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European Court of Human Rights
(Council of Europe)
67075 Strasbourg Cedex
France
Tel: 00 33 (0)3 88 41 20 18
Fax: 00 33 (0)3 88 41 27 30
publishing@echr.coe.int
www.echr.coe.int

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TABLE OF CONTENTS

ARTICLE 2

Effective investigation

Prosecution of officer with command responsibility, but not of direct perpetrators of killing: *violation*

Jelić v. Croatia - 57856/11 7

ARTICLE 3

Expulsion

Proposed expulsion to Iran of alleged political activist who had converted to Christianity after arriving in Europe: *case referred to the Grand Chamber*

F.G. v. Sweden - 43611/11 7

Homosexual required to return to Libya in order to apply for family reunion: *no violation*

M.E. v. Sweden - 71398/12 8

ARTICLE 5

Article 5 § 1

Deprivation of liberty
Lawful arrest or detention

Detention of participants at religious ceremony of Jehovah's Witnesses: *violation*

Krupko and Others v. Russia - 26587/07 8

Article 5 § 4

Speediness of review

Sixteen days' delay in judicial review of lawfulness of order for detention pending extradition made by non-judicial authority: *violation*

Shcherbina v. Russia - 41970/11 9

ARTICLE 6

Article 6 § 1 (civil) (enforcement)

Access to court

Failure by authorities to comply with final court orders requiring them to disclose public information to journalist: *violation*

Roşiianu v. Romania - 27329/06 9

Article 6 § 1 (civil)

Fair hearing

Legislative interference in pending judicial proceedings through retroactive legislation: *violation*

Azienda Agricola Silverfunghi S.A.S. and Others v. Italy - 48357/07 et al. 9

ARTICLE 8

Respect for private and family life

Refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States between children born as a result of surrogacy treatment and the couples who had had the treatment: *violation*

Labassee v. France - 65941/11
Mennesson v. France - 65192/11 10

Respect for private life

Refusal to renew teacher of Catholic religion and morals' contract after he publicly revealed his position as a "married priest": *no violation*

Fernández Martínez v. Spain [GC] - 56030/07 12

Refusal of contact and right to information for biological mother of children given up for adoption: *no violation*

I.S. v. Germany - 31021/08 14

Removal of organs for transplantation without knowledge or consent of closest relatives: *violation*

Petrova v. Latvia - 4605/05 15

Respect for family life

Lack of participation of a parent in proceedings concerning the return of his child under the Hague Convention: *violation*

López-Guió v. Slovakia - 10280/12 15

Respect for home
Positive obligations

Housing reforms resulting in higher rent and reduced security of tenure for tenants following move to market economy: *no violation*

Berger-Krall and Others v. Slovenia - 14717/04 16

ARTICLE 9

Freedom of religion

Dissolution of religious community without relevant and sufficient reasons: *violation*

Biblical Centre of the Chuvash Republic v. Russia - 33203/08 16

Manifest religion or belief

Disruption of a Jehovah's Witnesses religious meeting by armed riot police: *violation*

Krupko and Others v. Russia - 26587/07 17

ARTICLE 10

Freedom of expression

Criminal conviction for rejecting legal characterisation of atrocities committed by Ottoman Empire against the Armenian people from 1915 as "genocide": *case referred to the Grand Chamber*

Perinçek v. Switzerland - 27510/08 18

Arrest and conviction of journalist for not obeying police orders during a demonstration: *case referred to the Grand Chamber*

Pentikäinen v. Finland - 11882/10 18

Freedom to receive information
Freedom to impart information

Failure by authorities to comply with final court orders requiring them to disclose public information to journalist: *violation*

Roşiianu v. Romania - 27329/06 19

Search of magazine premises for letter claiming responsibility for bomb attacks: *inadmissible*

Stichting Ostade Blade v. the Netherlands (dec.) - 8406/06 20

Freedom to impart information

Finding of liability against publishers of article and photographs revealing existence of monarch's secret child: *violation*

Couderc and Hachette Filipacchi Associés v. France - 40454/07 20

ARTICLE 11

Freedom of peaceful assembly

Complete blockage of a village in response to a peaceful demonstration: *violation*

Primov and Others v. Russia - 17391/06 22

ARTICLE 14

Discrimination (Article 5)

Alleged discrimination in provisions governing liability to life imprisonment: *admissible*

Khamtokhu and Aksenchik v. Russia (dec.) - 60367/08 and 961/11 24

ARTICLE 35

Article 35 § 1

Exhaustion of domestic remedies
Effective domestic remedy – Turkey

Application to compensation board under decree of 16 March 2014 in respect of devaluation of awards in expropriation cases: *effective remedy*

Yıldız and Yanak v. Turkey (dec.) - 44013/07 24

Article 35 § 3 (b)

No significant disadvantage

Applicability of no significant disadvantage admissibility criterion in freedom of expression case: *inadmissible*

Sylka v. Poland (dec.) - 19219/07 25

ARTICLE 1 OF PROTOCOL No. 1

Peaceful enjoyment of possessions

Housing reforms resulting in higher rent and reduced security of tenure for tenants following move to market economy: *no violation*

Berger-Krall and Others v. Slovenia - 14717/04 26

Control of the use of property

Legislative interference with property right through retroactive legislation aimed at decreasing public expenditure: *no violation*

Azienda Agricola Silverfunghi S.A.S. and Others v. Italy - 48357/07 et al. 27

ARTICLE 3 OF PROTOCOL No. 1

Vote

Failure of applicant prisoners to substantiate that they were affected by blanket ban on voting: *inadmissible*

Dunn and Others v. the United Kingdom (dec.) - 566/10 et al. 28

RULES OF COURT 28

REFERRAL TO THE GRAND CHAMBER 28

COURT NEWS 29

Translation of the Case-Law Information Note into Turkish

Court's Internet site: information for applicants

RECENT PUBLICATIONS 29

Handbook on European law relating to asylum, borders and immigration

ARTICLE 2

Effective investigation

Prosecution of officer with command responsibility, but not of direct perpetrators of killing: *violation*

Jelić v. Croatia - 57856/11
Judgment 12.6.2014 [Section I]

Facts – In November 1991 the applicant's husband, who was of Serbian ethnic origin, was kidnapped from his home. He was later found dead. No effective measures were taken to investigate the killing for seven years. In September 1999 the Sisak Police started conducting interviews in connection with the killing of Serbs in Sisak from 1991 to 1995, including the applicant's husband. Some time later a witness named several persons allegedly implicated in the killing of Serbs, including the applicant's husband. In 2013 a former senior official of the Sisak Police was found guilty of war crimes against the civilian population for the killings.

Law – Article 2 (*procedural aspect*): The applicant complained that the investigation into her husband's death was inadequate because none of the direct perpetrators, whom witnesses had identified by name, had been indicted, even though the senior official responsible had been convicted. The Court accepted that certain delays in the investigation into the killing of Serbian civilians during the war and post-war recovery were attributable to the overall situation in Croatia, a newly-independent and post-war State which needed time to organise its apparatus and for its officials to gain experience. However, such difficulties could not of themselves relieve the authorities of their procedural obligations under Article 2 of the Convention.

By 2003 at the latest the authorities had some information which could possibly have led to the identification of direct perpetrators and of those who had ordered the killing of the applicant's husband and which thus triggered their obligation to take further investigative measures. While it was uncertain whether any of the information given to the authorities would have resulted in convictions, they were nevertheless expected to pursue all possible leads to establish the circumstances in which a person had been killed, in order to comply with their procedural obligations under Article 2. In the present case the deficiency which undermined the effectiveness of the investigation could not be remedied by convicting only those in command. In the context of war crimes the punishment of superiors could not exonerate their subordinates from their own criminal responsibility. Consequently, even though the senior official had been convicted, Croatia's procedural obligations under Article 2 still required the authorities to pursue the prosecution of the most probable direct perpetrators with promptness and reasonable expedition. The Court concluded that the delays in the investigation, in the light of the fact that witnesses had identified the direct perpetrators by name, had constituted a failure to conduct an adequate and effective investigation in breach of Article 2 of the Convention.

Conclusion: violation (unanimously).

Article 41: EUR 20,000 in respect of non-pecuniary damage.

ARTICLE 3

Expulsion

Proposed expulsion to Iran of alleged political activist who had converted to Christianity after arriving in Europe: *case referred to the Grand Chamber*

F.G. v. Sweden - 43611/11
Judgment 16.1.2014 [Section V]

The applicant, an Iranian national, applied for asylum in Sweden on the grounds that he had worked with known opponents of the Iranian regime and had been arrested and held by the authorities on at least three occasions between 2007 and 2009, notably in connection with his web publishing activities. He was forced to flee after discovering that his business premises, where he kept politically sensitive material, had been searched and documents were missing. After arriving in Sweden, he had converted to Christianity, which he claimed put him at risk of capital punishment for apostasy on a return to Iran. His request for asylum was rejected by the Swedish authorities, who made an order for his expulsion.

In a judgment of 16 January 2014, a Chamber of the Court held by four votes to three that the implementation of the expulsion order against the applicant would not give rise to a violation of Article 2 or 3 of the Convention. It found that no information had emerged to indicate that the applicant's political activities and engagement had been anything more than peripheral. He had not

been summoned to appear before the Revolutionary Court since November 2009, his family in Iran had not been targeted because of his political activities and he did not claim to have continued his activities since his arrival in Sweden. As regards his conversion to Christianity, he had expressly stated before the domestic authorities that he did not wish to invoke his religious affiliation as a ground for asylum, since he felt this to be a private matter. He had had the opportunity to raise the question of his conversion during the oral hearing before the Migration Court but had chosen not to do so, only changing stance once the order for his expulsion became enforceable. Moreover, he had only converted to Christianity after arriving in Sweden and had kept his faith private. There was nothing to indicate that the Iranian authorities were aware of his conversion. In conclusion, the applicant had failed to substantiate a real and concrete risk of proscribed treatment if he was returned to Iran.

On 2 June 2014 the case was referred to the Grand Chamber at the applicant's request.

Homosexual required to return to Libya in order to apply for family reunion: *no violation*

M.E. v. Sweden - 71398/12
Judgment 26.6.2014 [Section V]

Facts – The applicant, a Libyan national who had been living in Sweden since 2010, applied for asylum there initially on the grounds that he feared persecution because of his involvement in the illegal transportation of weapons. Some months later he raised an additional ground for asylum stating that he was homosexual and had married a man. As to the original ground for his asylum request, he accepted that in view of political changes in Libya, he would probably no longer be in danger there. The Migration Board rejected his request because he had given contradictory statements and his story lacked credibility. It found no obstacle to his returning to Libya to apply for a residence permit in Sweden on account of his family ties and marriage. The Migration Court dismissed his appeal after finding that he was not in need of international protection and that his story was not credible.

