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COUNCIL OF EUROPE

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

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

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ARTICLE 1

JURIDICTION OF STATES
Inability for persons displaced from Abkhazia (Georgia) during the Georgian-Abkhaz conflict to regain access to their homes, which they claim have been occupied by third parties: *communicated*.

MEKHOUZLA - Georgia and Russia (N° 5148/05)
SANAIA - Georgia and Russia (N° 26166/05)
DVALI ET GOGUIA - Georgia and Russia (N° 42765/05)
[Section II]

The applicants all lived in houses which they owned in the Autonomous Republic of Abkhazia (Georgia). In the wake of the armed conflict between local forces and central Government troops, ethnic Abkhaz separatist forces took control of the region and proclaimed an independent State. In the ensuing exodus of ethnic Georgians from the Autonomous Republic of Abkhazia, the applicants were forced to leave the region. They took refuge in Tbilisi, where they were legally recognised as displaced persons. They complained before the Court that their houses in Abkhazia had been unlawfully appropriated and occupied by third parties. Mrs Mekhouzla applied unsuccessfully to the court of first instance of the city where her property was situated, sitting in exile in Tbilisi, for recognition of her legal title to the house which, she alleged, had been appropriated by a family of Abkhaz ethnic origin. The court noted that the applicant had produced all the necessary papers proving her ownership of the property and the fact that her title to the property had been duly registered. However, noting that the city where the property was situated was in territory not controlled by Georgia and that Georgia did not exercise jurisdiction there, the court found that it was unable to establish the identity of the person of Abkhaz origin living in the house or to what person of that origin the property had been re-sold. International organisations spoke out against ethnic cleansing of the Georgian population in Abkhazia. The Georgian Parliament stated that the Abkhaz authorities were engaged in the illegal transfer of the property of displaced persons, in particular those of Georgian origin. It declared any contract for the transfer of displaced persons' property concluded with the Abkhaz authorities since the outbreak of hostilities to be illegal. Parliament also called for the withdrawal of Russian troops from the territory of Abkhazia. The "Republic of Abkhazia" made a formal declaration of independence in 1999.
The applicants submitted that the facts complained of engaged the responsibility of the Georgian State, despite Abkhazia's declaration of independence, and also the responsibility of the Russian Federation for its actions in the area during and after the war of secession.
Communicated under Articles 3, 8, 13 and 14 and Article 1 of Protocol No. 1.

ARTICLE 2

USE OF FORCE
Use of lethal force by police officers fired at in a café, and effectiveness of the investigations: *no violation/violation*.

YÜKSEL ERDOĞAN and Others - Turkey (N° 57049/00)
Judgment 15.2.2007 [Section III]

Facts: The application concerned the killing of two of the applicants' relatives resulting from an armed clash with police officers from an anti-terror branch. There was a two-month investigation into the circumstances of the death. Four police officers were charged with manslaughter and the court-proceedings lasted more than eight years. It was found established, in particular, that the police officers had fired shots at long range, in response to shots coming from the suspects, after having given the necessary warnings. The trial ended with the acquittal of all of the accused as they had remained

within the limits of legitimate self-defence in accordance with applicable law on the duties and legal powers of police. The Court of Cassation upheld the judgment.

Law: *Preliminary objections (non-exhaustion and six-month rule) dismissed* – Some family members of one of the deceased did not join in the criminal proceedings as civil parties nor lodged a criminal complaint. This was not deemed to be an issue since the prosecuting authorities are under the obligation to act of their own motion without waiting for a next-of-kin to lodge a complaint where an individual has been killed as a result of the use of force by members of the security forces, and since the father of the deceased had joined the proceedings in question and had raised all the issues concerning his son's killing. The criminal proceedings had afforded in principle a remedy which the applicants were required to exhaust, but had lasted some eight years. In view of the seriousness of the charges, the substantial delays involved had deprived the remedy of its effectiveness. The applicants had acted reasonably in awaiting developments in the criminal proceedings before lodging their complaint with the Court and the application had been brought within six months of the date when they had become aware or ought to have become aware that the remedy would not be effective.

Article 2(2) – *Killings*: It had not been sufficiently proved that there was a premeditated plan to kill the applicants' relatives. The operation was effected "in defence of any person from unlawful violence" and "in order to effect a lawful arrest" within the meaning of Article 2(2). The first gunshot had come from the deceased. The police officers had ordered the deceased to surrender, had given the necessary warnings before shooting and had started shooting, at long range, only after having been fired at. The police officers had believed that it was necessary to continue firing until the suspects stopped firing back. Given the emergency nature of the situation – police officers confronted with armed suspects in a public place – the use of lethal force, however regrettable, had not exceeded what was "absolutely necessary" for the purposes of self-defence and carrying out a lawful arrest.
Conclusion: no violation (six votes to one).

Investigation: The criminal investigation had serious shortcomings, such as the failure to establish whether the deceased had ever handled the firearms found at the scene of the incident and the absence of photographs taken at the scene of the incident or of sketches to give an idea of each police officer's position in the café at the time of the shootings. One of the police officers who had participated in the operation also had participated in the first examination of the scene of the incident with the Public Prosecutor. These defects in the investigations fundamentally had undermined the domestic court's ability to establish the accountability for the killings. Other deficiencies had occurred in the course of the proceedings before that court: only six witnesses had made statements, three of whom being police officers who had participated in the police operation and one of whom being the owner of the café, although she had not been present at the time of the incident. Finally, the accused police officers had not attended the inspection conducted on-site. There were also substantial delays in the proceedings.
Conclusion: violation (unanimously).

USE OF FORCE
Killings during an armed clash with security forces and lack of domestic investigation into the circumstances of the deaths: *no violation/violation*.

AKPINAR and ALTUN - Turkey (N° 56760/00)
Judgment 27.2.2007 [Former Section II]

Facts: The applicants' brother and son were killed in the course of an armed clash between members of an armed organisation and security forces. *Post mortem* examinations revealed that one or both of the deceased's ears had been cut off, in whole or in part. The authorities nevertheless took no investigative steps regarding the circumstances of the deaths. An investigation was opened into the applicants' allegations that their relatives had been tortured before death or that their corpses had been mutilated by the security forces. Four gendarmerie officers were charged with "insulting corpses". Less than two years

after the events, the criminal proceedings were suspended, with the possibility that a final sentence be imposed should the accused be convicted of a further intentional offence within five years.

Law: Article 2(2) – *Killings*: Given the absence of an investigation initiated at domestic level for the purpose of ascertaining whether the force used during the armed clash had been necessary, the Court was unable to establish "beyond reasonable doubt" that the applicants' relatives had been deprived of their lives by the security forces as a result of a use of force which was no more than absolutely necessary.
Conclusion: no substantive violation (unanimously).

Investigation: The authorities failed to conduct an independent and impartial official investigation into the circumstances surrounding the death of the applicants' relatives.
Conclusion: procedural violation (unanimously).

Article 3 – *Act of mutilation itself*: The ears had been cut off by the time the *post mortem* examination occurred. Prior to that examination, the corpses had been under the exclusive control of the security forces. Hence, the mutilation of the bodies occurred while in the hands of the State security forces. In the light of two cases in which members of the security forces deployed in the fight against terrorism in Turkey were accused of mutilating corpses after the death of the victims (*Akkum and Others* and *Kanlıbaş*, judgments 2005, Case-Law Report / Information Note No. 73), the Court concluded that the ears were cut off after death.
Nevertheless, the human quality is extinguished on death and the prohibition on ill-treatment is no longer applicable to corpses, despite the cruelty of the acts concerned.
Conclusion: no violation in relation to the deceased (six votes to one).

Applicants presented with the mutilated bodies of their relatives: As sister and father of the deceased, they could claim to be victims within the meaning of Article 34 and the suffering caused to them as a result of this mutilation amounted to degrading treatment (see *Akkum and Others*).
Conclusion: violation in respect of the applicants themselves (unanimously).

Article 41 – EUR 20,000 in respect of non-pecuniary damage, to each applicant.

USE OF FORCE
Fatal wounding of a demonstrator by a shot fired by a member of the security forces from a jeep that was under attack from a group of demonstrators: *admissible*.

GIULIANI - Italy (N° 23458/02)
Decision 6.2.2007 [Section IV]

The application concerns the death of the applicants' son and brother, at the age of 23, which occurred while he was taking part in an anti-globalisation demonstration in connection with the G8 summit held in Genoa in 2001. Violent clashes took place between demonstrators and the security forces, and a security forces jeep which had stalled came under attack from a group of demonstrators brandishing stones, sticks and iron bars. One of the three *carabinieri* in the jeep, a twenty-year-old officer, was suffering the effects of tear-gas canisters thrown during earlier clashes. Crouched down, panicking, in the back of the vehicle and shouting to the crowd to leave, he seized his weapon, pointed it outside the vehicle and fired two shots. Carlo Giuliani, who had just picked up an empty fire extinguisher, was a few metres from the back of the jeep; the first bullet hit him in the face, below the left eye, and he fell to the ground behind the jeep. In an attempt to move the jeep out, the driver reversed over Mr Giuliani's body; he then drove forwards over the body again. When the demonstrators had been dispersed a doctor went to the scene and pronounced Mr Giuliani dead. An investigation was opened immediately by the Italian authorities, in the course of which statements were taken from the three *carabinieri* in the jeep and evidence was heard from other *carabinieri* and some of the demonstrators. Criminal proceedings for intentional homicide were instituted against the officer who had fired the shots and the driver of the jeep. The autopsy performed within 24 hours of death revealed that the impact of the bullet had been sufficient to kill the victim within

a few minutes, whereas the jeep's driving over his body had resulted only in minor injuries. At the public prosecutor's request three expert reports were prepared. The report submitted by a panel of experts deplored the fact that they had been unable to examine Mr Giuliani's body, which had been cremated. The experts concluded that the bullet had been fired upwards by the officer and had not struck the victim directly, but had been deflected by a stone thrown at the jeep by another demonstrator. They further found that, at the time the shot was fired, Carlo had been about 1.75 metres from the jeep and the officer firing the shot had been able to see him. The experts appointed by the applicants acknowledged that the fatal bullet had been in several pieces when it hit Carlo, but disputed the theory that it had been deflected by a stone, and also the findings regarding the distance and direction from which the shot had been fired. The public prosecutor requested that the proceedings be discontinued and the applicants objected. The investigating judge decided to discontinue the proceedings. She held that the driver of the jeep, whose actions had resulted only in bruising, could not be held responsible for the killing as he had been unable to see Carlo given the confusion prevailing around the vehicle. As to the officer who had fired the fatal shot, the judge took the view that he had fired into the air but that the bullet had been deflected by some object before striking Carlo. In the judge's view, the use of the weapon had been justified in the circumstances and the officer had acted in self-defence.
Admissible under Articles 2, 3, 6 and 13, after dismissal of the preliminary objection concerning failure to exhaust domestic remedies.

ARTICLE 3

INHUMAN OR DEGRADING TREATMENT
Mutilation of corpses – ears cut off after death: *no violation* (as regards the deceased).

AKPINAR and ALTUN - Turkey (N° 56760/00)
Judgment 27.2.2007 [Former Section II]

(see Article 2 above).

INHUMAN OR DEGRADING TREATMENT
Applicants presented with the mutilated bodies of relatives: *violation*.

AKPINAR and ALTUN - Turkey (N° 56760/00)
Judgment 27.2.2007 [Former Section II]

(see Article 2 above).

INHUMAN OR DEGRADING TREATMENT
Fatally wounded demonstrator run over by a police vehicle: *admissible*.

GIULIANI - Italy (N° 23458/02)
Decision 6.2.2007 [Section IV]

(see Article 2 above).

DEGRADING TREATMENT
Unjustified strip-search during arrest: *violation*.

WIESER - Austria (N° 2293/03)
Judgment 22.2.2007 [Section I]

Facts: Following accusations by the applicant's wife, a warrant was issued to search his house and arrest him on suspicion of having assaulted and raped her and having threatened her with a firearm. Around midnight, six masked and armed members of a special police task force forcibly entered his home. They forced him to the ground and handcuffed him. After that he was laid on a table where he was stripped naked, searched for arms, dressed again, then forced to the ground where he remained for some 15 minutes, with a police officer's knee against the back of his neck, while other police officers searched his house. He alleged that during that time he was blindfolded and, having urinated in his clothes from the shock of his arrest, was not allowed to change despite repeated requests. The police officers also threatened him with being "picked off", despite his remaining calm and cooperative throughout the arrest and his ensuing detention. Following questioning until about 4 a.m. at the local police station, the applicant was released and taken back home. The criminal proceedings against him were later discontinued. He complained to the administrative authorities about his treatment at the hands of the police. His complaints were all dismissed, except for one concerning the refusal to let him change his wet clothes. He was awarded EUR 2,400 in compensation in this respect.

