CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

INFORMATION NOTE No. 34
on the case-law of the Court
September 2001

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

Statistical information[1]

		September	2001
I. Judgments delivered			
Grand Chamber		0	18(20)
Chamber I		52(53)	253(270)
Chamber II		0	127
Chamber III		3(5)	95(104)
Chamber IV		4	68(75)
Total		**59(62)**	**561(596)**
II. Applications declared admissible			
Section I		4	92(100)
Section II		20(21)	162(164)
Section III		23(24)	191(197)
Section IV		10	129(131)
Total		**57(59)**	**574(592)**
III. Applications declared inadmissible			
Section I	- Chamber	13	68
	- Committee	206	1028
Section II	- Chamber	12	73(74)
	- Committee/Comité	126	1039
Section III	- Chamber	9	76
	- Committee	333	1715(1716)
Section IV	- Chamber	12	72(83)
	- Committee	208	1333(1411)
Total		**919**	**5404(5495)**
IV. Applications struck off			
Section I	- Chamber	10	29
	- Committee	3	22
Section II	- Chamber	4	36(218)
	- Committee	1	21
Section III	- Chamber	3	13
	- Committee	3	30
Section IV	- Chamber	2	6(8)
	- Committee	0	9
Total		**26**	**166(350)**
Total number of decisions[2]		**1001(1004)**	**6144(6437)**
V. Applications communicated			
Section I		38(41)	282(296)
Section II		53	198(199)
Section III		23(26)	144(149)
Section IV		28	208(212)
Total number of applications communicated		**142(148)**	**832(856)**

[1] The statistical information is provisional.
[2] Not including partial decisions.

Judgments delivered in September 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	0	0
Section I	47(48)	5	0	0	52(53)
Section II	0	0	0	0	0
Section III	1	0	1	1(3)[1]	3(5)
Section IV	3	1	0	0	4
Total	**51(52)**	**6**	**1**	**1(3)**	**59(62)**

Judgments delivered in January - September 2001					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	16(18)	0	1	1[1]	18(20)
Section I	197(200)	53(63)	2	1(2)[1]	253(267)
Section II	88	38	0	1[2]	127
Section III	85(92)	7	2	1(3)[1]	95(104)
Section IV	57(63)	11(12)	0	0	68(75)
Total	**443(461)**	**109(120)**	**5**	**4(7)**	**561(593)**

[1] Just satisfaction.
[2] Revision.
[3] Of the 427 judgments on merits delivered by Sections, 21 were final judgments.

[* = judgment not final]

ARTICLE 2

LIFE
Disappearance: *admissible*.

TANIŞ and others - Turkey (N° 65899/01)
[Section I]

The applicants are relatives of the President and the Secretary of the People's Democracy Party of Silopi, of whom they have been without news since their attendance at the gendarmerie in January 2001. The applicants lodged a complaint with the Silopi Public Prosecutor at the end of January 2001. The Turkish Government say that in February 2001, at the request of the prosecutor in charge of the investigation, the district-court judge issued an injunction restricting access to the preliminary investigation file. Referring to that injunction, they have not produced the evidence in the investigation file.
Admissible under Articles 2, 3, 5 and 13: preliminary objection (non-exhaustion) – the Government have not produced copies of the documents from the case file relating to the investigation instituted by the Silopi Public Prosecutor in the instant case. The preliminary objection raises issues that are closely linked to those raised by the complaints under Article 2: it is therefore joined to the merits.

ARTICLE 3

INHUMAN TREATMENT
Ill-treatment in police custody: *friendly settlement*.

ERCAN - Turkey (Nº 31246/96)
Judgment 25.9.2001 [Section I]

The case concerns the ill-treatment of the applicant while she was in police custody, the length of time which she spent in custody before being brought before a judge and the alleged lack of independence and impartiality of the State Security Court which convicted her.
The parties have reached a friendly settlement on the basis of an *ex gratia* payment of £30,000 (GBP). The Government also expressed regret in respect of the ill-treatment.

ARTICLE 5

Article 5(3)

BROUGHT PROMPTLY BEFORE A JUDGE
Solitary confinement of detainee for 11 days: *communicated*.

SALOV - Ukraine (N° 65518/01)
[Section IV]
(see Article 10, below).

ARTICLE 6

Article 6(1) [civil]

APPLICABILITY
Constitutional proceedings directed against laws on which decisions based rather than decisions themselves: *Article 6 not applicable*.

BAKARIĆ - Croatia (N° 48077/99)
Decision 13.9.2001 [Section IV]

The applicant served in the Yugoslav People's Army (hereafter YPA) until his retirement in 1983. He received a military pension until the dissolution of the Federal Republic of Yugoslavia in 1991. In December 1992, the Croatian Social Security Fund assessed the applicant's pension to 63.22% of the amount he had received in December 1991. Following this decrease of his pension, the applicant unsuccessfully instituted proceedings in the Administrative Court. Instead of lodging a constitutional complaint against the Administrative Court's decision, the applicant lodged one against the laws regulating the pension rights of former officers of the YPA. The proceedings were closed when a new law on the matter was enacted. The applicant lodged a further constitutional complaint against the new law. However, these proceedings ended with a new law on the pension rights of former officers of the YPA.
Inadmissible under Article 6(1): After unsuccessfully instituting administrative proceedings, the applicant could have lodged a constitutional complaint directly against the decisions reducing his pension. The Constitutional Court would have had the opportunity to examine the dispute regarding the amount of the applicant's pension and, considering the pecuniary nature of the issue, Article 6 would have applied. However, the applicant chose to direct his constitutional complaints against the relevant laws themselves. Therefore, the Constitutional Court could not examine the impugned decisions reducing his pension but could only rule in the abstract on the constitutionality of the laws on which the decisions were based. These proceedings were thus not decisive for the determination of his civil rights and Article 6 did not apply: incompatible *ratione materiae*.

APPLICABILITY
Proceedings concerning the application under Italian law of preventive measures involving the confiscation of property: *Article 6 applicable (under its civil head).*

RIELA and others - Italy (N° 52439/99)
Decision 4.9.2001 [Section I]
(see Article 1 of Protocol No. 1, below).

APPLICABILITY
Dispute concerning administrative decisions dismissing nurses employed by the army: *communicated*.

GÜNER ÇORUM - Turkey (N° 59739/00)
AKSOY - Turkey (N° 59741/00)
[Section IV]
(see below).

ACCESS TO COURT
Refusal to recognise jurisdiction of courts in respect of a dispute concerning the right to use a religious building: *communicated*.

PAROHIA GRECO-CATOLICA SIMBATA BIHOR - Romania (N° 48107/99)
[Section I]

The applicant is a local church that is affiliated to the Greek-Catholic (Uniate) Church that was banned in 1948 before regaining recognition in 1990. Its assets were confiscated by the State in 1948 and transferred to the Orthodox Church. In 1998 the applicant brought an action against the Sâmbăta Orthodox Church for permission to use a local church that had belonged to it until 1948 for religious services. It was successful at first instance and on the appeal. However, its action was subsequently dismissed by a judgment of the court of appeal in January 1998. Following the case-law of the Supreme Court of Justice, the court of appeal held that the ordinary courts did not have jurisdiction to decide disputes concerning the right of ownership of religious buildings or their use.
Communicated under Articles 6 and 9.

ACCESS TO COURT
Civil claim barred on public policy grounds without any examination of merits of claim: *inadmissible*.

CLUNIS - United Kingdom (Nº 45049/98)
Decision 11.9.2001 [Section III]

The applicant has a history of serious psychiatric illness. In May 1992 he attacked a fellow resident at the mental hospital where he had been placed. In September 1992 he was discharged from hospital and after-care arrangements were made with Friern Hospital, then under the management and control of the local Health Authority. The applicant subsequently failed to attend appointments made with S., a doctor at the hospital. In the meantime, official documents had been addressed to the hospital indicating that the Mental Health Act required that after-care be arranged for the applicant. S. was later informed of the applicant's aggressive tendencies and of the fact that he had been off medication for several weeks. In November 1992 the applicant managed to leave his home unnoticed in the course of an assessment visit. No further assessment visit was planned, S. intending to see him informally. Another appointment was made with S., this time at the applicant's initiative, but he again failed to attend. S. took no further steps from that stage. In December 1992 the police reported that the applicant had been seen "waving screwdrivers and knives and talking about devils". S. advised that an assessment be made as soon as possible and opened lengthy discussions with the competent authorities to determine which hospital was responsible for him - it appeared that he remained under the care of Friern Hospital. The same day, the applicant killed a stranger at a tube station without any reason. He was convicted of manslaughter by reason of diminished responsibility and ordered to be detained under the Mental Health Act without limit in time. The way his treatment and care had been handled by the hospital and hence the local health authority was seriously criticised in a subsequent official report. The applicant brought a negligence action against the responsible authorities. These authorities contested it on the ground that the applicant could not rely on his own criminal act to show that their duty of care had been breached, according to the public policy principle *ex turpi causa non oritur actio*. The High Court rejected the argument. However, the Court of Appeal found, on the local authority's appeal, that the applicant's case at common law was barred on public policy grounds. The court further held that Parliament in enacting the after-care provisions in the Mental Health Act had not intended that a local authority should be exposed to liability in the event of its failure to discharge its statutory after-care functions properly. Moreover, the court found that it would not be just and reasonable in the circumstances to

superimpose on the local authority's statutory duty a common law duty of care which would be owed to the applicant with respect to the performance of its statutory duties to provide after-care.

Inadmissible under Article 6(1): (i) The applicant contended before the domestic courts that he had a right to recover damages from the Health Authority on account of the harm he suffered as a result of its negligence. He based his claims, derived from the tort of negligence, on breach of a common law duty of care and a statutory duty owed to him. It was assumed, for the purpose of the proceedings before the Court, that the domestic courts had been asked to rule on a serious and genuine dispute about the existence and scope in domestic law of a right, asserted by the applicant, to sue the authority on the grounds of negligence, and that, at the material time, they had not definitely settled the issues as to whether, firstly, the *ex turpi causa* rule could be invoked in a tort action and, secondly, whether a civil action lay against a local authority in respect of its alleged negligence in the performance of its statutory after-care duties. Article 6 was therefore applicable.