Law – Article 3: The applicant complained that he would face a real risk of persecution if returned to Libya on account of his involvement in the illegal transport of weapons and of his sexual orientation and marriage to a man. As to the first limb, the Court concluded that he lacked credibility and had failed to substantiate a serious personal risk of ill-treatment. As regards his sexual orientation, even though the domestic authorities had never questioned the applicant's homosexuality, they found that he lacked credibility since he had altered and escalated his story during the domestic proceedings. In the Court's view, the applicant had failed to give a coherent and credible account on which to base the examination of his claims. Even though there was little information about the situation of homosexuals in Libya, there appeared to be no public record of anyone actually having been prosecuted or convicted for homosexual acts since the end of the Gadhafi regime in 2011. There were thus insufficient elements to conclude that the Libyan authorities actively persecuted homosexuals. Moreover, the applicant was not being permanently expelled from Sweden. Although required to return to Libya in order to apply for family reunion, he could make the application online thereby reducing the waiting time to approximately four months. Even though he would need to be discreet about his private life during the waiting period, that would not require him to conceal or suppress an important part of his identity permanently or for a longer period of time. While it was true that he would have to travel to Egypt, Tunisia or Algeria for interview, since there was no Swedish Embassy in Libya, that could be done in a few days and did not put the applicant at risk of ill-treatment in those countries. In sum, there were no substantial grounds for believing the applicant would be subjected to ill-treatment on account of his sexual orientation if he was returned to Libya in order to apply for family reunion from there.

Conclusion: no violation (six votes to one).

ARTICLE 5

Article 5 § 1

Deprivation of liberty
Lawful arrest or detention

Detention of participants at religious ceremony of Jehovah's Witnesses: *violation*

Krupko and Others v. Russia - 26587/07
Judgment 26.6.2014 [Section I]

(See Article 9 below, page 17)

Article 5 § 4

Speedininess of review

Sixteen days' delay in judicial review of lawfulness of order for detention pending extradition made by non-judicial authority: *violation*

Shcherbina v. Russia - 41970/11
Judgment 26.6.2014 [Section I]

Facts – On 28 February 2011 the applicant was detained in Russia pursuant to an order made by a prosecutor following a request for his extradition from the Kazakh authorities. On 30 March 2011 the applicant lodged an application for release with a court of first instance, which quashed the detention order sixteen days later, on 15 April 2011.

Law – Article 5 § 4: The case did not concern detention under Article 5 § 1 (c) but detention for the purposes of extradition governed by Article 5 § 1 (f). Consequently, the authorities did not have an obligation to bring the applicant promptly before a judge. However, the applicant had a right to "take proceedings" before the court and to actively seek his release under Article 5 § 4 of the Convention. Once an application for release had been lodged, judicial review of the lawfulness of detention had to follow speedily.

Nevertheless, the "speediness" requirement of Article 5 § 4 was not necessarily the same as the "promptness" requirement of Article 5 § 3. Thus where the original detention order was imposed by a court (that is, an independent and impartial judicial body in a procedure offering appropriate guarantees of due process), the Court had in a series of cases against Russia[1] been prepared to tolerate longer periods of review in the proceedings before the second-instance court. In such cases, a period of sixteen days might not raise an issue under Article 5 § 4.[2] However, unlike the position in those cases, the original detention order in the applicant's case was made by a prosecutor, not by a judge or other judicial officer.

1. *Mamedova v. Russia*, 7064/05, 1 June 2006, Information Note 87; *Ignatov v. Russia*, 27193/02, 24 May 2007; and *Lamazhyk v. Russia*, 20571/04, 30 July 2009.
2. *Yudayev v. Russia*, 40258/03, 15 January 2009; and *Khodorkovskiy v. Russia*, 5829/04, 31 May 2011, Information Note 141.

Furthermore, the decision-making process which had resulted in the detention order had not offered the guarantees of due process: the decision was taken *in camera* and without any involvement of the applicant. In addition, as established by the reviewing court, the prosecutor had acted *ultra vires* and had no powers to order the applicant's detention.

In these circumstances, the standard of "speediness" of judicial review under Article 5 § 4 of the Convention came closer to the standard of "promptness" under Article 5 § 3. Therefore, the sixteen days' delay in the judicial review of the detention order of 28 February 2011 was excessive.

Conclusion: violation (unanimously).

The Court also found a violation of Article 5 § 1 in conjunction with Article 5 § 5 of the Convention.

Article 41: EUR 6,500 in respect of non-pecuniary damage.

ARTICLE 6

Article 6 § 1 (civil) (enforcement)

Access to court

Failure by authorities to comply with final court orders requiring them to disclose public information to journalist: *violation*

Roşiianu v. Romania - 27329/06
Judgment 24.6.2014 [Section III]

(See Article 10 below, page 19)

Article 6 § 1 (civil)

Fair hearing

Legislative interference in pending judicial proceedings through retroactive legislation: *violation*

Azienda Agricola Silverfunghi S.A.S. and Others v. Italy - 48357/07 et al.
Judgment 24.6.2014 [Section II]

(See Article 1 of Protocol No. 1 below, page 27)

ARTICLE 8

Respect for private and family life

Refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States between children born as a result of surrogacy treatment and the couples who had had the treatment: *violation*

Labassee v. France - 65941/11
Mennesson v. France - 65192/11
Judgments 26.6.2014 [Section V]

Facts – The applicants in the first case are Mr and Mrs Mennesson, who are French nationals, and the Mennesson girls, American nationals who are twins and were born in 2000. The applicants in the second case are Mr and Mrs Labassee, who are French nationals, and Juliette Labassee, an American national born in 2001.

Owing to Mrs Mennesson's and Mrs Labassee's infertility, the applicant couples had surrogacy treatment in the United States. The embryos, produced using the sperm of Mr Mennesson and Mr Labassee, were implanted in each case in another woman's uterus. As a result, the Mennesson twins and Juliette Labassee (the applicant children) were born. Judgments given in California in the first case and in Minnesota in the second ruled that Mr and Mrs Mennesson were the twins' parents and that Mr and Mrs Labassee were Juliette's parents.

The French authorities, suspecting that the cases involved surrogacy arrangements, refused to enter the birth certificates in the French register of births, marriages and deaths. In the *Mennesson* case, the birth certificates were nevertheless entered in the register on the instructions of the public prosecutor, who subsequently brought proceedings against the couple with a view to having the entries annulled. In the *Labassee* case, the couple did not challenge the refusal to register the birth, but sought to have the legal relationship recognised on the basis of *de facto* enjoyment of status ("*possession d'état*"). They obtained an "*acte de notoriété*", a document issued by a judge attesting to the status of son or daughter, that is, the existence of a *de facto* parent-child relationship, but the public prosecutor refused to enter this in the register. The couple then took the matter to court.

The applicants' claims were dismissed at final instance by the Court of Cassation on 6 April 2011 on the grounds that recording such entries in the register would give effect to a surrogacy agreement that was null and void on public-policy grounds under the French Civil Code. The court found that there had been no infringement of the right to respect for private and family life since the annulment of the entries had not deprived the children of the maternal and paternal legal relationship recognised by the laws of California and Minnesota and had not prevented them from living in France with Mr and Mrs Mennesson and Mr and Mrs Labassee.

Law – Article 8: There had been interference with the exercise of the "family life" and "private life" aspects of the right guaranteed by Article 8. The measures complained of had a basis in domestic law and the law in question had been accessible to the persons concerned and foreseeable.

France's refusal to recognise a legal relationship between children born abroad as a result of surrogacy arrangements and the intended parents stemmed from a wish to discourage French nationals from having recourse outside France to a reproductive technique that was prohibited within the country with the aim of protecting the children and the surrogate mother. Accordingly, the interference in question had pursued two legitimate aims, namely the "protection of health" and the "protection of the rights and freedoms of others".

There was no consensus in Europe either on the lawfulness of surrogacy arrangements or on the legal recognition of the relationship between intended parents and children lawfully conceived abroad as a result of such arrangements. This lack of consensus reflected the fact that recourse to surrogacy raised difficult ethical issues. Accordingly, States had to be allowed a wide margin of appreciation in making surrogacy-related decisions. Nevertheless, that margin of appreciation was necessarily narrow when it came to parentage, which involved a key aspect of individuals' identity. The Court also had to ascertain whether a fair balance had been struck between the State's interests and those of the individuals directly concerned, with particular reference to the fundamental principle according to which, whenever children were involved, their best interests must prevail.

(a) *The applicants' right to respect for their family life* – The lack of recognition in French law of the parent-child relationship between the applicants affected their family life on various levels. The applicants were obliged to produce the American civil-status documents – which had not been entered in the register – accompanied by a sworn translation whenever access to a right or a service

required proof of parentage. Furthermore, the applicant children had not obtained French nationality to date, a situation which affected the families' travels and caused concern regarding the children's right of residence in France once they became adults and hence regarding the stability of the family unit. There were also concerns as to the continuation of family life in the event of the death of one of the biological fathers or the separation of one of the couples.

Nevertheless, irrespective of the extent of the potential risks to the applicants' family life, the Court considered that its decision must be based on the actual obstacles they had faced as a result of the lack of recognition in French law of the parent-child relationship between the biological fathers and the children. The applicants had not claimed that the difficulties they referred to had been insurmountable, nor had they demonstrated that their inability to secure recognition in French law of a legal parent-child relationship had prevented them from exercising in France their right to respect for their family life. They had been able to settle in France shortly after the birth of the children, they were able to live there together in circumstances which, by and large, were comparable to those of other families, and there was nothing to suggest that they were at risk of being separated by the authorities because of their situation in the eyes of French law.

In addition, in rejecting the applicants' Convention-based arguments, the Court of Cassation had not omitted to examine their specific situation, as the judges had found – implicitly but necessarily – that the practical difficulties which the applicants were liable to face in their family life in the absence of recognition under French law of the parent-child relationship established between them abroad would not exceed the limits imposed by compliance with Article 8 of the Convention.

Hence, given the practical implications for the applicants' family life of the lack of recognition in French law of the parent-child relationship, and the respondent State's margin of appreciation, the situation stemming from the findings of the Court of Cassation in the instant case struck a fair balance between the applicants' interests and those of the State in so far as the applicants' right to respect for their family life was concerned.

Conclusion: no violation (unanimously).

