CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

INFORMATION NOTE No. 86
on the case-law of the Court
May 2006

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

CONTENTS

ARTICLE 6

Judgments

Admissible

Inadmissible

Communicated

ARTICLE 7

Admissible

ARTICLE 8

Judgments

ARTICLE 4 of PROTOCOL No. 4

Admissible

ARTICLE 2

LIFE
Expulsion to Libya of a group of illegal immigrants, allegedly entailing risk of death: *admissible*.

HUSSUN and Others - Italy (N° 10171/05, 10601/05, 11593/05 and 17165/05)
Decision 12.5.2006 [Section III]

In 2005 the 87 applicants, who told the Court that they belonged to a group of around 1,200 illegal immigrants, arrived in Italy on board boats coming from Libya, and were placed in temporary reception centres. Deportation orders were issued in respect of a number of the applicants. Some of those concerned were released as they had been held for longer than the maximum period allowed; the others were deported.

Admissible under Articles 2, 3 and 34 of the Convention and Article 4 of Protocol No. 4, and under Article 13 taken in conjunction with Articles 2 and 3 of the Convention and Article 4 of Protocol No. 4, with regard to the applicants who had been deported.

LIFE
Readmission to the army of soldiers found guilty of murder: *inadmissible*.

McBRIDE - United Kingdom (N° 1396/06)
Decision 9.5.2006 [Section IV]

The applicant is the mother of a young man who was shot dead by two soldiers serving in the British army. The two soldiers were prosecuted for his murder, convicted and sentenced to life imprisonment. They spent six years in custody, after which the Army Board, rather than discharge them, allowed them rejoin their unit. The applicant sought judicial review of the Army Board's decision; a High Court judge ordered the Army Board to consider the matter afresh. A differently composed Army Board heard representations by the applicant and several intervening third parties and decided that exceptional reasons existed why the two soldiers should not be dismissed from the army. The applicant challenged this decision too. This time the High Court judge found that the Army Board had been entitled to reach the decision it had. The applicant appealed; the Northern Ireland High Court, in its decision, found that the reasons given by the Army Board in its second decision did not amount to exceptional reasons. This did not, however, cause the Army Board to dismiss the two soldiers. In a final decision, the High Court rejected the applicant's application for judicial review of the Army's failure to act in light of the ruling of the Court of Appeal, noting that the Court of Appeal had expressly declined to give a binding order.

Inadmissible under Article 2 – The essential purpose of the investigation required by Article 2 of the Convention is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. This investigation should be independent, accessible to the victim's family, carried out with reasonable promptness and expedition, effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances or otherwise unlawful, and afford a sufficient element of public scrutiny of the investigation or its results. It cannot be in doubt that there was an investigation into the death of the applicant's son which satisfied the above requirements: the two soldiers were prosecuted and found guilty of murder. The mere fact that the soldiers were allowed to rejoin their units after six years in prison cannot be regarded as either a flagrant rejection of the criminal conviction or cynical and retrospective approbation of the soldiers' conduct which could be regarded as capable of undermining the efficacy of the earlier criminal proceedings in providing the appropriate deterrent and retribution. The applicant's additional arguments touching on the future protection of citizens would appear somewhat hypothetical and speculative and certainly remote in

consequence as regards any effect on the rights of this applicant. To the extent concerns might arise as to the composition of the armed forces and existence of appropriate disciplinary regulations and machinery, these would appear to be matters of general policy for public and political debate falling outside the scope of Article 2 of the Convention as applicable in this case. The procedures adopted in this case complied with the procedural obligation contained in Article 2 of the Convention and the applicant cannot claim to be a victim of any breach of that provision as regards the decision to retain the two soldiers in the army: *incompatible ratione personae*.

Article 14 – Article 2 is not engaged in relation to the decision to retain the soldiers in the army and consequently Article 14 cannot come into play either: *incompatible ratione materiae*.

DEATH PENALTY
Extradition to India of a terrorist suspect, following governmental assurances excluding capital punishment: *inadmissible*.

SALEM - Portugal (N° 26844/04)
Decision 9.5.2006 [Section II]

In 2002 the Minister of External Affairs of India made a request for the applicant's extradition. In his request, the Minister said that the applicant was suspected of having played a key role in the major terrorist attacks carried out in Bombay in 1993. Under the relevant Indian legislation, the offences were punishable by the death sentence or life imprisonment. In response to a request for further information made by the Portuguese authorities, the Deputy Prime Minister of India gave solemn assurances that the applicant, if extradited to India, would not face the death penalty or a prison sentence exceeding 25 years. The Deputy Prime Minister based these assurances on the provisions of the Indian Constitution, the country's Extradition Act and its Code of Criminal Procedure. The court granted the extradition request. The applicant appealed against that decision, arguing that the assurances given were inadequate and that his extradition would be in breach of the Convention. During the cassation proceedings, the Indian Government reiterated before the Supreme Court the assurances given by the Deputy Prime Minister. The Supreme Court dismissed the applicant's appeal, after observing that the assurances given by the Indian Deputy Prime Minister averted any danger that the applicant might receive a death sentence or life imprisonment. The Supreme Court also saw no evidence of any risk that the applicant might be placed at a disadvantage before the courts on account of his religion. In 2005 the applicant was handed over to the Indian authorities.

Article 2 – In the Court's view, the Portuguese courts had rightly considered the legal, political and diplomatic assurances given by the Indian Government in the present case to be adequate and convincing. In the absence of any evidence to the contrary, the Court could not reverse the findings of the domestic courts, which had examined the extradition request in adversarial proceedings and had been able to hear evidence directly from the parties, who, among other things, had attached to the case file a large number of opinions from experts in Indian law. The Portuguese Government's good faith could not be called into question in this case, seeing that what was in issue was compliance with international law by India, a State which could not be said not to be based on the rule of law: *manifestly ill-founded*.

Article 3 – Proceedings had been brought against the applicant on account of his alleged criminal acts and not on account of his religion or ethnic origin. The Portuguese courts had scrutinised the complaints made by the applicant in that regard in detail and had concluded, after hearing evidence from the applicant and from the large number of witnesses called by the parties, that there was no real danger of the applicant's being subjected to treatment contrary to Article 3 of the Convention: *manifestly ill-founded*.

Article 6 – As this was an extradition case, the applicant was required to prove the "flagrant" nature of the denial of justice which he feared. In the instant case the applicant had not adduced any evidence to show that, having regard to the relevant Indian rules of procedure, there were substantial grounds for believing that his trial would take place in conditions that contravened Article 6: *manifestly ill-founded*.

ARTICLE 3

EXTRADITION
Expulsion to Libya of a group of illegal immigrants, allegedly entailing risk of ill-treatment: *admissible*.

HUSSUN and Others - Italy (N° 10171/05, 10601/05, 11593/05 and 17165/05)
Decision 12.5.2006 [Section III]

See Article 2 above.

EXTRADITION
Extradition to India of a terrorist suspect, allegedly entailing risk of ill-treatment due to his religion and ethnic origin: *inadmissible*.

SALEM - Portugal (N° 26844/04)
Decision 9.5.2006 [Section II]

See Article 2 above.

INHUMAN OR DEGRADING TREATMENT
Overpopulation in detention facility, confinement and lack of food and water: *violation*.

KADIĶIS - Latvia (N° 2) (N° 62393/00)
Judgment 4.5.2006 [Section III]

Facts: The applicant was sentenced to fifteen days' "administrative detention" for contempt of court under the Administrative Offences Code. He served his sentence in the temporary isolation unit of the local State police headquarters.

Law: Article 3 – For fifteen days, the applicant had been detained in an overcrowded cell in which his share of the space varied in that time between 0.5 and 1.5 sq. m, with no natural light and often no fresh air. He had been allowed no outdoor exercise and, apart from brief visits to the toilet and washrooms, had never left the cell, which he shared with four or five other detainees. He had not had a bed or an individual bunk and had been forced to sleep fully clothed on a wooden deck, lying against the other detainees. The applicant had received only one meal a day, being given bread the rest of the time. Detainees had not been allowed to receive food from outside. There had been no water in the cell and the applicant had been able to obtain drinking water only when he visited the toilets or washrooms, despite the heat of which he also complained. Hence, the applicant had not been properly fed and undoubtedly had not had enough to drink, notwithstanding the obligation on the part of the national authorities to provide for the health and general well-being of detainees. The treatment to which he had been subjected amounted to "degrading treatment".
Conclusion: violation.

Article 13 – The applicant had had no effective remedy by which to complain of the conditions of his detention.
Conclusion: violation.

Article 41 – The Court made an award for non-pecuniary damage.

INHUMAN OR DEGRADING TREATMENT
Applicant allegedly left in uncertainty as to the actual duration of his "life imprisonment": *admissible*.

KAFKARIS - Cyprus (N° 21906/04)
Decision 11.4.2006 [Section I]

See Article 7(1) below.

INHUMAN OR DEGRADING TREATMENT
Alleged violation of physical integrity as a result of an assault occasioning disability and costly medical treatment: *communicated*.

STOICESCU - Romania (N° 9718/03)
Decision 11.5.2006 [Section III]

See Article 6(1) below.

ARTICLE 5

Article 5(1)

LAWFUL ARREST OR DETENTION
Detention ordered without sufficient reasoning, no consideration given to less intrusive measures: *violation*.

AMBRUSZKIEWICZ - Poland (N° 38797/03)
Judgment 4.5.2006 [Section IV]

Facts: In 2002 the applicant was placed under judicial investigation for making false accusations about certain local police officers and judges to their superiors. He was summoned to appear before the district court and was remanded in custody for three months for obstructing the proceedings, as he had failed to reappear after an adjournment of the hearing. The applicant appealed against the detention order, arguing that the preventive measure taken was too severe and disproportionate to the seriousness of the offence of which he had been accused. The courts dismissed his appeal and rejected his subsequent applications for release on the ground that there was a risk that he might abscond and obstruct the proper progress of the proceedings. After two months and seven days in detention the applicant was released on bail following a further order by the court. The criminal proceedings against him are still pending before the Polish courts.