Law: Within the context of the serious allegations against the applicant and the fact that he had been believed to be armed and dangerous, the intervention of six specially equipped, masked police officers had not raised an issue under Article 3. In the light of those circumstances, the applicant's handcuffing throughout his arrest which had lasted about four hours and which had not entailed being on public view, had not caused any physical injury or long-term effect on his mental state, and therefore had not attained the minimum level of severity required for Article 3 to apply. The Court could not examine the applicant's complaint concerning the threat of "being picked off" and being forced to the ground with a police officer's knee against the back of his neck because it had not been established beyond reasonable doubt whether this had actually taken place, it being disputed by the police officers during the domestic proceedings and not conclusively established by the domestic courts or the Government. As concerned the strip-search, the applicant had been particularly defenceless when undressed by the police officers. That procedure had been invasive and potentially debasing and should not have been used without a compelling reason. However, the strip-search had neither been proved necessary nor justified for security reasons. In particular, the applicant, who had already been handcuffed, had been searched for arms and not for drugs or other small objects. In sum, the search had constituted unjustified treatment of sufficient severity to be characterised as "degrading".
Conclusion: violation (four votes to three).

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

EXTRADITION
Extradition to the United States of a Yemeni national charged with membership of terrorist associations, allegedly risking being subjected to interrogation methods amounting to torture: *inadmissible*.

AL-MOAYAD - Germany (N° 35865/03)
Decision 20.2.2007 [Section V]

A Yemeni citizen on an undercover mission in Yemen for the US investigation and prosecution authorities convinced the applicant that he could put him in touch with a person abroad who was willing to make a major financial donation. Thereupon, the applicant decided to travel to Germany, where he was arrested, under an arrest warrant issued by the US authorities, which charged him with supporting terrorist groups.

The US authorities requested formally his extradition for criminal prosecution and charged him finally with membership of two terrorist associations, Al-Qaeda and the extremist branch of the Hamas. In Germany, the applicant was remanded in custody pending extradition.
The US Embassy gave an assurance to the German authorities that the applicant would not be prosecuted by a military tribunal or by any other extraordinary court.
Thereupon, and as there was nothing to warrant the conclusion that the applicant might be subjected to unfair criminal proceedings or torture in the US, the extradition to the USA was granted. The applicant's appeals against his extradition were dismissed.
The applicant filed a constitutional complaint. He argued, in particular, that his surveillance by the FBI in Yemen and his abduction from that country to Germany had been in breach of public international law and that, accordingly, his detention pending extradition had no legal basis. He claimed that if he were to be extradited, he would be placed in preventive detention in the USA indefinitely without access to a court or a lawyer, and exposed to interrogation methods amounting to torture. The Constitutional Court rejected his complaint. It stated in particular that there was no general rule of public international law to prevent a person being lured by trickery from his State of origin to a State to which a request was then made for his extradition in order to circumvent a ban on extradition that was valid in his State of origin.
The German Government thereafter authorised the extradition, on condition that the applicant was not sentenced to death or committed to stand trial before a military tribunal. The applicant lodged a request before the Court under Rule 39 of its Rules of Court for his extradition to be stayed pending the outcome of his application to the Court. Two days later, the German authorities extradited him. At that time, the Court had not yet rendered a decision on the applicant's request. The applicant was brought before a judge immediately after his arrival in the USA. A US court began trying him on charges of having provided material support to Al-Qaeda about one year and two months after his arrival in the USA. The applicant has been sentenced to imprisonment.

Inadmissible under Article 3 – On the basis of reports concerning the ill-treatment of prisoners associated with international terrorism, the applicant complained that following his extradition he would be subjected to interrogation methods amounting to torture at the hands of the US authorities.
However, these reports concern prisoners detained by the US authorities outside the national territory and the German authorities were satisfied by the assurance given to them by the US authorities that the applicant would not be detained in any of these places. The German authorities expressly stated in the extradition proceedings and in their conditions for allowing the applicant's extradition that they understood the US authorities' assurance to comprise an undertaking not to detain the applicant in a facility outside the USA. This assessment has indeed been confirmed following the extradition. Moreover, it had not been Germany's experience that assurances given to them in the course of proceedings concerning extraditions to the USA were not respected in practice or that the suspect was subsequently ill-treated in US custody. Finally, the applicant's personal circumstances were carefully considered by the German authorities and courts in the light of a substantial body of material concerning the current situation in the USA. Hence, the assurance obtained was such as to avert the risk of the applicant's being subjected to interrogation methods contrary to Article 3 following his extradition: *manifestly ill-founded*.

Inadmissible under Article 5(1)(f) – The applicant claimed that his detention pending extradition had been unlawful, as his placement under surveillance in and abduction from Yemen by the US authorities had breached public international law.
However, no use of force had been alleged. The applicant was tricked by the US authorities into travelling to Germany. The respondent State was not the one responsible for the extraterritorial measures on Yemen's territory aimed at inciting the applicant to leave that country. The cooperation between German and US authorities on German territory, pursuant to the rules governing mutual legal assistance in arresting and detaining the applicant, does not in itself give rise to any problem under Article 5: *manifestly ill-founded*.

Inadmissible under Article 6(1) – The applicant argued that he risked suffering a flagrant denial of fair trial in the extradition's State.
However, at the time of his extradition, there were no substantial grounds for believing that he would subsequently suffer a flagrant denial of a fair trial by being detained without access to a lawyer and to the

ordinary US criminal courts. Regard must be had, in this respect, to the assurance given by the US authorities, to the fact that the extradition was granted on the basis of a bilateral treaty between Germany and the USA, to the thorough examination of the circumstances of the case carried out by the German authorities and courts and to their long-standing experience of extraditions to the USA, and in particular to the fact that the assurances given to them up to that point had been respected in practice. The German Government was entitled to infer from the assurance given that the applicant would not be transferred to one of the detention facilities outside the USA – that is, the facilities in which terrorist suspects were held without being granted access to a lawyer or to the ordinary criminal courts. The German authorities could reasonably infer from the assurance given to them in the course of the extradition proceedings that the applicant would in fact be committed to stand trial for the offences in respect of which his extradition had been granted and that he would therefore not be detained for an indefinite duration without being able to defend himself in court: *manifestly ill-founded*.

Inadmissible under Article 34 – The applicant argued that the German authorities had extradited him to the USA even though the Government had been notified that he had lodged an application and a Rule 39 request with the Strasbourg Court.
As this Court had not yet rendered a decision on the applicant's request for interim measures under Rule 39 at the time the German authorities extradited him, the respondent Government could not be said to have failed to comply with measures formally indicated under Rule 39.
Moreover, it had not been established that the competent German authorities were duly informed that a request under Rule 39 had been made by the applicant. Hence the Court could conclude that those authorities deliberately prevented it from taking a decision on the applicant's Rule 39 request or from notifying them of this decision in a timely manner, in breach of the respondent Government's obligation to cooperate with the Court in good faith: *manifestly ill-founded*.

EXPULSION
Proposed deportation of applicant to Sudan to face hostility from authorities and militia: *communicated*.

ALNOUR - United Kingdom (N° 1682/07)
[Section IV]

The applicant was issued with removal directions to Sudan. He allegedly is a member of the Zaghawa tribe from Tinas in Darfur. Having been a military leader of the Justice and Equality movement ("JEM" – rebel group involved in Darfur conflict) and because of his Zaghawa ethnicity, he fears the Sudanese authorities and Janjaweed (the Arab militia). His parents were killed when the Janjaweed attacked their village and two of his brothers were killed during the fighting in Darfur. His wife and two sisters are in a refugee camp in Chad. Before fleeing Sudan, he was captured as a prisoner of war and his name appeared on a list of people wanted by the Sudanese authorities. He claimed asylum in the United Kingdom after being apprehended and served with illegal entry papers. His asylum was rejected by the Home Office as: (i) his credibility was doubted, in particular his alleged membership and senior position in JEM as he lacked basic knowledge about the organisation such as its most recent split into two factions and that it was a signatory to the Peace Accord and (ii) his relocation to Khartoum was viable as there was no evidence that he would be at risk as a Zaghawa tribesman. An immigration judge at the Asylum and Immigration Tribunal rejected his appeal. The Home Office rejected his request to have further representations considered as a fresh claim. He submitted witness statements allegedly from two leading members of JEM (both of whom had been granted indefinite leave to remain based on their asylum claims). These were not accepted as amounting to a fresh claim. The Home Office declined to consider further representations (apparently the submission of four additional witness statements) as a fresh claim. The witness statements were from Sudanese nationals who had been granted indefinite leave to remain following asylum applications. In rejecting the applicant's request that these witness statements be considered representations amounting to a fresh claim, the Home Office replied that: (i) they were of a general nature and did not give the applicant's claim a realistic prospect of success and (ii) the statements were only produced in an attempt to bolster his claim and to delay his removal from the United Kingdom.

The Court decided to communicate the case and to prolong the indication to the Government under Rule 39 of the Rules of Court not to remove the applicant to Sudan until further notice.

ARTICLE 5

Article 5(1)(f)

EXTRADITION
Yemeni national tricked by the US authorities into travelling to Germany, where he was arrested in order to be extradited to the US: *inadmissible*.

AL-MOAYAD - Germany (N° 35865/03)
Decision 20.2.2007 [Section V]

(see Article 3 above).

ARTICLE 6

Article 6(1) [civil]

FAIR HEARING
Failure by domestic courts to give reasons for their decisions: *violation*.

TATISHVILI - Russia (N° 1509/02)
Judgment 22.2.2007 [Section I]

(see Article 2 of Protocol No. 4 below).

IMPARTIAL TRIBUNAL
Impartiality of Constitutional Court judge who had acted as legal expert of the applicant's opponent in the civil proceedings at first instance: *violation*.

ŠVARC and KAVNIK - Slovenia (N° 75617/01)
Judgment 8.2.2007 [Section III]

Facts: The applicants were injured in a car accident in Austria which resulted in the premature birth of their son, who later died. The local civil court refused to entertain their claim for damages against an Austrian insurance company on the grounds that the case was not within its jurisdiction. In that connection, a university professor had given an expert opinion on the case at the request of the company. After their unsuccessful appeal to the Supreme Court, the applicants applied to the Constitutional Court. Their appeal was declared inadmissible by a three-judge panel which included the above-mentioned professor and his university colleague, who had in the meantime been appointed to the Constitutional Court. The applicants learned of the composition of the panel when the decision was served on them.

Law: At the defendant company's request, a law professor had delivered an opinion on whether the Slovenian courts had jurisdiction to examine the applicants' claims. The outcome of the impugned proceedings had been in line with this opinion, although the court's decision had made no reference to it. The applicants had not challenged any member of the Constitutional Court while lodging their appeal, nor had they attached the above opinion to the said appeal or referred to it therein. Well over four years had elapsed between the date on which the opinion had been delivered and the date on which the applicants

had lodged their constitutional appeal. An additional period of almost three years had passed before the Constitutional Court delivered a decision on the admissibility of the appeal. There was no indication that the judge, a former professor, had either been reminded of his prior involvement in this particular case or that his opinion had been included in the case-file before the Constitutional Court. However, he had had a detailed knowledge of the facts of the case and had been retained by the applicant's adversaries in the proceedings before the first-instance court, essentially as an expert. His role as a justice of the Constitutional Court had been, admittedly, quite different, and had been limited to determining of the admissibility of the applicants' complaints made under the Constitution. Nonetheless, the European Court found that due to his previous involvement in the proceedings, the impartiality of the "tribunal" had been open to doubt, not only in the eyes of the applicants but also objectively.
As to his colleague's alleged partiality, the applicants' fear had had no legitimate ground. She had not been directly involved in the impugned proceedings prior to sitting on the Constitutional Court's bench. The applicants' assertions that she might have had previous knowledge of the case solely by virtue of working at the same law faculty, in close proximity to the judge in question at the material time, had been too vague to procure any objective doubt of her impartiality.
Conclusion: violation (unanimously).

Article 6(1) [criminal/pénal]

FAIR HEARING
Applicant not served with written submissions in which complainant merely reproduced the Public Prosecutor's arguments: *no violation*.