(ii) The applicant had a full opportunity to state his case before the High Court and contest the authority's grounds of appeal before the Court of Appeal. Moreover, the Court of Appeal gave careful consideration to the question of whether the applicant had a sustainable action in domestic law and had a close regard to the case-law precedents drawn both from the law of negligence and the law of contract. At no stage did the Court of Appeal rely on a doctrine of immunity to shield the authority from the consequences of a civil action against it. The Court of Appeal gave clear reasons for its decision to depart from the ruling of the High Court judge. The Court of Appeal's decision was in accordance with the development of the common law through judicial decisions in the area of tortious liability and its adaptation to new situations and did not confer an immunity on the local authority. As regards the Court of Appeal's approach to the applicant's claim under the Mental Health Act, the court found that Parliament did not intend to confer on individuals a cause of action against the local authority in the event of failure to comply with the requirements of that provision. As to whether a common law duty of care operated alongside the statutory duties imposed under the Mental Health Act, the Court of Appeal balanced carefully the policy reasons for and against the imposition of liability in the circumstances of the case. It analysed the applicant's claims from the standpoint of whether it would be just and reasonable to allow them to proceed to a determination on the merits. In sum, the applicant's claims under this head were properly and fairly examined in the light of the applicable domestic legal principles governing the law of negligence as applied to the exercise by the defendant local authority of its statutory powers. In conclusion, the applicant was able to test the arguability of his claims under domestic law. Furthermore, there is no reason to consider the striking out procedure which rules on the existence of sustainable causes of action as *per se* offending the principle of access to court. In such a procedure, the plaintiff is generally able to submit to the court the arguments supporting his or her claims on the law and the court will rule on those issues at the conclusion of an adversarial procedure. The applicant, by asking the Court to find that it would have been fair, just and reasonable to allow a civil action to lie against the local authority, was requiring the Court substitute its own view as to the proper interpretation and content of domestic law: manifestly ill-founded.

Inadmissible under Article 8: Private life includes a person's physical and psychological integrity. In the instant case, there was no direct link between the measures which, in the applicant's view, should have been taken by the local authority and the prejudice caused to his psychiatric well-being attendant on the realisation of the gravity of his act, his conviction and subsequent placement in a mental hospital without limit of time. The assumption of responsibilities by the authorities of a Contracting State for the health of an individual may in certain defined contexts engage their liability under the Convention with respect to that individual as well as to third parties. However, it could not be said that the local authority's failure to discharge its statutory duty under the Mental Health Act led inevitably to the fatal stabbing of the victim. It was a matter of speculation whether the applicant would have consented to become an in-patient on a voluntary basis or followed a prescribed course of

medication or co-operated in any other way with the authorities. Therefore, the applicant's complaint did not disclose an appearance of a violation of Article 8: manifestly ill-founded.

FAIR HEARING
Non-enforcement of a final judgment, due to legislative intervention: *communicated*.

GORRAIZ LIZARRAGA and others - Spain (N° 62543/00)
[Section IV]
(see below).

FAIR HEARING
Non-disclosure of evidence submitted by the Ministry for Defence in proceedings before the Military Administrative High Court: *communicated*.

GÜNER ÇORUM - Turkey (N° 59739/00)
AKSOY - Turkey (N° 59741/00)
[Section IV]

The applicants were nurses in the Gülhane Military Academy Hospital where they had the status of civil servants working for the Army. In April 1999 the disciplinary board of the Ministry of National Defence decided to dismiss them for undermining order in the hospital by conducting ideological and political activities as supporters of an illegal organisation. Each of the applicants applied to the Supreme Military Administrative Court for an order for their reinstatement, relying on the freedoms guaranteed by Articles 9, 10, 11 and 14 of the Convention. In April 2000 the Supreme Military Administrative Court dismissed their applications, finding that information and documents contained in an envelope marked "secret" showed that the applicants had carried on political and ideological activities in the course of their employment and were members of a far left-wing group. It followed that their dismissals had been lawful.
Communicated under Articles 6(1), 9, 10 and 11.

FAIR HEARING
Failure to inform of opening of proceedings concerning property rights : *inadmissible*.

RIELA and others - Italy (N° 52439/99)
Decision 4.9.2001 [Section I]
(see Article 1 of Protocol No. 1, below).

EQUALITY OF ARMS
Right of State Counsel to submit observations to the Constitutional Court in proceedings brought against the State by the applicants, who did not have the same right: *communicated*.

GORRAIZ LIZARRAGA and others - Spain (N° 62543/00)
[Section IV]

In November 1990 the Ministry of Public Works approved technical plans for the construction of a dam. On an application for judicial review by the applicant association (the sixth applicant), the decision was quashed by a judgment of September 1995. In January 1996 the judgment became provisionally enforceable and a temporary injunction was issued suspending the works. The State appealed on points of law against the judgment of September 1995 and in a judgment of July 1997 the Supreme Court definitively quashed part of the dam-

building project, sparing *inter alia* the applicants' properties on account of their ecological value. The State argued, however, that by virtue of a law adopted in June 1996 it had become possible for works to be carried out in the general interest. The applicant association pleaded that the law of June 1996 was inapplicable in the instant case, as it had been enacted after both the administrative decisions examined in the proceedings and the judgment and decisions rendering the judgment provisionally enforceable. It sought a constitutional reference. In December 1997 the *Audiencia Nacional* asked the Constitutional Court to issue a ruling on the constitutional issue. In July 1998 the Constitutional Court declared the questions raised in the reference admissible and communicated them to the State, which had fifteen days in which to lodge observations. The lawyer acting for the State lodged the observations in September 1998. In March 2000 the Constitutional Court held that the impugned provisions of the law of June 1996 were consistent with the Constitution.
Communicated under Articles 6(1) and 8 and Article 1 of Protocol No. 1.

PUBLIC HEARING
Non-public proceedings before the Court of Cassation and absence of participation of applicants' lawyers: *inadmissible*.

RIELA and others - Italy (N° 52439/99)
Decision 4.9.2001 [Section I]
(see Article 1 of Protocol No. 1, below).

Article 6(1) [criminal]

APPLICABILITY
Hearing held pursuant to section 4A of Criminal Procedure (Insanity) Act: *communicated*.

ANTOINE - United Kingdom (N° 62960/00)
[Section III]

The applicant, aged sixteen at the relevant time, was arrested together with another youth in connection with the murder of a fifteen year-old boy. During the proceedings, evidence was heard from three psychiatrists regarding the applicant's mental state and the trial judge directed the jury to find that he was unfit to plead or stand trial. Following the pleading and in accordance with section 4A of the Criminal Procedure (Insanity) Act, a second jury was empanelled in order to determine whether the applicant had done the act or made the omission charged against him. Under domestic law, the finding under such a procedure is not considered as a finding of guilt; it may result in the acquittal of the defendant but cannot lead to his conviction. Following a finding under this procedure, the defendant will be admitted to hospital, and where the offence has a sentence fixed by law the court will give a direction that the order restricting his discharge be without limit of time. In the instant case, the jury heard evidence concerning the events surrounding the killing and the case followed an adversarial procedure of criminal trial. At the conclusion of the evidence, the second jury found that the applicant had committed the act and the judge thereupon made an order under the Act that the applicant be committed to hospital without limit of time. The Court of Appeal dismissed the applicant's appeal. The criminal proceedings are against him are stayed indefinitely, and may be revived if he recovers.
Communicated under Article 6(1) and (3)(d).

APPLICABILITY
Proceedings concerning the application under Italian law of preventive measures involving the confiscation of property: *Article 6 applicable (under its criminal head).*

RIELA and others - Italy (N° 52439/99)
Decision 4.9.2001 [Section I]
(see Article 1 of Protocol No. 1, below).

FAIR TRIAL
Non-disclosure, on ground of public interest immunity, of material held by prosecution: *no violation*.

P.G. and J.H. - United Kingdom (Nº 44787/98)
*Judgment 25.9.2001 [Section III]
(see below).

FAIR TRIAL
Use in criminal trial of evidence obtained in violation of the Convention: *no violation*.

P.G. and J.H. - United Kingdom (Nº 44787/98)
*Judgment 25.9.2001 [Section III]