Law: The Court noted that the applicant's detention had a statutory basis in Polish law. In ordering that the applicant be placed and kept in detention, the authorities had referred, among other things, to the need to guarantee the proper conduct of the criminal proceedings and, more specifically, to the risk that the applicant might attempt to abscond. However, it was difficult to identify any evidence in support of the allegation that he might abscond: Mr Ambruszkiewicz had been remanded in custody after the very first hearing in his case because he had left the courtroom without authorisation, and neither the complexity of the case nor his potential sentence would have made him more likely to abscond. Moreover, nothing in the applicant's background had been cited which might suggest that he had been likely to obstruct the proper course of the proceedings. Given that accusations had been made against certain police officers and judges in the region, the court dealing with the case had been under a particular obligation to act without showing any sign of bias. In addition, in spite of a number of applications lodged by the applicant's counsel, the authorities had failed to consider applying any of the less intrusive measures

available under Polish law. The Court therefore considered that the applicant's detention could not be regarded as lawful within the meaning of Article 5(1) of the Convention.
Conclusion: violation (unanimously).

LAWFUL ARREST OR DETENTION
Detention beyond the alleged date of expiry of a sentence to "life imprisonment": *admissible*.

KAFKARIS - Cyprus (N° 21906/04)
Decision 11.4.2006 [Section I]

See Article 7(1) below.

ARTICLE 6

Article 6(1) civil

ACCESS TO COURT
Dismissal of action for failure to pay stamp duty of an excessive amount: *violation*.

WEISSMAN - Romania (N° 63945/00)
Judgment 24.5.2006 [Section III]

Facts: In their capacity as heirs to the former owners, the applicants brought an action against the State in 1998 seeking to recover possession of real property consisting of a building and the adjacent land in Bucharest, which had been occupied by an embassy. Noting that the State had taken possession of the building in 1949 without legal authority and that it continued to enjoy possession of it without title, the Romanian courts allowed the applicants' claim. The latter obtained possession of the building in October 1999. The applicants also brought proceedings seeking reimbursement of the equivalent of around EUR 30,000,000 in respect of loss of earnings, based on the rental income received by the State for the building since its confiscation. Their claim was struck out by the Romanian courts on the ground that they had failed to pay a sum of more than EUR 320,000 due as stamp duty for bringing the proceedings.

Law: Article 6(1) – The Court noted that the amount payable by the applicants in respect of stamp duty, which was undoubtedly very high for any ordinary litigant, had not been justified either by the particular circumstances of the case or by the applicants' financial position; it had been calculated on the basis of a set percentage, laid down by law, of the sum at stake in the proceedings. While it was true that the amount claimed by the applicants in respect of loss of earnings had been considerable, it had been neither exorbitant nor unfounded, given the value of the property. The amount required from the applicants for initiating their action, on the other hand, had been excessive. As a result, they had been implicitly obliged to abandon the action and hence been deprived of the right to have their case heard by a court. Having regard to the circumstances of the case, and in particular to the fact that the restriction had been imposed at the initial stage of the proceedings, the Court considered that it had been disproportionate and had thus impaired the very essence of the right of access to a court. *Conclusion*: violation (unanimously).

Article 1 of Protocol No. 1 – The Court considered that the applicants could argue that they had a "legitimate expectation" that their claim to repayment of the lost income from the property would be realised, in line with the provisions of the Civil Code and the case-law of the Supreme Court of Justice. The striking-out of the action for reimbursement of the rental income had deprived the applicants in practice of any possibility of securing repayment of the rent in question. There had therefore been interference with their right to peaceful enjoyment of their possessions. In the absence of a convincing explanation from the Romanian Government as to why the applicants had received no compensation in return for the State's use of the building, the Court held that the fair balance which had to be struck

between the protection of the applicants' property rights and the requirements of the general interest had been upset.
Conclusion: violation (unanimously).

Article 41 – The Court awarded the applicants jointly EUR 40,000 for pecuniary damage. Non-pecuniary damage: finding of a violation sufficient.

ACCESS TO COURT
Dismissal of an appeal on points of law on the ground that the facts on which the court of appeal had based its judgment were not specified by the applicant: *violation*.

LIAKOPOULOU - Greece (N° 20627/04)
Judgment 24.5.2006 [Section I]

Facts: In 1984 a piece of land belonging to the applicant was expropriated, most of it in favour of the municipality of Salonika, for the construction of several sections of ring road. The applicant, who contested the amount of compensation awarded by the lower courts, appealed on points of law. On 3 December 2003 the Court of Cassation dismissed her appeal on the ground that she "had not specified clearly the facts of the case on which the court of appeal had based its judgment".

Law: Article 6 – Application *admissible* as to the complaint concerning the applicant's right of access to a court.
On the merits of the complaint, the rule on which the Court of Cassation had based its decision to dismiss the applicant's appeal on points of law was a principle enshrined in its case-law and arose out of the specific nature of the Court of Cassation's role, which was limited to reviewing whether the law had been correctly applied. The applicant's appeal had not obliged the Court of Cassation to redetermine the facts of the case. While it was true that the applicant had omitted to include relevant facts established by the court of appeal, she had nonetheless, in the introduction to her appeal, summarised the principal facts of the case, the proceedings to date and her complaints with regard to the contested decision; this summary had been followed by a review of the case. She had also attached the impugned decision. Accordingly, the facts of the case, as established by the court of appeal, had been brought to the attention of the Court of Cassation. In declaring the submissions in question inadmissible on the ground that the applicant "had not specified clearly the facts of the case on which the court of appeal had based its judgment", the Court of Cassation had taken an excessively formalistic approach, which had prevented the applicant from having the merits of her allegations examined by that court. That limitation on the applicant's right of access to a court had therefore been disproportionate to the aim of ensuring legal certainty and the proper administration of justice.
Conclusion: violation (unanimously).

Inadmissible under Article 1 of Protocol No. 1: The amount paid to the applicant could be regarded as reasonable in relation to the value of the expropriated property, in view of the margin of appreciation enjoyed by the national authorities under Article 1 of Protocol No. 1. Furthermore, the applicant had not adduced any argument to suggest that the conclusions of the Court of Cassation had been arbitrary.

Article 41 –The Court awarded the applicant a specified sum for non-pecuniary damage.

ACCESS TO COURT
Alleged lack of effectiveness of access to a court on account of excessively high court fees: *communicated*.

STOICESCU - Romania (N° 9718/03)
Decision 11.5.2006 [Section III]

The applicants are a retired married couple with a low income. In 2000 Mrs Stoicescu, then aged 69, was attacked, bitten and forced to the ground by several stray dogs in Bucharest. She has since been receiving expensive medical treatment for the after-effects of the incident, straining the applicants' financial resources to the limit. In 2003 she was declared disabled by a medical board and was awarded financial aid to help offset the cost of her medical treatment. In the meantime, in 2001, she brought an action before the relevant court of first instance, claiming damages from the Bucharest city authorities for the attack. Prior to the hearing, the court requested Mrs Stoicescu to pay the statutory court fees, which amounted to four times the applicants' monthly income. Owing to a shortage of funds, she paid only a small proportion of the amount requested, and the court therefore struck out her claim for failure to pay the court fees in full. The county court allowed an appeal by Mrs Stoicescu. It considered that the court of first instance should have determined the claim pro rata with the amount of fees that had been paid. As to the merits, it ordered the Bucharest city authorities to pay damages to Mrs Stoicescu, but only in proportion to the amount of court fees paid, in other words, 10% of the amount of damages claimed. The Bucharest Court of Appeal allowed an appeal by the city authorities and dismissed Mrs Stoicescu's action on the ground that the city authorities did not have standing before the court. It considered that the ASA, the public body responsible for capturing, monitoring and sterilising stray dogs, had been set up by a decision of Bucharest City Council, which alone had standing to take part as the defendant in the proceedings. Mrs Stoicescu accordingly brought an action for damages before the court of first instance against the ASA and Bucharest City Council. Her action was dismissed in December 2002 on the ground that the defendants did not have standing. The court of first instance observed that, in 2001, the City Council had abolished the ASA and transferred responsibility for stray dogs to the local councils of the six districts of Bucharest. In a final judgment of 13 March 2003 the county court upheld the first-instance judgment.
The applicants complained under Articles 3 and 8 of the Convention that the attack on Mrs Stoicescu had infringed their rights to physical and moral integrity and to a private life. They further alleged under Article 6 that they had not had a practical, effective right of access to the courts to have their action for damages against the local authorities determined, arguing that the court fees required in order to have their case examined constituted a barrier to access to a court.

Inadmissible for failure to exhaust domestic remedies in respect of the complaints raised by Mr Stoicescu, as only his wife had brought proceedings before the domestic courts.

Communicated with respect to the complaints raised by Mrs Stoicescu under Articles 3, 6 and 8.

REASONABLE TIME
Exemption from costs constitutes adequate redress: *inadmissible*.

HANSEN and Others - Denmark (N° 26194/03)
Decision 29.5.2006 [Section V]

The applicants are a family consisting of father, mother and son. The son, M., was born in 1977 and has been multi-handicapped from birth. In 1991 the applicants obtained access to medical records and in July 1993 the mother, on behalf of the son, instituted proceedings before the High Court of Eastern Denmark against the hospital where the birth had taken place. Between May 1994 and 1998 information was sought from the Medico-Legal Council, the parties failing to agree on the questions to be put. In 1999 and 2000 procedural questions were discussed and decided. Also in 1999 the father and mother joined the proceedings seeking compensation for their own damage. The trial took place in September 2000. By judgment of 13 December 2000 the High Court found against the applicants. The son was ordered to pay

legal costs to the defendant in the amount of DKK 100,000 equal to approximately EUR 13,330. This sum was covered by M's grant of legal aid. The father and mother were ordered to pay legal costs to the defendant in the amount of DKK 50,000 equal to approximately EUR 6,660. The applicants appealed to the Supreme Court. They were refused legal aid for the appeal proceedings. By judgment of 24 April 2003 the Supreme Court found against the applicants. However, it exempted them entirely from paying the costs of the defendant public authorities, having regard to the extraordinary length of the proceedings.