VERDU VERDU - Spain (N° 43432/02)
Judgment 5.2.2007 [Section V]

Facts: The applicant often used to buy lottery tickets, which he was responsible for distributing among his work colleagues. When one of the tickets won a special prize equivalent to EUR 2,956,979.55, the applicant kept the winning ticket for himself. Claiming that the applicant had promised to give him half his winnings in the event of a lucky draw, J.P.R. lodged a complaint for misappropriation. The applicant was acquitted at first instance but the prosecution appealed. J.P.R. filed pleadings endorsing the prosecution arguments. The appeal court found the applicant guilty, sentenced him to seven months' imprisonment and ordered him to pay half the winnings in compensation. The applicant lodged an appeal with the Constitutional Court, complaining in particular that he had not received a copy of J.P.R.'s pleadings. The Constitutional Court dismissed his appeal on the ground that the pleadings in question simply reiterated the prosecution's arguments without containing any fresh submissions.

Law: The applicant himself had acknowledged that the pleadings in question were similar in substance to the prosecution's grounds of appeal. Sending the applicant a copy of the pleadings and giving him an opportunity to reply to them could not have had any effect on the outcome of the case. The applicant could not argue that the fact that he had been unable to challenge the pleadings because he had not received a copy amounted to a denial of his defence rights in breach of Article 6(1). To find otherwise would be to confer on him a right devoid of any real significance or substance. Furthermore, the applicant had omitted to demonstrate in what way the failure to send him a copy of the pleadings had been detrimental to him. The reasons given by the Constitutional Court to justify the failure to send the applicant a copy of the pleadings had been neither unreasonable nor arbitrary.
Conclusion: no violation (by five votes to two).

FAIR HEARING
Court of Cassation ruling that a ground of appeal based on the right to a fair trial was inadmissible: *violation*.

PERLALA - Greece (N° 17721/04)
Judgment 22.2.2007 [Section I]

Facts: During a demonstration against the education system, fighting broke out when a group of hooded individuals threw Molotov cocktails at police officers, one of whom sustained serious burns. The applicant claimed that he had been 600 metres away from the scene of the incident and that his head had not been covered. He was arrested on suspicion of throwing Molotov cocktails and claimed to have been struck and insulted by police officers. The applicant was taken into police custody and criminal proceedings were instituted against him. The investigating judge ordered his detention pending trial and he was subsequently granted conditional release. The assize court found the applicant guilty by a majority and sentenced him to a suspended term of eight years and six months' imprisonment. The applicant appealed. The appeal court heard evidence from the police officer who had arrested him, who told the court that he believed the applicant to be the perpetrator. Evidence was also heard from other prosecution witnesses. After one of the videotapes of the incident was shown, an expert appointed by the applicant said he was certain the applicant could not have been the person who threw the object at the police officer. Counsel for the applicant requested that the other videotapes be shown and invited the court to appoint another expert. The court refused on the ground that the measures in question would not shed any further light on the matter. The court then heard evidence from several defence witnesses. The applicant again pleaded not guilty. The court of appeal, by a majority, sentenced him to two years and six months' imprisonment, suspended. The applicant lodged an appeal on points of law. He contended that the court of appeal had based its decision solely on the witness statement given by the police officer who had arrested him, and had committed errors in the taking of evidence. He further complained of a violation of his right to a fair trial as guaranteed by Article 6(1) of the Convention. The Court of Cassation dismissed his appeal, noting that the appeal court had given sufficient reasons for the impugned judgment and that there had been no breach of the procedural guarantees contained in domestic law. It declared the ground of appeal based on Article 6(1) of the Convention inadmissible on the ground that an alleged violation of the right to a fair trial did not constitute a ground of appeal in its own right.

Law: The applicant complained that he had been denied the opportunity to defend himself and prove his innocence, on account in particular of the erroneous interpretation of the witness statements and other evidence by the appeal court and the ill-founded, hasty and unjustified manner in which the Court of Cassation had declared inadmissible the ground of appeal concerning the right to a fair trial. The Court's task was to examine the applicant's allegations and the conduct of the proceedings taken as a whole in order to ascertain whether he had been denied a fair trial. Under the Greek Constitution, the Convention formed an integral part of the Greek legal system and took precedence over any contrary provision of domestic law. The Court of Cassation had declared inadmissible the applicant's ground of appeal based on a violation of Article 6 of the Convention, on the ground that Article 6 was not directly applicable in the instant case and that, for it to be taken into consideration, the applicant would have had to rely on it in conjunction with one of the grounds of appeal listed exhaustively in the Code of Criminal Procedure. The Court considered that such an interpretation, in preventing the applicant from having the Court of Cassation consider the conduct of the proceedings from the standpoint of Article 6, considerably undermined the protection of individuals' rights before the highest domestic court. The fact that the Court of Cassation had refused to examine whether there had been a violation of Article 6 did not mean that its judgment did not constitute the final domestic decision in the instant case. The Court had consistently held that, in Greece, an appeal on points of law in criminal proceedings exhausted domestic remedies and therefore constituted the point at which the six-month period started to run. These factors were sufficient basis for concluding that the Court of Cassation had denied the applicant's right to a fair trial.
Conclusion: violation (unanimously)

Article 41 – EUR 6,000 for non-pecuniary damage.

FAIR HEARING
Failure by a court to address the defendants' submissions and arguments when imposing an administrative fine: *violation*.

BOLDEA - Romania (N° 19997/02)
Judgment 15.2.2007 [Section III]

(see Article 10 below).

FAIR HEARING
Extradition to the United States of a person allegedly risking indefinite detention without access to a court or a lawyer: *inadmissible*.

AL-MOAYAD - Germany (N° 35865/03)
Decision 20.2.2007 [Section V]

(see Article 3 above).

ARTICLE 8

PRIVATE AND FAMILY LIFE
Psychiatric patient's inability to change her "nearest relative": *friendly settlement*.

M. - United Kingdom (N° 30357/03)
Decision 13.2.2007 [Section IV]

The applicant's complaint related to the identity of the person appointed as her "nearest relative" under the Mental Health Act, 1983. The appointment is intended as a safeguard for persons detained under the Act, with the "nearest relative" being entitled to be informed of the patients' admission to hospital and of any reviews of his or her detention. However, the person appointed in the applicant's case was her adoptive father, whom she alleged had sexually abused her when she was a child. She successfully applied to the High Court for a declaration that the relevant legislation was incompatible with her right to respect for her private life in that she had no choice over the appointment of her "nearest relative", nor any legal means to change it. In her complaint to the Court, the applicant alleged, *inter alia*, that the Government had failed to change the law in relation to "nearest relatives" pursuant to the friendly settlement that had been agreed in the *J.T. v. the United Kingdom* case.

Striking out: The parties have reached a friendly settlement under the terms of which the Government undertake to rectify the incompatibility identified in the declaration by the prompt enactment of legislation or the use of a remedial order under the Human Rights Act 1998 and to pay the applicant sums in respect of non-pecuniary damage and costs and expenses.

See also *J.T. v. the United Kingdom* (striking out – no. 26494/95, 30 March 2000) in Information Note no. 16.

ARTICLE 10

FREEDOM OF EXPRESSION
Injunction restraining a parent from repeating criticism he had made of schoolteachers' conduct: *violation*.

FERIHUMER - Austria (N° 30547/03)
Judgment 1.2.2007 [Section I]

Facts: In protest against governmental cuts in the education budget, teachers at a secondary school decided to reduce the time they spent on school trips. The applicant, who was the father of one of the pupils at the school and the vice-chair and secretary of the parents' association, gave an interview to a local newspaper in which he complained that the teachers were applying intolerable pressure on the pupils and parents and thus abusing their authority. The teachers brought a civil action against him in a district court for insult and damage to their reputation and obtained an order restraining him from repeating the statements. An appeal by the applicant was dismissed on the grounds that his remarks constituted a statement of fact that was susceptible of proof, which the applicant had failed to provide.

Law: It was common ground that the injunction constituted an interference with the applicant's right to freedom of expression that was "prescribed by law" and served to protect "the reputation or rights of others". The issue, therefore, was whether the interference was "necessary in a democratic society". The applicant's remarks had been made in the immediate context of a heated discussion between teachers, pupils and parents. The applicant did not favour the compromise that was finally reached and had reacted by saying that the teachers were applying intolerable pressure on the pupils that amounted to an abuse of their authority. In so doing, he was expressing his opinion on the teachers' conduct and making a value judgment, the truth of which, by definition, was not susceptible of proof. Further, given the considerable tension at the school that had resulted in the resignation of the pupils' spokesperson, the applicant's remarks were sufficiently based in fact and could not be considered excessive. In that connection, the Court also took account of the fact that the applicant was vice-chair of the parents' association. The interference had therefore gone beyond what would have amounted to a "necessary" restriction on the applicant's freedom of expression.
Conclusion: violation (unanimously).

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

FREEDOM OF EXPRESSION
Imposition of a fine for defamatory allegation of plagiary: *violation*.

BOLDEA - Romania (N° 19997/02)
Judgment 15.2.2007 [Section III]

Facts: The applicant is a university lecturer. At a meeting of the teaching staff in his department during which it emerged that there was general dissatisfaction with regard to the publications produced within the department, the Dean of the faculty raised the subject of alleged plagiarism in scientific publications. The applicant was the only participant who considered unreservedly that the publications of two authors amounted to plagiarism. The authors were issued with a verbal warning and their publications were merely held not to constitute works of scientific reference. They lodged two separate complaints against the applicant alleging defamation, which were joined by the court of first instance. The court heard evidence from the applicant and accepted his offer to prove the truth of his remarks on the basis of the Criminal Code. The applicant produced the complainants' articles and the relevant extracts from the doctoral thesis which had allegedly been plagiarised. The court then took statements from two witnesses who had taken part in the meeting. The first witness said that the complainants' publications did not

amount to plagiarism and that the applicant had made his remarks in bad faith. The second stated that he could not comment on the alleged plagiarism or the applicant's intentions in describing his colleagues as plagiarists. The court acquitted the applicant but ordered him to pay an administrative fine and to pay the complainants' costs. The applicant appealed, arguing as his main submission that the court had not given reasons to justify its decision based on the evidence adduced during the proceedings both by the applicant himself and by the complainants, especially in view of the fact that it had been provided with proof of the veracity of his remarks in accordance with the Criminal Code. He further complained that the first-instance court had simply found him to have acted in bad faith without basing its decision on any evidence and without taking account of the legislation on copyright and related rights. The complainants also appealed against the first-instance judgement. The appeals were dismissed by the county court.

Law: Article 6(1) – The court of first instance had not carried out an interpretation of all the essential elements of the offence or examined the evidence adduced by the applicant, apart from dismissing some which it considered to be irrelevant, giving reasons. Furthermore, the court which had dealt with the applicant's appeal had not addressed any of his grounds of appeal, concerning in particular the lack of reasons in the first-instance judgment, simply referring back to the recitals of the judgment. These factors were sufficient basis for concluding that both courts had failed to give adequate reasons for their decisions and that the applicant had not been given a fair hearing in the proceedings in which he was ordered to pay an administrative fine.
Conclusion: violation (unanimously).

Article 10 – The decisions of the first-instance court and the county court amounted to interference with the applicant's right to freedom of expression. The courts' decisions finding against him had been based on domestic law provisions that were accessible and foreseeable. The interference complained of had pursued a legitimate aim, namely the protection of the reputation of others, in this case the applicant's two colleagues whom he had accused of plagiarism. As to whether the interference had been necessary in a democratic society, the applicant had been tried on a charge of damaging the honour and public image of his colleagues, whom he had accused of certain acts such as plagiarism. But while the applicant's allegations had been serious, they had had a factual basis. Accordingly, they had not been unfounded and had not been designed to fuel a smear campaign against his colleagues. The statements in question had not concerned aspects of their private lives but conduct relating to their capacity as academics. There had been a general feeling of dissatisfaction with recent publications produced within the department and a meeting had been called by the Dean of the faculty. The topic had indisputably been one of general interest for the department. Hence, the applicant's assertions had merely reflected his professional opinion, expressed in the course of the meeting. The remarks had been made orally, so that he was unable to reformulate, emend or retract them. In addition, the applicant had taken an interest in the proceedings, attending all the hearings, giving reasons for his appeal, submitting written observations and producing evidence to substantiate his allegations or provide them with a sufficient factual basis. All these elements demonstrated that he had acted in good faith. The domestic courts had not examined the evidence produced by the applicant at the hearings and had not given reasons for their decisions. The national authorities had not given relevant and sufficient reasons to justify ordering the applicant to pay an administrative fine and pay the complainants' costs. The fine imposed on him had therefore not met a pressing social need.
Conclusion: violation (unanimously).

FREEDOM OF EXPRESSION
Injunction restraining a newspaper from printing defamatory material purportedly based on an expert opinion when it was in fact based on a press release by political opponents: *no violation*.