Facts: Acting on information that an armed robbery was planned by the first applicant and B., the responsible police officer submitted a report to the Chief Constable in support of an application for authorisation to instal a covert listening device in B.'s flat. On 4 March 1995, the Chief Constable, who was on annual leave, gave oral authorisation to proceed. He did not provide written confirmation, as required by Home Office guidelines; the Deputy Chief Constable gave "retrospective" written authorisation four days later, by which time the device had been installed. Conversations at the flat were monitored and recorded until the device was discovered on 15 March and the premises were abandoned. The police also obtained from the telephone operator itemised billing in relation to the telephone in the flat. Although no robbery took place, the applicants were arrested and later charged with conspiracy to rob. On legal advice, they declined to comment and refused to provide speech samples. The police then obtained authorisation, in accordance with the guidelines, to instal covert listening devices in the applicants' cells and to attach such devices to the officers who were to be present when the applicants were charged. Samples of the applicants' speech were recorded without their knowledge and sent to an expert for comparison with the voices recorded at the flat. The applicants challenged the admissibility of evidence derived from the use of the listening device in the flat. The prosecution invoked public interest immunity in respect of certain documents which it did not wish to disclose to the defence, including the report submitted to the Chief Constable. The police officer concerned declined to answer questions put to him in cross-examination, on the ground that it might reveal sensitive material, but with the agreement of defence counsel the trial judge put these questions to the police officer in chambers, in the absence of the applicants and their lawyers. The answers were not disclosed and the judge rejected the challenge to the admissibility of the evidence derived from the devices in the flat. He also rejected a challenge to the admissibility of the evidence derived from the use of such devices at the police station. The applicants were subsequently convicted and sentenced to fifteen years' imprisonment. They were refused leave to appeal.
Law: Article 8 (listening device at B.'s flat) – It was not disputed that this surveillance constituted an interference with the right to respect for private life and the Government conceded that the interference was not "in accordance with the law". The guidelines were neither legally binding nor directly accessible to the public and, as there was no domestic law

regulating the use of such devices at the time, the interference was not in accordance with the law.
Conclusion: violation (unanimously).
Article 8 (information about the use of B.'s telephone) – It was not disputed that the obtaining by the police of information relating to the use of the telephone in B.'s flat interfered with the private life or correspondence of the applicants, who had used the telephone. The parties agreed that the measure was based on statutory authority and the question was rather whether there were sufficient safeguards against arbitrariness. The information obtained concerned the telephone numbers called from B.'s flat but did not include any information about the content of the calls or who had made or received them, so that the data obtained and the use which could be made of it, were strictly limited. While it did not appear that there were any specific statutory provisions governing storage and destruction of the information, the Court was not persuaded that the lack of such detailed formal regulation raised any risk of arbitrariness or misuse. Nor was it apparent that there was any lack of foreseeability, disclosure to the police being permitted under the relevant statutory framework. The measure was therefore in accordance with the law. Furthermore, the information was obtained and used in the context of an investigation into a suspected conspiracy to commit armed robbery and no issues of proportionality had been identified. The measure was accordingly justified for the protection of public safety, the prevention of crime and the protection of the rights of others.
Conclusion: no violation (unanimously).
Article 8 (listening devices at the police station) – There are a number of elements relevant to the consideration of whether measures effected outside a person's home or private premises concern private life. Since there are occasions when people knowingly involved themselves in activities which were or might be recorded or reported in a public manner, reasonable expectation as to privacy may be a significant, though not necessarily conclusive factor. Private life considerations may arise once a systematic or permanent record of material from the public domain comes into existence. The Court was not persuaded that recordings taken for use as voice samples could be regarded as falling outside the scope of Article 8. The recording and analysis of the applicants' voices had to be regarded as concerning the processing of personal data. There had therefore been an interference with their right to respect for private life. While it may be permissible to rely on the implied powers of the police to note evidence and collect and store exhibits for steps taken in the course of an investigation, specific statutory or other express legal authority is required for more invasive measures. The principle that domestic law should provide protection against arbitrariness and abuse in the use of covert surveillance techniques applies equally to the use of devices on police premises. Since, at the relevant time, there was no statutory system to regulate the use of such devices by the police on their own premises, the interference was not in accordance with the law.
Conclusion: violation (unanimously).
Article 6(1) (non-disclosure) – The entitlement to disclosure of relevant evidence is not an absolute right and in some cases it may be necessary to withhold certain evidence from the defence in order to preserve the fundamental rights of another individual or to safeguard an important public interest. However, any difficulties caused to the defence by a limitation on its rights have to be sufficiently counterbalanced by the procedures followed by the judicial authorities. It is not the role of the Court to decide whether or not non-disclosure is strictly necessary, since as a general rule it is for the national courts to assess evidence; rather, the Court's task is to ascertain whether the decision-making process has complied as far as possible with the requirements of adversarial proceedings and equality of arms and has incorporated adequate safeguards. In the present case, the defence was kept informed and was permitted to make submissions and participate in the decision-making process as far as possible without the material being revealed, and the questions which the defence wished to put were asked by the judge in chambers. The undisclosed material did not form part of the prosecution case and was never put to the jury. Moreover, the fact that the need for disclosure was at all times under assessment by the judge provided a further, important safeguard. Finally, although there was no review on appeal, the applicants did not include a ground of

appeal on this issue, although it was open to them to do so, and the Court was not persuaded that there was any basis for holding that there should be an automatic review in such cases. In conclusion, the decision-making process complied, as far as possible, with the requirements of adversarial proceedings and equality of arms and incorporated adequate safeguards.
Conclusion: no violation (unanimously).
Article 6(1) (use of evidence obtained by covert surveillance devices) – The installation of the listening devices and the recording of the applicants' conversations were not unlawful in the sense of being contrary to domestic criminal law: the "unlawfulness" related exclusively to the absence of statutory authority for the interference with the right to respect for private life and correspondence. The material was not the only evidence against the applicants, who had ample opportunity to challenge both the authenticity and the use of the recordings. Although their arguments were unsuccessful, it was clear that the domestic courts would have had discretion to exclude the evidence had they been of the view that its admission would have given rise to substantive unfairness. There was no unfairness in leaving it to the jury, on the basis of a thorough summing-up by the judge, to decide where the weight of the evidence lay. Finally, voice samples may be regarded as akin to other specimens used in forensic analysis, to which the privilege of self-incrimination does not apply. In the circumstances, the use of the recorded material did not conflict with the requirements of fairness.
Conclusion: no violation (6 votes to 1).
Article 13 – The domestic courts were not capable of providing a remedy, since it was not open to them to deal with the substance of the Convention complaint that the interference with the right to respect for private life was not "in accordance with the law", and still less was it open to them to grant appropriate relief. With regard to a complaint to the Police Complaints Authority, although the Authority can require a complaint to be submitted to it for consideration, the extent to which it oversees the decision-making process undertaken by the Chief Constable is unclear. In any event, the Secretary of State plays an important role in appointing, remunerating and, in certain circumstances, dismissing members of the Authority, which must also have regard to any guidance which he gives in respect of the withdrawal or preferring of disciplinary or criminal charges. Consequently, the system of investigation of complaints does not meet the requisite standards of independence.
Conclusion: violation (unanimously).
Article 41 – The Court awarded each of the applicants £1,000 (GBP) in respect of non-pecuniary damage. It also made awards in respect of costs and expenses.

INDEPENDENT AND IMPARTIAL TRIBUNAL
Independence and impartiality of martial law court: *violation*.

ŞAHINER - Turkey (Nº 29279/95)
ARI - Turkey (Nº 29281/95)
YILMAZ - Turkey (Nº 29286/95)
KETENOĞLU - Turkey (Nº 29360/95 and Nº 29361/95)
YILDIRIM - Turkey (Nº 30451/96)
TAMKOÇ - Turkey (Nº 31881/96)
YALGIN - Turkey (Nº 31892/96)
GÜNEŞ - Turkey (Nº 31893/96)
ŞAHIN - Turkey (Nº 31961/96)
KIZILÖZ - Turkey (Nº 31962/96)
FIKRET DOĞAN - Turkey (Nº 33363/96)
YAKIŞ - Turkey (Nº 33368/96)
YALGIN and others - Turkey (Nº 33370/96)
*Judgments 25.9.2001 [Section I]

Facts: The applicants were arrested in the early 1980's on suspicion of belonging to an illegal organisation. They were tried along with over 700 others by the Ankara Court Martial, which

was composed of two civilian judges, two military judges and an army officer. The applicants were convicted in 1989. The applicants' appeals were decided by the Court of Cassation in 1995.

Law: Competence *ratione temporis* – The Court's jurisdiction *ratione temporis* in applications such as these, which were pending before the Commission when Protocol No. 11 entered into force and had not been declared admissible, is determined by the date of the acceptance of the right of petition (22 January 1987) and is not confined to facts or events occurring since the date of acceptance of the former Court's jurisdiction (22 January 1990).

Article 6(1) (length of proceedings) – The various proceedings had lasted in excess of 15 years, including almost nine years after acceptance of the right of petition. Although the proceedings were complex, in view of the number of accused, there were significant delays for which the authorities were responsible.

Conclusion: violation (unanimously).

Article 6(1) (independence and impartiality) – As it appeared difficult to dissociate the question of impartiality from that of independence, it was appropriate to consider both issues together. The military judges serving as members of the martial law courts were appointed with the approval of the Chief of Staff and by a decree signed by the Minister for Defence, the Prime Minister and the President of the Republic. A number of safeguards existed to protect them against outside pressures: thus, they underwent the same professional training as their civilian counterparts, they enjoyed constitutional safeguards identical to those of civilian judges, they sat as individuals and could not be removed from office or forced to retire early and, under the Constitution, no public authority could give them instructions concerning their judicial activities. However, other aspects of the status of the military judges called into question their independence and impartiality: firstly, they were servicemen in the army, which took its orders from the executive, secondly, they remained subject to military discipline and their promotion prospects depended on favourable assessment reports from their superiors, and thirdly, decisions pertaining to their appointment were to a great extent taken by the administrative authorities and the army. As for the army officer who sat as a member of the martial law court, he was not in any way independent of his military commanders. Where a tribunal's members include persons who are in a subordinate position to one of the parties, in terms of their duties and the organisation of their service, an accused may have legitimate doubts about the independence of such persons. In addition, great importance had be attached to the fact that civilians had to appear before a court composed partly of members of the armed forces. Consequently, the applicants, charged with attempting to undermine the constitutional order of the State, could have had legitimate reason to fear being tried by a court which included military judges and an army officer acting under the authority of the officer commanding the state of martial law.

Conclusion: violation (unanimously), except in the cases of Ketenoğlu, in which the Court concluded that the applicants could no longer claim to be victims of a violation, since their convictions had been quashed and the matter referred to the Ankara Assize Court, and Şahin, in which no complaint was made about lack of independence and impartiality.

Article 41 – The Court considered that the finding of a violation in respect of the lack of independence and impartiality constituted sufficient just satisfaction. It made awards in respect of non-pecuniary damage with regard to the length of the proceedings and in certain cases made awards in respect of costs and expenses.

INDEPENDENT AND IMPARTIAL TRIBUNAL
Role played by Clerk to the Justices in proceedings leading to imprisonment for failure to pay fine: *inadmissible*.