(b) *Right of the applicant children to respect for their private life* – The French authorities, although aware that the applicant children had been identified elsewhere as the children of the intended parents, had nevertheless denied them that status in the French legal system. This contradiction undermined their identity within French society. Furthermore, although Article 8 of the Convention did not guarantee a right to obtain a particular nationality, the fact remained that nationality was a component of individual identity. Although their biological fathers were French, the applicant children faced worrying uncertainty as to the possibility of obtaining French nationality, a situation that was liable to have negative repercussions on the definition of their own identity. Furthermore, the fact that the applicant children were not identified under French law as the children of the intended parents had implications in terms of their inheritance rights.

France might conceivably wish to discourage its nationals from having recourse abroad to a reproductive technique that was prohibited inside the country. However, it followed from the above considerations that the effects of the refusal to recognise a parent-child relationship in French law between children conceived in this way and the intended parents were not confined to the situation of the latter, who alone had chosen the reproductive techniques complained of by the French authorities. The effects also extended to the situation of the children themselves, whose right to respect for their private life – which implied that everyone should be able to establish the essence of his or her identity, including his or her parentage – was significantly affected. There was therefore a serious issue as to the compatibility of that situation with the children's best interests, which must guide any decision concerning them.

This analysis took on particular significance when, as in the present case, one of the intended parents was also the child's biological father. Given the importance of biological parentage as a component of each individual's identity, it could not be said to be in the child's best interests to deprive him or her of a legal tie of this nature when the biological reality of that tie was established and the child and the parent concerned sought its full recognition. Not only had the tie between the children and their biological fathers not been acknowledged when the request was made for the birth certificates to be entered in the register; in addition, the recognition of that tie by means of a declaration of paternity or adoption, or on the basis of *de facto* enjoyment of status, would fall foul of the prohibition established by the case-law of the Court of Cassation in that regard. Given the implications of this serious restriction in terms of the identity of the applicant

children and their right to respect for their private life, the European Court held that, in thus preventing the recognition and establishment in domestic law of the children's relationship with their biological fathers, the respondent State had overstepped its permissible margin of appreciation. In view also of the importance to be attached to the child's best interests in weighing up the interests at stake, there had been a breach of the applicant children's right to respect for their private life.

Conclusion: violation (unanimously).

Article 41: EUR 5,000 to each of the applicant children in respect of non-pecuniary damage.

Respect for private life

Refusal to renew teacher of Catholic religion and morals' contract after he publicly revealed his position as a "married priest": *no violation*

Fernández Martínez v. Spain - 56030/07
Judgment 12.6.2014 [GC]

Facts – The applicant is a secularised Catholic priest. In 1984 he applied to the Vatican for dispensation from the obligation of celibacy. The following year he got married and he and his wife have five children. From 1991 onwards he taught Catholic religion and ethics in a State secondary school, under an annual contract which was renewed by the Ministry of Education on the basis of the binding opinion of the bishop of the diocese. In 1996 the applicant took part in a gathering of the "Movement for Optional Celibacy" of priests (MOCEOP). On that occasion the participants expressed their disagreement with the Church's position on various issues such as abortion, divorce, sexuality and birth control. An article was published in a regional newspaper, illustrated by a picture of the applicant with his family and mentioning his name, together with comments attributed to him. In 1997 the applicant was granted dispensation from celibacy. His teaching contract was not renewed, on the ground that by publicising his situation as "married priest" he had breached his duty to teach "without creating a risk of scandal". The applicant challenged that decision in the domestic courts, but to no avail. The domestic courts took the view that, in so far as the reasoning for the non-renewal decision had been strictly religious, they had to confine themselves to verifying respect for the fundamental rights at stake. In particular, the Constitutional Court, after carefully examining the facts of the case, observed that the State's duty of neutrality prevented it from ruling on the notion of "scandal" used by the Bishop in refusing to renew the applicant's contract or on the merits of the principle of the optional celibacy of priests advocated by the applicant. However, it also examined the extent of the interference with the applicant's rights and found that it was neither disproportionate nor unconstitutional but was justified by the respect due to the lawful exercise of the Catholic Church's right to freedom of religion in its collective or community dimension, in conjunction with the right of parents to choose their children's religious education.

In a judgment of 15 May 2012 (see Information Note 152), a Chamber of the Court found, by six votes to one, that there had been no violation of Article 8 of the Convention.

Law – Article 8: An individual's right to get married and to make that choice known to the public was protected by the Convention. Unlike the Chamber, the Grand Chamber took the view that the question in the present case was not whether the State was bound, in the context of its positive obligations under Article 8, to ensure that the applicant's right to respect for his private life prevailed over the Catholic Church's right to refuse to renew his contract. Even though it was not a public authority which had actually taken the non-renewal decision, it sufficed for such an authority to intervene at a later stage for the decision to be regarded as an act of a public authority. The crux of the issue lay in the action of the State authority, which, as the applicant's employer, and being directly involved in the decision-making process, had enforced the Bishop's non-renewal decision. Whilst the Court recognised that the State had limited possibilities of action in the present case, it was noteworthy that if the Bishop's decision had not been enforced by the Ministry of Education, the applicant's contract would certainly have been renewed. Consequently, the conduct of the public authorities had constituted an interference with the applicant's right to respect for his private life.

The impugned interference was in accordance with the law and pursued the legitimate aim of protecting the rights and freedoms of others, namely those of the Catholic Church, and in particular its autonomy in respect of the choice of persons accredited to teach religious doctrine.

The Court found it appropriate to take the following factors into account:

(a) *The applicant's status* – By signing his successive employment contracts, the applicant had knowingly

and voluntarily accepted a heightened duty of loyalty towards the Catholic Church and that had limited the scope of his right to respect for his private and family life to a certain degree. Such contractual limitations were permissible under the Convention where they were freely accepted. Indeed, from the point of view of the Church's interest in upholding the coherence of its precepts, teaching Catholic religion to adolescents could be considered a crucial function requiring special allegiance. Even if the applicant's status as married priest was unclear, a duty of loyalty could still be expected of him on the basis that the Bishop had accepted him as a suitable representative to teach Catholic religion.

(b) *Publicity given by the applicant to his situation as married priest* – In choosing to accept a publication about his family circumstances and his association with what the Bishop considered to be a protest-oriented meeting, the applicant had severed the special bond of trust that was necessary for him to carry out his tasks. Having regard to the importance of religious education teachers for all faith groups, it was hardly surprising that this severance would entail certain consequences. The existence of a discrepancy between the ideas that had to be taught and the teacher's personal beliefs might raise an issue of credibility if the teacher actively and publicly campaigned against the ideas in question. Thus, in the present case the problem lay in the fact that the applicant could be understood to have been campaigning in favour of his way of life to bring about a change in the Church's rules, and in his open criticism of those rules.

(c) Publicity given by the applicant to his membership of MOCEOP and the remarks attributed to him – Whilst it had been generally known that the applicant was married and had five children, it was not clear to what extent his membership of an organisation with aims incompatible with official Church doctrine had also been known to the general public before the publication of the impugned article. However, the sole fact that there was no evidence to suggest that the applicant, in his class, had taught anything incompatible with the Catholic Church's doctrine did not suffice for it to be concluded that he had fulfilled his heightened duty of loyalty. In addition, there was little doubt that the applicant, as a former priest and director of a seminary, was or must have been aware of the substance and significance of that duty. Moreover, the changes brought about by the publicity given to the applicant's membership of the MOCEOP and by the remarks appearing in the article were all the more important as the applicant had been teaching adolescents, who were not mature enough to make a distinction between information that was part of the Church's doctrine and that which corresponded to the applicant's own personal opinion.

(d) *State's responsibility as employer* – The fact that the applicant had been employed and remunerated by the State was not such as to affect the extent of the duty of loyalty imposed on him *vis-à-vis* the Catholic Church or the measures that the latter was entitled to take if that duty were breached.

(e) *Severity of the sanction* – It was of particular importance that an employee dismissed by an ecclesiastical employer had limited opportunities of finding another job. This was especially true where the employer had a predominant position in a given sector of activity and enjoyed certain derogations from the ordinary law, or where the dismissed employee had specific qualifications that made it difficult, if not impossible, to find a new job elsewhere.

Moreover, as a result of his former responsibilities within the Church, the applicant had been aware of its rules and should therefore have expected that the publicity he had given to his membership of the MOCEOP would not be without consequence for his contract. In addition, in the present case, a less restrictive measure for the applicant would certainly not have had the same effectiveness in terms of preserving the credibility of the Church. It did not therefore appear that the consequences of the decision not to renew his contract had been excessive in the circumstances of the case, having regard in particular to the fact that the applicant had knowingly placed himself in a situation that was completely in opposition to the Church's precepts.

(f) *Review by the domestic courts* – The applicant had been able to complain about the non-renewal of his contract at various levels of jurisdiction. The domestic courts had taken into account all the relevant factors and, even though they had emphasised the applicant's right to freedom of expression, they had weighed up the interests at stake in detail and in depth, within the limits imposed on them by the necessary respect for the autonomy of the Catholic Church. The conclusions thus reached did not appear unreasonable. The fact that the Constitutional Court had carried out a thorough analysis was all the more evident as two dissenting opinions were appended to its judgment, thus showing that the court had examined the issue from various perspectives, whilst refraining from ruling on the substance of the Church's principles.

As to the Church's autonomy, it did not appear, in the light of the review exercised by the national courts, that it had been improperly invoked in the present case. In other words, the Bishop's decision not to propose the renewal of the applicant's contract could not be said to have contained insufficient reasoning, to have been arbitrary, or to have been taken for a purpose that was unrelated to the exercise of the Catholic Church's autonomy.

Having regard to the State's margin of appreciation in the present case, the interference with the applicant's right to respect for his private life was not disproportionate.

Conclusion: no violation (nine votes to eight).

Refusal of contact and right to information for biological mother of children given up for adoption: *no violation*

I.S. v. Germany - 31021/08
Judgment 5.6.2014 [Section V]

Facts – German law permits "open" and "half-open" forms of adoption. Under such an agreement there can be contact of a greater or lesser degree of intensity – either direct or mediated by the Youth Office – between the adoptive parents, the child and the biological parents. Such forms of adoption are, however, dependent on the consent of the adoptive parents.