Inadmissible under Article 6(1): The Court is satisfied that at least in substance it acknowledged a failure to observe the reasonable time requirement. Accordingly, the crucial issue remains whether the applicants were granted sufficient redress therefore. Having regard to the duration of the proceedings which lasted almost ten years and the applicants' contribution to this length, the Court is satisfied that the overall redress awarded by the Supreme Court, even if it cannot be exactly quantified, was reasonable in comparison to what the Court would have awarded in a similar case. The applicants cannot, therefore, claim to be victims of a violation of their right to a hearing within a reasonable time: *manifestly ill-founded*.

Article 6(1) criminal

APPLICABILITY
Lustration proceedings resulting in politician's temporary disqualification from certain public functions and legal professions: *admissible*.

MATYJEK - Poland (N° 38184/03)
Decision 30.5.2006 [Section IV]

A 1997 law on disclosing work for or service in the State's security services or collaboration with them between 1944 and 1990 by persons exercising public functions (the "1997 Lustration Act") provides for sanctions if the lustration court finds that the submitted declaration is untrue. Having been considered a "lustration liar" entails dismissal from public functions exercised by the person and prevents him or her from applying for the posts in question for a period of 10 years. The public functions, which the "lustration liar" cannot exercise, include legal professions such as those of barrister, judge, prosecutor and public servant and political ones such as those of Member of Parliament or President of the Republic of Poland.
The applicant, who had been a member of the *Sejm*, declared that he had not collaborated with the communist-era secret services. In 1999 proceedings were taken against him on the ground that he had lied in his declaration by denying his cooperation with the secret services. Following hearings *in camera* the Warsaw Court of Appeal, acting as the first-instance lustration court, found that the applicant had submitted an untrue declaration because he had been an intentional and secret collaborator with the State's secret services. The operative part of the judgment was served on the applicant but the reasoning was considered "secret" and could only be consulted in the secret registry of the court. In 2000 the same court of appeal, now acting as the second-instance lustration court, dismissed the applicant's appeal. Following the applicant's appeal in cassation the Supreme Court quashed the judgment and remitted the case as the applicant's motion to hear two additional witnesses had been disregarded. Later in 2000 the Head of the State Security Bureau lifted the confidentiality restrictions in respect of all case materials. In 2001, following a hearing in public, the court of appeal quashed the judgment and remitted the case to the first-instance lustration court. In a judgment following hearings held partly *in camera* that court again found the applicant to have lied in his declaration. The applicant's further appeals were dismissed. – According to the applicant, he had been allowed to consult his case-file during the proceedings, but had been prevented from making any notes that he could take away with him.

Applicability of Article 6(1) under its criminal head – As for the classification of the proceedings under domestic law, the Court noted that the facts alleged against the applicant amounted to submission by him of an untrue lustration declaration in which he stated that he had not cooperated with the State's security

services. In Poland the organisation and the course of lustration proceedings are based on the model of a criminal trial and the rules of the Code of Criminal Procedure are directly applicable to lustration proceedings. Although under the domestic law the lustration proceedings are not qualified as "criminal", they possess features which have a strong criminal connotation. – As regards the nature of the offence, making an untrue statement in a lustration declaration is analogous to the offence of perjury, which, outside the lustration context, would normally have led to prosecution under the criminal-law provisions. In the circumstances the offence in question is not devoid of purely criminal characteristics. – As regards the nature and degree of severity of the penalty, the 1997 Lustration Act provides for an automatic and uniform sanction if the person subject to lustration has been considered by a final judgment to have lied in his or her declaration. A final judgment to that effect entails the dismissal of the person subject to lustration from the public function exercised by him or her and prevents this person from applying for a large number of public posts for the period of 10 years. It is true that neither imprisonment nor a fine can be imposed on someone who has been found to have submitted a false declaration. Nevertheless, the prohibition on practising certain professions for a long period of time may have a very serious impact on a person, depriving him or her of the possibility of continuing professional life. This sanction should thus be regarded as having at least partly punitive and deterrent character. In the instant case the applicant, who is a politician, as a result of having been deemed a "lustration liar" by a final judgment, lost his seat in Parliament and cannot be a candidate for future elections for ten years. In the overall circumstances the nature of the offence, taken together with the nature and severity of the penalties, was such that the charges against the applicant constituted "criminal charges" within the meaning of Article 6 of the Convention. *Admissible*.

FAIR HEARING
Extradition to India of a terrorist suspect, allegedly entailing risk of unfair trial: *inadmissible*.

SALEM - Portugal (N° 26844/04)
Decision 9.5.2006 [Section II]

See Article 2 above.

FAIR HEARING
Fairness of lustration proceedings: *admissible*.

MATYJEK - Poland (N° 38184/03)
Decision 30.5.2006 [Section IV]

See above, under "Applicability".

INDEPENDENT AND IMPARTIAL TRIBUNAL
Independence and impartiality of a military court judging a civilian in criminal proceedings: *violation*.

ERGİN - Turkey (N° 47533/99)
Judgment 4.5.2006 [Section IV]

Facts: In September 1997 the applicant published in a newspaper which he edited an article entitled "Giving the conscripts a send-off, and collective memory", which was a critique of the now-traditional ceremony to mark conscripts' departure for military service; in literary language the author explained that the enthusiasm surrounding these departures was a denial of the tragic end to be suffered by some of the conscripts concerned, namely death and mutilation. On 20 October 1998 the General Staff Court found the applicant guilty of incitement to evade military service and sentenced him to two months' imprisonment, commuted to a fine. An appeal by the applicant on points of law was dismissed on 10 February 1999.

Law: Article 10 – As regards the alleged interference with the freedom of expression, the grounds given by the Turkish courts could not in themselves be considered sufficient to justify the interference with the applicant's right to freedom of expression. Although the words used in the offending article gave it a connotation hostile to military service, they did not exhort the use of violence or incite armed resistance or rebellion, and they did not constitute hate-speech, which was the essential element to be taken into consideration. The offending article had been published in a newspaper on sale to the general public and did not seek, either in its form or in its content, to precipitate immediate desertion. The applicant's criminal conviction did not correspond to a pressing social need and was accordingly not "necessary in a democratic society".
Conclusion: violation (unanimously).

Article 6 – As regards the complaint relating to the independence and impartiality of the General Staff Court, the Court first took formal note of the information supplied by the Government to the effect that Turkish legislation had been amended to bring it into line with the Convention. Only in exceptional circumstances could the determination of criminal charges against civilians by a court composed, if only in part, of members of the armed forces be held to be compatible with Article 6; the Court derived support in that approach from developments in recent years at international level. The power of military criminal justice should not extend to civilians unless there were compelling reasons justifying such a situation, and if so only on a clear and foreseeable legal basis. It was understandable that the applicant, a civilian standing trial before a court composed exclusively of military officers, charged with offences relating to propaganda against military service, should have been apprehensive about appearing before judges belonging to the army, which could be identified with a party to the proceedings. Accordingly, the applicant could legitimately fear that the General Staff Court might allow itself to be unduly influenced by partial considerations. The applicant's doubts about the independence and impartiality of that court could therefore be regarded as objectively justified.
Conclusion: violation (unanimously).

As regards the complaint that the proceedings were unfair, the Court observed that a court whose lack of independence and impartiality had been established could not, in any event, guarantee a fair trial to the persons subject to its jurisdiction.
Conclusion: not necessary to examine (unanimously).

Article 41 – The Court made an award for non-pecuniary damage and costs and expenses.

ARTICLE 7

Article 7(1)

NULLUM CRIMEN SINE LEGE
Greenpeace activists found guilty of trespassing on military defence area on Greenland allegedly in the absence of legal authority and demarcation: *admissible*.

CUSTERS, DEVEAUX and TURK - Denmark (N° 11843/03, 11847/03 and 11849/03)
Decision 9.5.2006 [Section V]

In 2001 the applicants, members of Greenpeace, took part in an action near the American "Thule Air Base" in North-West Greenland, in order to attract international attention to the use of the Thule Radar for the American military programme "Star Wars". Greenpeace's request to be granted permission to visit the Dundas peninsula (where the base is located) had been refused by the Danish Ministry of Foreign Affairs. On 6 August 2001 the applicants went ashore south of the Thule Air Base and walked approximately 30 km to "Shelter 7" (over ten kilometres away from the built-up part of the Thule Air Base and over seven kilometres away from the Thule Radar) where they were arrested on 7 August 2001. They were charged

with trespassing and released the following day. By judgment of 11 September 2001 the High Court of Greenland found that the applicants had violated Article 69 (a) of the Penal Code and an Executive Order from 1967 on Travels to and within Greenland, which set out that permission must be obtained from the relevant authorities prior to accessing any defence area in Greenland. The court dismissed the applicants' submission that their act did not constitute a criminal offence as the Executive Order allegedly had lacked legal authority and it could not be established whether or not they had trespassed within the meaning of the Penal Code, since the military area had never officially been demarcated. The applicants were each sentenced to a fine in an amount equal to EUR 670. The judgment was upheld by the High Court of Eastern Denmark and leave to appeal to the Supreme Court was refused.
Admissible under Article 7.

NULLA POENA SINE LEGE
Ambiguity as to the actual duration of "life imprisonment": *admissible*.