MORT - United Kingdom (N° 44564/98)
Decision 6.9.2001 [Section IV]

The applicant was convicted by a Magistrates' Court for not having paid her television licence fee and a fine was imposed. As the applicant failed to pay the instalments of her fine, she was summoned to appear before the court again. An inquiry into her means was conducted on this occasion, most of the questions being put to her by the Clerk. The applicant described the manner in which the Clerk carried out his questioning as being clearly hostile. At the magistrates' request, the Clerk conferred with them in the Retiring Room; he came back with them to the courtroom after the deliberations. The magistrates made an order to commit the applicant to prison for 14 days, suspended on condition that she paid weekly instalments. She failed to do so and was accordingly committed to prison. Her application for judicial review was granted; her claim relied, *inter alia*, on the fact that the Clerk's role in the proceedings gave rise to an appearance of a lack of independence and impartiality in the judicial process. The Divisional Court rejected her arguments and refused to see in her case a point of law of general public importance justifying an examination by the House of Lords.
Inadmissible under Article 6(1): (i) As regards the applicability of Article 6 to the proceedings, it had to be determined whether the applicant was charged with a criminal offence within the meaning of Article 6. Firstly, as to the classification of the offence in domestic law, the domestic court had doubts as to whether the proceedings were criminal and did not decide the point. Secondly, as to the nature of the proceedings, which carries more weight, the applicant was dealt with under general laws applying to the community as a whole; the Magistrates' Court could only exercise its power of committal to prison on a finding of culpable neglect, so that the proceedings had a punitive aspect. Finally, the applicant faced a maximum period of two weeks' imprisonment, which had to be regarded in the circumstances as having a deterrent and punitive nature beyond consideration of debt enforcement. The proceedings therefore involve the determination of a criminal charge and Article 6 was applicable.
(ii) The justices' clerk acts solely to assist the magistrates, who are lay judges. This may involve giving advice on law or procedure, taking notes of evidence and on occasion conducting examination of witnesses on the justices' behalf. There is no question of the clerk enjoying any role in the proceedings independent of the justices, or in having any duty with regard to influencing a decision in any particular direction. Thus, assuming the clerk fulfils the role provided by law, his or her presence during the deliberations of the justices must be regarded as part of the ordinary functioning of the court. In the instant case, the applicant complained that there was no prosecutor present and that the justices' clerk took on that role in open court but the Court was not persuaded that the questioning of the applicant by the justices' clerk overstepped what was permissible as a court officer acting on behalf of the justices. His task was to obtain the necessary information about the applicant's means to enable the justices to determine whether she had been able to pay the fine when she failed to do so. The question which he put to the applicant may have not been favourable to her assertion but nonetheless gave her the opportunity to put forward relevant matters and could not be regarded *per se* as hostile or biased. Moreover, it was not apparent that the presence of a prosecutor to cross-examine her about her failure to pay her fines was necessary to render the proceedings fair within the meaning of Article 6(1). The applicant for instance did not draw attention to any matter which she had intended to raise in her defence but was prevented to from doing because of the procedure adopted: manifestly ill-founded.
(iii) The applicant contended that the fine enforcement courts were not tribunals established by law within the meaning of Article 6. In imposing fines and holding means enquiries prior to imposing penalties for failure to pay fines the magistrates' courts are acting under statutory authority and within their competence. In the applicant's case, the magistrates' court was not

shown to have exceeded that competence or acted outside the legal framework governing the exercise of its functions. The applicant argued that no express power was conferred on justices' clerks to carry out questioning in means inquiries in fine enforcement hearings. However, it could be regarded as part of the clerk's duties to assist the magistrates. The fact that magistrates' courts vary on the extent to which they delegate questioning to their clerks does not establish that the practice goes beyond the legitimate exercise of the magistrates' discretion. Furthermore, the Divisional Court before which the applicant raised the point in judicial review proceedings had the power to quash decisions taken *ultra vires* but did not find established that the decision of the magistrates' court was unlawful. There was no reason to call into question the Divisional Court's findings: manifestly ill-founded.

Article 6(2)

PRESUMPTION OF INNOCENCE
Refusal of compensation and obligation to pay damages despite acquittal: *admissible*.

HAMMERN - Norway (Nº 30287/96)
RINGVOLD - Norway (Nº 34964/94)
Decisions 11.9.2001 [Section III]

YTRELAND - Norway (N° 56568/00)
[Section III]

The first two applicants were charged with sexual abuse, while the third applicant was charged with sexual assault and manslaughter. They were acquitted by High Court juries. In the first case, the applicant unsuccessfully claimed compensation. However, he was considered to have failed to prove on the balance of probabilities that he had not committed the acts in respect of which he had been acquitted. In the second case, the alleged victim lodged a civil claim for compensation following the applicant's acquittal and the latter had to pay her damages on the ground that the evidence produced satisfied the standard proof for establishing that sexual abuse had occurred and that on the balance of probabilities it appeared that the applicant had committed acts of abuse. In the third case, despite the applicant's acquittal, the High Court judges upheld a first instance order whereby he had to pay compensation to the victim's parents. He was refused leave to appeal to the Supreme Court on that point.
Admissible under Article 6(2) (Nº 30287/96 and Nº 34964/94). [Nº 56568/00 was *communicated*.]

ARTICLE 7

NULLA POENA SINE LEGE
Imposition of prison sentence for disseminating false information about a presidential candidate: *communicated*.

SALOV - Ukraine (N° 65518/01)
[Section IV]
(see Article 10, below).

ARTICLE 8

PRIVATE LIFE
Installation of covert listening device on private property: *violation*.

P.G. and J.H. - United Kingdom (Nº 44787/98)
*Judgment 25.9.2001 [Section III]
(see Article 6(1) [criminal], above).

PRIVATE LIFE
Use of covert listening device in police station: *violation*.

P.G. and J.H. - United Kingdom (Nº 44787/98)
*Judgment 25.9.2001 [Section III]
(see Article 6(1) [criminal], above).

PRIVATE LIFE
Acquisition by police of information relating to use of private telephone: *no violation*.

P.G. and J.H. - United Kingdom (Nº 44787/98)
*Judgment 25.9.2001 [Section III]
(see Article 6(1) [criminal], above).

PRIVATE LIFE
Restriction of political rights on the basis of information concerning individual's political past: *communicated*.

ŽDANOKA - Latvia (N° 58278/00)
[Section II]
(see Article 3 of Protocol No. 1, below).

FAMILY LIFE
Refusal of authorities to give mother's surname to child when family name of spouses is the father's: *inadmissible*.

G.M.B. and K.M. - Switzerland (N° 36797/97)
Decision 27.9.2001 [Section II]

The applicants married in 1989 and had a daughter in 1995. They wanted their daughter to have her mother's surname but the Registry Office refused, considering that, pursuant to the Civil Code, she would be given the family name which, in the applicants' case, was the father's surname. The Canton Directorate for the Interior rejected the applicants' appeal against the decision. It held that when parents are married, their child will be given the name which they have chosen as family name, which can be either the father's or the mother's. It found that since the applicants had chosen the husband's surname as their family name, their child would therefore bear this surname. The Federal Court rejected the applicants' further appeal. It found that the case concerned not only the interests of the parents but also the child's own interests to have a family name and to be attached to a family.

Inadmissible under Article 8: As a means of personal identification and a link to a family, a person's name concerns his or her private and family life within the meaning of Article 8. The fact that society and the State have an interest in regulating the use of names does not exclude it, since these public-law aspects are compatible with private life conceived as including to a certain degree, the right to establish and develop relationships with other human beings. The refusal of the Swiss authorities to allow the applicants to adopt a particular surname for their child could not necessarily be considered as an interference with the exercise of their right to respect for their private and family life. There may nonetheless be positive obligations under Article 8 for States inherent in an effective respect for private and family life. Since the issues in the present case concerned areas where different solutions prevail among Convention States and the law appears to be in a transitional stage, the respondent State benefited from a wide margin of appreciation. No particular inconvenience was shown as regards the fact that the applicants' daughter had to be given their family name, which was the father's, rather than the mother's surname. The domestic courts held that, according to the Civil Code, the applicants were able, upon their marriage, to choose the wife's name as their family name, as a consequence of which their daughter would have been given it as her surname. Moreover, the Government and the Federal Court emphasised the importance for a child to be united, by means of its name, to the family, and that the system chosen in Switzerland served the purpose of preserving the unity of the family. The community as whole has an interest in maintaining a coherent system of family law which places the best interest of the child at the forefront. In conclusion, in view of the flexibility which Swiss law affords to couples in the choice of their family name and the fact that the applicants did not maintain any particular inconvenience concerning their concrete situation, given the margin of appreciation left to domestic authorities in such matters there was no failure to respect the applicants' private and family life: manifestly ill-founded.
Inadmissible under Article 14 combined with Article 8: Swiss legislation places importance on the child being united, through its name, with the family, with a view to preserving the unity of the family. Furthermore, in such cases States enjoy a wide margin of appreciation. The applicants chose the husband's name as family name when, according to domestic law, they could have chosen the wife's surname. Therefore, it could not be considered there was a difference in treatment amounting to discrimination: manifestly ill-founded.

HOME
Properties threatened by the construction of a dam: *communicated*.

GORRAIZ LIZARRAGA and others - Spain (N° 62543/00)
[Section IV]
(see Article 6(1), above).

CORRESPONDENCE
Telephone tapping in the context of criminal proceedings: *communicated*.