In the present case, the applicant, a married mother, became pregnant with twins after an extra-marital affair. Her husband moved out of the matrimonial home saying he would only move back if she gave away the twins. About a month after the birth, in view of her difficult family and financial situation, the applicant, who was being treated for depression, consented to the twins' placement in provisional care with a view to their later adoption. She subsequently met the future adoptive parents and some six months after the birth formally consented to the adoption of the children by deed signed before a notary in which she acknowledged the legal consequences of the adoption, in particular the fact that her kinship and all her rights and duties in respect of the twins would cease. Shortly afterwards she made an oral agreement with the adoptive parents that they would send her a short report with photographs of the children once a year through the Youth Office. The question whether the agreement laid down any rules regarding regular meetings between the children and the applicant is disputed. After a failed attempt to obtain an order to declare her consent to the adoption void, the applicant made an application for contact. This was dismissed by the domestic courts on the grounds that she did not belong to the circle of people who had lived in "domestic community" with the child for a long period of time, as required by the legislation. As to her claim for the right to receive information about the children, this was strictly limited to parents and the applicant had ceased to be a parent at the moment of adoption.

In her application to the European Court, the applicant complained that the decisions of the domestic courts denying her the right to have contact with and receive information about the twins had violated her right to respect for her family and private life under Article 8 of the Convention.

Law – Article 8: Although the existing family relationship had been intentionally severed by the applicant, the determination of remaining or newly established rights between the applicant, the adoptive parents and her biological children, even if they fell outside the scope of "family life", concerned an important part of the applicant's identity as a biological mother and thus her "private life" within the meaning of Article 8 § 1.

The impugned decisions were "in accordance with the law" and pursued the legitimate aim of protecting the rights and freedoms of others.

The oral arrangements between the applicant and the adoptive parents were concluded after the applicant had been informed by an independent lawyer of the legal consequences of her intention to declare her irrevocable consent to the adoption. The requirement for formal legal advice by an independent lawyer was an essential safeguard against misunderstandings of the nature of the deed, which could not be revoked or have conditions attached to it later. This clearly indicated that the applicant understood the "arrangements" as a declaration of intent in the context of a prospective voluntary setting aside of anonymity by the adoptive parents. This was also made clear by the specific circumstances of the conclusion of the agreement which was only made orally and did not contain any details on the right to information and the right to contact.

The adoption process, seen as a whole and including the court proceedings, had been fair and ensured the requisite protection of the applicant's rights. The legal rights of the applicant with regard to her biological children had been severed as a result of

acts she had taken in full knowledge of the legal and factual consequences. In view of this, the decision of the German authorities to attach greater weight to the privacy and family interests of the adoptive family was proportionate. As the children were adopted as newborns and were still very young at the time of the domestic proceedings, the interests of the adoptive family to enjoy and build a family life together with the children undisturbed by attempts by the children's biological parent to re-establish contact prevailed.

Conclusion: no violation (five votes to two).

Removal of organs for transplantation without knowledge or consent of closest relatives: *violation*

Petrova v. Latvia - 4605/05
Judgment 24.6.2014 [Section IV]

Facts – In 2002 the applicant's adult son died in a public hospital in Riga as a result of serious injuries sustained in a car accident. The applicant subsequently discovered that her son's kidneys and spleen had been removed immediately after his death without her knowledge or consent. Her complaint to the Prosecutor General was dismissed on the grounds that the organs had been removed in accordance with domestic law. The applicant had not been contacted because the hospital had no contact details and, as the law then stood, medical practitioners were only obliged to actively search and inform close relatives of possible organ removal if the deceased was a minor.

Law – Article 8: The applicant complained that she had not been informed about the possible removal of her son's organs for transplantation purposes and had therefore been unable to exercise certain rights established under domestic law. Latvian law at the relevant time explicitly provided close relatives of the deceased, including parents, with the right to express their wishes regarding the removal of organs. The point at issue was therefore whether or not the law was sufficiently clear. The Government argued that when close relatives were not present at the hospital, national law did not impose an obligation to make specific inquiries with a view to ascertaining whether there was any objection to organ removal and that, in such cases, consent to removal could be presumed. However, the Court found that the way in which this "presumed consent system" operated in practice in cases such as the applicant's was unclear: despite having certain rights as the closest relative she was not informed – let alone provided with any explanation – as to how and when those rights could be exercised. The time it had taken to carry out medical examinations to establish the compatibility of her son's organs with the potential recipient could have sufficed to give her a real opportunity to express her wishes in the absence of those of her son. Indeed, even the Minister of Health had expressed the opinion that the applicant should have been informed of the planned transplantation. Moreover, amendments had since been made to the relevant domestic law. The Court accordingly found that Latvian law as applied at the time of the death of the applicant's son had not been formulated with sufficient precision and did not afford adequate legal protection against arbitrariness.

Conclusion: violation (unanimously).

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

Respect for family life

Lack of participation of a parent in proceedings concerning the return of his child under the Hague Convention: *violation*

López-Guió v. Slovakia - 10280/12
Judgment 3.6.2014 [Section III]

Facts – The applicant, a Spanish national, had a child with a Slovak woman in Spain. A year later the mother took the child to Slovakia. The applicant lodged an application with the Bratislava I District Court under the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ("the Hague Convention") and Council Regulation (EC) No. 2201/2003,[1] complaining that the mother had wrongfully removed the child. After holding two oral hearings at which the child's court-appointed representative failed to appear, the District Court ordered the child's return to Spain where the child had its habitual residence. The Bratislava Regional Court upheld the decision and the Supreme Court declared the mother's subsequent appeal inadmissible. The mother then filed a complaint against the Supreme Court with the Constitutional Court, without the applicant being informed. The Constitutional Court found that the child's rights had been violated because the

1. Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

child's representative's failure to appear had not been a valid reason for ruling on the matter without having the child's views established. Consequently, the case was remitted to the District Court. In the fresh set of proceedings the District Court interviewed the child and his representative, and, guided by the best interests of the child, ruled that the child was not to be returned to Spain. On appeal, the ruling was upheld by the Bratislava Regional Court.

Law – Article 8: The applicant complained that the Hague Convention proceedings had been arbitrarily interfered with by the Constitutional Court's judgment. The Court recalled that the State had positive obligations under Article 8 to adopt measures to secure respect for family life, including measures that enabled parents to be reunited with their children. In meeting these obligations, the State must strike a fair balance between the competing interests at stake – those of the child, of the two parents and of public order – within the margin of appreciation afforded to it. Moreover, the decision-making process involved must be fair and such as to ensure due respect of the interests safeguarded by Article 8.

Since the applicant was not a party to and had no standing to intervene in the proceedings before the Constitutional Court and, indeed, had had no official means of finding out about the proceedings, the Court found that there had been a complete lack of procedural protection. That lack of protection had been aggravated by the fact that all ordinary and extraordinary remedies against the return order had been exhausted. Consequently, Slovakia had failed to secure to the applicant the right to respect for his family life under Article 8 of the Convention.

Conclusion: violation (unanimously).

Article 41: EUR 19,500 in respect of non-pecuniary damage; claim in respect of pecuniary damage dismissed.

Respect for home
Positive obligations

Housing reforms resulting in higher rent and reduced security of tenure for tenants following move to market economy: *no violation*

Berger-Krall and Others v. Slovenia - 14717/04
Judgment 12.6.2014 [Section V]

(See Article 1 of Protocol No. 1 below, page 25)

ARTICLE 9

Freedom of religion

Dissolution of religious community without relevant and sufficient reasons: *violation*

Biblical Centre of the Chuvash Republic v. Russia - 33203/08
Judgment 12.6.2014 [Section I]

Facts – The applicant was a Pentecostal mission that registered as a religious organisation in November 1991. In 1996 it founded a Biblical college and Sunday school. However, it was dissolved with immediate effect in October 2007 by order of the Supreme Court on the grounds that it had conducted educational activities without authorisation and in breach of sanitary and hygiene rules.

Law – Article 9 of the Convention interpreted in the light of Article 11: The applicant's dissolution amounted to an interference with its rights to freedom of religion under Article 9 of the Convention interpreted in the light of the right to freedom of association enshrined in Article 11. The dissolution was ordered in accordance with the law and pursued the legitimate aims of protecting health and the rights of others by putting an end to unlicensed education in inadequate sanitary conditions.

The applicant had founded the Biblical college and the Sunday school in 1996 and had run them for more than eleven years without interruption. A federal court had stated in 2002 that Sunday school fell outside the scope of the Education Act and did not require a licence. In these circumstances, the novel interpretation of the Act with regard to the mandatory licensing of Sunday schools adopted by the courts in the present case was not sufficiently foreseeable to enable the applicant to anticipate its application and adjust its conduct accordingly. Indeed, some nine months after giving judgment upholding the applicant's dissolution, the Supreme Court had reversed its stance on the licensing of Sunday schools, holding that teaching religion to children in such schools did not amount to education and that alleged breaches of the sanitary rules could not justify dissolving a religious organisation.

It had not, therefore, been convincingly established that the applicant had received advance notice that its activities were in breach of the law. The Supreme Court had ordered its dissolution just one day after finding it liable for a breach of the sanitary rules, despite the fact that there was nothing to indicate

that any of defects were irremediable or constituted a clear and imminent danger to life and limb and without offering it a choice between rectifying the breaches or discontinuing the activities related to the instruction of its followers.

Nor did the Court accept that the dissolution of the applicant, a registered religious organisation, was necessary because the Sunday school or Biblical college were not registered as separate legal entities. The domestic courts had not indicated what other, less intrusive, means of achieving the declared aim of the protection of the rights of students had been considered and why they had been deemed insufficient. Accordingly, the domestic authorities had not shown that the dissolution, which undermined the very substance of the applicant's rights to freedom of religion and association, was the only option for the fulfilment of the aims they pursued.

Regarding the nature and severity of the sanction, as a result of the Russian courts' decisions, the applicant had ceased to exist as a registered religious organisation and its members were divested of the right to manifest their religion in community with others and to engage in the activities indispensable to their religious practice.

As the Court had noted in *Jehovah's Witnesses of Moscow*, by virtue of section 14 of the Religions Act the only sanction which Russian courts could use against religious organisations found to have breached the law was forced dissolution. The Act provided no possibility of issuing a warning or imposing a fine. The sanction of dissolution could be applied indiscriminately without regard to the gravity of the breach in question, a practice which the Constitutional Court had found to be incompatible with the constitutional meaning of the relevant provisions as long ago as 2003. In ordering the applicant's dissolution, the Russian courts did not heed the case-law of the Constitutional Court or the relevant Convention standards and had not assessed the impact of dissolution on the fundamental rights of Pentecostal believers. In sum, the applicant's dissolution had not been necessary in a democratic society.

Conclusion: violation (unanimously).

Article 41: Finding of a violation constituted sufficient just satisfaction in respect of any non-pecuniary damage.