KAFKARIS - Cyprus (N° 21906/04)
Decision 11.4.2006 [Section I]

In 1989 the applicant was found guilty by an assize court on three counts of premeditated murder and was sentenced to life imprisonment in respect of each count. During the hearing concerning his sentencing, the prosecution invited the court to clarify whether the meaning of the term "life imprisonment" in the Criminal Code actually entailed imprisonment for life or for a period of twenty years as provided by the Prison (General) Regulations of 1981 and the Prison (General) (Amending) Regulations of 1987. If the court were to find that the latter framework was applicable, an issue would arise as to whether the sentences should be imposed consecutively or concurrently and the prosecution would then propose consecutive sentences. The court, relying on the findings of another assize court in 1988, found that it was not competent to examine the validity of the Regulations or take into account any possible repercussions they could have on the applicant's sentence. It went on to find that the term "life imprisonment" used in the Criminal Code meant imprisonment for the remainder of the life of the convicted person. In view of this, the court did not consider it necessary to examine whether the sentences it imposed would run concurrently or consecutively. The Supreme Court dismissed the applicant's appeal against his conviction. The day the applicant was put into prison, he was given a written notice to the effect that the date set for his release was 16 July 2002. His release was conditional upon his good conduct and industry during detention. Following the commission of a disciplinary offence, his release was postponed to 2 November 2002. In 1992, in an unrelated case, the Supreme Court declared the 1981-1987 regulations unconstitutional and in 1996 a new Prison Law was enacted. The applicant was not released in 2002 and in 2004 he submitted a Habeas Corpus application, challenging the lawfulness of his detention and invoking the Convention. The Supreme Court, sitting as the first instance, dismissed his application. In his appeal he challenged the interpretation of the term "life imprisonment" made by the assize court when sentencing the applicant in 1989, in view of the regulations applicable at the time and the notice given to the applicant on his entry into prison. He argued that the fact that he had not challenged his sentence following conviction could not be interpreted as an acceptance of the assize court's interpretation of the term "life imprisonment". The Supreme Court, now sitting as an appellate bench, dismissed his appeal. Before the European Court the applicant complains of a violation of Article 3 of the Convention in that the whole or a significant part of his life imprisonment exceeds the reasonable and acceptable standards for the length of a period of punitive detention laid down in the Convention. Moreover, following the notice given to him upon entry into prison by the prison authorities, he was under the legitimate expectation that he would be released in 2002. However, as a result of his continuous detention beyond the date mentioned in that notice he has been left in a state of distress and uncertainty over his future for a significant amount of time, which amounts to inhuman and degrading treatment. He further complains under Article 5 that his continuing detention since 2 November 2002 has been unlawful as the sentence imposed on him in 1989 expired on that date. He also complains of a violation of Article 7 in that when he was sentenced to mandatory life imprisonment in 1989 that term – under the prison regulations applicable at the time – was tantamount to imprisonment for a period of twenty years. As a result of the repeal of the relevant Prison Regulations, he is subject to an unforeseeable prolongation of

his term of imprisonment from a definite twenty-year sentence to an indeterminate term for the remainder of his life. Thus, a heavier penalty has been imposed than that applicable at the time when he had committed the offence for which he had been convicted. Furthermore, the amendment of the relevant legislative provisions and their retroactive application has resulted in the increase of his sentence from twenty years to an indeterminate term and a change in the conditions of his detention. Finally, he complains that whilst most other inmates serving life sentences are being released on having served their twenty-year sentence, he remains the longest-serving life prisoner and was therefore being subjected to discriminatory treatment, contrary to Article 14 of the Convention in conjunction with Articles 3, 5 and 7.
Admissible as a whole.

ARTICLE 8

PRIVATE LIFE
Transsexual denied legal recognition of her gender change and refused retirement pension from the age applicable to other women: *violation*.

GRANT - United Kingdom (N° 32570/03)
Judgment 23.5.2006 [Section IV]

Facts: The applicant is a 68-year-old post-operative male-to-female transsexual. She has presented as a woman since 1963, was identified as a woman on her national insurance card and paid contributions to that insurance scheme at a female rate (until 1975, when the difference in rates was abolished). The applicant applied for a State pension to be paid out starting from her 60th birthday in 1997. Her application was refused on the ground that she would only be entitled to a State pension when she reached 65, this being the retirement age applicable to men. She appealed unsuccessfully. In 2002 she requested that her case be reopened in the light of the European Court's judgments in *Christine Goodwin v. the United Kingdom* (application no. 28975/95) and *I. v. the United Kingdom* (no. 25680/94). She was granted leave to appeal but, on legal advice, decided not to pursue her appeal. On 5 September 2002 the Department for Work and Pensions refused to award her a State pension in light of the *Christine Goodwin* judgment. In December 2002, when the applicant had reached the age of 65, her pension payments began.
In 2005 the applicant was issued with a gender recognition certificate, following her application under the Gender Recognition Act 2004, which had come into force on 1 July 2004. From the date of the grant of such a certificate social security benefits and the state retirement pension are paid prospectively according to the acquired gender.

Law: Article 8 – The Court observed that Ms Grant had been in a situation identical to that of Christine Goodwin; as a post-operative male-to-female transsexual, Ms Grant could claim to be a victim of a breach of her right to respect for her private life contrary to Article 8, due to the lack of legal recognition of her change of gender. While it was true that the Government had had to take steps to comply with the *Christine Goodwin* judgment, which had involved passing new legislation, it was not the case that that process could be regarded as in any way suspending the applicant's victim status. Following the *Christine Goodwin* judgment there was no longer any justification for failing to recognise the change of gender of post-operative transsexuals. Ms Grant did not have at that time any possibility of obtaining such recognition and could claim to be prejudiced from that moment. The applicant's victim status had ceased when the Gender Recognition Act 2004 had entered into force, thereby providing her with the means on a domestic level to obtain legal recognition. Consequently, she could claim to be a victim of the lack of legal recognition from the moment, after the Christine Goodwin judgment, when the authorities had refused to give effect to her claim, namely from 5 September 2002. This lack of recognition had breached her right to respect for her private life.
Conclusion: violation (unanimously).

PRIVATE LIFE
Travel ban because of unpaid taxes: v*iolation*.

RIENER - Bulgaria (N° 46343/99)
Judgment 23.5.2006 [Section V]

See Article 2 of Protocol No. 4 below.

PRIVATE LIFE
Lack of public assistance to a handicapped person rendering it impossible for him to cast a vote in local elections: *inadmissible*.

MOLKA - Poland (N° 56550/00)
Decision 11.4.2006 [Section IV]

The applicant is a severely handicapped person and can move only in a wheelchair. In 1998 the applicant was driven by his mother to a polling station where he intended to vote in the elections to municipality and district councils and provincial assemblies. The Chairman of the Local Electoral Commission informed the applicant's mother that the applicant could not cast his vote because it was not allowed to take a ballot paper outside the premises of the polling station and he was not going to carry the applicant inside the station. The applicant returned home without casting his vote. Three hours before closing of the polling stations, the applicant telephoned the Municipal Electoral Commission and made a protest against the refusal to allow him to vote. He also asked for help in casting his vote. In reply, he was informed that the Local Commission acted in conformity with the law and was advised to arrange himself some assistance in entering the premises of the polling station. The applicant lodged an electoral protest with the regional court. The regional court dismissed the protest, observing that the applicant had not considered the possibility of entering the polling station with the assistance of third persons on a stretcher or a wheel chair. Moreover, the court considered that the public authorities were not in a position to eliminate all the difficulties encountered by the handicapped citizens in enjoying their rights. The appellate court upheld this decision.

Inadmissible under Article 8 – It cannot be excluded that the authorities' failure to provide appropriate access to the polling station for the applicant, who wishes to lead an active life, might have aroused feelings of humiliation and distress capable of impinging on his personal autonomy, and thereby on the quality of his private life. The Court does not rule out that, in circumstances such as those in the present case, a sufficient link between the measures sought by an applicant and the latter's private life would exist for Article 8 to be engaged. In cases concerning the State's positive obligations to ensure effective "respect" for private life, a fair balance has to be struck between the competing interests of the individual and of the community as a whole and the margin of appreciation enjoyed by States in this area. In the present case this margin of appreciation is even wider as the issue at stake involves a provision of adequate access for the disabled to the polling stations which must necessarily be assessed in the context of the allocation of limited State resources. The national authorities are in a better position to carry out this assessment than an international court. Moreover, the Court notes that the applicant has not shown, as was pointed out by the domestic courts, that he could not have been assisted in entering the polling station by other persons. The situation complained of concerned one isolated incident as opposed to a series of obstacles, architectural or otherwise, preventing physically disabled applicants from developing their relationships with other people and the outside world. Bearing in mind the above considerations, the Court considers that the respondent State cannot be said, in the special circumstances of the present case, to have failed to ensure respect for the applicant's private life. Furthermore, a new law of 2001 obliges the relevant authorities to provide adequate access for disabled voters to the polling stations during elections. Those legislative provisions would indicate that the respondent State has not been oblivious to the plight of disabled voters: *manifestly ill-founded*.

PRIVATE LIFE
Alleged interference with private life on account of an assault occasioning a disability and costly medical treatment: *communicated*.

STOICESCU - Romania (N° 9718/03)
Decision 11.5.2006 [Section III]

See Article 6(1) above.

FAMILY LIFE
Granting by the Supreme Court of custody over two children to person with whom they were living, instead of the father, given the preference expressed by the children to stay with this person: *violation*.

C. - Finland (N° 18249/02)
Judgment 9.5.2006 [Section IV]

Facts: The applicant, a British national, lived with his former wife, a Finnish national, and their two children in Switzerland until the couple separated. The mother returned to Finland with the children and took up residence with a female partner, L. After a longstanding custody dispute, which culminated in a decision of the Finnish Supreme Court in 1997, the mother was granted sole custody of the children. At the time, the applicant had lodged an application with the Court which was rejected. The present application concerns the fate of the children after the death of the mother in 1999. Both the applicant and L. applied for their custody. The District court, and later the Court of Appeal, both granted custody to the applicant. Although the children had expressed their wish to live with L. and feared moving back to Switzerland, the courts considered that the strained relationship between the applicant and L. had influenced their view, and concluded that a relationship between the children and the applicant was important for their well-balanced development. However, the Supreme Court overturned the lower courts' judgments on the basis that under domestic legislation they would be unenforceable in light of the children's ages (14 and 12) and their expressed wish to remain with their mother's partner. It did so without holding an oral hearing or re-hearing the evidence presented before the lower courts, and not finding it necessary to seek a further psychological examination as requested by the applicant.

