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

INFORMATION NOTE No. 78
on the case-law of the Court
September 2005

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

CONTENTS

ARTICLE 3

Judgment

Conditions of detention in a Correctional Institution, and alleged maltreatment and denial of medical care: *violation/no violation* (Mathew v. Netherlands) .... p. 5

Inadmissible

Expulsion to Bosnia and Herzegovina of a family who allegedly risked being persecuted, and whose younger child would not receive adequate medical care for his handicap if deported (Hukić v. Sweden) .... p. 6

Communicated

Threat to inflict pain during police investigation of a person suspected of abducting and killing a child (Gafgen v. Germany) .... p. 7

ARTICLE 5

Judgment

Holding in detention for seven days without judicial review: *violation* (Salov v. Ukraine) .... p. 8

Admissible

Detention of an asylum seeker at Heathrow airport (Saadi v. United Kingdom) .... p. 7

Iraqi asylum seeker told that the reasons for his detention were that he met the Government's policy criteria to be detained (Saadi v. United Kingdom) .... p. 8

ARTICLE 6

Judgments

Non-enforcement of a final judgment on account of limited budgetary resources: *violation* (“Amat-G” Ltd and Mebaghishvili v. Georgia) .... p. 8

Quashing in supervisory review proceedings of a procedural decision that had become final: *violation* (Salov v. Ukraine) .... p. 8

Independence and impartiality of District Court judge hearing a case – lack of sufficient guarantees against pressure from the Presidiums of the regional courts: *violation* (Salov v. Ukraine) .... p. 9

Admissible

Use of transcripts obtained by telephone tapping as evidence in criminal proceedings (Popescu v. Romania)... p. 9

Communicated

Use in criminal proceedings of evidence obtained as a result of an extorted confession (Gafgen v. Germany) .... p. 9

ARTICLE 8

Admissible

Interception of telephone communications by the special services (Popescu v. Romania) .... p. 10

Storage of personal information in security police records, and refusal to impart full extent of personal information in such records (Segerstedt-Wiberg v. Sweden) .... p. 9

Inadmissible

Inspection of buildings which sheltered livestock (Leveau and Fillon v. France) .... p. 10

ARTICLE 10

Judgments

Conviction for disseminating false information about a candidate for the presidency of Ukraine during the presidential elections: *violation* (Salov v. Ukraine) .... p. 11

Conviction of a publisher sentenced to pay a fine for having published a novel insulting the Muslim religion: *no violation* (I.A. v. Turkey) .... p. 13

Admissible

Newspaper held jointly liable, together with a journalist it employed, who was convicted for defamation (Krone Verlags GmbH v. Austria) .... p. 13

Inadmissible

Civil and criminal conviction of a journalist for insult and defamation (Ivanciuc v. Romania).......... p. 14

ARTICLE 12

Judgment

Prohibition on marriage of father-in-law and daughter-in-law: *violation* (B. and L. v. United Kingdom) .... p. 15

ARTICLE 37

Judgment

Effect of unilateral declaration by Government: *struck out* (Van Houten v. Netherlands).......... p. 16

ARTICLE 1 of PROTOCOL No. 1

Judgment

Non-enforcement of a final judgment on account of limited budgetary resources: *violation* ("AMAT-G" Ltd and Mebaghishvili v. Georgia) .... p. 16

Inadmissible

Changes in social-security legislation resulting in the reduction of benefits payable to existing beneficiaries (C. Goudswaard-Van der Lans v. Netherlands).. p. 17

Other judgments delivered in September .... p. 19

Judgments which have become final .... p. 21

Statistical information .... p. 24

ARTICLE 3

INHUMAN TREATMENT
Conditions of detention in a Correctional Institution, and alleged maltreatment and denial of medical care: *violation/no violation*.

MATHEW - Netherlands (Nº 24919/03)
Judgment 29.9.2005 [Section III]

Facts: The applicant was arrested on Aruba on a charge of inflicting grievous bodily harm. From October 2001 until the end of April 2004 he was detained on remand in a Correctional Institution (KIA). During most of that time, he was under a special detention regime which amounted to solitary confinement. An incident in which the applicant had caused serious injury to the acting KIA governor had led to the imposition of the special regime, aimed at keeping the applicant away from other prisoners. On two other occasions after, the applicant had assaulted prison staff. The regime comprised his not being allowed to leave his cell without handcuffs around his wrists and fetters around his ankles (the use of fetters was discontinued after a certain time). Contact with the outside world was also limited. For a certain period, there was a large opening in the roof of the applicant's cell through which the rain penetrated. The cell was located on the second and top floor of the KIA prison building and exposed its occupant to the heat of the sun. There were no lifts. In June 2002, the applicant was found to be suffering from a serious spinal condition. Aruba's only neurosurgeon found that the applicant had a Lumbar Discal Hernia and considered surgery to be appropriate. He asked for the applicant to be examined by another neurosurgeon for a second opinion, which did not happen. The applicant was provided with a wheelchair in August 2002, but permission to use it was withdrawn following an incident in February 2003, when he ripped a piece of metal off his wheelchair and used it as a weapon against prison staff. The applicant received physiotherapy in hospital at certain periods, but it was discontinued allegedly because his physical condition prevented him from walking from his cell to the vehicle which was to take him to hospital, and from sitting up straight in the vehicle. The applicant began court proceedings requesting more comfortable detention conditions. A local court ordered the prison to review the need for continuing the special regime at regular intervals. In April 2003, the applicant was found guilty by the Joint Court of Justice. A considerably lower sentence than would normally be justified by the applicant's crimes was imposed on him (three years and six months instead of five years) in view of the unusual severity of the regime imposed on him while on remand. The facts of the case are disputed by the parties. The applicant maintains that in addition to being placed in solitary confinement in abject conditions, he was physically abused by prison staff, injured by the use of fetters on his feet and denied urgently needed medical treatment.