STANDARD VERLAGSGESELLSCHAFT MBH - Austria (no. 2) (N° 37464/02)
Judgment 22.2.2007 [Section I]

Facts: The applicant company was the owner of a newspaper which in 1999 carried a front-page article alleging that a regional governor had deliberately misled the regional government and broken the

law and rules of procedure governing the election of the supervisory board of a regional electricity company. The governor successfully instituted defamation proceedings in the criminal and civil courts. In the criminal proceedings he obtained orders for the offending statements to be expunged from undistributed copies of the newspaper and for the publication of the judgment and in the civil proceedings an order requiring the newspaper to retract the allegations. The applicant company's appeals against these orders, in which it argued *inter alia* that the statements were value judgments based on an expert opinion by a professor of law and on press releases issued by a rival political party, were dismissed.

Law: The case turned on the necessity of the interference with the applicant company's freedom of expression. Article 10 did not guarantee wholly unrestricted freedom of expression even with respect to press coverage of matters of serious public concern since, by reason of the "duties and responsibilities" inherent in the exercise of freedom of expression, the safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest was subject to the proviso that they were acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism. Special grounds were required before the media could be dispensed from their ordinary obligation to verify factual statements that were defamatory of private individuals.
The article published by the newspaper dealt with a subject of considerable public and political interest, namely the conduct of a leading politician in the context of the re-appointment of the supervisory board of a partly public-owned institution. Accordingly, the argument that the article was one-sided and partial did in itself justify restrictions on the applicant company's freedom of expression. However, the article repeatedly stated that the governor had deliberately misled the regional government and ignored the rules, when the expert opinion on which it was allegedly based did not contain any such allegation. The allegations were thus defamatory as they amounted to false statements of fact. Nor, on the facts, was it reasonable for the applicant company to have relied on a press release prepared by the governor's political opponents. It was true that the press was normally entitled, when contributing to public debate on matters of legitimate concern, to rely on the contents of official reports without having to undertake independent research. However, the Court had serious doubts whether the statements of political opponents were comparable. Furthermore, the article purported to be quoting directly from the expert opinion and made no reference to the allegedly incorrect source, namely the press release. The applicant company should therefore have consulted the opinion itself instead of relying, without further research, on the press release. Having regard to these circumstances, the domestic courts' reasoning was "relevant and sufficient". Moreover, since no penalties were imposed on the applicant company and it was not prevented from discussing the topic in any other way, the interference was also proportionate and "necessary in a democratic society" for the protection of the reputation and rights of others.
Conclusion: no violation (four votes to three).

FREEDOM OF EXPRESSION
Defamation conviction for public allegations suggesting abuse of power by the Minister of Justice: *inadmissible*.

GRÜNER KLUB IM RATHAUS - Austria (N° 13521/04)
Decision 1.2.2007 [Section I]

The applicant represents the Austrian Green party in the Vienna Regional Parliament. The applicant issued a press release disseminating the statements of one of its members concerning the acquittal of two persons involved in the "police information scandal". According to this politician, the judgment issued in this affair quite clearly bore the hallmark of the Minister of Justice. Upon the latter's complaint, the regional court found that the impugned statement had amounted to defamation and ordered the applicant to pay the Minister EUR 3, 000 in compensation. The domestic courts qualified it as a statement of fact which suggested that the Minister had illegally abused his powers and influenced the deciding judge. The applicant appealed unsuccessfully, submitting that the statement should have been qualified as a value judgment, for which there had been some factual basis, namely the Minister's conduct at the very beginning of the investigations.

Inadmissible: The interference with the applicant's right to freedom of expression had been prescribed by law and had pursued a legitimate aim, namely the protection of the rights and reputation of others. The "police information scandal", which had involved some politicians, had certainly been an issue of public and political interest. Like the domestic authorities, the Court considered that the expression at issue had undoubtedly suggested the Minister's interference with the judicial proceedings and that such a serious accusation had not been supported by any facts. The applicant's arguments concerning the preliminary criminal investigations in the "police-information affair" had not been relevant for the justification of the impugned statement which had concerned the subsequent judicial proceedings. Even if the impugned statement was to be considered as a value judgment, as was the applicant's proposition, it could not be considered as fair comment, as it lacked a sufficient factual basis. In finding that the interest in protecting the Minister's reputation outweighed the applicant's freedom of expression, the Austrian courts' decisions had been based on reasons which could reasonably be regarded as relevant and sufficient. Therefore, the interference with the applicant's freedom of expression had not been disproportionate: *manifestly ill-founded*.

FREEDOM OF EXPRESSION
Call-up of reserve officer revoked owing to membership of a political party suspected of disloyalty to the constitutional order: *inadmissible*.

ERDEL - Germany (N° 30067/04)
Decision 13.2.2007 [Section V]

The applicant is a member of a political party (*Die Republikaner*) which is considered as populist and right-wing and has therefore been under scrutiny by the German offices for the protection of the constitution. His call-up in the German army as a lieutenant on the reserve list was revoked on account of his membership in the above party. He unsuccessfully appealed against this decision before the administrative courts and the Federal Constitutional Court.

Inadmissible: The assumed interference with the applicant's right to freedom of expression had been lawful and had pursued the legitimate aims of preserving the army's political neutrality and of preventing any future criminal offences with a right-wing extremist background to be committed from within the army which is supposed to be a guarantor of the constitution and democracy. The latter notion has a special importance in Germany because of the country's experience during the Third Reich, and the Federal Republic's constitution was based on the principle of a "democracy capable of defending itself". Given the fact that several criminal offences with a right-wing extremist background had been committed by members of the German army, this having attracted widespread publicity and having considerably damaged the army's reputation, the courts did not overstep their margin of appreciation when presuming possible disloyalty of the applicant's party on the basis of a report by the Federal Office for the Protection of the Constitution. Moreover, the applicant bore a special responsibility as he held a senior post within the army. The courts also carefully examined why a prior ban on the party in question by the Federal Constitutional Court had not been a prerequisite to take the applicant's membership into account when revoking his call-up. In contrast with the *Vogt v. Germany* case, the applicant, being a practising lawyer and not a professional soldier, was therefore not threatened with losing his livelihood by the impugned measure. Moreover, the revocation had not resulted in his loss of rank as a reserve officer, but only in his ineligibility for future military trainings. In these circumstances, the revocation had not amounted to a disproportionate restriction of his right to freedom of expression: *manifestly ill-founded*.

FREEDOM OF EXPRESSION
Conviction for publications inciting hatred towards the Jewish people: *inadmissible*.

IVANOV - Russia (N° 35222/04)
Decision 20.2.2007 [Section I]

(see Article 17 below).

FREEDOM OF EXPRESSION
Conviction of a scientist for divulging allegedly classified technical information: *communicated*.

DANILOV - Russia (N° 88/05)
[Section I]

The applicant is a renowned scientist specialised in Cosmo physics. He occupied a leading post in a State Engineering University and had a security clearance. Acting in his administrative capacity, he concluded a written contract with foreign nationals for production of a high-tech device. Considering that the contract contained classified technical descriptions, the authorities charged him with treason (for having disclosed a State secret) and with having defrauded his employer. Shortly before the trial, he gave a telephone interview to a foreign reporter about his criminal case. The court decided to detain the applicant on remand referring to the wiretapped interview. He was originally acquitted and then convicted at a retrial. During the proceedings, the only contentious point was the classified status of the divulged information. He appealed unsuccessfully. The applicant complains that he was unable to cross-examine the experts called by the prosecution and to submit evidence to prove that the information in question was the public domain. His conviction was erroneous and unforeseeable. He also alleges breaches of the jury selection procedure and bias on the part of the jury, given that four out of seven jurors in his case had a security clearance.
Communicated under Articles 5, 6, 7 and 10 of the Convention.

FREEDOM OF EXPRESSION
Conviction of editor for publishing statements by separatist Chechen leaders criticising Russian authorities: *communicated*.

DMITRIYEVSKIY - Russia (N° 42168/06)
[Section I]

In 2004, the applicant, a well-known human rights activist and editor-in-chief of a regional newspaper, published statements by two separatist Chechen leaders, Mr Maskhadov and Mr Zakayev, which he had obtained from the Internet. The first statement was addressed to the Russian people and blamed the Russian authorities for the conflict in Chechnya, appealing to vote against Putin in the next presidential elections. The second one accused the Kremlin of terrorism and called on the European Parliament to recognise the Chechen war as genocide. In 2006, the applicant was convicted of having incited racial and national hatred and sentenced to two years' suspended imprisonment and four years' probation. At the trial, he argued that it had been his responsibility as a journalist to inform his readers of the position of the other party to the Chechen conflict and of possible means to its peaceful resolution. The applicant appealed unsuccessfully. As a consequence of his conviction, he is now banned from holding office as the executive director of the Russian-Chechen Friendship Society.
Communicated under Articles 6 (fairness of proceedings) and 10 of the Convention.

FREEDOM OF EXPRESSION
Ship prevented from entering territorial waters to protest against Portuguese abortion laws: *communicated*.

WOMEN ON WAVES and Others - Portugal (N° 31276/05)
[Section II]

The aim of the three applicant associations is to promote debate on reproductive rights. One of them was invited to visit Portugal to campaign in favour of the decriminalisation of abortion in that country. It chartered a vessel for the purpose. As the ship approached Portuguese territorial waters, however, it was prohibited from entering, first by a ministerial decree and then by Portuguese warships. The administrative court refused the association's request to be allowed to enter the country's territorial waters. The applicants appealed against that decision before the Central Administrative Court. The appeal was dismissed as being devoid of purpose, on the ground that the ship had left Portuguese territorial waters. The applicants lodged an appeal on points of law with the Supreme Administrative Court, which declared it inadmissible on the ground that the matter in dispute was not of sufficient legal or social significance to justify its intervention.
Communicated under Articles 10 and 11.

ARTICLE 11

FREEDOM OF ASSOCIATION
Trade union prevented from expelling a member due to the latter's membership of political party advocating views incompatible with its own: *violation*.

ASSOCIATED SOCIETY OF LOCOMOTIVE ENGINEERS & FIREMEN (ASLEF) - United Kingdom (N° 11002/05)
Judgment 27.2.2007 [Section IV]

Facts: The applicant is an independent trade union representing mainly train drivers. Supporting the labour movement towards a Socialist society, the applicant has, for many years, campaigned against certain policies of far-right political forces, for example, the British National Party (BNP). In 2002, an active member of that party applied for membership in ASLEF and was accepted. Shortly afterwards, the applicant's Executive Committee voted unanimously to expel him, stating that his membership of the BNP was incompatible with membership of ASLEF, that he was likely to bring the union into disrepute and that he was against the objects of the union. The Committee relied on a report stating that he had stood as a candidate in local elections for the BNP and had been known for anti-Islamic propaganda and harassment of anti-Nazi activists. The expelled member brought successful proceedings in the Employment Tribunal, on the basis of a legal provision prohibiting trade unions from excluding a person or expelling a member wholly or to any extent on the ground that the individual is or was a member of a political party. The applicant appealed to the Employment Appeal Tribunal, which quashed the decision and remitted it for fresh consideration, finding that a union could expel a member on the ground of his conduct but not of his membership of a political party. At a retrial, the complaint of the expelled member was again upheld since his expulsion was "primarily because of his membership of the BNP". As a result, the applicant was obliged to re-admit the expelled member, in breach of its own rules. Had the applicant not re-admitted him, it would have been liable to pay him compensation, a statutory minimum of over EUR 8,000, with no upper limit. Even though it had re-admitted the member in question, the applicant remained exposed to an application for compensation on his part, subject to an upper limit of around EUR 94,000.

Law: Just as an employee or worker should be free to join, or not join, a trade union without being sanctioned or subject to disincentives, so should a trade union be equally free to choose its members. Article 11 could not be interpreted as imposing an obligation on associations or organisations to admit

whosoever wished to join. Where associations were formed by people, who, espousing particular values or ideals, intended to pursue common goals, it would run counter to the very effectiveness of the freedom at stake if the associations had no control over their membership. The interference with the applicant's freedom of association had been lawful and had been intended to protect the rights of individuals to exercise their various political rights and freedoms without undue hindrance. The Court was not persuaded that the measure of expulsion had impinged in any significant way on the exercise of freedom of expression by the expelled member or his lawful political activities. Nor was it apparent that he had suffered any particular detriment (in terms of his livelihood or in his conditions of employment), save loss of membership itself in the union. The applicant union had represented all workers in the collective bargaining context and there had been nothing to suggest that the expelled member had been at any individual risk of, or had been unprotected from, any arbitrary or unlawful action by his employer. Of more weight in the balance was the applicant's right to choose its members. Historically, trade unions in the United Kingdom, and elsewhere in Europe, had often been affiliated to left-wing political forces and had held strong ideological views on social and political issues. There was no hint in the domestic proceedings that the applicant had erred in its conclusion as to the incompatibility of the political values of the expelled member with its own. Contrary to the Government, the Court did not find it reasonable to expect the applicant to have relied purely on the member's conduct which had largely reflected his membership and adherence to the aims of the BNP. Accordingly, in the absence of any identifiable hardship suffered by the expelled member or any abusive and unreasonable conduct by the applicant union, there had been a violation of Article 11.
Conclusion: violation (unanimously).