Law: Article 8 – Refusal of custody: Article 8 requires that the domestic authorities should strike a fair balance between the interests of the child and those of parents and that, in the balancing process, particular importance should be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parents. In particular, a parent cannot be entitled under Article 8 of the Convention to have measures taken that would harm the child's health and development. It was therefore entirely in keeping with the principles outlined above that the Finnish courts examined whether the children's best interests lay in remaining with L. or with the applicant as being awarded custody. That said, notwithstanding the past and continuing acrimony between the adults which took its toll on the children, there was no finding by the domestic courts that the applicant was in any way unfit as a father or not capable of providing for their needs and putting their interests first. Although it is true that it is the function of higher appellate courts to review, and if necessary quash, lower court decisions and the mere fact that they might take a different view does not, in itself, raise any issues, the Court must nonetheless, given the importance of the Supreme Court's decision for the applicant, examine whether it was supported by relevant and sufficient reasons. The Court considers that it cannot satisfactorily assess whether those reasons were "sufficient" for the purposes of Article 8(2) without at the same time determining whether the decision-making process, seen as a whole, provided the applicant with the requisite protection of his interests. Firstly, the Supreme Court gave decisive weight to the children's expressed wishes that they remain with L. in Finland, referring to legislation which prevented the enforcement of decisions against the will of children over the age of 12. It is generally accepted that courts must take into account the wishes of children in such proceedings. It must be noted that all court instances in this case essentially agreed as to the consistency and strength of the children's views. The reasons relied on by the Supreme Court were clearly relevant therefore. The weight to be attached to the

children's' views was, however, an issue which had been examined in some depth in the proceedings in the lower courts which assessed that, notwithstanding their wish to remain with L., it was in their best interests for custody to be given to the applicant, their father. The Court of Appeal indeed emphasised that it was not bound to follow the opinions of a child even where aged 12 or more. The Supreme Court, however, placed exclusive weight on the views expressed by the children without considering any other factors, in particular the applicant's rights as a father, effectively giving the children, who had both reached the age of 12, an unconditional veto power, and reversing the decisions which had hitherto been in the applicant's favour. Furthermore it did so without holding an oral hearing in which it might invite the parties to address the matter or without taking any steps to clarify, through further evidence or expert opinion, any divergent interpretation of the evidence or whether greater harm would be caused to the children's welfare by a decision in the applicant's favour than a decision in L's favour which would effectively deprive them of a relationship with their father. The decision was reached in a manner which understandably left the applicant with the impression that L., the mother's partner, had been allowed to manipulate the children and the court system to deprive him unjustifiably of his parental role. *Violation*.

Article 8 – Refusal of access: Contact visits did take place successfully during the District Court proceedings but that during the Court of Appeal proceedings and pending its order for the transition of custody attempts contact meetings were attended by various difficulties. By this time, for whatever reason, the children were refusing to meet with him alone and the applicant resisted any suggestion of L.'s participation in visits. Against that background, the Court considers that the Supreme Court's refusal of interim access visits may be regarded as supported by relevant and sufficient reasons. As regards the failure of the Supreme Court to provide for contact after its own decision giving custody to L., it does not appear that the applicant had made any application for such or that he has made subsequent application before the courts. Against the background of the children's continued resistance it might well be that there would also be relevant and sufficient reasons for a decision refusing to given defined contact. Until however the courts rule on an application by the applicant the matter is somewhat speculative – *no violation*.

Article 6 – No separate issue.

Article 41 – Pecuniary damage, claim rejected as unrelated to violation found – Non-pecuniary damage, EUR 10,000 – Costs and expenses, claim accepted in part.

FAMILY LIFE
Putative father unable to seek legal paternity by means of a procedure directly accessible to him: *violation*.

RÓŻAŃSKI - Poland (N° 55339/00)
Judgment 18.5.2006 [Section I]

Facts: The applicant began living with his partner in 1990 and in 1992 they had a baby boy. In 1994 the applicant's partner left home and left her son with the applicant. Shortly afterwards the child fell ill and was admitted to hospital. The boy's mother then removed her son from the hospital and went into hiding with him for several months. The applicant had no more contact with the child but sought to have his paternity recognised in law. He requested a district court to appoint a guardian to represent the child for the purposes of the paternity proceedings. He also requested the public prosecutor to lodge a paternity action on his behalf. In 1995 the prosecutor considered that it would not be advisable for the prosecution authorities to process the applicant's request, which, if successful, would lead to two parallel sets of proceedings pending at the same time. The applicant eventually withdrew his request to the prosecutor. In 1996 J.M., the mother's new partner, recognised paternity of the boy and was acknowledged as his legal father. Subsequently, the applicant again asked the district court to appoint a guardian for the purpose of instituting paternity proceedings. The court refused, considering that the applicant had no right of action as J.M. was now the boy's legal father.

Law: The applicant's link with the child had a sufficient basis in fact to bring the alleged relationship within the scope of family life within the meaning of Article 8(1). Where the existence of a family tie with a child had been established, the State had to act in a manner calculated to enable that tie to be developed and legal safeguards to be created that rendered possible, as from the moment of birth, the child's integration into his or her family. A crucial aspect of the case was the lack of any directly accessible procedure by which the applicant could claim to have his legal paternity established – the launching of those procedures being completely at the discretion of the authorities. The Court moreover noted the absence, in domestic law, of any guidance as to the exercise of the authorities' discretionary powers for the purpose of deciding whether to challenge legal paternity established by way of a declaration made by another man. Thirdly, the Court considered the perfunctory manner in which the authorities had exercised their powers when dealing with the applicant's requests to challenge that paternity. No steps had been taken to establish the actual circumstances of the child, the mother and the applicant. On no occasion had the applicant been interviewed by the authorities in order to have his parental skills established and assessed. Moreover, it had not been examined at all whether in the circumstances of the case the examination of the applicant's paternity would harm the child's interests or not. The authorities simply had reiterated in their decisions that the mere fact that the child had been legally recognised by another man was sufficient to turn down the applicant's requests to have his biological paternity recognised. In those circumstances, the State had failed to secure to the applicant the right to respect for his family life.
Conclusion: violation (five votes to two).

Article 41 – The Court awarded the applicant EUR 8,000 in respect of non-pecuniary damage.

ARTICLE 9

MANIFEST RELIGION OR BELIEF
Levying of tax on donations made to an association of Jehovah's Witnesses: *communicated*.

ASSOCIATION LES TÉMOINS DE JÉHOVAH - France (N° 8916/05)
[Section II]

The aim of the applicant association is to provide support for the preservation and practice of the Jehovah's Witnesses faith. The Jehovah's Witnesses movement is funded by means of religious donations. A parliamentary reported entitled: “Sects in France”, published in December 1995, described the Jehovah's Witnesses as a sect. The applicant association was the subject of a tax audit which began at the end of 1995. The tax authorities sent the applicant a demand for payment of supplementary tax, together with penalties and interest, in respect of the donations received over a four-year period. The applicant objected to the tax demand, arguing that, as a religious association, it qualified for exemption. The court observed that the relevant authorities had not granted the applicant the status of a religious association, and that the gifts and legacies were therefore not eligible for exemption. The applicant association was given formal notice to pay EUR 40,907,849 to the tax authorities. It alleged that the fact that the donations made to the Jehovah's Witnesses had been taxed as gifts “from hand to hand”, and penalties imposed accordingly, infringed its right to manifest and practise its religion. As the amount required to be paid far exceeded the value of the association's assets, the applicant submitted that its activities, and its very existence, had been placed in jeopardy.
Communicated under Article 9, taken alone and in conjunction with Article 14.

ARTICLE 10

FREEDOM OF EXPRESSION
Criminal conviction of journalist by a military court for publishing an article criticising the ceremony to mark departures for military service: *violation*.

ERGİN - Turkey (N° 47533/99)
Judgment 4.5.2006 [Section IV]

See Article 6(1) above.

ARTICLE 13

EFFECTIVE REMEDY
Travel ban because of unpaid taxes: v*iolation*.

RIENER - Bulgaria (N° 46343/99)
Judgment 23.5.2006 [Section V]

See Article 2 of Protocol No. 4 below.

EFFECTIVE REMEDY
Expulsion to Libya of a group of illegal immigrants, with no possibility to challenge this measure: *admissible*.

HUSSUN and Others - Italy (N° 10171/05, 10601/05, 11593/05 and 17165/05)
Decision 12.5.2006 [Section III]

See Article 2 above.

ARTICLE 14

DISCRIMINATION
Readmission to the army of soldiers found guilty of murder: *inadmissible*.

McBRIDE - United Kingdom (N° 1396/06)
Decision 9.5.2006 [Section IV]

See Article 2 above.

DISCRIMINATION
Disbarment of a lawyer upon appointment to public office with tenure: *inadmissible*.

LEDERER - Germany (N° 6213/03)
Decision 22.05.2006 [Section V]

See Article 1 of Protocol No. 1 below.

ARTICLE 34

HINDER THE EXERCISE OF THE RIGHT OF PETITION
Expulsion to Libya of a group of illegal immigrants, notwithstanding the Court's request for information allowing it to decide whether to apply Rule 39: *admissible*.

HUSSUN and Others - Italy (N° 10171/05, 10601/05, 11593/05 and 17165/05)
Decision 12.5.2006 [Section III]

See Article 2 above.

VICTIM
Convention breach admitted and redress afforded following delay in enforcement: *inadmissible*.