(See *Jehovah's Witnesses of Moscow v. Russia*, 302/02, 10 June 2010, Information Note 131)

Manifest religion or belief

Disruption of a Jehovah's Witnesses religious meeting by armed riot police: *violation*

Krupko and Others v. Russia - 26587/07
Judgment 26.6.2014 [Section I]

Facts – The applicants were Jehovah's Witnesses belonging to various congregations in Moscow. On 12 April 2006 some 400 people, including the four applicants, were about to celebrate the most solemn and significant religious meeting of the year for Jehovah's Witnesses when the police arrived in large numbers and cordoned off the university building that had been rented for the occasion. Fourteen members of the congregation, including the applicants, were segregated from the rest of the group and taken to minibuses under police escort before being driven to a local police station where they remained for about three hours, until after midnight.

The four applicants brought proceedings before the national courts to complain in particular about the disruption of the service and their detention. In a final judgment of March 2007, the courts held that the police had lawfully stopped the service as it had been held on unsuitable premises under domestic law and that the three hours spent by the applicants at the police station could not be considered as detention.

Law – Article 5: It was established that there was an element of coercion which, notwithstanding the short duration of the detention, was indicative of a deprivation of liberty within the meaning of Article 5 § 1. The applicants had produced their identity documents at the request of the police officers, answered the officers' questions and obeyed their orders. They were not formally suspected of, or charged with, any offence and no criminal or administrative proceedings were instituted against them. The station officer had acknowledged in the domestic proceedings that no elements of an administrative offence had been established. It followed that the applicants' arrest could not have been effected "for the purpose of bringing [them] before the competent legal authority on reasonable suspicion of having committed an offence" within the meaning of Article 5 § 1 (c). Hence, the deprivation of liberty to which the applicants were subjected did not have any legitimate purpose under Article 5 § 1 and was arbitrary.

Conclusion: violation (unanimously).

Article 9: The early termination of the service ordered by the police had constituted an interference

with the applicants' right to freedom of religion. It was unnecessary to rule on the question whether that interference was "prescribed by law" because, in any event, it was not "necessary in a democratic society". The Court had consistently held that, even in cases where the authorities had not been properly notified of a public event but where the participants did not represent a danger to public order, dispersal of a peaceful assembly by the police could not be regarded as having been "necessary in a democratic society"[1]. This finding applied *a fortiori* in the circumstances of the present case where the assembly in question was not a tumultuous outdoors event but a solemn religious ceremony in an assembly hall which had not been shown to create any disturbance or danger to public order. The intervention of armed riot police in substantial numbers with the aim of disrupting the ceremony, even if the authorities genuinely believed that lack of advance notice rendered it illegal, followed by the applicants' arrest and three-hour detention, was disproportionate to the aim of protecting public order.

Conclusion: violation (unanimously).

Article 41: EUR 30,000 jointly in respect of non-pecuniary damage.

ARTICLE 10

Freedom of expression

Criminal conviction for rejecting legal characterisation of atrocities committed by Ottoman Empire against the Armenian people from 1915 as "genocide": *case referred to the Grand Chamber*

Perinçek v. Switzerland - 27510/08
Judgment 17.12.2013 [Section II]

The applicant is a doctor of laws and chairman of the Turkish Workers' Party. In 2005 he took part in a series of events at which he publicly denied that there had been any genocide of the Armenian people by the Ottoman Empire in 1915 and subsequent years. In particular, he described the idea of an Armenian genocide as an "international lie". The Switzerland-Armenia Association lodged a criminal complaint against the applicant on account of the content of his statements. The applicant was convicted and ordered to pay ninety day-fines of 100 Swiss francs (CHF), suspended for two years, a fine of CHF 3,000, which could be replaced by thirty days' imprisonment, and the sum of CHF 1,000 in compensation to the Switzerland-Armenia Association for non-pecuniary damage.

In a judgment of 17 December 2013 (see Information Note 169) a Chamber of the Court held by five votes to two that there had been a violation of Article 10 of the Convention. The Chamber considered that the reasons given by the domestic authorities to justify the applicant's conviction had been insufficient to show that the conviction had met a "pressing social need" or that it had been necessary in a democratic society for the protection of the honour and feelings of the descendants of the victims of the atrocities dating back to 1915 and subsequent years. The Chamber thus concluded that the domestic authorities had overstepped the limited margin of appreciation afforded to them in the present case, which related to a debate of undeniable public interest.

On 2 June 2014 the case was referred to the Grand Chamber at the Government's request.

Arrest and conviction of journalist for not obeying police orders during a demonstration: *case referred to the Grand Chamber*

Pentikäinen v. Finland - 11882/10
Judgment 4.2.2014 [Section IV]

The applicant, a photographer and journalist, was reporting from a demonstration taking place in Helsinki. Although a separate and secure area had been reserved for the press during the demonstration, he decided not to use it and stayed among the demonstrators. When the demonstration turned violent, the police ordered the protesters to disperse and most people left. But the applicant did not leave as he thought the request only applied to the demonstrators. Shortly afterwards, the police arrested the remaining demonstrators, including the applicant and he remained in detention for over 17 hours. It was unclear at which point the police became aware of the fact that he was a journalist. Subsequently, a district court found the applicant guilty of disobeying police orders but decided not to impose a penalty on him because his act had been deemed excusable.

In a judgment of 4 February 2014 a Chamber of the Court held, by five votes to two, that there had been no violation of Article 10 (see Information

1. See, for example, *Kasparov and Others v. Russia*, 21613/07, 3 October 2013, Information Note 167.

Note 171). It found, in particular, that the interference with the applicant's exercise of his journalistic freedom had only been of limited extent and that the domestic courts had provided relevant and sufficient reasons to justify the applicant's arrest and conviction and had struck a fair balance between the competing interests at stake.

On 2 June 2014 the case was referred to the Grand Chamber at the applicant's request.

Freedom to receive information
Freedom to impart information

Failure by authorities to comply with final court orders requiring them to disclose public information to journalist: *violation*

Roşiianu v. Romania - 27329/06
Judgment 24.6.2014 [Section III]

Facts – At the relevant time, and for the previous six years, the applicant had presented a television programme broadcast on a city's local channel, which discussed, among other issues, how public funds were used by the municipal administration. With a view to exercising his profession, the applicant contacted the city's mayor requesting that certain items of information of a public nature be disclosed to him. He submitted three successive requests on various subjects. The mayor replied to the applicant in three laconically worded letters. Considering that these letters did not contain adequate replies to his requests for information, the applicant brought three separate sets of proceedings before the administrative court, attempting, *inter alia*, to obtain an order instructing the mayor to disclose the information to him. In three separate decisions, the court of appeal allowed the applicant's requests and ordered the mayor to disclose to him the bulk of the requested information. According to the applicant, the court of appeal's final decisions remained unenforced, despite his numerous complaints.

Law – Article 6 § 1: The applicant had obtained three final judicial decisions ordering the mayor to disclose to him certain information of a public nature. The domestic courts had concluded that letters inviting the applicant to come and obtain photocopies of several separate documents containing information which was open to a variety of interpretations could not possibly be analysed as appropriate execution of the judicial decisions. In addition, the Court was unable to determine whether the documents referred to in those letters did in fact contain the information requested by the applicant, given the Government's failure to submit the documents to the Court or to send a summary of them.

The Court acknowledged that access to a tribunal could not require a State to enforce all judgments in civil cases regardless of their nature and the circumstances. However, the authority in question in this case was part of the municipal administration, which formed one element of a State subject to the rule of law, and its interests coincided with the need for the proper administration of justice. Where the administrative authorities refused or failed to comply, or even delayed doing so, the guarantees under Article 6 enjoyed by the litigant during the judicial phase of the proceedings were rendered devoid of purpose. Furthermore, it was inappropriate to require an individual who had obtained judgment against the State at the end of legal proceedings to then bring enforcement proceedings to obtain satisfaction. Nonetheless, in the present case, the applicant had taken multiple steps to obtain execution of the judicial decisions, by requesting that a fine be imposed on the mayor, by lodging a criminal complaint and even by requesting enforcement of one of the decisions by a bailiff. Moreover, the applicant had never been informed, through a formal administrative decision, of any grounds which would have made it objectively impossible for the authorities to execute the decisions. These factors sufficed to conclude in the present case that, by refusing to enforce the final judicial decisions ordering disclosure to the applicant of information of a public nature, the domestic authorities had deprived him of effective access to a court.

Conclusion: violation (unanimously).

Article 10: There had been an interference in the applicant's rights to freedom of expression as a journalist. Like the case of *Kenedi v. Hungary*, this application concerned the applicant's access to information of a public nature which was necessary for the exercise of his profession. The applicant had obtained three court decisions granting him access to the information. The applicant had been involved in the legitimate gathering of information on a matter of public importance, namely the activities of the municipal administration. In addition, given that his intention had been to communicate the information in question to the public and thereby to contribute to the public debate on good public governance, the applicant's right to

impart information had been impaired. Equally, there had not been adequate execution of the judicial decisions in question. The municipal authorities had also never alleged that the requested information had been unavailable. The complexity of the requested information and the considerable work that would have been entailed for the municipal authority in compiling it had been referred to solely to explain the impossibility of providing that information rapidly. Having regard to those circumstances, the Government had adduced no argument showing that the interference in the applicant's right had been prescribed by law, or that it pursued one or several legitimate aims. Accordingly, the Government's objections had to be dismissed.

Conclusion: violation (unanimously).

Article 41: EUR 4,000 in respect of non-pecuniary damage.

(See also: *Társaság a Szabadságjogokért v. Hungary*, 37374/05, 14 April 2009, Information Note 118; *Kenedi v. Hungary*, 31475/05, 26 May 2009, Information Note 119; *Frăsilă and Ciocîrlan v. Romania*, 25329/03, 10 May 2012, Information Note 152; and *Youth Initiative for Human Rights v. Serbia*, 48135/06, 25 June 2013, Information Note 164)

Search of magazine premises for letter claiming responsibility for bomb attacks: *inadmissible*

Stichting Ostade Blade v. the Netherlands - 8406/06
Decision 27.5.2014 [Section III]

Facts – Following a series of bomb attacks in Arnhem (Netherlands) in 1995 and 1996, a magazine published by the applicant foundation issued a press release in which it announced that the next issue of the magazine would include a letter received from an organisation claiming responsibility for one of the attacks. A search of the magazine's premises was then carried out under the supervision of an investigating judge in connection with the criminal investigations into the bombings and computers and documents were taken away for further inspection after the magazine editor said the letter was not on the premises. In its application to the European Court, the applicant complained that the search for the letter on the magazine's premises had violated its right to receive and impart information.