FREEDOM OF ASSOCIATION
Repeated delays by authorities in registering an association: *violation*.

RAMAZANOVA and Others - Azerbaijan (N° 44363/02)
Judgment 1.2.2007 [Section I]

Facts: In April 2001 the four applicants founded a non-profit-making association to provide aid to the homeless and filed a request with the Ministry of Justice for its registration. Under domestic law an association only acquired the status of a legal entity on registration and was subject to various restrictions on its capacity, notably to receive donations, pending registration. However, the applicants did not manage to register the association until February 2005, at the fifth attempt, after their successive requests had been returned with instructions to make various changes to the association's charter. In the interim, they had issued various proceedings complaining of the delays and of procedural irregularities and seeking an order requiring the Ministry to effect the registration. In one of these sets of proceedings, they obtained an order by the Constitutional Court in May 2004 quashing the judgments and decisions of the courts below on the ground that they breached their constitutional right to judicial guarantees for the protection of human rights and freedoms and remitting the case for a fresh examination. Subsequently, an appeal court found that the Ministry had contravened domestic law by its repeated delays in responding to the applicants' requests for registration and awarded three of them roughly the equivalent of EUR 700 for non-pecuniary damage.

Law – Admissibility: The Government's submission that the application should be struck out of the list following the registration of the association amounted to an assertion that the applicants were no longer victims of the alleged violation of the Convention. A decision or measure favourable to an applicant was not in principle sufficient to deprive him of his status as a "victim" unless the national authorities had acknowledged, either expressly or in substance, and then afforded redress for, the breach. The mere fact that the authorities had finally registered the association after a significant delay could not be viewed as automatically depriving the applicants of that status. Even assuming that the compensation award by the domestic courts amounted to an acknowledgement of a violation of the applicants' Convention rights, it was made to only three of them and the amount was too low to be considered as full redress. In those circumstances, the registration of the association was insufficient to deprive them of their "victim" status. Objections relating to competence *ratione temporis* and non-exhaustion were also dismissed.

Merits: The ability to establish a legal entity in order to act collectively in a field of mutual interest was one of the most important aspects of freedom of association, without which that right would be deprived of any meaning. While States had a right to satisfy themselves that an association's aim and activities were in conformity with the rules laid down in legislation, they had to do so in a manner compatible with their obligations under the Convention and subject to review by the Convention institutions.
The Court took note of the Government's argument that the return of foundation documents for rectification did not constitute a formal and final refusal to register the association or a total ban on its activities. However, on the facts, the delay of almost four years in registering the association was to a large extent attributable to the Ministry's failure to respond to the applicants' requests for registration in a timely manner and its repeated failure to issue a definitive decision amounted to a *de facto* refusal to register. Moreover, domestic law restricted the association's ability to function as a charity since, without legal-entity status, it could not receive "grants" or financial donations, one of the main sources of financing for non-governmental organisations in Azerbaijan. The significant delays in registration thus amounted to an interference by the authorities with the applicants' exercise of their right to freedom of association. As to whether the interference was justified, there was no basis in domestic law for such significant delays, which were in breach of the statutory time-limits. The Ministry's heavy workload could not extenuate the indisputable fact that, by delaying the examination of the registration requests for unreasonably long periods, the Ministry had breached the procedural requirements of domestic law. It was the duty of the Contracting State to organise its registration system and to take necessary measures to allow the relevant authorities to comply with the time-limits imposed by its own law. Furthermore, as domestic law did not provide for automatic registration or other legal consequences in the event of the Ministry failing to act in a timely manner and did not specify a limit on the number of times the Ministry could return documents without issuing a final decision, it did not afford the applicants sufficient legal protection against arbitrariness. The interference with the applicants' right to freedom of association was therefore "not prescribed by law".
Conclusion: violation (unanimously).

Article 41 – EUR 4,000 for non-pecuniary damage.

FREEDOM OF PEACEFUL ASSEMBLY
Ship prevented from entering territorial waters to hold meetings: *communicated*.

WOMEN ON WAVES and Others - Portugal (N° 31276/05)
[Section II]

(see Article 10 above).

ARTICLE 14

DISCRIMINATION
Inability of Roma children to enrol at school and their subsequent exclusion from the main premises: *communicated*.

SAMPANIS and Others - Greece (N° 32526/05)
[Section I]

(see Article 2 of Protocol No. 1 below).

ARTICLE 17

DESTRUCTION OF RIGHTS AND FREEDOMS
Conviction for publications inciting hatred towards the Jewish people: *inadmissible*.

IVANOV - Russia (N° 35222/04)
Decision 20.2.2007 [Section I]

The applicant, owner and editor of a newspaper, was convicted of public incitement to ethnic, racial and religious hatred through the use of mass-media. He authored and published a series of articles portraying the Jews as the source of evil in Russia, calling for their exclusion from social life. He accused an entire ethnic group of plotting a conspiracy against the Russian people and ascribed Fascist ideology to the Jewish leadership. Both in his publications, and in his oral submissions at the trial, he consistently denied the Jews the right to national dignity, claiming that they did not form a nation.

Inadmissible: The Court had no doubt as to the markedly anti-Semitic tenor of the applicant's views. It agreed with the assessment made by the domestic courts that through his publications he had sought to incite hatred towards the Jewish people. Such a general, vehement attack on one ethnic group is directed against the Convention's underlying values, notably tolerance, social peace and non-discrimination. Consequently, by reason of Article 17 of the Convention, the applicant could not benefit from the protection afforded by Article 10: incompatible *ratione materiae*.

ARTICLE 34

HINDER THE EXERCISE OF THE RIGHT OF PETITION /
Extradition allegedly despite the authorities having been notified that the applicant had lodged a Rule 39 request for an interim measure to be indicated by the Court: *inadmissible*.

AL-MOAYAD - Germany (N° 35865/03)
Decision 20.2.2007 [Section V]

(see Article 3 above).

ARTICLE 37

Article 37(1)(c)

CONTINUED EXAMINATION NOT JUSTIFIED
Applicant's rejection of Government's offer to pay compensation for compulsory resignation from the military on grounds of homosexuality: *struck out*.

MACDONALD - United Kingdom (N° 301/04)
Decision 6.2.2007 [Section IV]

The applicant joined the Royal Air Force and he applied for a compassionate posting as his mother was ill. The security level of that posting required him to obtain Developed Vetting ("DV") security clearance. The applicant was aware that he would be asked about his homosexuality in the course of the vetting procedure. He was interviewed by an officer and when asked if he was homosexual, he confirmed that he was. The recommendation of that officer was that, with the exception of the applicant's homosexuality, he was suitable for DV clearance. It was decided that security clearance could not be granted, and also that it

was essential to re-interview the applicant, in particular, to establish the depth of his homosexual activities, with whom he had been involved and whether any other servicemen had been involved with him. Following the new interview, it was recommended that DV security clearance and also the basic level of clearance required of all RAF personnel should be denied to the applicant. The applicant's commanding officer was informed that DV clearance was unlikely to be granted. The applicant was called upon to resign his commission on grounds of his homosexuality. He replied that, having taken legal advice, he would not voluntarily resign his commission. A letter then confirmed that his compulsory resignation would take effect. The applicant submitted a claim to the employment tribunal ("ET") claiming that his dismissal constituted unlawful discrimination on grounds of sex and, in addition, that the circumstances leading to his dismissal (in particular the holding of the second interview) constituted sexual harassment. The ET found against the applicant. It considered that the relevant Act applied to discrimination on grounds of gender and not on grounds of sexual orientation. It also found that there was no discrimination on grounds of "gender". The employment appeal tribunal (EAT) delivered a detailed judgment allowing the appeal and disagreeing with the ET on all main points. The EAT considered the word "sex" in the relevant act to be ambiguous so that it should be interpreted as including "sexual orientation". The majority of the Inner House of the Court of Session allowed the appeal and restored the decision of the ET. Counsel for the Secretary of State for Defence expressly accepted that the applicant's rights under Article 8, alone and in conjunction with Article 14 of the Convention had been violated. The judges were unanimous in finding that the relevant act was concerned with gender and not with sexual orientation. The applicant appealed to the House of Lords. His appeal was rejected. The judges were unanimous in finding that the word "sex" in the relevant act meant "gender" and held that the claim of sexual discrimination and harassment fell away.

Struck out: The Government proposed to make a unilateral declaration with a view to resolving the issues raised. It further requested the Court to strike out the application in accordance with Article 37. The Government acknowledged that the investigation and discharge breached the applicant's rights under Article 8 (alone and in conjunction with Article 14) and of Article 13 in conjunction with Article 8. The Government declared that they were offering to pay *ex gratia* to the applicant the amount of £115,000. The applicant requested the Court to reject the Government's initiative on the basis that the unilateral declaration was insufficient both in terms of the statement on the merits of his case and the level of compensation proposed. Having regard to the nature of the admissions contained in the declaration as well as the amount of compensation proposed, the Court considered that it was no longer justified to continue the examination of the application. The Court was satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application.

ARTICLE 1 OF PROTOCOL No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS
Non-enforcement of a final judgment ordering annulment of a joint venture contract creating an airline company, and reimbursement of investments made: *admissible*.

UNISTAR VENTURES GMBH - Moldova (N° 19245/03)
Decision 20.2.2007 [Section IV]

The applicant, a German company, signed a contract in 2000 under which the State-owned airline company Air Moldova was to be reorganised into a Moldovan-German company. The applicant obtained a 49% share for an investment of USD 2.384 million, 51% remaining in the hands of the Moldovan Government represented by the Civil Aviation State Authority (CASA). Following a change in Government, the CASA, by making use of its 51% of the votes at the shareholders' meeting, unilaterally dismissed the airline company's chief executive officer. As a result, the applicant brought a civil action against the CASA, which brought its own action against the applicant, seeking annulment of the contract by which the company had been created. In 2002, the first-instance court dismissed the applicant's action while upholding the CASA's. The contract concluded in 2000 was declared null and void and *restitutio in*

integrum ordered after an audit and accounting control to be carried out by the Government, the Ministry of Finance and the CASA with the participation of the applicant company. The latter's appeal was dismissed. It was eventually agreed that an audit control be carried out by the National Centre for Expert Analysis, under ministerial control. The report dated 2006 concluded that the applicant had invested USD 2,384 million in the Moldovan-German company, but since that money had been paid as an advance for the purchase of new aeroplanes by the company, it could be repaid only after the aeroplanes had been delivered or the money had been refunded by the seller of the planes. The applicant company has not yet been reimbursed. Before the Court, it complains that the non-enforcement of the final judgment of 2002 violates its right to a fair trial and its right to peaceful enjoyment of its possessions.
Admissible under Article 6(1) of the Convention and Article 1 of Protocol No.1.

DEPRIVATION OF PROPERTY
Deduction of wages from workers not belonging to any trade union to finance the workers' union's wage monitoring activities: *violation*.

EVALDSSON and Others - Sweden (Nº 75252/01)
Judgment 13.2.2007 [Section II]

Facts: The five applicants were employed in the construction industry by a company which was bound by a collective agreement concluded between the Swedish Building Workers' Union ("the Union") and the Swedish Construction Industries ("the Industries"). Under the agreement, the local branch of the Union had the right to inspect wage conditions and was entitled to reimbursement of the costs involved, by means of a one and a half percent levy on employees' wages. At the request of the applicants, who were not members of any trade union, the company granted them exemption from the deduction. The Industries applied to the Labour Court for a declaratory judgment to the effect that the company was not obliged to levy the fees in question, submitting that since the inspection fees greatly exceeded the actual costs of the work involved and were thus used for the general activities of the Union – with whose political values the applicants did not agree – the deductions were tantamount to forced union membership. The Labour Court rejected the application.