YEREMENKO - Russia (N° 24535/04)
Decision 23.5.2006 [Section I]

The applicant moved from Chechnya to the Rostov Region due to military hostilities in Chechnya. She left her flat and other property. In December 1999 a regional administration approved payment of compensation to her for lost housing due to the hostilities. The compensation was paid in March 2001. The applicant sued the Ministry of Finance of the Russian Federation for damages, arguing that the value of the compensation had significantly decreased because of the delay in payment. In August 2002 the applicant was awarded compensation equivalent to 715 euros. That judgment was upheld on appeal in September 2002 and the applicant sent a writ of execution to the Ministry of Finance in October 2003. In August 2005 the judgement debt was paid. She then sued the Ministry of Finance for compensation due to the delay in enforcing the 2002 judgment. By judgment of September 2005 the domestic court granted her claim, acknowledging the further delay and ordering the Ministry of Finance to pay her the equivalent of some EUR 290 for depreciation of the value of the judgment debt of 2002. The sum was paid to the applicant within three months.

Inadmissible: Where domestic proceedings include an admission of a Convention breach by the national authorities and the payment of a sum of money amounting to redress, the applicant can no longer claim to be a victim of a violation of the Convention. The judgment in question had been fully enforced in August 2005 and the applicant had not appealed against the judgment of September 2005 awarding her compensation for the further delay in enforcement. Having regard to the content of the judgment of September 2005, the applicant's unwillingness to appeal against it and the fact that it was enforced within a relatively short period of time, the national authorities had acknowledged, and then afforded redress for, the alleged breach of the Convention. Consequently, the applicant could no longer claim to be the victim of a violation of the Convention within the meaning of Article 34 of the Convention.

VICTIM
Exemption from costs constitutes adequate redress: *inadmissible*.

HANSEN and Others - Denmark (N° 26194/03)
Decision 29.5.2006 [Section V]

See above, Article 6(1) civil (reasonable time).

ARTICLE 35

Article 35(3)

ABUSE OF THE RIGHT OF PETITION
Failure of applicant to inform the Court of the execution in full of a judicial decision whose non-enforcement is the subject of his complaint: *inadmissible*.

KERECHASHVILI - Georgia (N° 5667/02)
Decision 2.5.2006 [Section II]

The applicant had obtained an enforceable judicial decision against his former employer awarding him a sum of money in respect of unpaid amounts. The applicant complained before the Court that the decision had not been executed.

Inadmissible under Article 6(1) and Article 1 of Protocol No. 1 – The applicant had complained before the Court of his complete inability to secure the execution of the decision; in fact, the decision had been executed in part more than a year before the applicant had made his application to the Court. It had then been executed in full while the application was pending before the Court prior to being examined. The applicant had failed to inform the Court of this fact either before or after the application was communicated. In the Court's view, the applicant had thereby attempted to conceal the fact that even before he had applied to the Court, the authorities had honoured their obligations by paying him approximately half the amount in question and the fact that, well before his application had been communicated to the respondent Government, the court bailiff had taken the necessary steps to ensure that the rest of the debt was paid. The Court therefore held that the applicant had abused his right of petition.

ARTICLE 1 OF PROTOCOL No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS
Impossibility to pursue a claim before the courts due to an excessive amount of stamp duty: *violation*.

WEISSMAN - Romania (N° 63945/00)
Judgment 24.5.2006 [Section III]

See Article 6(1) civil (access to court).

PEACEFUL ENJOYMENT OF POSSESSIONS
Delays in enforcing judgments awarding salary arrears to judges: *violation*.

ZUBKO and Others - Ukraine (Nº 3955/04, 5622/04, 8538/04 and 11418/04)
Judgment 26.4.2006 [Section V]

Facts: Three of the applicants are serving judges and the fourth one is a retired judge. Domestic courts awarded them sums for salary arrears, life-term judicial benefits and compensation for delay in their payment from the Ministry of Finance and the State Treasury. The judgments were not enforced for periods ranging from 16 months to two-and-a-half years.

Law: The interference with the applicants' rights was partly justified by the complications related to the allocation of funds for judicial benefits and the enforcement of the related judgments out of the State Budget. Those complications undeniably involved a legitimate public interest but did not strike a fair balance between the State's interests and those of the applicants, who moreover were responsible for the

exercise of important public functions in the administration of justice. In particular, the litigation at issue concerned compensation for the authorities' failure between 1995 and 2001 to comply with their legislative obligation to provide the applicants with the judicial benefits envisaged by the Constitution and the Judiciary Act. The applicants' situation, in particular their sensitive status as independent judicial officers, therefore required that the authorities enforce the judgments and earmark the necessary funds to that end without delay. The failure of the State to provide judicial benefits to judges in a timely manner was incompatible with the need to ensure their ability to exercise their judicial functions independently and impartially, in order to be shielded from outside pressures aimed at influencing their decisions and behaviour. The failure to ensure the adequate and timely payment of remuneration to judges, and the uncertainty in which the applicants were left, upset the fair balance that has to be struck between the demands of the public interest and the need to protect the applicants' rights to the peaceful enjoyment of their possessions. Consequently, by failing to comply with the judgments given in favour of the applicants, the national authorities for a considerable period prevented the applicants from receiving in full the judicial benefits to which they were entitled by law, which could impede the exercise of their judicial functions with complete devotion.
Conclusion: violation (unanimously).

DEPRIVATION OF PROPERTY
Allegedly insufficient amount of compensation for expropriation: *inadmissible*.

LIAKOPOULOU - Greece (N° 20627/04)
Judgment 24.05.2006 [Section I]

See Article 6(1) civil (access to court).

CONTROL OF USE OF PROPERTY
Disbarment of a lawyer upon appointment to public office with tenure: *inadmissible*.

LEDERER - Germany (N° 6213/03)
Decision 22.05.2006 [Section V]

The applicant had been registered as a lawyer since 1980. In 1997 he was appointed as a law lecturer with the status of probationary civil servant. In May 1999 he was made a permanent civil servant. In September 1999 his name was struck off the Bar Council roll in accordance with the legislation in force, on the ground that he had not withdrawn his name from the roll despite being appointed as a permanent civil servant. The decision to strike his name off the roll was upheld by the relevant courts.

Inadmissible under Article 1 of Protocol No. 1 – Although the applicant's appointment as a university lecturer as his principal activity would most likely have resulted in any case in his scaling down his activities as a lawyer, the Court acknowledged that disbarment of the applicant, who had been obliged to shut down his legal practice, had led to the loss of some of his clients. There had therefore been interference with his right to peaceful enjoyment of his possessions. That interference amounted to a control of the use of property, which fell to be examined under the second paragraph of Article 1 of Protocol No. 1. The interference had a statutory basis in the legislation in force and the settled case-law of the relevant courts. It had been designed to promote the public interest in ensuring the independence of the profession of lawyer in the interests of the proper administration of justice. As to whether the interference had been proportionate, the Court observed that the domestic courts had given detailed reasons why the domestic legislation did not permit any exceptions to the rule of incompatibility between the functions of lawyer and permanent civil servant in the case of university lecturers. One reason was that, notwithstanding the relative degree of freedom enjoyed by university lecturers, the factors held in common with other permanent civil servants carried more weight, as illustrated in particular by the fact that the applicant had had to seek permission from his employer in order to carry on a secondary activity and that he had to declare any income in excess of a certain amount to his employer. A second reason was

that, in practice, a number of procedural provisions allowed law lecturers to plead before the domestic courts, and in particular before the Federal Constitutional Court, on the same basis as lawyers: *manifestly ill-founded*.

Inadmissible under Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 – The applicant argued that he had been discriminated against, since university lecturers who were appointed as permanent civil servants could practise as tax advisers or auditors but not as lawyers. In his view, that amounted to an unjustified difference in treatment. However, there was a clear difference between the professions referred to by the applicant and the profession of lawyer, which involved a much broader range of activities as an independent law officer: *manifestly ill-founded*.

ARTICLE 3 OF PROTOCOL No. 1

FREE EXPRESSION OF OPINION OF PEOPLE
Threshold of 10% of all votes cast at national level for entitlement to representation in national Parliament: *admissible*.

YUMAK and SADAK - Turkey (N° 10226/03)
Decision 9.5.2006 [Section II]

The applicants stood as provincial candidates for the political party DEHAP (Democratic People's Party) in the parliamentary elections. The party won 45.95% of the vote in that province. The applicants were not elected as members of parliament because the party had failed to reach the 10% threshold nationally. The relevant law on the election of members of parliament states that each province constitutes an electoral constituency and that, in order to win seats in the national parliament, a party must obtain at least 10% of the valid votes cast nationally.
Admissible under Article 3 of Protocol No. 1.

STAND FOR ELECTION
Candidate barred from standing in local elections on the eve of the voting day: *inadmissible*.

ANTONENKO - Russia (N° 42482/02)
Decision 23.5.2006 [Section I]

On 15 December 2001 at 10.40 p.m., on the eve of the voting day, and following a complaint by a private individual, a city court disqualified the applicant from standing for the city legislature because of financial irregularities and unfair electoral campaigning. By law, these grounds were sufficient to cancel the registration of the applicant as a candidate and the judgment was final and enforceable with immediate effect. At 7.45 a.m. on the voting day, the electoral commission ordered the applicant's name to be struck out of the list of candidates. Whilst his name on the information stand was crossed out without delay, the manual correction of the voting ballot papers was completed only one hour later. In unrelated subsequent proceedings the Constitutional Court of the Russian Federation held that that the relevant provision of the Code of Civil Procedure was incompatible with a constitutional right to the effective judicial protection in so far as it provided for finality and immediate effect of judgments concerning violations of electoral rights, without affording the aggrieved party a possibility to lodge an appeal against them. In March 2002 the applicant, relying on the Constitutional Court's decision, lodged a notice of appeal against the judgment of December 2001. He challenged the factual findings and alleged a number of procedural defects. He claimed, in particular, that he had not been duly notified of the complaint against him, that no copy of the complaint had been communicated to him and that the court had delivered its judgment "in the

night time", according to the definitions in the Code of Criminal Procedure and the Labour Code. On 26 March 2002 the Supreme Court of the Russian Federation upheld the judgment of December 2001.