Law – Article 10: The order to hand over the letter and the search of the premises which followed constituted an interference with the applicant's right to "receive and impart information". However, contrary to what the applicant had alleged, this was not a case concerned with the protection of journalistic sources. The magazine's informant was not motivated by the desire to provide information which the public were entitled to know, but was instead claiming responsibility for crimes he had himself committed; his purpose in seeking publicity through the magazine was to don the veil of anonymity with a view to evading his own criminal accountability. As to whether the interference had been necessary in a democratic society, the Court noted that the original document received by the editorial board of the magazine was sought as a possible lead towards identifying those responsible for a series of bomb attacks. Irrespective of whether the attacks had caused damage only to property, or could or could not be labelled "terrorist", the inherent dangerousness of the crimes committed constituted sufficient justification for the investigative measures in issue.

Conclusion: inadmissible (manifestly ill-founded).

(See also *Nordisk Film & TV A/S v. Denmark* (dec.), 40485/02, 8 December 2005, Information Note 81)

Freedom to impart information

Finding of liability against publishers of article and photographs revealing existence of monarch's secret child: *violation*

Couderc and Hachette Filipacchi Associés v. France - 40454/07
Judgment 12.6.2014 [Section V]

Facts – The applicants are the publication director of the weekly magazine *Paris Match* and the company which publishes the magazine.

On 3 May 2005 the English newspaper the *Daily Mail* published claims by Ms C. that Albert Grimaldi, the reigning Prince of Monaco, was the father of her son. The article referred to the forthcoming report in *Paris Match* magazine and reproduced the main points of the report together with three photographs, one of which showed the Prince holding the child in his arms. The interview with Ms C. and the photographs in question also appeared in the German weekly magazine *Bunte* on 4 May 2005.

On 6 May 2005 *Paris Match* published an article in which Ms C. gave details about how she had met the Prince, their meetings, their intimate relationship and feelings, the way in which the Prince had reacted to the news of Ms C.'s pregnancy and his attitude on meeting the child. She said that the child had been born on 24 August 2003 and that the Prince had formally recognised him before a notary on 15 December 2003 but had requested that this fact should not be made public before the death of his own father, who died in April 2005.

The Prince brought proceedings against the applicants in a French court, seeking compensation for invasion of privacy and infringement of his right to protection of his own image. He also brought proceedings before the German courts. Unlike the latter, the French courts granted his request, awarding him EUR 50,000 in damages and ordering that details of the judgment be published, occupying one third of the magazine's front cover.

Law – Article 10: The judgment against the applicants for invasion of privacy and infringement of the Prince's right to the protection of his own image amounted to interference with the exercise of their right to freedom of expression. That interference had been prescribed by law and had pursued a legitimate aim, namely the protection of the reputation and rights of others.

In the present case, consideration had to be given to the fact that this had not merely been a dispute between the press and a public figure; the interests of Ms C. and the child A. had also been at stake. Ms C. had supplied information to the press and had played a pivotal role in the case as the mother of the child born outside marriage; the report had come within the sphere of her private life as well as that of her son and of the Prince. The child's existence and origins had been the main focus of the report. The Court had to be mindful of the fact that Ms C. had used the press to draw public attention to the situation of her child, who had been born outside marriage and had not been formally recognised by his father.

(a) *Contribution to a debate of general interest* – A distinction had to be made between the core message of the article and the details contained in it. The article and the photographs had concerned the offspring of a reigning Prince, revealing the existence of a son born outside marriage of which the public had previously been unaware. Even though, under the Constitution of Monaco as it currently stood, the child in question did not have a claim to succeed his father, his very existence was apt to be of interest to the public and in particular to the citizens of Monaco. As succession to the title was based on heredity, the birth of a child had special significance. Furthermore, the Prince's attitude could provide an insight into his personality and his capacity to perform his duties adequately. The requirements of the protection of the Prince's private life and the debate on the future of the hereditary monarchy had thus been in competition. As this was an issue of political significance, the public had had a legitimate interest in knowing of the child's existence and being able to conduct a debate on the possible implications for political life in the Principality of Monaco.

However, this approach could not be applied to all the details concerning the private lives of the Prince and Ms C. contained in the article, and in particular the circumstances of their meeting and their relationship and the Prince's attitude towards the news of the pregnancy and subsequently towards the child.

(b) *Official functions and public profile of the person concerned, and subject of the report* – It was clear that, as Head of State, the Prince had been a public figure at the time the interview was published.

As to the subject of the report and the photographs, the decisive factor in weighing the protection of private life against freedom of expression had to be the contribution made to a debate of general interest. In the present case the report and the photographs had concerned the Prince's relationship with the child's mother, the birth of the child, the Prince's feelings and his reaction to the birth of his son, and his relationship with his son. While the subjects dealt with in this case came within the sphere of the Prince's private life, it was not only his private life that had been at stake, but also that of the child's mother and the child himself. It was difficult to see how the private life of one person – in this instance the Prince – could stand in the way of the claims of another person – his son – seeking to assert his existence and have his identity recognised. The Court noted in that regard that Ms C. had consented to publication on her own behalf and on behalf of her son.

(c) *Means by which the information was obtained and its veracity* – With regard to the text, in contrast to other cases the Court had dealt with one of the persons directly concerned had taken the initiative of informing the press on a certain subject, as opposed to the investigative press uncovering the information.

As to the manner in which the photographs illustrating the article had been obtained, unlike in

many cases brought before the Court the photographs had not been taken without the Prince's knowledge. On the contrary, they had been taken, notably by the child's mother, in the privacy of an apartment. Although the images published had included a large number of photographs of a very small child, they had been handed over to the magazine by the child's mother, who herself appeared in some of them. The Prince had never disputed the veracity of those images but had simply taken issue with their publication. Furthermore, the photographs had not been taken in circumstances that were unfavourable to the Prince or his son.

Accordingly, the Court considered that, in the present case, the fact that the interview had been initiated by the child's mother and that she had handed over the photographs to the magazine of her own free will was an important factor to be considered in weighing the protection of private life against freedom of expression.

(d) *Form and repercussions of the impugned articles* – Over one million copies had been printed of the issue of the national weekly magazine *Paris Match* in which the article and photographs in question had appeared in May 2005.

However, an account of the interview with the mother and some of the photographs had already been published on 3 May 2005 in the British newspaper the *Daily Mail*. The German weekly magazine *Bunte* had also printed an article on 4 May 2005 containing extracts from the interview with the child's mother and several photographs. Accordingly, in view of the means of communication now available, although the article published in *Paris Match* on 5 May 2005 had undoubtedly had significant repercussions, the information it contained had no longer been confidential. Moreover, the article had not made any defamatory allegations and the Prince had not disputed the truth of the disclosures it contained.

(e) *Severity of the penalty imposed on the applicants* – The sum of EUR 50,000 awarded for damages was considerable. In addition, the applicants had been ordered to publish a statement occupying one third of the magazine's front cover.

(f) *Impact of publication on the persons concerned* – In making these disclosures, the child's mother had clearly sought to secure public recognition of her son's status and of the fact that the Prince was his father, which she saw as crucial factors in ending the secrecy surrounding her son. In order to do this she had made public, in addition to the facts concerning the child's paternity, certain information which had not been necessary and which fell within the sphere not just of her own private life but also of that of the Prince.

(g) *Conclusion* – The judgment against the applicants had made no distinction between information which formed part of a debate of general interest and that which merely concerned details of the Prince's private life. Accordingly, in spite of the margin of appreciation left to States in this matter, there had been no reasonable relationship of proportionality between the restrictions imposed by the courts on the applicants' right to freedom of expression and the legitimate aim pursued.

Conclusion: violation (four votes to three).

Article 41: No claim made in respect of damage.

ARTICLE 11

Freedom of peaceful assembly

Complete blockage of a village in response to a peaceful demonstration: *violation*

Primov and Others v. Russia - 17391/06
Judgment 12.6.2014 [Section I]

Facts – On 10 April 2006 a group of people sent written notice to the district authorities that on 25 April they wished to hold a demonstration of 5,000 people at a park in the village of Usukhchay. A week later the authorities received the notice but refused to authorise the demonstration for three reasons: the notice had been lodged outside the five-day time window fixed by the Public Gatherings Act; the park was not supposed to admit more than 500 people; and the allegations of the demonstrators were false and had been refuted by official investigations. Nevertheless, the organisers proceeded to hold the demonstration as planned, and the first and third applicants took part. The police set up a blockade to prevent the protesters from reaching the centre of the village, so the protesters marched to the neighbouring village of Miskindzha. At around 1 p.m. the demonstrators blocked a federal-level road. When the police tried to clear the blockade, some of the protesters started throwing stones at them. In response, the police began using firearms and special equipment. By the end of the clashes, several civilians and police officers were injured and one civilian had died. The first applicant was later arrested in connection with this

event, held in pre-trial detention for almost two months and ultimately released.

Law – Article 11: The applicants complained that the authorities' refusal to allow the demonstration of 25 April 2006, the violent dispersal of that demonstration and the arrest of the three applicants had breached their right to freedom of expression and to peaceful assembly.

(a) *Demonstration and its dispersal* – In order to determine whether the dispersal of the demonstration was justified, the Court first examined and rejected the three reasons adduced by the district authorities not to allow the demonstration. First, the Public Gatherings Act was ambiguous as to whether the five-day time window for lodging the notice referred to sending or receiving the notice so the organisers should have been excused for misinterpreting the law. In addition, the law provided a very short time-slot within which the notice could be lodged; the organisers had not waited till the eve of the event, but had posted the notice on the first day of the prescribed period and so had made a reasonable effort to comply with the very tough requirement of the law. Second, the size of the park was not a sufficient reason for a total ban on the demonstration: the authorities should have proposed another venue to the organisers. Third, public events related to political life had to enjoy strong protection under Article 11 and only in rare situations could a gathering be legitimately banned in relation to the substance of the message its participants wished to convey. A Government authority should not have the power to ban a demonstration merely because it believes the demonstrators' message to be wrong, especially when, as here, it was the main target of the criticism. Therefore, the decision not to allow the demonstration was unjustified. This finding, however, did not suffice to conclude that the dispersal of the demonstration was unjustified. The Court proceeded to examine the events of 25 April 2006 by dividing them into two phases.

(i) *Blockade of Usukhchay village* – The blockade itself was lawful and pursued the legitimate aim of preventing disorder and crime. Nevertheless, it was not proportionate to the legitimate aim pursued. The temporary blocking of a main road and the risk of clashes were insufficient to justify the complete blockage of the village, especially since the demonstration was intended to be peaceful and indeed ended up being peaceful before the clash near Miskindzha village.

Conclusion: violation (unanimously).