PRADO BUGALLO - Spain (N° 58496/00)
[Section IV]

The applicant is an international tobacco trader and was at the head of a vast financial concern comprising a number of import-export companies. The central investigating judge of the *Audiencia Nacional* started a judicial investigation into drug-trafficking during the course of which he made several orders for the monitoring of various telephones belonging to or used by the applicant and his assistants in Spain. The applicant was arrested by the police and committed for trial on charges of drug-trafficking, smuggling, commission of monetary offences, forgery of public documents and active corruption. The applicant applied, *inter* Alia, for the evidence obtained by the telephone monitoring devices to be declared

inadmissible. He was found guilty, notably on the basis of the police recordings of monitored telephone conversations, his application to have that evidence excluded having failed. In his appeal on points of law, the applicant alleged among other things that the monitoring during the judicial and police investigations had infringed his right to confidential communications. The Supreme Court upheld the conviction. It referred to the case-law of the European Court of Human Rights and held that the interference had been justified – as large-scale drug-trafficking was a serious offence – and was lawful. The Constitutional Court dismissed the applicant's *amparo* appeal.
Communicated under Article 8.

ARTICLE 9

FREEDOM OF THOUGHT
Dismissal on account of political and ideological activities in the exercise of duties and membership of extreme left group: *communicated*.

GÜNER ÇORUM - Turkey (N° 59739/00)
AKSOY - Turkey (N° 59741/00)
[Section IV]
(see Article 6(1) [civil], above).

FREEDOM OF RELIGION
Refusal to allow use of local church for religious worship: *communicated*.

PAROHIA GRECO-CATOLICA SIMBATA BIHOR - Romania (N° 48107/99)
[Section I]
(see Article 6(1) [civil], above).

ARTICLE 10

FREEDOM OF EXPRESSION
Dismissal on account of political and ideological activities in the exercise of duties and membership of extreme left group: *communicated*.

GÜNER ÇORUM - Turkey (N° 59739/00)
AKSOY - Turkey (N° 59741/00)
[Section IV]
(see Article 6(1) [civil], above).

FREEDOM OF EXPRESSION
Ineligibility to stand as candidate: *communicated*.

ŽDANOKA - Latvia (N° 58278/00)
[Section II]
(see Article 3 of Protocol No. 1, below).

FREEDOM TO COMMUNICATE INFORMATION
Imposition of prison sentence for disseminating eight copies of falsified newpaper: *communicated*.

SALOV - Ukraine (N° 65518/01)
[Section IV]

The applicant, a lawyer, was arrested on the day of the presidential elections for disseminating false information on the President in office, who was seeking re-election. The following day he was taken into police custody. He was held in detention pending trial in an isolation cell in the remand prisoners' unit for eleven days. He was sentenced by the district court to five-years' imprisonment, suspended for two years, and a fine for hindering Ukrainian citizens in the exercise of their right to vote. The charge was that two days' before the presidential election he had circulated eight copies of a false edition of a newspaper carrying a report that the outgoing President of Ukraine had died and a coup d'État carried out by criminal associates of the President. The article contained an appeal to citizens to set up a fascist regime. The regional court upheld the conviction. The applicant was disbarred as a result of the conviction. He says that the dissemination of false information on a candidate for the Ukraine presidency carries an administrative penalty under the Code of Administrative Offences.
Communicated under Articles 5(3) (*ex officio*), 7 and 10.

LICENSING OF BROADCASTING ENTERPRISES
Refusal to grant licence to broadcast television channel: *admissible*.

DEMUTH - Switzerland (N° 38743/97)
Decision 27.9.2001 [Section II]

The applicant intended to set up a television channel to be broadcast via the cable network in Switzerland, Austria and Germany. The programmes of the channel were to be limited to cars and related issues, ranging from car equipment to environmental topics. The applicant filed with the Government a request for a licence to broadcast. The Federal Council rejected it, holding that there was no right under domestic law or the Convention to obtain a licence to broadcast. It considered that electronic media should contribute to a culture of communication and a democratic discourse. It added that segment programmes centred on specific issues could not serve the purpose of the culture of communication which is based on a comprehensive and broadly based democratic discourse.
Admissible under Article 10.

ARTICLE 12

MARRY
Impossibility for Muslim Turkish Cypriot living in Cyprus to contract a civil marriage: *admissible*.

SELIM - Cyprus (N° 47293/99)
Decision 18.9.2001 [Section III]

The applicant is a Cypriot national of Turkish origin living in Nicosia. In January 1999, he sent a letter to the Municipality of Nicosia in order to organise his civil marriage with a Romanian citizen. The municipality answered by letter that section 34 of the Marriage Law

did not offer the possibility for Turkish Cypriots and Muslims to contract a civil marriage. The applicant then married in Romania. In February 1999, on his return to Cyprus with his wife, the applicant was requested to pay 300 Cypriot pounds for the entry of his wife, in order to cover the possible costs of her repatriation to Romania. He did so and, in March 2000, his wife was granted the status of resident alien on the ground that she had lived under the same roof as her husband for one year. The sum of 300 Cyprus pounds was returned to the applicant.

Admissible under Articles 8 and 12: According to Article 146 of the Constitution, the Supreme Court is granted exclusive jurisdiction to adjudicate finally on applications made to it complaining that a decision, act or omission of any organ, authority or person exercising any executive or administrative authority is contrary to any of the provisions of the Constitution or any law or is made in excess or abuse of powers vested in such organ, authority or person. Only acts which are "executory" in nature are open to challenge under Article 146 of the Constitution. The letter addressed by the municipality to the applicant could not be regarded as such an act. While the municipality is clearly an organ or authority exercising an executive or administrative authority, the letter in issue was essentially informative in nature. It did not give any legal result or create, modify or otherwise affect the rights and liabilities of the applicant, which were exclusively governed by the provisions of the Marriage Law to which the letter drew his attention. Even assuming that the municipality's letter was open to challenge under Article 146 of the Constitution, it remained for the Government to establish with sufficient certainty that such a challenge would have stood any prospects of success. Under Article 22, any person of marriageable age is free to marry and found a family "according to the law relating to marriage applicable to such person under the provisions of the Constitution". In cases in which one of the parties is a Turk of Muslim confession resident in Cyprus, marriages are governed by the Turkish Family (Marriage and Divorce) Law, Cap. 339, in force when the Constitution came into play. Civil marriages were to be conducted, according to a subsequent amendment of Cap. 339, by Turkish Communal Courts. In addition, section 34 of the Marriage Law, by excluding from its application marriages where one of the parties is a Muslim Turk, conferred exclusive legislative powers on the Communal Chambers of the Turkish Community with regard to the "personal status" of members of the community. However, by reason of the general situation on the island, there are no Turkish Communal Courts operating in the Government-controlled part of the island whose judges could act as Marriage Officers for the purposes of Cap. 339. The Government argued that it would have been open to the applicant to state before the Supreme Court that the provisions of section 34 of the Marriage Law were unconstitutional. The Supreme Court would have been in a position to rule that the provisions of section 34 were no longer to be enforced, without interfering with the exercise of legislative powers afforded to the Turkish Communal Chamber. However, the Government cited no authority in which in circumstances comparable to those in the present case a statutory provision had been held to be unconstitutional and of no continuing effect, and made no reference to any case-law in this respect. On the contrary, in the decision in the case of Ibrahim Aziz v. Cyprus, the Supreme Court held that although Article 63 of the Constitution and Article 5 of the Law on the Election of Members of Parliament did not provide for members of the Turkish Community living in the Government-controlled part of the island to vote in the Parliamentary elections, it was not for the court to intervene to fill such a legislative gap. Therefore, the Government did not show with a sufficient degree of certainty the existence of an available and effective remedy.

Admissible under Articles 8 and 12.

ARTICLE 14

DISCRIMINATION (Article 8)
Discrimination between homosexual and heterosexual partners as regards transmission of tenancy rights on the death of one of the partners: *admissible*.

KARNER - Austria (N° 40016/98)
Decision 11.9.2001 [Section III]

The applicant, a homosexual, lived with his partner from 1989 in a flat rented by the latter. They shared all expenses pertaining to the flat. In 1994, the applicant's partner died, leaving him his estate. In 1995, the applicant's landlord instituted proceedings to obtain the termination of the tenancy. His claim was dismissed both at first instance and on appeal. The Supreme Court, however, was favourable to the landlord and terminated the tenancy. The court considered that the legislation which preserved a right to tenancy to unmarried partners in the event of the death of one of the partners should be interpreted as only applying to heterosexual couples.
Admissible under Article 14 combined with Article 8.

ARTICLE 30

RELINQUISHMENT IN FAVOUR OF THE GRAND CHAMBER
Lack of legal recognition of transsexuals: *relinquishment of jurisdiction*.

I. - United Kingdom (N° 25680/94)
GOODWIN - United Kingdom (N° 28957/95)
[Section III]

Both applicants are post-operative male to female transsexuals. They complain about the lack of legal recognition of their post-operative sex and invoke Articles 8, 12 and 14.
The Section has relinquished jurisdiction in favour of the Grand Chamber.

ARTICLE 34

VICTIM
Sentence reduced on the ground of length of proceedings without acknowledgement by domestic courts of violation of Article 6(1): *admissible*.

JENSEN - Denmark (N° 48470/99)
Decision 20.9.2001 [Section II]

In October 1994, the applicant, who ran a law firm, confessed to the police that he had made fraudulent conversion on his clients' accounts and cheque fraud. He requested that bankruptcy proceedings be instituted against him. In October 1996, following investigations which entailed numerous interviews with the applicant, the case was transferred to the prosecution. In March 1998, a pre-trial hearing was held at the request of the prosecution. By judgment of June 1998, the applicant was convicted and sentenced to two years' imprisonment. The sentence was suspended on the ground of the length of the proceedings, although the court expressly stated that Article 6(1) of the Convention had not been violated. In November 1998,

the High Court on appeal reduced the sentence to one year's imprisonment, without suspending it. The court held that the sentence had been brought down from 1½ years, the usual sentence for such criminal offences, to one year by reason of both the length of the proceedings and the applicant's co-operation. The applicant's request for leave to appeal to the Supreme Court was rejected in February 1999.
Admissible under Article 6(1) (length of proceedings): The mitigation of a sentence on the ground of the excessive length of proceedings does not in principle deprive the individual concerned of his status of victim within the meaning of Article 34. This general rule is subject to an exception when the national authorities have acknowledged in a sufficiently clear way the failure to observe the reasonable time requirement and have afforded redress by reducing the sentence in an express and measurable manner. In the instant case, the High Court expressly rejected the applicant's claim that the proceedings had exceeded a reasonable time. However, the High Court also considered it a mitigating circumstance, the applicant's co-operation being another, and, on the basis of both circumstances, reduced the sentence by 6 months. It is not clear, however, what proportion of the six months was attributable to the length of the proceedings. Moreover, unlike the City Court, it held that, despite these aforementioned mitigating circumstances, the sentence could not be suspended. Overall, it could not be considered that the courts acknowledged the failure to comply with the requirement of reasonable time under Article 6(1) and afforded the applicant redress by reducing the sentence in an express and measurable manner. Therefore, the applicant could still claim to be a victim.