Inadmissible: Before the European Court the applicant had not contested the domestic court's findings of fact that had led to his disqualification. Nor had he claimed that the eligibility conditions relating to comprehensive financial disclosure or fair electoral campaigning had disproportionately restricted the very essence of his right to stand for election. The then effective Elections Act had provided that cancellation of a candidate's registration should take place no later than on the day preceding the voting day. If the poll was due in fewer than sixteen days, a decision on the candidate's disqualification could only be made by a court of general jurisdiction. In the present case the judgment cancelling the applicant's registration had been issued by a city court on the day preceding the poll. Where a final date for issuing a decision was fixed, the rules of civil procedure permitted its delivery until midnight on that day. The city court had complied with this requirement and neither the Convention nor the domestic law imposed any specific schedule for the functioning of the courts. Hence the decision on the applicant's disqualification had been issued within the time-limit established by domestic law. Moreover, under the then effective rules of civil procedure, the judgment was final from the moment of its delivery and had immediate effect. No further appeal lay against it and the applicant could not have expected to obtain a new determination of the same issues. Such a possibility emerged only subsequent to the election, following the Constitutional Court's ruling in unrelated proceedings to which the applicant was not a party. In the overall circumstances, the fact that his disqualification had been ordered by a court shortly before the opening of polling stations could not have violated his right to stand for election. In so far as the applicant complained that insufficient information on his disqualification had been made available to voters, the applicant had not shown how, if at all, the alleged failure to give information to voters could have impinged on his right to stand for election. *Manifestly ill-founded*.

ARTICLE 2 OF PROTOCOL No. 4

Article 2(2)

FREEDOM TO LEAVE A COUNTRY
Travel ban because of unpaid taxes: *violation*.

RIENER - Bulgaria (N° 46343/99)
Judgment 23.5.2006 [Section V]

Facts: At the relevant time the applicant held both Austrian and Bulgarian nationality. She had business interests in Bulgaria and spent most of her time there. She amassed tax debts to a considerable amount. This remained unpaid. In March 1995, at the request of the tax authorities, the passport authority imposed a travel ban under the Law on Passports for Travelling Abroad (which applied to Bulgarian nationals only). In April 1995, the applicant's Austrian passport was seized at the border when she tried to cross into Greece, and a travel ban was impose on her under the Law on the Sojourn of Aliens. The travel ban was lifted in August 2004, after the applicant's tax debts had been extinguished through lapse of time. The applicant was allowed to renounce her Bulgarian nationality in December 2004, having been met with refusals on several occasions before then. Protocol No. 4 has been in force for Bulgaria since November 2000.

Law: Article 2 of Protocol No. 4 – The travel ban constituted an interference by a public authority with the applicant's right to leave the country. Despite a certain ambiguity as to the applicable legislation, this interference had a basis in Bulgarian law. Its aim was legitimate, namely the maintenance of *ordre public* and the protection of the rights of others. The public interest in recovering unpaid tax of such an amount could warrant appropriate limitations on the applicant's rights. States have a certain margin of appreciation to frame and organise their fiscal policies and make arrangements to ensure that taxes are

paid. However, it follows from the principle of proportionality that a restriction on the right to leave one's country on grounds of unpaid debt can only be justified as long as it serves its aim – recovering the debt. That means that such a restriction cannot amount to a *de facto* punishment for inability to pay. The authorities are not entitled to maintain over lengthy periods restrictions on the individual's freedom of movement without periodic reassessment of their justification in the light of factors such as whether or not the fiscal authorities had made reasonable efforts to collect the debt through other means and the likelihood that the debtor's leaving the country might undermine the chances to collect the money. In the applicant's case it does not appear that the fiscal authorities actively sought to collect the debt, either before or after the entry into force for Bulgaria of Protocol No. 4 to the Convention. Periodic "confirmations" of the travel ban were not based on analysis of the applicant's attitude, on information about her resources or any concrete indication that the chances for recovery would be jeopardised if she were allowed to leave the country. The fact that the applicant had a family abroad was not taken into consideration. Neither the administrative decisions related to the travel ban, nor the courts' judgments upholding them contained any proportionality analysis. The "automatic" nature of the travel ban ran contrary to the authorities' duty under Article 2 of Protocol No. 4 to take appropriate care that any interference with the right to leave one's country should be justified and proportionate throughout its duration, in the individual circumstances of the case. Moreover, the Bulgarian authorities never clarified the date on which the relevant prescription period expired and made divergent calculations of the amount of the debt. The manner in which the authorities handled the yearly "confirmations" and the prescription question – through internal notes that were not communicated to the applicant – is difficult to reconcile with the legal certainty principle, inherent in the Convention. In this respect the relevant law did not provide sufficient procedural safeguards against arbitrariness. Violation of Article 2(2) of Protocol No. 4.

Article 8 – In so far as the complaint under Article 2 of Protocol No. 4 coincides with that under Article 8, not necessary to examine the same facts under this Article also. As regards the rejection of the applicant's request to be allowed to renounce her Bulgarian nationality, the Court considers that no right to renounce citizenship is guaranteed by the Convention or its Protocols. Nevertheless, the Court cannot exclude that an arbitrary refusal of a request to renounce citizenship might in certain very exceptional circumstances raise an issue under Article 8 of the Convention if such a refusal has an impact on the individual's private life. In the present case the impugned refusal did not entail any legal or practical consequences adversely affecting the applicant's rights or her private life. No violation of Article 8, Article 13 inapplicable.

Article 13 taken together with Articles 8 of the Convention and 2 of Protocol No. 4 – The applicants' complaints under Article 8 and Article 2 of Protocol No. 4 to the Convention in respect of the prohibition against her leaving Bulgaria were arguable. Once satisfied that that she had not paid, however, the courts and the administrative authorities automatically upheld the travel ban against the applicant: all other circumstances of the case were considered irrelevant and no attempt was made to assess whether the continuing restrictions after a certain lapse of time were still a proportionate measure, striking a fair balance between the public interest and the applicant's rights. A domestic appeals procedure cannot be considered effective within the meaning of Article 13 of the Convention, unless it affords a possibility to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief. *Violation*.

Article 41 – Pecuniary damage: claims dismissed; non-pecuniary damage: EUR 5,000 awarded; costs and expenses: claims accepted in part.

ARTICLE 4 OF PROTOCOL No. 4

PROHIBITION OF COLLECTIVE EXPULSION OF ALIENS
Expulsion to Libya of a group of illegal immigrants: *admissible*.

HUSSUN and Others - Italy (N° 10171/05, 10601/05, 11593/05 and 17165/05)
Decision 12.5.2006 [Section III]

See Article 2 above.

Other judgments delivered in May

Aydın Tatlav v. Turkey (Nº 50692/99), 2 May 2006 [Section II]
Halit Çelebi v. Turkey (Nº 54182/00), 2 May 2006 [Section II]
Saint-Adam and Millot v. France (Nº 72038/01), 2 May 2006 [Section II]
De Luca v. France (Nº 8112/02), 2 May 2006 [Section II]

Vasko Yordanov Dimitrov v. Bulgaria (Nº 50401/99), 3 May 2006 [Section V]

Alınak and Others v. Turkey (Nº 34520/97), 4 May 2006 [Section IV]
Mehmet Ertuğrul Yılmaz and Others v. Turkey (Nº 41676/98), 4 May 2006 [Section IV]
Shacolas v. Cyprus (Nº 47119/99), 4 May 2006 [Section I]
Akkurt v. Turkey (Nº 47938/99), 4 May 2006 [Section IV]
Maçin v. Turkey (Nº 52083/99), 4 May 2006 [Section IV]
Saygılı v. Turkey (Nº 57916/00), 4 May 2006 [Section IV]
Rüzgar v. Turkey (Nº 59246/00), 4 May 2006 [Section IV]
Jenčová v. Slovakia (Nº 70798/01), 4 May 2006 [Section IV]
Michta v. Poland (Nº 13425/02), 4 May 2006 [Section IV]
Examiliotis v. Greece (no. 2) (Nº 28340/02), 4 May 2006 [Section I]
Dudek v. Poland (Nº 633/03), 4 May 2006 [Section IV]
Ekdoseis N. Papanikolaou A.E. v. Greece (Nº 13332/03), 4 May 2006 [Section I]
Miszkurka v. Poland (Nº 39437/03), 4 May 2006 [Section IV]
Celejewski v. Poland (Nº 17584/04), 4 May 2006 [Section IV]
Mantzila v. Greece (Nº 25536/04), 4 May 2006 [Section I]
Filippos Mavropoulos - Pan. Zisis O.E. v. Greece (Nº 27906/04), 4 May 2006 [Section I]

Pereira Henriques v. Luxembourg (Nº 60255/00), 9 May 2006 [Section IV (former)]
Bogacz v. Poland (Nº 60299/00), 9 May 2006 [Section IV]
Lungu v. Moldova (Nº 3021/02), 9 May 2006 [Section IV]

Arvanitaki-Roboti and Others v. Greece (Nº 27278/03), 18 May 2006 [Section I]

Kiper v. Turkey (Nº 44785/98), 23 May 2006 [Section IV]
Hasan Ceylan v. Turkey (Nº 58398/00), 23 May 2006 [Section IV]
Cole v. United Kingdom (friendly settlement) (Nº 60933/00), 23 May 2006 [Section IV]
Mattila v. Finland (Nº 77138/01), 23 May 2006 [Section IV]
Jávor and Others v. Hungary (Nº 11440/02), 23 May 2006 [Section II]
Şuyur v. Turkey (Nº 13797/02), 23 May 2006 [Section II]
Kounov v. Bulgaria (Nº 24379/02), 23 May 2006 [Section V]
Heská v. Czech Republic (Nº 43772/02), 23 May 2006 [Section V]
Fodor v. Hungary (Nº 4564/03), 23 May 2006 [Section II]
Varga v. Hungary (Nº 3360/04), 23 May 2006 [Section II]