(ii) *Clash between the protesters and the police near Miskindzha village* – Even if the decision to ban the demonstration was erroneous, and the blockage of Usukhchay village was disproportionate, that did not give the protesters the right to block a federal road or attack the police. Consequently, the intervention of the police fell within the margin of appreciation of the national authorities. Although there was no strong evidence that the first and third applicants were personally involved in any violent act, a considerable number of demonstrators had overstepped the boundary of peaceful protest, attacking policemen with stones, sticks, rods and knives, seriously injuring some of them. Against that background, the use of the special equipment and even firearms by the police did not seem to be unjustified, there being no evidence that the firearms had been used deliberately to kill or wound.

The Court emphasised, however, that it had received no complaint from those who had been injured by the police during the clash or whose relative had been killed. In the context of Article 11 it was prepared to conclude that the authorities' overall response to the blocking of the road and the aggressive behaviour of a big group of protesters was not disproportionate.

Conclusion: no violation (five votes to two).

(b) *Arrest and detention* – The second and third applicants' complaints, which concerned a separate incident, were declared manifestly ill-founded. As regards the first applicant, his arrest was clearly related to his role in the events of 25 April 2006. The authorities had genuinely suspected him of having incited attacks against the police, so his arrest and detention had a lawful basis and pursued the legitimate aim of preventing disorder or crime. Article 11 did not give immunity against prosecution for violent actions during public gatherings, especially where the intensity of violence was considerable. There was no evidence that the authorities had acted in bad faith, and the first applicant's two-month detention pending the investigation was reasonable given the complexity of the case. Finally, the fact that he was released and the charges against him were dropped for lack of sufficient evidence was indicative of the authorities' will to establish the truth and not just put the blame for the events on the leaders of the protesters.

Conclusion: no violation (unanimously).

Article 41: EUR 7,500 each to the first and the third applicants in respect of non-pecuniary damage.

ARTICLE 14

Discrimination (Article 5)

Alleged discrimination in provisions governing liability to life imprisonment: *admissible*

Khamtokhu and Aksenchik v. Russia - 60367/08 and 961/11
Decision 13.5.2014 [Section I]

Article 57 of the Russian Criminal Code provides that a sentence of life imprisonment may be imposed for certain particularly serious offences. However, such a sentence cannot be imposed on women, persons under 18 when the offence was committed or over 65 when the verdict was delivered. The Russian Constitutional Court has repeatedly declared inadmissible complaints of alleged incompatibility of that provision with the constitutional protection against discrimination, *inter alia*, on the grounds that any difference in treatment is based on principles of justice and humanitarian considerations and allows age, social and physiological characteristics to be taken into account when sentencing.

In their applications to the European Court, the applicants, who are both adult males serving life sentences for criminal offences, complain of discriminatory treatment *vis-à-vis* other categories of convicts which are exempt from life imprisonment as a matter of law.

Admissible under Article 14 of the Convention in conjunction with Article 5.

ARTICLE 35

Article 35 § 1

Exhaustion of domestic remedies
Effective domestic remedy – Turkey

Application to compensation board under decree of 16 March 2014 in respect of devaluation of awards in expropriation cases: *effective remedy*

Yıldız and Yanak v. Turkey - 44013/07
Decision 27.5.2014 [Section II]

Facts – In a decision dated May 2003 the creation of rights of way for the construction of an underground gas pipeline was declared to be in the public interest. The applicants complained about the depreciation of the compensation awarded to them between the date when the amount was determined and the date of actual payment.

Law – Article 35 § 1: The decree of 16 March 2014 gave the compensation commission powers to examine certain categories of applications lodged with the European Court before 23 March 2013. Those categories were the subject of well-established case-law, including in relation to depreciation in the value of amounts awarded for expropriation (see, among other authorities, the judgment in *Yetiş and Others v. Turkey*). The commission thus acquired competence to award compensation for each individual situation examined, in accordance with the case-law of the Strasbourg Court. The compensation awarded by the commission was to be paid by the Ministry of Justice within three months from the date when the commission's decision became final. The commission's decisions were subject to appeal before the regional administrative court, which was required to rule within three months. The persons concerned could appeal against the decisions of the regional administrative court before the Constitutional Court. Following that decision, any individual could apply to the Strasbourg Court with a Convention complaint, which could potentially result in a review of the effectiveness of the remedy introduced by Law no. 6384[1] in the light of the practice and the decisions of the compensation commission and the domestic courts. The burden of proof regarding the effectiveness of that remedy would then lie with the respondent State. The Court's ultimate supervisory jurisdiction remained in respect of any complaints lodged by applicants who, in conformity with the principle of subsidiarity, had exhausted available avenues of redress.

It followed that the applicants' complaint concerning the depreciation in the value of the award for expropriation had to be rejected for failure to exhaust domestic remedies.

Conclusion: inadmissible (unanimously).

The Court also held the remainder of the application to be inadmissible because of the extension of the commission's competence *ratione temporis* from 23 September 2012 to 23 March 2013, which also had the effect of encompassing cases concerning the length of proceedings and delayed enforcement of judicial decisions in so far as they had been

1. Law concerning the settlement by compensation of certain applications lodged with the European Court of Human Rights.

lodged with the Court during that period in accordance with the six-month rule.

(See *Yetiş and Others v. Turkey*, 40349/05, 6 July 2010, Information Note 132)

Article 35 § 3 (b)

No significant disadvantage

Applicability of no significant disadvantage admissibility criterion in freedom of expression case: *inadmissible*

Sylka v. Poland - 19219/07
Decision 3.6.2014 [Section IV]

Facts – The applicant was stopped in his car by police officers for not wearing a seat belt. A dispute ensued in which the applicant allegedly told the officers that he would not "descend to their level". He was subsequently charged with insulting police officers in the course of their duty. He was convicted at first instance and fined. On appeal, however, the conviction was quashed and the criminal proceedings discontinued for a probationary period of one year. In addition, the applicant was ordered to pay EUR 125 to a local fostering service and EUR 25 in costs.

In his application to the European Court he complained of a violation of his right to freedom of expression under Article 10 of the Convention.

Law – Article 35 § 3 (b): The Convention did not limit the application of the "no significant disadvantage" admissibility criterion to any particular right protected under the Convention. However, in cases concerning freedom of expression the application of this criterion had to take due account of the importance of that freedom and be subject to careful scrutiny by the Court. Such scrutiny should encompass elements such as the contribution made to a debate of general interest and whether the case involved the press or other news media.

The seriousness of an alleged violation had to be assessed by taking into account the applicant's subjective perceptions and what was objectively at stake in the case. The Court was ready to accept that individual perceptions encompassed not only the monetary aspect of a violation, but also the general interest of the applicant in pursuing the case, and that the issue at stake in the instant case was clearly of subjective importance to the applicant. With regard to the objective aspect, however, the decision to conditionally discontinue the criminal proceedings did not amount to a conviction, and the information about the proceedings entered in the National Criminal Register would have been removed after 18 months. The applicant had not submitted any information indicating that the proceedings had been resumed during that period or that the information on the Register had affected him adversely in any tangible way. Furthermore, the financial implications (EUR 150 in aggregate) could not represent a particular hardship for the applicant, who was an entrepreneur. In sum, there were no objective grounds to hold that the applicant had suffered important adverse consequences as a result of the decision to conditionally discontinue the proceedings.

The subject matter of the complaint did not give rise to an important matter of principle (contrast, *Berladir and Others v. Russia*, 34202/06, 10 July 2012). It concerned an unfortunate verbal confrontation with no wider implications or public interest undertones which might raise real concerns under Article 10 of the Convention. As such, it could be distinguished from a case such as *Eon v. France* (26118/10, 14 March 2013, Information Note 161), in which the Court rejected a preliminary objection of lack of significant disadvantage having regard to the national debate in France on whether the offence of insulting the head of State should remain a criminal offence and the wider issue of the compatibility of that offence with the Convention.

In the circumstances, the applicant in the instant case had not suffered a significant disadvantage as a result of the alleged violation of the Convention. Since the remaining two elements of the admissibility requirement were satisfied (respect for human rights did not require an examination of the case and the case had been duly considered by a domestic tribunal) the application was inadmissible.

Conclusion: inadmissible (no significant disadvantage).

ARTICLE 1 OF PROTOCOL No. 1

Peaceful enjoyment of possessions

Housing reforms resulting in higher rent and reduced security of tenure for tenants following move to market economy: *no violation*

Berger-Krall and Others v. Slovenia - 14717/04
Judgment 12.6.2014 [Section V]

Facts – Under the socialist system previously in force in former Yugoslavia, tenants who, like the

applicants, were residing in socially-owned flats held "specially protected tenancy" agreements, which in most cases had been concluded for an indefinite period and could be passed on from generation to generation. A "specially protected tenancy" enjoyed stronger protection than a purely contractual tenancy.

When Slovenia became independent and opted for a market economy, two main reforms were adopted in the housing sector. The Denationalisation Act 1991 permitted previous owners (or their heirs) to claim restitution of properties that had been expropriated by the State, including dwellings which had been let under the "specially protected tenancy" scheme. In parallel, the Housing Act 1991 regulated the rights of the new owners and of the tenants. It replaced the "specially protected tenancy" with a normal leasing arrangement. All previous holders of "specially protected tenancies" were in principle given the possibility of renting the flats from the new owners for an indefinite period, but on less favourable terms, in particular, as regards rent, rights of transmission to family members and security of tenure.

In their application to the European Court, the applicants complained, *inter alia*, that they had been deprived of their specially protected tenancy rights without adequate compensation (Article 1 of Protocol No. 1 and Article 8 of the Convention).

Law – Article 1 of Protocol No. 1: It was unnecessary to examine whether the right of an occupant to reside in a real estate unit could constitute a "possession" within the meaning of Article 1 of Protocol No. 1 as, even assuming that provision to be applicable, there had been no violation of its requirements.

The interference with the applicants' right to the peaceful enjoyment of their possessions was lawful and in accordance with the general interest. It had also struck a fair balance between the demands of the general interest of the community and the requirements of the protection of the individuals' fundamental rights.

It was true that as a result of the housing reform, the applicants had had to face a general degradation of the legal protection they had previously enjoyed (for example, increased rent, restrictions on the right to transmit the tenancy to family members and reduced security of tenure). These were, however, unavoidable consequences of the legislature's decision to provide former owners with the possibility of restitution *in natura* of dwellings which had been nationalised after the Second World War. Securing the rights of previous owners could not but result in a corresponding restriction of the rights of the occupiers. In any event, certain obligations assumed by the applicants under the new leases (not to cause damage, disturb other residents, perform prohibited activities or sublet) were in substance similar to those found in normal landlord and tenant relations.