ARTICLE 35

Article 35(1)

EFFECTIVE DOMESTIC REMEDY (Cyprus)
Constitutional appeal to the Supreme Court to contest section 34 of Marriage Law as regards civil marriages of Muslim Turkish Cypriots.

SELIM - Cyprus (N° 47293/99)
Decision 18.9.2001 [Section III]
(see Article 12, above).

ARTICLE 37

Article 37(1)(c)

ANY OTHER REASON
Association seeking to pursue application following death of applicant: *struck out*.

S.G. - France (Nº 40669/98)
*Judgment 18.9.2001 [Section III]

The applicant maintained that the principles of the quality of arms and of adversarial process had not been observed in proceedings before the Court of Cassation, as judge rapporteur's report was not communicated to the parties although State Counsel received a copy. The

applicant died without leaving any descendants and named as her sole heir a juristic person, the Fondation de France.
The law: the Court did not preclude a deceased applicant being replaced by a juristic person named as heir. It reiterated, however, that in any event, that could only occur if the heir was able to show a legitimate interest – pecuniary or non-pecuniary – in continuing the proceedings. The sole outstanding complaint before the Court concerned an infringement of the principles of equality of arms and of adversarial process before the Court of Cassation. The Court failed to see how the Fondation de France could have any interest in having that complaint examined and therefore concluded that there was no justification for pursuing the examination of the application.

ARTICLE 43

Article 43(2)

The Panel has accepted requests for referral to the Grand Chamber of the following judgments:

GOÇ - Turkey (N° 36590/97)
Judgment 9.11.2000 [Section IV]

(Summary of Chamber judgment)

Facts: The applicant was taken into custody on suspicion of having stolen and falsified court documents. However, the prosecutor decided not to bring charges. The applicant then applied for compensation in respect of a period which he had spent in custody. The Assize Court, without hearing the applicant, decided that he was entitled to compensation and awarded him 10 million Turkish liras. Both the applicant and the Treasury appealed. The Principal Public Prosecutor at the Court of Cassation submitted his opinion that both appeals should be rejected. This opinion was not communicated to the applicant. The Court of Cassation upheld the Assize Court's judgment.
Law: Article 6(1) – Having regard to the nature of the Principal Public Prosecutor's submissions and to the fact that the applicant was not given an opportunity to make written observations in reply, there has been an infringement of his right to adversarial proceedings. While the neutral approach of the Principal Public Prosecutor in advising that both appeals should be rejected may have ensured equality of arms between the parties at the appeal stage, it still remained the case that the applicant disputed the amount he had been awarded and he was therefore entitled to have full knowledge of any submissions which undermined his prospects of success before the Court of Cassation. Indeed, the communication of the submissions was even more compelling in view of the fact that the applicant was not entitled to an oral hearing. However, it is unnecessary to examine this complaint separately.
Conclusion: violation (unanimously).
Article 41 – The Court considered that the finding of a violation in itself constituted sufficient just satisfaction. It made an award in respect of costs and expenses.

N.C. - Italy (Nº 24952/94)
Judgment 11.1.2001 [Section II]

(Summary of Chamber judgment)

Facts: The applicant, technical director of a company, was arrested on 3 November 1993 on suspicion of abuse of power and corruption. The suspicion was based on the statements of five witnesses and an expert opinion. The applicant immediately filed an application for release, arguing that there were no serious indications of guilt, as required by Article 273 of the Code of Criminal Procedure. However, the District Court rejected the application, considering that there were serious indications of guilt and that there was a danger of the applicant committing further crimes. It placed the applicant under house arrest. The applicant sought to have this order revoked, arguing that he had resigned from his position with the company, but the judge for preliminary investigations rejected the request on 3 December 1993. On appeal, the District Court ordered the applicant's release, considering that since he had resigned there were no longer any grounds for keeping him in detention. It later acquitted him.
Law: Article 5(5) – The applicability of this provision presupposes a violation of one of the other paragraphs of Article 5. The applicant's detention fell under Article 5(1)(c) and it has to be determined whether his detention was contrary to that provision. Firstly, as to whether there existed serious evidence of the applicant's guilt, the Court's task is to examine whether the elements of which the authorities had knowledge at the relevant time were reasonably sufficient. The authorities did not draw any manifestly unreasonable or arbitrary conclusions from the available elements and there is no reason to doubt that these elements were sufficient for the authorities to believe that the applicant had committed the offence. Secondly, as to the danger of further crimes being committed, the reason given by the judge for the preliminary investigations – that the applicant remained technical director of the company and was thus in a position to commit other crimes – is not manifestly unreasonable or arbitrary. The mere fact that the decision did not include an explicit consideration of the applicant's clean record or the absence of any allegation of re-offending after the alleged offence is not sufficient to conclude that these elements were not taken into account. Moreover, the subsequent decision of the District Court, while concise, fulfilled the requirement that the particular circumstances of the case be taken into account. Consequently, the authorities' conclusion that there was a genuine risk of re-offending was not arbitrary, and the applicant's detention up until 2 December 1993 was in conformity with Article 5(1)(c) and no separate issue arises under Article 6(2). With regard to the applicant's detention after 2 December 1993, it was lawful under domestic law and the mere fact that the decision of 3 December was later set aside does not affect the lawfulness. The ground relied on – that despite his resignation the applicant could use his professional skills elsewhere – was not irrelevant or arbitrary and the detention was not incompatible with Article 5(1)(c).
Finally, with regard to the conformity of the length of the applicant's detention with Article 5(3), the period was only one and a half months and the reasons given were both relevant and sufficient. Moreover, the detention was not unduly prolonged by the way in which the case was handled. Since the applicant's detention was not contrary to either Article 5(1) or Article 5(3), there has been no violation of Article 5(5).
Conclusion: no violation (4 votes to 3).

ADOUD and BOSONI - France (Nº 34595/97 and Nº 35237/97)
Judgment 27.2.2001 [Section III]

The case concerns the non-communication of the observations of the *avocat général* at the Court of Cassation to an unrepresented appellant in criminal proceedings – violation.

MEFTAH - France (Nº 32911/96)
Judgment 24.4.2001 [Section III]

The case concerns the failure to notify an unrepresented appellant of the hearing of his appeal to the Court of Cassation and the consequent failure to communicate to him the observations of the *avocat général* – violation.

ARTICLE 44

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three month time limit for requesting referral to the Grand Chamber) (see Information Note No. 31) :

GÜLNAHAR ÇALKAN - Turkey (Nº 19661/92)
RABIA ÇALKAN - Turkey (Nº 19662/92)
EKREM ÇAPAR - Turkey (Nº 19663/92)
HAMDI ÇELEBI - Turkey (Nº 19664/92)
SEYFETTIN ÇALKAN - Turkey (Nº 19665/92)
NURI ÇAPAR - Turkey (Nº 19666/92)
HAYRETTIN DALGIÇ - Turkey (Nº 19668/92)
NECATI DALGIÇ - Turkey (Nº 19669/92)
DURSUN DIŞÇI - Turkey (Nº 19670/92)
HASAN DIŞÇI - Turkey (Nº 19671/92)
OSMAN DIŞÇI - Turkey (Nº 19672/92)
DAVUT GÜNEYSU - Turkey (Nº 19673/92)
ALI KARTAL - Turkey (Nº 19674/92)
HASAN KOÇ - Turkey (Nº 19675/92)
AYŞE KOÇER - Turkey (Nº 19676/92)
ALI ÖZTÜRK - Turkey (Nº 19678/92)
GÜLFIYE ÖZTÜRK - Turkey (Nº 19679/92)
KAMIL ÖZTÜRK - Turkey (Nº 19681/92)
MUHSIN ÖZTÜRK - Turkey (Nº 19682/92)
MUSTAFA ÖZTÜRK - Turkey (Nº 19683/92)
GAGANUŞ and others - Turkey (Nº 39335/98)
Judgments 5.6.2001 [Section I]

MILLS - United Kingdom (Nº 35685/97)
Judgment 5.6.2001 [Section III]

BROCHU - France (Nº 41333/98)
Judgment 12.6.2001 [Section III]

SANTOS and another - Portugal (Nº 41598/98)
Judgment 14.6.2001 [Section IV]

ZWIERZYNSKI - Poland (N° 34049/96)
Judgment 19.6.2001 [Section I]

ATLAN - United Kingdom (Nº 36533/97)
S.B.C. - United Kingdom (N° 39360/98)
Judgments 19.6.2001 [Section III]

MAHIEU - France (Nº 43288/98)
A.A.U. - France (Nº 44451/98)
Judgments 19.6.2001 [Section III]

BECK - Norway (Nº 26390/95)
Judgment 26.6.2001 [Section III]

AGOUDIMOS and CEFALLONIAN SKY SHIPPING CO. - Greece (Nº 38703/97)
Judgment 28.6.2001 [Section II]

MAILLARD BOUS - Portugal (Nº 41288/98)
BENTO DA MOUTA - Portugal (Nº 42636/98)
Judgments 28.6.2001 [Section IV]

VgT VEREIN GEGEN TIERFABRIKEN - Switzerland (N° 24699/94)
Judgment 28.6.2001 [Section II]

F.R. - Switzerland (Nº 37292/97)
Judgment 28.6.2001 [Section II]

Article 44(2)(c)

On 5 September 2001 the Panel of the Grand Chamber rejected request for referrral of the following judgments, which have consequently become final:

WASILEWSKI - Poland (Nº 32734/96)
Judgment 21.12.2000 [Section IV]

WALDER - Austria (Nº 33915/96)
Judgment 30.1.2001 [Section III]

L.G.S. S.p.a. - Italy (no. 2) (Nº 38878/97)
MANGASCIA - Italy (Nº 41206/98)
DEL GIUDICE - Italy (Nº 42351/98)
Judgments 1.3.2001 [Section II]

FERRARIN - Italy (Nº 34203/96)
GUARINO - Italy (Nº 41275/98)
MOTTA - Italy (Nº 47681/99)
Judgments 26.4.2001 [Section II]

SABLON - Belgium (N° 36445/97)
Judgment 10.4.2001 [Section III]

STOIDIS - Greece (Nº 46407/99)
Judgment 17.5.2001 [Section II]

These cases concern the length of proceedings: *violation*.