Law: The deductions in question had deprived the applicants of possessions. Taking into account the fact that no State authority oversaw compliance with collective agreements, this being left to the parties in the labour market, the levying of the fee as such could be considered to pursue a legitimate aim in the public interest, since the inspection system aimed at protecting the interests of construction workers generally. As to proportionality, the Court accepted that workers not belonging to any trade union nevertheless received a certain service in return for the fee paid. The available financial information did not allow it to draw any completely reliable conclusion as to whether the fees had generated any surplus which was used to finance activities other than wage monitoring, but given that the collective agreement provided that only the actual cost of the monitoring was to be covered by the fees, the Court considered that the applicants were entitled to information which was sufficiently exhaustive for them to verify that the fees were not used for any other purpose, in particular since they did not support the Union's political agenda. However, the data available to them was not sufficient for that purpose. While the State had a wide margin of appreciation in the organisation of the labour market, a system which in reality delegated power to regulate important labour issues to independent organisations required that those organisations be held accountable for their activities. The State thus had a positive obligation to protect the applicants' interests. However, the Union's wage monitoring activities lacked the necessary transparency and, even having regard to the limited amounts of money involved, it was not proportionate to the "public interest" to make deductions from the applicants' wages without giving them a proper opportunity to check how that money was spent.
Conclusion: violation (unanimously).

Article 41 – EUR 5,000 to each of the applicants in respect of non-pecuniary damage.

ARTICLE 2 OF PROTOCOL No. 1

RIGHT TO EDUCATION
Inability of Roma children to enrol at school and their subsequent exclusion from the main premises: *communicated*.

SAMPANIS and Others - Greece (N° 32526/05)
[Section I]

The applicants and their children are members of a Roma community. They complained of the authorities' failure to invite them to enrol their school-age children in the State primary school in their municipality. As a result, the children missed a year's schooling. In addition, even after the children had been enrolled in primary school for the following school year the school authorities, bowing to pressure from the parents of non-Roma children, required the children of Roma origin first to attend night classes run specifically for them and then to be taught in an establishment separate from the main school premises. *Communicated* under Article 2 of Protocol No. 1, Article 14 taken in conjunction with Article 2 of Protocol No. 1, and Article 13.

ARTICLE 3 OF PROTOCOL No. 1

VOTE
Overseas resident denied the right to vote in national elections of his country of origin after having lived abroad for more than 15 years: *inadmissible*.

DOYLE - United Kingdom (N° 30158/06)
Decision 6.2.2007 [Section IV]

The applicant, a British national, moved to Belgium in 1983 where he has resided ever since. In 2006 he enquired about registering on the electoral role in the United Kingdom. The Department for Constitutional Affairs stated that on the basis of the Representation of the People Act 2002 only nationals resident overseas for less than 15 years could register to vote in United Kingdom general and European elections. He could be reinstated on the electoral role if he returned to live in the United Kingdom and he was entitled to vote in the European elections in Belgium as a citizen of the European Union. The applicant complained under Article 3 of Protocol No. 1 about his inability to vote in United Kingdom elections stating that he should not be denied his right to vote in national elections of his country of nationality, unless and until he is registered to vote in the elections of his country of residence.

Inadmissible: The right to vote is implicit; however, the rights bestowed are not absolute as Contracting States have a wide margin of appreciation. Residence requirements have previously been found to be justified by the following factors: firstly, the assumption that a non-resident citizen is less directly or less continually concerned with his country's day-to-day problems and has less knowledge of them; secondly, the fact that it is impracticable for the parliamentary candidates to present the different electoral issues to citizens abroad and that non-resident citizens have no influence on the selection of candidates or on the formulation of their electoral programmes; thirdly, the close connection between the right to vote in parliamentary elections and the fact of being directly affected by the acts of the political bodies so elected; and, fourthly, the legitimate concern the legislature may have to limit the influence of citizens living abroad in elections on issues which, while admittedly fundamental, primarily affect persons living in the country. Even where it may be possible that the applicant has not severed ties with his country of origin and that some of the factors indicated above are therefore inapplicable to this case, the law cannot always take account of every individual case but must lay down a general rule. As to the residence restriction in this case, the impugned measure has been the subject of parliamentary scrutiny. There was a debate on the time-limit in both Houses of Parliament before the legislation was adopted. Imposing a period of fifteen

years as the cut-off point for eligibility to vote from overseas does not appear to be either disproportionate or irreconcilable with the underlying purposes of Article 3 of Protocol No. 1. Over such a time period, the applicant may reasonably be regarded as having weakened the link between himself and the United Kingdom and he cannot argue that he is affected by the acts of political institutions to the same extent as resident citizens. In European Union countries, persons in the position of the applicant may generally vote in European Parliament elections. It is also open to the applicant, whether or not he so wishes, to seek to obtain the vote in the country of residence, if necessary by applying for citizenship. Furthermore, if he returns to live in the United Kingdom, his eligibility to vote as a British citizen will revive. In the circumstances, the Court does not perceive any effective disenfranchisement of the applicant or impairment of the very essence of the right to vote: *manifestly ill-founded***.**

STAND FOR ELECTION
Temporary ban on impeached President from running for this office again: *communicated*.

PAKSAS - Lithuania (N° 34932/04)
[Section II]

The applicant was the President of the Republic of Lithuania. He issued a Decree, whereby Lithuanian nationality was granted by way of exception to one of his electoral sponsors. The Constitutional Court found that this Decree was in conflict with the Nationality Act because the relevant provision permitted the grant of nationality by way of exception only to foreign nationals who had never been Lithuanian citizens, which the person in question had been. The grant of nationality in this case had been determined not by the person's merits for the State but by his substantial financial and other support. The applicant was removed from office following his impeachment which was based on the findings of the Constitutional Court that he had violated his constitutional oath. He intended to run for presidency in the newly called elections. No obstacle was found to his candidature. However, the Presidential Elections Act was amended by the Seimas (Parliament), banning an impeached President from running for this office again within a period of five years from an impeachment. Then, the Central Electoral Committee (CEC) refused to register the applicant as a candidate in the forthcoming election. The applicant lodged a complaint with the Supreme Administrative Court complaining that the impugned decision ran contrary to the principles of the rule of law and the non-retroactivity of legal acts. The Constitutional Court held that a bar on an impeached president from standing for presidential election was compatible with the Constitution. However, subjecting such a restriction to a time-limit was in conflict with it. The Supreme Administrative Court dismissed the applicant's appeal against the decision of the CEC. It held that from the moment the applicant submitted his candidacy for the election, it was the Constitution that governed his situation, which banned an impeached President from standing as a candidate in presidential elections. Accordingly, the principle of the non-retroactivity of legal acts was not breached. An amendment to the Seimas Elections Act was passed, introducing an equivalent ban on holding legislative office for any official who had been removed from office as a result of impeachment proceedings. In separate proceedings, the applicant was charged with disclosing information classified as a State secret. The Regional Court acquitted the applicant due to the lack of evidence. The Court of Appeal reversed the judgment but discontinued the criminal proceedings and discharged the applicant from criminal liability. The Supreme Court quashed the judgment of the appellate court, reinstating the judgment of the Regional Court.
Communicated under Articles 6 and 13 of the Convention, Article 3 of Protocol No. 1 and Article 4 of Protocol No. 7.

ARTICLE 2 OF PROTOCOL No. 4

Article 2(1)

FREEDOM TO CHOOSE RESIDENCE
Refusal by the authorities to register the applicant as resident at her home address: *violation*.

TATISHVILI - Russia (N° 1509/02)
Judgment 22.2.2007 [Section I]

Facts: The applicant was born in Georgia, but was a citizen of the former USSR until 31 December 2000 when she became stateless. She lived in Moscow at the material time. Pursuant to legislation and regulations introduced in the 1990s persons residing in Russia were under a general duty under the *Propiska* (internal registration) system to register themselves as resident at any address where they intended to stay for more than ten days. A failure to register could result in a fine and the loss of access to social rights such as medical assistance, social security or an old-age pension. However, a ruling by the Constitutional Court in 1998 made it clear that registration was a purely formal process and that upon presentation of an identity document and a document confirming the right to reside at the chosen address, the registration authority was under an obligation to register the person concerned as resident at the address stated. On 25 December 2000 the applicant applied to the passport authorities to have a flat in Moscow registered as her place of residence, but was told that her application could not be processed. She challenged that decision in a district court, which dismissed her claim on the grounds that she was unrelated to the flat owner and therefore not entitled to take up occupation under the law governing multiple-tenancy agreements and that she was subject to visa requirements under a treaty between Russia and Georgia. She appealed to a city court, arguing in particular that she had never held Georgian citizenship, so that a visa requirement was inappropriate in her case, and that, in any event, residence regulations applied uniformly to everyone lawfully residing within the Russian Federation irrespective of their citizenship. The appellate court upheld the district court's findings without addressing the arguments advanced in the applicant's grounds of appeal.

Law: Article 2 of Protocol No. 4 – The Government's submission that the applicant was not "lawfully within the territory of a State" had no legal and/or factual basis, as at the material time the applicant was a "citizen of the former USSR", not a Georgian national or stateless person, and so did not require a visa or residence permit: *applicable*.
The authorities' refusal to certify her residence at the chosen address amounted to interference as it prevented her from exercising various fundamental social rights while exposing her to administrative penalties and fines. The only justification the Government had offered for the interference was that the applicant was unlawfully resident in Russia, but the Court had already rejected that argument with regard to applicability. It was also noted in that connection that the Constitutional Court's authoritative ruling that the registration authority had a duty to certify an applicant's intention to live at the specified address and no discretion to review the authenticity of the submitted documents or their compliance with law appeared to have been disregarded by the domestic authorities in the applicant's case. The interference was therefore not "in accordance with law".
Conclusion: violation (unanimously).

Article 6(1) – The district court had failed to give any reasons for finding that a dispute existed between the applicant and the flat owner or for holding that the municipal-tenancy provisions of the relevant codes should apply to the applicant's situation. Further, it had relied on the submissions of the passport department in finding that the applicant was subject to a visa requirement without checking whether the alleged treaty between Russia and Georgia in fact existed or giving any reasons for its assumption that the applicant was a Georgian citizen. The inadequacy of the district court's reasoning had not been corrected

by the city court, which had simply endorsed its findings in summary fashion, without reviewing the arguments in the applicant's statement of appeal. Accordingly, the requirements of a fair trial were not fulfilled.
Conclusion: violation (unanimously).

Article 41 – EUR 15 for pecuniary and EUR 3,000 for non-pecuniary damage.

ARTICLE 3 OF PROTOCOL No. 7

COMPENSATION
Inability to claim non-pecuniary damage for wrongful conviction: *admissible*.

MATVEYEV - Russia (N° 26601/02)
Decision 1.2.2007 [Section I]

The applicant lost his job and served a two-year prison sentence after being wrongfully convicted by a district court in 1981 of forging a postal stamp. His conviction was eventually quashed eighteen years later in supervisory-review proceedings, after a regional court had held that there was no indication that a crime had been committed. The applicant sought compensation. However, although he received an award in respect of pecuniary damage, his claim for non-pecuniary damage was dismissed on the ground that at the time of his conviction there was no statutory basis in domestic law for such a claim.
Admissible: The Government's objection of lack of jurisdiction *ratione temporis* was joined to the merits.

ARTICLE 4 OF PROTOCOL No. 7

NE BIS IN IDEM
Criminal convictions for bankruptcy offences after orders had been made temporarily disqualifying the applicants from setting up companies or holding directorships: *inadmissible*.

STORBRÅTEN - Norway (N° 12277/04)
MJELDE - Norway (N° 11143/04)
Decisions 1.2.2007 [Section I]

The applicants were disqualified for two years from establishing limited liability companies or holding directorships in such companies following the failure of businesses in which they had been involved. The orders were made under bankruptcy legislation on the grounds that they were unfit to act and that there were reasonable grounds for suspecting them of criminal offences in connection with the insolvencies. Both were subsequently convicted of bankruptcy related offences. Their appeals to the Supreme Court on the ground that the disqualification order barred under the *ne bis in idem* rule their subsequent prosecution in relation to the same matters were dismissed.

Inadmissible under Article 4(1) of Protocol No. 7 – The aim of this provision was to prohibit the repetition of criminal proceedings that had been concluded by a final decision. The applicants had been subjected to two distinct measures in separate and consecutive sets of judicial proceedings, namely a disqualification order under the bankruptcy legislation and prosecution under the Penal Code. It was undisputed that at least some of their acts had constituted the basis for both the disqualification orders and the prosecutions. Once the Court was satisfied, as here, that the first decision was "final", it had to examine whether it concerned a "criminal" matter within the autonomous meaning of Article 4(1) of Protocol No. 7, interpreted in the light of the general principles concerning the words "criminal charge" in Article 6 and "penalty" in Article 7 of the Convention. Relevant factors were the legal classification of the offence under national law; the nature of the offence; the national legal characterisation of the measure; its purpose, nature and degree of severity; whether the measure was imposed following conviction for a

criminal offence and the procedures involved in the making and implementation of the measure. Applying these criteria the Court noted as follows:

Legal classification of the offence and measure under national law: The procedure leading to a disqualification order was civil in character; the offence that could lead to the imposition of a disqualification order and the order itself were classified as civil under national law.