In addition, the applicants enjoyed and continued to enjoy special protection going beyond that usually afforded tenants: the lease contracts were concluded for an indefinite period and transmissible to the spouse or long term partner of the tenant and the non-profit rent imposed on the applicants continued to be significantly lower than the free market rent more than 22 years after the housing reform was introduced, which showed that the transition to a market economy had been conducted in a reasonable and progressive manner. Moreover, none of the applicants had shown that the level of rent was excessive in relation to his or her income.

Thus, in balancing the exceptionally difficult and socially sensitive issues involved in reconciling the conflicting interests of "previous owners" and tenants, the respondent State had ensured a distribution of the social and financial burden involved in the housing reform which had not exceeded its margin of appreciation.

Conclusion: no violation (six votes to one).

(See also: *Hutten-Czapska v. Poland* [GC], 35014/97, 19 June 2006, Information Note 87; *Lindheim and Others v. Norway*, 13221/08 and 2139/10, 12 June 2012, Information Note 153)

Article 8: The considerations which led the Court to find that the applicants' rights under Article 1 of Protocol No. 1 had not been violated allowed it to reach the same conclusion under Article 8 of the Convention in respect of those applicants whose complaints under that provision were declared admissible. They had been afforded the possibility of indefinite term leases, transmitting them to their spouses or long term partners and occupying the premises for a non-profit rent. None of the applicants had submitted evidence showing that they could not afford the rent and, in any event, public subsidies were available for socially or financially disadvantaged tenants.

As to the fault-based grounds for eviction that had been introduced by the Housing Act 1991, they were essentially similar to those traditionally contained in lease agreements in other Council of Europe member States and could not, as such, be considered incompatible with Article 8 of the

Convention. The two additional rights afforded previous owners under the Housing Act 2003 – to move a tenant to another suitable property and to evict a tenant who owned another suitable dwelling – were justified in view of the special, reinforced protection afforded to persons in the applicants' situation and the corresponding limitations placed on the rights of the previous owners, who were forced into a lifelong low rental agreement with tenants they had not chosen.

As to the procedural guarantees enjoyed by the applicants, it was not contested that they had the possibility of challenging any eviction order before the competent domestic courts, which had jurisdiction over all related questions of fact and law. The interference with the right to respect for their home of the three applicants concerned had thus been necessary in a democratic society.

Conclusion: no violation (unanimously).

The Court also found, unanimously, that there had been no violation of Article 14 of the Convention taken together with Article 1 of Protocol No. 1, or of Article 6 § 1 of the Convention (either in respect of the denationalisation proceedings or in respect of the applicants' allegedly insufficient access to a court to challenge the housing reform).

Control of the use of property

Legislative interference with property right through retroactive legislation aimed at decreasing public expenditure: *no violation*

Azienda Agricola Silverfunghi S.A.S. and Others v. Italy - 48357/07 et al.
Judgment 24.6.2014 [Section II]

Facts – In the 1980s the Italian legislature passed laws providing agricultural firms with a two-fold reduction, through concessions and exemptions, of the social-security contributions which they paid for their employees. In July 1988 the Italian disbursement authority (INPS) issued a circular stating that the concessions and exemptions were alternative, not cumulative. The applicants, four agricultural companies, instituted proceedings against INPS in 2000 and 2002. In line with the prior jurisprudence of the Italian courts including the Court of Cassation, the first-instance and appellate courts ruled in the companies' favour, holding that the two benefits were cumulative. However, in November 2003 the Italian legislature passed Law no. 326, which expressly provided that the concessions and exemptions were alternative, not cumulative. Thereafter, INPS appealed to the Court of Cassation, which allowed the appeals on the basis of Law no. 326. In 2006 the Constitutional Court upheld that law, stating that outside the criminal sphere the legislature could enact laws with retroactive effect in so far as such retroactivity was reasonably justified and not in conflict with the Constitution. More recently, in 2008 the Court of Cassation reversed its earlier position and held that even without Law no. 326, the concession and exemptions would not be cumulative because the original intention of the legislature had been to make them alternative.

Law – Article 6 § 1: The applicant companies complained that Law no. 326 constituted a legislative interference in judicial proceedings in breach of their right to a fair trial. The Court recalled that Article 6 precluded legislative interference in pending judicial proceedings, except for compelling public interest reasons. In the present case, Law no. 326 had had a definitive impact on the outcome of pending litigation, and there was no compelling public interest reason for its retroactive application. Financial considerations could not by themselves warrant the legislature substituting itself for the courts.

Conclusion: violation (unanimously).

Article 1 of Protocol No. 1: The applicant companies complained that Law no. 326 amounted to an interference with their property right, as it retroactively extinguished their claims over amounts unlawfully withheld by INPS. The Court noted that, in evaluating whether this interference struck a fair balance between the public interest and the protection of property, a wide margin of appreciation had to be afforded to States in the area of general measures of economic strategy. Since the legislature's policy choice was not "manifestly without reasonable foundation" but rather sought to decrease public expenditure, the Court found that Law no. 326 conformed to the lawfulness requirement of Article 1 of Protocol No. 1. Moreover, the impugned measure did not impose an excessive burden on the applicant companies, as they could still run their businesses, had opted to forfeit cumulative benefits for a certain number of years and were still beneficiaries of one of the benefits.

Conclusion: no violation (five votes to two).

Article 41: EUR 44,900 to the first applicant, EUR 106,900 to the second applicant, EUR 54,400 to the third applicant and EUR 42,200 to the fourth applicant in respect of pecuniary damage; EUR

1,000 to each applicant in respect of non-pecuniary damage.

(See also *Maggio and Others v. Italy*, 46286/09 et al, 31 May 2011, Information Note 141; and *Arras and Others v. Italy*, 17972/07, 14 February 2012, Information Note 149).

ARTICLE 3 OF PROTOCOL No. 1

Vote

Failure of applicant prisoners to substantiate that they were affected by blanket ban on voting: *inadmissible*

Dunn and Others v. the United Kingdom - 566/10 et al.
Decision 13.5.2014 [Section IV]

Facts – In their application forms to the Court, the applicants complained, *inter alia*, about the blanket ban on prisoners' voting rights in the United Kingdom in view of "forthcoming" elections to the United Kingdom or Scottish Parliaments, without however articulating clear complaints as regards any potential exclusion from those elections.

Law – Article 3 of Protocol No. 1: The applicants had given no details in their application forms of the dates of their convictions or the length of their sentences. It was therefore far from evident that they were expected to be in post-conviction detention on the date of the "forthcoming" elections in question. Even if these details had been provided, other relevant events might have occurred between the lodging of the applications and the date of the elections, including release from detention, transfer to a psychiatric hospital or even death. Although some of the applicants may well have remained in detention and therefore found themselves excluded from voting in the elections concerned, none of them had contacted the Court following the date of the elections to confirm that this was the case. In conclusion, even if they were to be taken as having properly complained about elections that had not yet taken place by the date on which they lodged their application forms, they had failed to adduce the necessary facts to substantiate their complaints.

Conclusion: inadmissible (manifestly ill-founded).

RULES OF COURT

The following provisions of the Rules of Court have been amended with effect from 1 July 2014 (the amendments were adopted by the Plenary Court on 14 April and 23 June 2014):

Rule 8 – Election of the President and Vice-Presidents of the Court and the Presidents and Vice-Presidents of the Sections

Rule 16 – Election of the Deputy Registrars

The amendments also include a new Rule 18B setting out the role of the Jurisconsult:

Rule 18B – Jurisconsult

"For the purposes of ensuring the quality and consistency of its case-law, the Court shall be assisted by a Jurisconsult. He or she shall be a member of the Registry. The Jurisconsult shall provide opinions and information, in particular to the judicial formations and the members of the Court."

The Rules of Court can be downloaded from the Court's Internet site (<www.echr.coe.int> – Official Texts).

REFERRAL TO THE GRAND CHAMBER

Article 43 § 2

F.G. v. Sweden - 43611/11
Judgment 16.1.2014 [Section V]

(See Article 3 above, page 7)

Perinçek v. Switzerland - 27510/08
Judgment 17.12.2013 [Section II]

(See Article 10 above, page 18)

Pentikäinen v. Finland - 11882/10
Judgment 4.2.2014 [Section IV]

(See Article 10 above, page 18)

COURT NEWS

Translation of the Case-Law Information Note into Turkish

Starting from the January 2013 edition and courtesy of the Turkish Ministry of Justice, the Court's Case-Law Information Note is now also available in Turkish. Further issues will be added progressively. The Notes in Turkish can be downloaded from the Court's Internet site (<www.echr.coe.int> – Publications).

Court's Internet site: information for applicants

As announced in previous editions of the Information Note, the Court has decided to gradually expand its range of information materials designed to assist applicants with the procedure in all the languages of the States Parties to the Convention.

To this end, the main page for applicants on the Court's website can now be accessed in 32 non-official languages (<www.echr.coe.int> – Applicants/Other languages). Five new language versions (Georgian, Italian, Latvian, Norwegian and Polish) have been added to the 27 previously available.

ქართული – Italiano – Latviski –
Norsk – Polski

RECENT PUBLICATIONS

Handbook on European law relating to asylum, borders and immigration

Published jointly by the Court and the European Union Agency for Fundamental Rights (FRA), this second handbook is a comprehensive guide to European law relating to asylum, borders and immigration. It focuses on law covering the situation of third-country nationals in Europe and explains key jurisprudence of both the Strasbourg Court and the EU Court.

This edition states the law as at December 2013 and is now available in English, French, Bulgarian, Croatian, German, Greek, Hungarian, Italian, Romanian and Spanish. It can be downloaded from the Court's Internet site (<www.echr.coe.int> – Publications). Translations into other non-official languages will be available later this year.

Handbook on European law relating to asylum, borders and immigration (eng)

Manuel de droit européen en matière d'asile, de frontières et d'immigration (fra)

Наръчник по европейско право относно убежището, границите и имиграцията (bul)

Priručnik o europskom pravu u području azila, zaštite granica i imigracije (hrv)

Handbuch zu den europarechtlichen Grundlagen im Bereich Asyl, Grenzen und Migration (deu)

Εγχειρίδιο σχετικά με την ευρωπαϊκή νομοθεσία σε θέματα ασύλου, συνόρων και μετανάστευσης (ell)

Kézikönyv a menekültügyre, határokra és bevándorlásra vonatkozó európai jogról (hun)

Manuale sul diritto europeo in materia di asilo, frontiere e immigrazione (ita)

Manual de drept european în materie de azil, frontiere și imigrație (ron)

Manual de Derecho europeo sobre asilo, fronteras e inmigración (spa)