P.M. - Italy (Nº 24650/94)
Judgment 11.1.2001 [Section II]

The case concerns the prolonged impossibility for a landlord to recover possession of his apartment, due to the absence of police assistance: *violation*.

PLATAKOU - Greece (Nº 38460/97)
Judgment 11.1.2001 [Section II]

The case concerns the rejection of claim by a court without examination of the substance: *violation*.

VAUDELLE - France (N° 35683/97)
Judgment 30.1.2001 [Section III]

The case concerns the conviction *in absentia* of accused, placed under supervisory guardianship, without notification to the guardian and without any legal representation at the hearing: *violation*.

ÇIÇEK - Turkey (Nº 25704/94)
Judgment 27.2.2001 [Section I]

The case concerns a disappearance and the lack of an effective investigation: *violation*.

ABDOUNI - France (N° 37838/97)
Judgment 27.2.2001 [Section III]

The case concerns the threat of expulsion: *struck out*.

MALAMA - Greece (N° 43622/98)
Judgment 1.3.2001 [Section II]

The case concerns the failure to take into account the excessive length of proceedings in assessing compensation for expropriation : *violation*.

BOUCHET - France (Nº 33591/96)
Judgment 20.3.2001 [Section III]

The case concerns the length of detention on remand, and in particular the re-detention of the applicant after being released under judicial supervision – *no violation*.

KERVOELEN - France (Nº 35585/97)
Judgment 27.3.2001 [Section III]

The case concerns alleged lack of access to a court and absence of an effective remedy in connection with expiry of a licence to sell drinks – *no violation*.

B. and P. - United Kingdom (Nº 36337/97 and Nº 35974/97)
Judgment 24.4.2001 [Section III]

The case concerns the exclusion of a public hearing in child residence proceedings: *no violation*.

ARTICLE 1 OF PROTOCOL No. 1

POSSESSIONS
Failure to meet requirements set by domestic law for entitlement to pension: *inadmissible*.

HADŽIĆ - Croatia (N° 48788/99)
Decision 13.9.2001 [Section IV]

The applicant served in the Yugoslav People's Army (YPA) until 1991, after which his retirement was decided. He received a pension from the Yugoslav Federal Military Social Security Fund until 1993. The payments stopped at his own request, after he had decided to file an application for a pension in Croatia, which he did in 1994. However, the Croatian Social Security Fund rejected his request on the ground that he did not fulfil the requirements for a pension as he had not joined the Croatian army before 31 December 1991. The applicant, whose appeal against this decision was unsuccessful, instituted administrative proceedings. The Administrative Court having rejected his request, the applicant lodged a constitutional complaint claiming that his right to property had been violated by the Administrative Court's decision which denied his right to pension. The Constitutional Court rejected his complaint.
Inadmissible under Article 1 Protocol N° 1: Although no right to a pension as such is guaranteed by the Convention, the payments of contributions to a social security fund may create a property right protected by Article 1 of Protocol N° 1. Moreover, as regards the pecuniary nature of the entitlement to a given social security benefit, Article 1 of Protocol N° 1 is applicable without it being necessary to rely solely on the link between entitlement and the obligation to pay taxes and contributions. In the instant case, the applicant claimed that he had a pecuniary right to an old-age pension under Croatian law. The applicant's right to the old-age pension fell within the ambit of the present article. However, the applicant had to fulfil the conditions laid out in domestic law. In this respect, States enjoy a wide margin of appreciation in regulating social policy, including the right to regulate independently their pension system. In the instant case, one of the conditions for former officers of the YPA to have a right to a pension under Croatian law was that they had made themselves available for the service in the Croatian army prior to 31 December 1991. It was undisputed that the applicant had failed to do so and therefore did not fulfil the conditions for a pension as prescribed by Croatian law. The fact that the applicant obtained Croatian citizenship did not entitle him to a pension in Croatia, nor did it make him fulfil the requirements for a pension. Therefore, there was no interference with the applicant's property rights within the meaning of the present article: manifestly ill-founded.

PEACEFUL ENJOYMENT OF POSSESSIONS
Contradictory findings of different judicial authorities on whether it had been proved that goods, already returned to the alleged legal owner, had been stolen: *communicated*.

JÄRVI-ERISTYS OY - Finland (N° 41674/98)
[Section IV]

The applicant company allegedly bought 38 tons of copper from Russia. The Finnish customs found that the information on the buyer and the seller were incorrect and that the latter did not have the required licence to export copper from Russia. The Russian authorities having claimed that the copper had been stolen in Russia, the case was reported to the Finnish police. The Russian customs later informed the Finnish police that the Russian company from which the applicant company had allegedly bought the copper was fictitious and that the origin of the copper could not be traced. The Russian customs concluded that, since the copper had not been legally acquired in or exported from Russia, the Russian State had legal ownership over it and it should be given back. The public prosecutor, who considered that there was no evidence supporting these allegations, decided not prosecute the applicant company. However, despite the decision of the public prosecutor, the Finnish police, who agreed with the reasoning of the Russian authorities, returned the copper to them. The applicant company instituted proceedings against the Finnish State in order to obtain compensation for the copper which it had lost. The District Court rejected its request, holding that the police had been entitled to agree with the findings of the Russian authorities and therefore to return the copper to the Russian authorities. Furthermore, the court found it most probable that the copper had in any case been stolen in Russia and thus that the applicant company had rightfully been obliged to return it to its legal owner without compensation. The Court of Appeal upheld this decision and the Supreme Court refused the applicant company leave to appeal.
Communicated under Article 1 of Protocol N° 1.

PEACEFUL ENJOYMENT OF POSSESSIONS
Tips included in cheque and credit card payments counted as remuneration for the purpose of minimum wage regulation: *admissible*.

NERVA and others - United Kingdom (N°42295/98)
Decision 11.7.2000 [Section III]

The applicants were waiters at the material time. When they received a tip from a customer, the money gathered was later distributed proportionately among all the waiters. As a result of a new tax system, tips paid by customers by including the amount in cheque or credit card vouchers were paid over to their employer, who distributed an equivalent amount among the waiters, in a proportion which he decided. The sum which each of the applicants received featured in their wage slip as “additional pay”. At the relevant time, a minimum remuneration was provided by law for waiters. As the weekly share of the applicants' tips was regularly superior to the statutory minimum wage, they decided to challenge their employer’s right to count cheque or credit card tips as part of the minimum remuneration. The courts however found against the applicants both at first instance and at appeal, and leave to appeal to the House of Lords was refused.
Admissible under Article 1 of Protocol N° 1 and Article 14.

CONTROL THE USE OF PROPERTY
Confiscation of property of persons suspected of belonging to a criminal organisation: *inadmissible*.

RIELA and others - Italy (N° 52439/99)
Decision 4.9.2001 [Section I]

In December 1995 the Catania Court of First Instance made an order for the confiscation of various property belonging to the applicants, including land, buildings, vehicles, and shares in certain trading companies, pursuant to the Law on Preventive Measures, on the ground that the property was, or had been acquired with, the proceeds of crime. It held that a number of factors indicated that the first two applicants were members of a criminal organisation based in Sicily, whose existence had been established by the statements of a *pentito* (a former member of the Mafia). The Catania Court of Appeal upheld that decision in March 1998. Having examined the file it considered that it was reasonable to consider that the property concerned was, or had been acquired with, the proceeds of crime. In a judgment of March 1999 the Court of Cassation dismissed an appeal on points of law lodged by the applicants. The procedure before the Court of Cassation was held in private. The applicants' lawyers were not permitted to attend the hearing. The order for the confiscation of the property has thus become final but, according to the information provided to the Court, has yet to be executed.
Inadmissible under Article 1 of Protocol No. 1: the confiscation constituted an interference with the applicants' right to the peaceful enjoyment of their possessions. That measure constituted control of the use of property within the meaning of the second paragraph of Article 1 of Protocol No. 1 (and not a deprivation of possessions). The measure was provided for by law and pursued a legitimate aim. As to whether the measure was proportionate to the aim pursued, the Court afforded legislatures a wide discretion as regards policy for crime prevention and there was no principle under the Convention prohibiting presumptions of fact or law. The Court's role was to establish whether, regard being had to the seriousness of the measure imposed, the proceedings before the Italian courts had afforded the applicants a reasonable opportunity to put forward their case to the relevant authorities. They had in the case before the Court since the procedure under which the preventive measures were imposed was adversarial and before three levels of jurisdiction. Further, the courts concerned had examined the facts objectively and not relied on mere suspicion. In particular, they had analysed the applicant's financial situation before concluding that the property that had been confiscated could only have been acquired from the proceeds of crime. Thus, regard being had to the margin of appreciation afforded to the States when controlling "the use of property in accordance with the general interest", in particular as part of policy for combating organised crime, the interference was not disproportionate: manifestly ill founded.
Inadmissible under Article 6(1): (a) under Italian law, the confiscation of the applicants' property under preventive measures did not connote a finding of guilt but was intended to prevent criminal activity. Moreover, no conviction of a criminal offence was required for the imposition of preventive measures, which thus distinguished them from "penalties". The criminal limb of Article 6 was therefore inapplicable. However, the civil limb of Article 6 applied to any action whose subject matter was "pecuniary" in nature and which was founded on an alleged infringement of rights that were likewise of a pecuniary character, as in the case before the Court. The civil limb of Article 6 was therefore applicable.
(b) as regards the failure to inform the applicants of the commencement of the proceedings – whose effects on their property rights had been serious – their resulting application to have the judgment quashed had been made out of time and, in any event, they would be entitled to assert their property rights in the proceedings for execution of the confiscation order. As those proceedings had yet to begin, the allegations on that point were premature. Furthermore, although not all the names of those affected had been set out in the heading to the confiscation order of March 1998, that clerical error could not have affected the fairness of the proceedings, in particular as the reasons for the impugned decision and the operative