Nature of the offence: The disqualification orders had been made on two grounds under the bankruptcy legislation, the first being unfitness for office owing to "unsound business conduct" and the second reasonable grounds for suspecting the person concerned of a criminal offence in relation to the insolvency. It was not disputed before the Court that the former ground was of a civil/administrative regulatory nature. An issue arose, therefore, only with regard to the latter. However, all that was needed was a reasonable ground for suspicion, not the establishment of guilt, and this in turn was relevant to the issue of fitness. In practice, the two grounds were often applied together. In any event, a disqualification order could only be imposed if it was reasonable having regard to the debtor's conduct and the circumstances as a whole. Accordingly, the "reasonable ground for suspicion" condition did not deprive the disqualification order of its essentially regulatory character.

Purpose, nature and degree of severity: The primary purpose of a disqualification order was preventive, namely to protect shareholders, creditors and society as a whole against exposure to undue risks of losses and mismanagement of resources if an irresponsible and dishonest person was allowed to continue to operate under the umbrella of a limited liability company. It thus played a supplementary role to criminal prosecution and conviction at a later stage. As to the nature and degree of severity of the measure, a disqualification order entailed a prohibition against establishing or managing a new limited liability company for a limited period, not a general ban on engaging in business activities. The character of the sanction was not, therefore, such as to bring the matter within the "criminal" sphere.
On the basis of these criteria and noting further that the two types of measure (disqualification and prosecution) pursued different purposes and differed in their essential elements, the Court concluded that the imposition of a disqualification order did not constitute a "criminal" matter for the purposes of Article 4 of Protocol No. 7: *manifestly ill-founded*.

RULE 39 OF THE RULES OF COURT

Extradition allegedly despite the authorities having been notified that the applicant had lodged a Rule 39 request for an interim measure to be indicated by the Court: *inadmissible*.

AL-MOAYAD - Germany (N° 35865/03)
Decision 20.2.2007 [Section V]

(see Article 3 above).

Other judgments delivered in February

Nazarenko v. Latvia (Nº 76843/01), 1 February 2007 [Section III]
Paljic v. Germany (Nº 78041/01), 1 February 2007 [Section V]
Nerumberg v. Romania (Nº 2726/02), 1 February 2007 [Section III]
Vogins v. Latvia (Nº 3992/02), 1 February 2007 [Section III]
Ogurtsova v. Ukraine (Nº 12803/02), 1 February 2007 [Section V]
Golovko v. Ukraine (Nº 39161/02), 1 February 2007 [Section V]
Makarenko v. Ukraine (Nº 43482/02), 1 February 2007 [Section V]
Shlepkin v. Russia (Nº 3046/03), 1 February 2007 [Section I]
Litvinyuk v. Ukraine (Nº 9724/03), 1 February 2007 [Section V]
Bragina v. Russia (Nº 20260/04), 1 February 2007 [Section I]
Nartova v. Russia (Nº 33685/05), 1 February 2007 [Section I]
Deykina v. Russia (Nº 33689/05), 1 February 2007 [Section I]
Lyudmila Aleksentseva v. Russia (Nº 33706/05), 1 February 2007 [Section I]
Voloskova v. Russia (Nº 33707/05), 1 February 2007 [Section I]
Zaichenko v. Russia (Nº 33720/05), 1 February 2007 [Section I]
Voronina v. Russia (Nº 33728/05), 1 February 2007 [Section I]
Politova and Politov v. Russia (Nº 34422/03), 1 February 2007 [Section I]

Corcoran and Others v. United Kingdom (Nº 60525/00, Nº 63464/00 and Nº 63469/00), 6 February 2007 [Section IV] (friendly settlement)
Davis and Others v. United Kingdom (Nº 60946/00, Nº 60978/00, Nº 61399/00 and Nº 61408/00), 6 February 2007 [Section IV] (friendly settlement)
Hart and Others v. United Kingdom (Nº 61019/00, Nº 61394/00, Nº 61398/00, Nº 63471/00 and Nº 63481/00), 6 February 2007 [Section IV] (friendly settlement)
Najdecki v. Poland (Nº 62323/00), 6 February 2007 [Section IV]
Garycki v. Poland (Nº 14348/02), 6 February 2007 [Section IV]
Kwiatek v. Poland (Nº 20204/02), 6 February 2007 [Section IV]
Sümer v. Turkey (Nº 27158/02), 6 February 2007 [Section II]
Avramenko v. Moldova (Nº 29808/02), 6 February 2007 [Section IV]
Menteş v. Turkey (Nº 36487/02), 6 February 2007 [Section II]
Kadriye Sülün v. Turkey (Nº 33158/03), 6 February 2007 [Section II]
Wassdahl v. Sweden (Nº 36619/03), 6 February 2007 [Section II]

Čistiakov v. Latvia (Nº 67275/01), 8 February 2007 [Section III]
Cleja and Mihalcea v. Romania (Nº 77217/01), 8 February 2007 [Section III]
Kollcaku v. Italy (Nº 25701/03), 8 February 2007 [Section III]
Nikishin v. Russia (Nº 20515/04), 8 February 2007 [Section I]
Tarasov v. Russia (Nº 20518/04), 8 February 2007 [Section I]
Stroia v. Romania (Nº 26449/04), 8 February 2007 [Section III]
Ivanov v. Russia (Nº 3436/05), 8 February 2007 [Section I]
Enciu and Lega v. Romania (Nº 9292/05), 8 February 2007 [Section III]

Saarenpään Loma Ky v. Finland (Nº 54508/00), 13 February 2007 [Section IV]
Mierkiewicz v. Poland (Nº 77833/01), 13 February 2007 [Section IV]
Czajka v. Poland (Nº 15067/02), 13 February 2007 [Section IV]
Venera-Nord-Vest Borta A.G. v. Moldova (Nº 31535/03), 13 February 2007 [Section IV]
Krzych and Gurbierz v. Poland (Nº 35615/03), 13 February 2007 [Section IV]

Aksakal v. Turkey (Nº 37850/97), 15 February 2007 [Section III]
Soylu v. Turkey (Nº 43854/98), 15 February 2007 [Section III]
Krasimir Yordanov v. Bulgaria (Nº 50899/99), 15 February 2007 [Section V]
Angel Angelov v. Bulgaria (Nº 51343/99), 15 February 2007 [Section V]

Soysal and Others v. Turkey (Nº 54461/00, Nº 54579/00 and Nº 55922/00), 15 February 2007 [Section III]
Rezov v. Bulgaria (Nº 56337/00), 15 February 2007 [Section V]
Akıntı and Others v. Turkey (Nº 59645/00), 15 February 2007 [Section III]
Canpolat v. Turkey (Nº 63354/00), 15 February 2007 [Section III]
Kozarov v. the former Yugoslav Republic of Macedonia (Nº 64229/01), 15 February 2007 [Section V] (striking out)
Jasar v. the former Yugoslav Republic of Macedonia (Nº 69908/01), 15 February 2007 [Section III (former)]
Canseven v. Turkey (Nº 70317/01), 15 February 2007 [Section III]
Gorbachev v. Russia (Nº 3354/02), 15 February 2007 [Section I]
Varsak v. Turkey (Nº 6281/02), 15 February 2007 [Section III]
Balık v. Turkey (Nº 6663/02), 15 February 2007 [Section III]
Karatay and Others v. Turkey (Nº 11468/02), 15 February 2007 [Section III]
Kirsten v. Germany (Nº 19124/02), 15 February 2007 [Section V]
Bock and Palade v. Romania (Nº 21740/02), 15 February 2007 [Section III]
Pogrebna v. Ukraine (Nº 25476/02), 15 February 2007 [Section V]
Evrenos Önen v. Turkey (Nº 29782/02), 15 February 2007 [Section III]
Taner v. Turkey (Nº 38414/02), 15 February 2007 [Section III]
Mahmutović v. Croatia (Nº 9505/03), 15 February 2007 [Section I]
Ponomarenko v. Russia (Nº 14656/03), 15 February 2007 [Section I]
Mathony v. Luxembourg (Nº 15048/03), 15 February 2007 [Section I]
Raylyan v. Russia (Nº 22000/03), 15 February 2007 [Section I]
Gorlova v. Russia (Nº 29898/03), 15 February 2007 [Section I]
Gavrilenko v. Russia (Nº 30674/03), 15 February 2007 [Section I]
Vasilyev v. Russia (Nº 30671/03), 15 February 2007 [Section I]
Knyazhichenko v. Russia (Nº 30685/03), 15 February 2007 [Section I]
Danilchenko v. Russia (Nº 30686/03), 15 February 2007 [Section I]
Chekushkin v. Russia (Nº 30714/03), 15 February 2007 [Section I]
Septa v. Russia (Nº 30731/03), 15 February 2007 [Section I]
Grebenchenko v. Russia (Nº 30777/03), 15 February 2007 [Section I]

Gürü Toprak v. Turkey (Nº 39452/98), 20 February 2007 [Section IV]
Ölmez v. Turkey (Nº 39464/98), 20 February 2007 [Section IV]
Zeynep Özcan v. Turkey (Nº 45906/99), 20 February 2007 [Section II]
Salgın v. Turkey (Nº 46748/99), 20 February 2007 [Section IV]
Özçelik v. Turkey (Nº 56497/00), 20 February 2007 [Section IV]
Benli v. Turkey (Nº 65715/01), 20 February 2007 [Section IV]
Veske v. Turkey (Nº 11838/02), 20 February 2007 [Section IV]
Ünsal v. Turkey (Nº 24632/02), 20 February 2007 [Section II]
Oyman v. Turkey (Nº 39856/02), 20 February 2007 [Section II]
Yengin v. Turkey (Nº 42091/02), 20 February 2007 [Section IV]
Zmaliński v. Poland (Nº 44319/02), 20 February 2007 [Section IV]
Väänänen v. Finland (Nº 10736/03), 20 February 2007 [Section IV]
Yurt v. Turkey (Nº 12439/03), 20 February 2007 [Section IV]
Remzi Aydin v. Turkey (Nº 30911/04), 20 February 2007 [Section II]
Ruciński v. Poland (Nº 33198/04), 20 February 2007 [Section IV]

Valin v. Sweden (Nº 61390/00), 22 February 2007 [Section III] (friendly settlement)
Kolomiyets v. Russia (Nº 76835/01), 22 February 2007 [Section I]
Gavrileanu v. Romania (Nº 18037/02), 22 February 2007 [Section III]
Nikowitz and Verlagsgruppe News GmbH v. Austria (Nº 5266/03), 22 February 2007 [Section I]
Krasulya v. Russia (Nº 12365/03), 22 February 2007 [Section I]
Sakkopoulos v. Greece (no. 2) (Nº 14249/04), 22 February 2007 [Section I]
Falter Zeitschriften GmbH v. Austria (Nº 26606/04), 22 February 2007 [Section I]

Donner v. Austria (Nº 32407/04), 22 February 2007 [Section I]
Ahmed v. Sweden (Nº 9886/05), 22 February 2007 [Section III] (striking out)
Vyalykh v. Russia (Nº 5225/06), 22 February 2007 [Section I]

Nešťák v. Slovakia (Nº 65559/01), 27 February 2007 [Section IV]
Pepszolg Kft. ("v.a.") v. Hungary (Nº 6690/02), 27 February 2007 [Section II]
Maciej v. Poland (Nº 10838/02), 27 February 2007 [Section IV]
Nowicki v. Poland (Nº 6390/03), 27 February 2007 [Section IV]
Biserica Adevărat Ortodoxă din Moldova and Others v. Moldova (Nº 952/03), 27 February 2007 [Section IV]
Moldovahidromaş v. Moldova (Nº 30475/03), 27 February 2007 [Section IV]
Tüketici Bilincini Geliştirme Derneği v. Turkey (Nº 38891/03), 27 February 2007 [Section II]

Relinquishment in favour of the Grand Chamber

Article 30

GUJA - Moldova (N° 14277/04)
[Section IV]

The Prosecutor General's Office, where the applicant worked as a head of the Press Department, received two letters. The first one allegedly amounted to an attempted interference of a Deputy Speaker of the Parliament into a criminal investigation regarding police brutality, and the second demonstrated that the Ministry of Internal Affairs had re-employed policemen recently convicted of police brutality. The applicant handed these letters to a newspaper which published them in an article concerning corruption. The applicant was dismissed. He instituted civil proceedings seeking reinstatement and claiming that the letters in question were not classified as secret. His action and subsequent appeals were dismissed. The Section has declined jurisdiction in favour of the Grand Chamber.