Bertin v. France (Nº 55917/00), 24 May 2006 [Section I]
Mocanu v. Romania (friendly settlement) (Nº 56489/00), 24 May 2006 [Section III]
Georgi v. Romania (Nº 58318/00), 24 May 2006 [Section III]
Carmine Francesca v. Italy (Nº 3643/02), 24 May 2006 [Section III]
Cosimo Francesca v. Italy (Nº 3647/02), 24 May 2006 [Section III]
Marrone v. Italy (Nº 3656/02), 24 May 2006 [Section III]
Minicozzi v. Italy (Nº 7774/02), 24 May 2006 [Section III]
Francesco Moretti v. Italy (Nº 10399/02), 24 May 2006 [Section III]
Pernici v. Italy (Nº 20662/02), 24 May 2006 [Section III]
Pantuso v. Italy (Nº 21120/02), 24 May 2006 [Section III]

Bova v. Italy (Nº 25513/02), 24 May 2006 [Section III]

R. v. Finland (Nº 34141/96), 30 May 2006 [Section IV]
Wiensztal v. Poland (Nº 43748/98), 30 May 2006 [Section IV]
Kwiek v. Poland (Nº 51895/99), 30 May 2006 [Section IV]
SARL Aborcas v. France (Nº 59423/00), 30 May 2006 [Section IV]
Ebru and Tayfun Engin Çolak v. Turkey (Nº 60176/00), 30 May 2006 [Section II]
Barszcz v. Poland (Nº 71152/01), 30 May 2006 [Section IV]
Doğrusöz and Aslan v. Turkey (Nº 1262/02), 30 May 2006 [Section II]
Kökmen v. Turkey (no. 2) (Nº 903/03), 30 May 2006 [Section II]
İbrahim Yalçınkaya v. Turkey (Nº 14788/03), 30 May 2006 [Section II]

Judgments which have become final

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three-month time-limit for requesting referral to the Grand Chamber) (see Information Note No. 83):

Sabri Taş - Turkey (Nº 21179/02)
Judgment 20.9.2005 [Section II]

Popov - Moldova (no. 1) (Nº 74153/01)
Judgment 17.1.2006 [Section IV]

Gouget and Others - France (Nº 61059/00)
Judgment 24.1.2006 [Section II]

Iovchev - Bulgaria (Nº 41211/98)
Latif Fuat Öztürk and Others - Turkey (Nº 54673/00)
Vasilev - Bulgaria (Nº 59913/00)
Levin - Russia (Nº 33264/02)
Judgments 2.2.2006 [Section I]

Duran Sekin - Turkey (Nº 41968/98)
Yurtsever - Turkey (Nº 47628/99)
Reçber - Turkey (Nº 52895/99)
Özsoy - Turkey (Nº 58397/00)
Yayan - Turkey (Nº 66848/01)
Taciroğlu - Turkey (Nº 25324/02)
Yalçinkaya - Turkey (Nº 14796/03)
Judgments 2.2.2006 [Section III]

Tekin and Baltaş - Turkey (Nº 42554/98 and Nº 42581/98)
Yusuf Genç - Turkey (Nº 44295/98)
Balcı and Others - Turkey (Nº 52642/99)
Šima - Slovakia (Nº 67026/01)
Muharrem Aslan Yıldız - Turkey (Nº 74530/01)
Yatır - Turkey (Nº 74532/01)
Halis Doğan - Turkey (Nº 75946/01)
Donnadieu - France (no. 2) (Nº 19249/02)
Debono - Malta (Nº 34539/02)
Judgments 7.2.2006 [Section II]

Scavuzzo-Hager and Others - Switzerland (Nº 41773/98)
Judgment 7.2.2006 [Section IV]

Bogdanov - Russia (Nº 3504/02)
Igusheva - Russia (Nº 36407/02)
Athanasiou and Others - Greece (Nº 2531/02)
Judgments 9.2.2006 [Section I]

Prenna and Others - Italy (Nº 69907/01)
Freimanis and Līdums - Latvia (Nº 73443/01 and Nº 74860/01)
Barillon - France (Nº 22897/02)
Judgments 9.2.2006 [Section III]

Lecarpentier and Other - France (Nº 67847/01)
Skoma, spol. s.r.o. - Czech Republic (Nº 21377/02)
Havlíčková - Czech Republic (Nº 28009/03)
Dušek - Czech Republic (Nº 30276/03)
Judgments 14.2.2006 [Section II]

Šebeková and Horvatovičová - Slovakia (Nº 73233/01)
Christian Democratic People's Party - Moldova (Nº 28793/02)
Judgments 14.2.2006 [Section IV]

Osman - Bulgaria (Nº 43233/98)
Prikyan and Angelova - Bulgaria (Nº 44624/98)
Judgments 16.2.2006 [Section I]

Porteanu - Romania (Nº 4596/03)
Judgment 16.2.2006 [Section III]

Şeker - Turkey (Nº 52390/99)
Zherdin - Ukraine (Nº 53500/99)
Yüce - Turkey (Nº 75717/01)
Cuma Ali Doğan and Betül Doğan - Turkey (Nº 76478/01)
Kavasoğlu - Turkey (Nº 76480/01)
Cambal - Czech Republic (Nº 22771/04)
Dostál - Czech Republic (Nº 26739/04)
Tüm Haber Sen and Çinar - Turkey (Nº 28602/95)
Judgments 21.2.2006 [Section II]

Bilen - Turkey (Nº 34482/97)
Atkın – Turkey (Nº 39977/98)
Çoban - Turkey (Nº 48069/99)
Doğanay - Turkey (Nº 50125/99)
Calışır - Turkey (Nº 52165/99)
Tüzel - Turkey (Nº 57225/00)
Aydın Eren and Others - Turkey (Nº 57778/00)
Mehmet Fehmi Işık - Turkey (Nº 62226/00)
Judgments 21.2.2006 [Section IV]

Tzekov - Bulgaria (Nº 45500/99)
Latry - France (Nº 50609/99)
Immobiliare Cerro S.A.S. - Italy (Nº 35638/03)
Ognyanova and Choban - Bulgaria (Nº 46317/99)
Judgments 23.2.2006 [Section I]

Hulewicz - Poland (Nº 39598/98)
Stere and Others - Romania (Nº 25632/02)
Judgments 23.2.2006 [Section III]

Hellborg - Sweden (Nº 47473/99)
Brenière - France (Nº 62118/00)
André - France (Nº 63313/00)
Deshayes - France (no. 1) (Nº 66701/01)
Savinskiy - Ukraine (Nº 6965/02)
Plasse-Bauer - France (Nº 21324/02)
Berestovyy - Ukraine (Nº 35132/02)
Komar and Others - Ukraine (Nº 36684/02, Nº 14811/03, Nº 26867/03, Nº 37203/03, Nº 38754/03 and Nº 1181/04)
Krasniki - Czech Republic (N° 51277/99)
Gaponenko - Ukraine (Nº 9254/03)
Shchukin - Ukraine (Nº 16329/03)
Glova and Bregin - Ukraine (Nº 4292/04 and Nº 4347/04)
Judgments 28.2.2006 [Section II]

Jakub - Slovakia (Nº 2015/02)
Judgment 28.2.2006 [Section IV]

Statistical information[1]

Judgments delivered	May	2006
Grand Chamber	0	19(20)
Section I	9	89(95)
Section II	12	175(190)
Section III	12	190(192)
Section IV	26	97(110)
Section V	4	6(9)
former Sections	1	6
Total	**64**	**582(622)**

Judgments delivered in May 2006					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	0	0
Section I	9	0	0	0	9
Section II	12	0	0	0	12
Section III	11	1	0	0	12
Section IV	25	1	0	0	26
Section V	4	0	0	0	4
former Section I	0	0	0	0	0
former Section II	0	0	0	0	0
former Section III	0	0	0	0	0
former Section IV	1	0	0	0	1
Total	**62**	**2**	**0**	**0**	**64**

Judgments delivered in 2006					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	16(17)	3	0	0	19(20)
Section I	87(93)	1	1	0	89(95)
Section II	168(183)	3	2	2	175(190)
Section III	181(183)	7	1	1	190(192)
Section IV	90(102)	4(5)	1	2	97(110)
Section V	6(9)	0	0	0	6(9)
former Section I	1	0	0	0	1
former Section II	3	0	0	0	3
former Section III	0	0	0	0	0
former Section IV	2	0	0	0	2
Total	**554(593)**	**18(19)**	**5**	**5**	**582(622)**

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

Decisions adopted		May	2006
I. Applications declared admissible			
Grand Chamber		0	0
Section I		12(13)	82(83)
Section II		5	24(25)
Section III		4(7)	12(15)
Section IV		6	31(32)
Section V		8(10)	8(10)
Total		**35(41)**	**157(165)**
II. Applications declared inadmissible			
Grand Chamber		0	0
Section I	- Chamber	8	24
	- Committee	679	2858
Section II	- Chamber	13(14)	35(36)
	- Committee	563	2390
Section III	- Chamber	9(11)	634(638)
	- Committee	532	2952
Section IV	- Chamber	37	93(94)
	- Committee	931	3081
Section V	- Chamber	11	12
	- Committee	572	698
Total		**3355(3358)**	**12777(12783)**
III. Applications struck off			
Section I	- Chamber	17	47
	- Committee	1	22
Section II	- Chamber	12	70
	- Committee	10	53
Section III	- Chamber	9	29
	- Committee	11	32
Section IV	- Chamber	12(13)	36(37)
	- Committee	12	35
Section V	- Chamber	19	20
	- Committee	15	16
Total		**118(119)**	**360(361)**
Total number of decisions[1]		**3508(3518)**	**13294(13309)**

[1] Not including partial decisions

Applications communicated	May	2006
Section I	70	312
Section II	70(72)	276(280)
Section III	65	322
Section IV	35	232
Section V	72	109
Total number of applications communicated	**312(314)**	**1251(1255)**

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

Convention

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

Protocol No. 1

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

Protocol No. 4

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

Protocol No. 6

Article 1 :	Abolition of the death penalty

Protocol No. 7

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