated the adverse effects for the applicant company by, among other things, considerably diminishing its prospects of selling the land.
The Court noted lastly that the domestic legislation did not provide for compensation.
Having regard to the circumstances of the case, in particular, the uncertainty and lack of an effective domestic remedy capable of removing it coupled with the interference with the full enjoyment of the property and denial of any compensation, the Court held that there had been a violation of Article 1 of Protocol No. 1, in that the requisite fair balance between the

demands of the general interest and the protection of the right to peaceful enjoyment of possessions had been upset.

Article 41 of the Convention

The Court held that the question of the application of Article 41 was not ready for determination and should be reserved in view of the possibility of an agreement being reached between the respondent State and the applicant company. It granted the parties three months for that purpose.

Judge Conforti expressed a dissenting opinion, which is annexed to the judgment.

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

Convention

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

Protocol No. 1

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

Protocol No. 2

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

Protocol No. 6

Article 1	:	Abolition of the death penalty

Protocol No. 7

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