Judgments which have become final

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three-month time-limit for requesting referral to the Grand Chamber) (see Information Notes Nos. 90 and 91):

Ščuryová - Slovakia (Nº 72019/01)
Gürsoy and Others - Turkey (Nº 1827/02, Nº 1842/02, Nº 1846/02, Nº 1850/02, Nº 1857/02, Nº 1859/02 and Nº 1862/02)
Stenka - Poland (Nº 3675/03)
Zborowski - Poland (Nº 13532/03)
Jelicic - Bosnia and Herzegovina (Nº 41183/02)
Klein - Slovakia (Nº 72208/01)
Judgments 31.10.2006 [Section IV]

Vladimir Nikitin - Russia (Nº 15969/02)
Komarova - Russia (Nº 19126/02)
Standard Verlags GmbH and Krawagna-Pfeifer - Austria (Nº 19710/02)
Kazartsev - Russia (Nº 26410/02)
Standard Verlags GmbH - Austria (Nº 13071/03)
Serifis - Greece (Nº 27695/03)
Kozlica - Croatia (Nº 29182/03)
Tytar - Russia (Nº 21779/04)
Kudinova - Russia (Nº 44374/04)
Sukobljevic - Croatia (Nº 5129/03)
Kobenter and Standard Verlags GmbH - Austria (Nº 60899/00)
Judgments 2.11.2006 [Section I]

Matko - Slovenia (Nº 43393/98)
Di Pietro - Italy (Nº 73575/01)
Milazzo - Italy (Nº 77156/01)
Matica - Romania (Nº 19567/02)
Perrella - Italy (no. 2) (Nº 15348/03)
Matthias and Others - Italy (Nº 35174/03)
Radovici and Stănescu - Romania (Nºs 68479/01, 71351/01 and 71352/01)
Judgments 2.11.2006 [Section III]

Kalpachka - Bulgaria (Nº 49163/99)
Radoslav Popov - Bulgaria (Nº 58971/00)
Volokhy - Ukraine (Nº 23543/02)
Dacosta Silva - Spain (Nº 69966/01)
Judgments 2.11.2006 [Section V]

Mamère - France (Nº 12697/03)
Judgment 7.11.2006 [Section III]

Šmál - Slovakia (Nº 69208/01)
Romejko - Poland (Nº 74209/01)
Molander - Finland (Nº 10615/03)
Hass - Poland (Nº 2782/04)
Holomiov - Moldova (Nº 30649/05)
Judgments 7.11.2006 [Section IV]

Kaste and Mathisen - Norway (Nº 18885/04 and Nº 21166/04)
Volokitin - Russia (Nº 374/03)
Tengerakis - Cyprus (Nº 35698/03)
Luluyev and Others - Russia (Nº 69480/01)
Stojakovic - Austria (Nº 30003/02)
Imakayeva - Russia (Nº 7615/02)
Leempoel & S.A. Ed. CINE REVUE - Belgium (Nº 64772/01)
Judgments 9.11.2006 [Section I]

Vehbi Ünal - Turkey (Nº 48264/99)
Düzgören - Turkey (Nº 56827/00)
Petan - Slovenia (Nº 66819/01)
Kavak - Turkey (Nº 69790/01)
Varacha - Slovenia (Nº 9303/02)
Ungureanu - Romania (Nº 23354/02)
Suciu Arama - Romania (Nº 25603/02)
Melinte - Romania (Nº 43247/02)
Tavli - Turkey (Nº 11449/02)
Sacilor-Lormines - France (Nº 65411/01)
Judgments 9.11.2006 [Section III]

Tanko Todorov - Bulgaria (Nº 51562/99)
Negrich - Ukraine (Nº 22252/02)
Vorona - Ukraine (Nº 44372/02)
Bagriy and Krivanich - Ukraine (Nº 12023/04)
Fyodorov - Ukraine (Nº 43121/04)
Belukha - Ukraine (Nº 33949/02)
Judgments 9.11.2006 [Section V]

Assad - France (Nº 66500/01)
Jurevičius - Lithuania (Nº 30165/02)
Louis - France (Nº 44301/02)
Ong - France (Nº 348/03)
Tuncay and Others - Turkey (Nº 11898/03, Nº 11899/03, Nº 18900/03, Nº 18901/03, Nº 18902/03, Nº 18903/03, Nº 18904/03, Nº 18907/03, Nº 18908/03, Nº 18909/03, Nº 18910/03, Nº 18912/03 and Nº 18913/03)
Metin Turan - Turkey (Nº 20868/02)
Judgments 14.11.2006 [Section II]

Vozár - Slovakia (Nº 54826/00)
Braga - Moldova (Nº 74154/01)
Drabicki - Poland (Nº 15464/02)
Melnic - Moldova (Nº 6923/03)
Judgments 14.11.2006 [Section IV]

Kondrashova - Russia (Nº 75473/01)
Mužević - Croatia (Nº 39299/02)
Immobiliare Podere Trieste S.R.L. - Italy (Nº 19041/04)
Hajiyev - Azerbaijan (Nº 5548/03)
Judgments 16.11.2006 [Section I]

Dragne and Others - Romania (Nº 78047/01)
Davidescu - Romania (Nº 2252/02)
Čiapas - Lithuania (Nº 4902/02)

Trapani Lombardo and Others - Italy (Nº 25106/03)
Rita Ippoliti - Italy (Nº 162/04)
Judgments 16.11.2006 [Section III]

Spasov - Bulgaria (Nº 51796/99)
Boneva - Bulgaria (Nº 53820/00)
Judgments 16.11.2006 [Section V]

Desserprit - France (Nº 76977/01)
Flandin - France (Nº 77773/01)
Judgments 28.11.2006 [Section II]

Igors Dmitrijevs - Latvia (Nº 61638/00)
Veraart - Netherlands (Nº 10807/04)
Judgments 30.11.2006 [Section III]

Krasnoshapka - Ukraine (Nº 23786/02)
Karnaushenko - Ukraine (Nº 23853/02)
MZT Learnica A.D. - the former Yugoslav Republic of Macedonia (Nº 26124/02)
Duma - Ukraine (Nº 39422/04)
Len - Ukraine (Nº 43065/04)
Goncharov and Others - Ukraine (Nº 43090/04, Nº 43096/04, Nº 43101/04 and Nº 43106/04)
Prokhorov - Ukraine (Nº 43138/04)
Judgments 30.11.2006 [Section V]

Article 44(2)(c)

On 12 February 2007 the Panel of the Grand Chamber rejected requests for referral of the following judgments, which have consequently become final:

Ananyev v. Ukraine (32374/02) - Section V, judgment of 30 November 2006
Andrzejewski v. Poland (72999/01) - Section IV, judgment of 17 October 2006
Atut Sp. Z.o.o. v. Poland (71151/01) - Section IV, judgment of 24 October 2006
Bencze v. Hungary (4578/03) – Section II, judgment of 31 October 2006
Beshiri and Others v. Albania (7352/03) – Section IV, judgment of 22 August 2006
Bialas v. Poland (69129/01) – Section IV, judgment of 10 October 2006
Börcsök Bodor v. Hungary (14962/03) – Section II, judgment of 3 October 2006
Borshchevskiy v. Russia (14853/03) – Section I, judgment of 21 September 2006
De Blasi v. Italy (1595/02) – Section III, judgment of 5 October 2006
Dvoynykh v. Ukraine (72277/01) – Section V, judgment of 12 October 2006
Emesz v. Hungary (36343/03) – Section II, judgment of 31 October 2006
Gasser v. Italy (10481/02) – Section III, judgment of 21 September 2006
İhsan and Satun Önel v. Turkey (9292/02) – Section III, judgment of 21 September 2006
Jeruzal v. Poland (65888/01) – Section IV, judgment of 10 October 2006
Jończyk v. Poland (75870/01) - Section IV, judgment of 10 October 2006
Karahanoğlu v. Turkey (74341/01) – Section II, judgment of 3 October 2006
Koval v. Ukraine (65550/01) - Section I, judgment of 19 October 2006
L.L. v. France (7508/02) – Section II, judgment of 10 October 2006
Markoski v. the former Yugoslav Republic of Macedonia (22928/03) – Section V, judgment of 2 November 2006
Maupas and Others v. France (13844/02) – Section II, judgment of 19 September 2006
Mehmet Ali Gündüz v. Turkey (27633/02) – Section V, judgment of 10 August 2006
Miraux v. France (73529/01) – Section II, judgment of 26 September 2006
Mokrushina v. Russia (23377/02) – Section I, judgment of 5 October 2006
Mutlu v. Turkey (8006/02) - Section II, judgment of 10 October 2006
Nowak and Zajaczkowski v. Poland (12174/02) - Section IV, judgment of 22 August 2006
Okkali v. Turkey (52067/99) – Section II, judgment of 17 October 2006
Olenik v. Slovenia (4225/02) - Section III, judgment of 2 November 2006
Pandy v. Belgium (13583/02) – Section I, judgment of 21 September 2006
Panteleyenko v. Ukraine (11901/02) - Section V, judgment of 29 June 2006
Pessino v. France (40403/02) – Section II, judgment of 10 October 2006
Sekulowicz v. Poland (64249/01) – Section IV, judgment of 7 November 2006
Shapovalova v. Russia (2047/03) – Section I, judgment of 5 October 2006
Shelomkov v. Russia (36219/02) – Section I, judgment of 5 October 2006
Taner Kiliç v. Turkey (70845/01) – Section II, judgment of 24 October 2006
Tarasov v. Russia (13910/04) – Section I, judgment of 28 September 2006
Tunceli Kültür ve Dayanişma Derneği v. Turkey (61353/00) - Section II, judgment of 10 October 2006
Volovich v. Russia (10374/02) – Section I, judgment of 5 October 2006
Walker v. the United Kingdom (37212/02) – Section IV, judgment of 22 August 2006

Statistical information[1]

Judgments delivered	February	2007
Grand Chamber	0	2
Section I	38	70(71)
Section II	11	50(100)
Section III	26(28)	43(45)
Section IV	29(38)	62(78)
Section V	12	31
former Sections	2	7
Total	**118(129)**	**265(334)**

Judgments delivered in February 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	0	0
Section I	38	0	0	0	38
Section II	11	0	0	0	11
Section III	24(26)	1	1	0	26(28)
Section IV	26	3(12)	0	0	29(38)
Section V	11	0	1	0	12
former Section I	0	0	0	0	0
former Section II	1	0	0	0	1
former Section III	1	0	0	0	1
former Section IV	0	0	0	0	0
Total	**112(114)**	**4(13)**	**2**	**0**	**118(129)**

Judgments delivered in 2007					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	2	0	0	0	2
Section I	69(70)	0	1	0	70(71)
Section II	50(100)	0	0	0	50(100)
Section III	41(43)	1	1	0	43(45)
Section IV	53(54)	9(24)	0	0	62(78)
Section V	30	0	1	0	31
former Section I	0	0	0	0	0
former Section II	5	0	0	1	6
former Section III	1	0	0	0	1
former Section IV	0	0	0	0	0
Total	**251(305)**	**10(25)**	**3**	**1**	**265(334)**

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

Decisions adopted		February	2007
I. Applications declared admissible			
Grand Chamber		0	0
Section I		4	5
Section II		2	2
Section III		1	4
Section IV		2	3(2)
Section V		2	5
Total		**11**	**19(2)**
II. Applications declared inadmissible			
Grand Chamber		0	0
Section I	- Chamber	9	12
	- Committee	482	950
Section II	- Chamber	3	7(20)
	- Committee	78	476
Section III	- Chamber	3	8
	- Committee	256	563
Section IV	- Chamber	10	21
	- Committee	258	724
Section V	- Chamber	8	13
	- Committee	437	876
Total		**1544**	**3650(20)**
III. Applications struck off			
Grand Chamber		0	0
Section I	- Chamber	12	21
	- Committee	10	23
Section II	- Chamber	3	11(15)
	- Committee	2	18
Section III	- Chamber	13	14
	- Committee	4	10
Section IV	- Chamber	4	16
	- Committee	3	9
Section V	- Chamber	1	4
	- Committee	7	9
Total		**59**	**135(15)**
Total number of decisions[1]		**1614**	**3804(37)**

[1] Not including partial decisions.

Applications communicated	February	2007
Section I	54	95
Section II	30	131
Section III	49	129
Section IV	28	91
Section V	27	56
Total number of applications communicated	**188**	**502**

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

Convention

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

Protocol No. 1

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

Protocol No. 4

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

Protocol No. 6

Article 1 :	Abolition of the death penalty

Protocol No. 7

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