provisions of that decision had clearly identified all the owners of the confiscated property: manifestly ill founded.
(c) as regards the lack of a public hearing before the Court of Cassation and the fact that the applicants' lawyers were prohibited from attending, it could be seen from an examination of the impugned procedure that the appeal on points of law had been lodged after the case had been considered by two courts, both of which had had full jurisdiction on the merits and had held hearings which the parties' lawyers had been able to attend. Furthermore, the lawyers concerned had been able to lodge submissions in support of the appeal to the Court of Cassation. Thus, regard being had to the role of the Court of Cassation and to the proceedings considered as a whole, there was no appearance of a violation of Article 6(1): manifestly ill founded.
[Note: this decision further clarifies the case-law after the judgment of Raimondo v. Italy of 22 February 1994].

ARTICLE 3 OF PROTOCOL No. 1

STAND FOR ELECTION
Prohibition on applicant standing as candidate in parliamentary elections on account of her having previously been a member of the Latvian Communist Party: *communicated*.

ŽDANOKA - Latvia (N° 58278/00)
[Section II]

During the Soviet era the applicant was a member of the Communist Party of the Soviet Union (CPSU), the USSR's sole and governing party, and its regional branch the Latvian Communist Party (LCP). In January and August 1991 that party actively supported an attempted coup d'État which failed. Consequently, in September 1991 the Latvian legislature declared the LCP anti-constitutional and ordered its dissolution. In 1994 and 1995 the Latvian Parliament adopted laws relating respectively to the municipal and general elections and declared that persons who had participated in the activities of the LCP after 13 January 1991 were ineligible to stand for election. That was the date when the party leaders had officially invited the Latvian Government to resign and called for plenary powers to be given to a national-security committee. In 1997 the applicant was elected to the Riga Municipal Council. No action was taken against her. However, in 1999, after adversarial proceedings instituted by the public prosecutors office, the Riga Regional Court and subsequently, on appeal by the applicant, the Civil-Affairs Division of the Supreme Court, found that she had effectively been an active member of the LCP after the relevant date. Her appeal on points of law to the Senate of the Supreme Court was declared inadmissible in a final order of February 2000. The applicant became automatically ineligible for election and had to stand down from her office as a member of the Riga Municipal Council.
Communicated under Articles 34 (the victim), 35(1) (exhaustion of domestic remedies and six-months' period), 8, 10, 11 and Article 3 of Protocol No. 1.

ARTICLE 2 OF PROTOCOL No. 4

Article 2(2) of Protocol No. 4

FREEDOM TO LEAVE A COUNTRY
Confiscation of passport: *communicated*.

NAPIJALO - Croatia (N° 66485/01)
[Section IV]

In February 1999, the applicant's passport was confiscated by the Croatian customs as he came back from Bosnia Herzegovina. Thereafter his passport remained in the hands of the authorities, although no proceedings were instituted against him. In March 1999, the applicant filed a civil action against the Ministry of Finance in the competent Municipal Court; the proceedings are still pending. In April 1999, he lodged an application with the County Court claiming that his freedom of movement was being breached and requesting that the Ministry of Finance be ordered to return his passport. In September 1999, his application was turned down and he was advised to start civil proceedings before a municipal court against the Ministry of Finance to recover his passport.
Communicated under Articles 6(1) (applicability, length of proceedings) and 2 of Protocol N° 4.

ARTICLE 3 OF PROTOCOL No. 4

Article 3(2) of Protocol No. 4

ENTER OWN COUNTRY
Difficulties encountered by Croatian citizen living abroad at the time of independence in obtaining Croatian identity papers: *communicated*.

MOMČILOVIĆ - Croatia (N° 59138/00)
Decision 27.9.2001 [Section IV]

The applicant claims to be a Croatian citizen. He was born in Croatia and lived there until 1991. In July 1991, he went to visit his daughter in the former Socialist Republic of Bosnia and Herzegovina. While he was visiting his daughter, the conflict in the region worsened and, being unable to go back to Croatia, he fled to Belgrade. In March 1999, he filed an application with the Croatian Embassy in Belgrade for his return to Croatia, in accordance with the procedure for the return to Croatia of persons having no Croatian identification papers. As he had left Croatia just before independence was declared, he had never been issued with Croatian identity papers. No decision has been taken yet concerning his application.
Communicated under Article 3(2) of Protocol N° 4.

Other judgments delivered in September

Articles 3, 5, 6, 8, 13 and 14, and Article 1 of Protocol No. 1

İŞÇI - Turkey (Nº 31849/96)
Judgment 25.9.2001 [Section I]

The case concerns the alleged destruction of the applicant's home and property by village guards – friendly settlement.

Article 5(3)

GÜNAY and others - Turkey (Nº 31850/96)
*Judgment 27.9.2001 [Section IV]

The case concerns the failure to bring detainees promptly before a judge – violation.

GÖKTAS and others - Turkey (Nº 31787/96)
MORSÜMBÜL - Turkey (Nº 31895/96)
YILDIRIM and others - Turkey (Nº 37191/97)
Judgments 25.9.2001 [Section I]

These cases concern the alleged failure to bring detainees promptly before a judge – friendly settlement.

Article 6(1)

HIRVISAARI - Finland (Nº 49684/99)
*Judgment 27.9.2001 [Section IV]

The case concerns the insufficiency of reasons given for decisions of the Pension Board and the Insurance Court – violation.

NASCIMENTO - Portugal (Nº 42918/98)
*Judgment 27.9.2001 [Section IV]

The case concerns the length of civil proceedings – violation.

JESUS MAFRA - Portugal (Nº 43684/98)
Judgment 27.9.2001 [Section IV]

The case concerns the length of civil proceedings – friendly settlement.

Article 41

I.J.L., G.M.R. and A.K.P. - United Kingdom (just satisfaction) (Nº 29522/95, Nº 30056/96 and Nº 30574/96)
*Judgment 25.9.2001 [Section III]

The judgment related only to the question of costs and expenses.

Article 1 of Protocol No. 1

YUSUF ÇELEBI - Turkey (no. 2) (Nº 19667/92)
ÖZEN - Turkey (no. 2) (Nº 19677/92)
HASAN ÖZTÜRK - Turkey (no. 2) (Nº 19680/92)
ÖMER ÖZTÜRK - Turkey (Nº 19684/92)
YUNUS ÖZTÜRK - Turkey (no. 2) (Nº 19685/92)
SÜLÜN - Turkey (no. 2) (Nº 19686/92)
HÜSEYIN ŞAHIN - Turkey (Nº 19687/92)
MEHMET ŞAHIN - Turkey (Nº 19688/92)
MUSTAFA ŞAHIN - Turkey (Nº 19689/92)
CELAL ŞEN - Turkey (Nº 19690/92)
KEZIBAN ŞEN - Turkey (Nº 19691/92)
IBRAHIM TAŞDEMIR - Turkey (no. 2) (Nº 19692/92)
MEVLÜT TAŞDEMIR - Turkey (Nº 19693/92)
ZEKERIYA TAŞDEMIR - Turkey (no. 2) (Nº 19692/92)
NACATI TOSUN - Turkey (Nº 19695/92)
FATMA YAVUZ - Turkey (Nº 19696/92)
HÜSEYIN YAVUZ - Turkey (Nº 19697/92)
ŞAKIR YILMAZ - Turkey (Nº 19698/92)
ÖZTEKIN - Turkey (no. 2) (Nº 20129/92)
BALTEKINOĞLU - Turkey (Nº 20130/92)
BAŞAR - Turkey (Nº 20131/92)
SATU BOZKURT - Turkey (Nº 20135/92)
ISMIHAN ÇELEBI - Turkey (Nº 20137/92)
MEHMET ÇELEBI - Turkey (Nº 20138/92)
DANIŞ - Turkey (no. 2) (Nº 20141/92)
KÜÇÜKDEMIRKAN - Turkey (Nº 20145/92)
MINIKLI - Turkey (Nº 20146/92)
ADIL ÖZTEKIN - Turkey (Nº 20147/92)
EKREM ÖZTEKIN - Turkey (Nº 20148/92)
HAVVA ÖZTEKIN - Turkey (Nº 20149/92)
HICAP ÖZTEKIN - Turkey (Nº 20150/92)
MAHIR TAŞDEMIR - Turkey (Nº 20157/92)
MUSTAFA TOSUN - Turkey (Nº 20159/92)
ŞEVKET YILMAZ - Turkey (Nº 20160/92)
*Judgments 18.9.2001 [Section I]

These cases concern delays in payment of supplementary compensation for expropriation – violation.

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

Convention

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

Protocol No. 1

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

Protocol No. 2

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

Protocol No. 6

Article 1	:	Abolition of the death penalty

Protocol No. 7

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