Law: The Government's preliminary objection (victim status): Although the Joint Court of Justice had imposed a considerably lower sentence to compensate the applicant for the unusual severity of the prison regime imposed on him, it had not acknowledged either expressly or in substance that the applicant had been a victim of a violation of Article 3 (objection dismissed).

Article 3 – *Concerning the refusal of necessary medical treatment*: The Court accepted that since June 2002 the applicant had suffered from a serious spinal condition which very likely made physical activity painful and difficult for him. However, it can not find established that the applicant was incapacitated to the point of immobility. Article 3 could not be interpreted as requiring a prisoner's every wish and preference regarding medical treatment to be accommodated. The practical demands of legitimate detention might impose restrictions which a prisoner would have to accept. A prisoner's choice of physician should as a rule be respected, subject if need be to the condition that responsibility for any additional expense not justified by genuine medical reasons be accepted by the prisoner. The Court did not find the absence of a second medical opinion regarding the need for surgery to be the fault of the

Netherlands authorities, as much of the information available suggested that the applicant was apt to set preconditions for accepting medical treatment. Concerning the withdrawal of the permission to use a wheelchair after the applicant had ripped a piece of metal off his wheelchair and used it as a weapon against prison staff, the authorities were entitled to consider this a necessary measure on safety grounds. As to the physiotherapy which the applicant required, the question was whether treatment in prison was made necessary by the applicant's state of health. Whilst it was accepted that transport to hospital caused the applicant discomfort at such a level that he might have well preferred to be visited by a physiotherapist in prison, it was not established that the applicant's condition dictated the latter course. At some moments, the applicant had apparently been capable of extreme physical resistance (ripping of metal from the wheelchair), and a physiotherapist who examined him prior to release stated that despite going nine months without treatment, he could walk a distance of at least 90 meters and carry out complex physical actions such as twisting his body and walking stairs. In these circumstances, the Court concluded that it had not been established that the applicant had been denied necessary medical care.
Conclusion: no violation (unanimously).

Article 3 – *Concerning the conditions of detention*: The Court accepted that the KIA authorities had found the applicant impossible to control except in conditions of strict confinement. However, the Aruban authorities were aware that the applicant was not a person fit to be detained in the KIA in normal conditions and that the special regime designed for him was causing him unusual distress. Attempts were made to alleviate the applicant's situation to some extent, but the Government could and should have done more. Accommodation suitable for prisoners of the applicant's unfortunate disposition did not exist on Aruba at the relevant time (it is only now being built), but no attempt appeared to have been made to find an appropriate place of detention for the applicant elsewhere in the Kingdom. In conclusion, there had been a violation of Article 3 in that the applicant had been kept in solitary confinement for an excessive and unnecessarily protracted period, kept for at least seven months in a cell that failed to offer adequate protection against the weather and the climate, and kept in a location from which he could only gain access to outdoor exercise and fresh air at the expense of unnecessary and avoidable physical suffering.
Conclusion: violation (unanimously).

EXPULSION
Expulsion to Bosnia and Herzegovina of a family who allegedly risked being persecuted, and whose younger child would not receive adequate medical care for his handicap if deported: *inadmissible*.

HUKIĆ - Sweden (N° 17416/05)
Decision 27.9.2005 [Section II]

The applicants are a Bosnian Muslim family which entered Sweden in 2003 and applied for asylum and a residence permit. They claimed that the younger child of the family, the fourth applicant, suffered from Down's syndrome for which he received no treatment in their home country. Moreover, they alleged that the father, the first applicant, would not be safe if returned to Bosnia and Herzegovina as he had been involved as a member of a police unit in the arrest of a mafia criminal. The Migration Board rejected the application, considering that the purported threats and attacks had not been sanctioned by the national authorities, nor had the applicants shown that the authorities would be unwilling to protect him. As concerns the fourth applicant, medical care was available in Bosnia and Herzegovina and the availability of care of a higher standard in Sweden was not a reason to let the family stay. The Aliens Appeals Board upheld the decision. The subsequent new applications which the family lodged with the authorities were all rejected. The applicants have submitted medical certificates stating that the fourth applicant was reacting very well to the treatment he was receiving in Sweden, and that for this positive development to continue it was an absolute prerequisite that he remain in the country or in another Western country where he could receive the same treatment.

Inadmissible under Article 3: Concerning the alleged risk of persecution, the applicants had submitted no evidence to substantiate their claims about past threats and harassment. Moreover, there were no indications that the attacks, in the event of their veracity, had been approved by the authorities or that these would be unwilling or unable to protect them. As regards the alleged irreparable harm to the fourth applicant as he would not receive treatment for his handicap in Bosnia and Herzegovina, according to information obtained in the case file, treatment and rehabilitation for children with Down's syndrome could be provided in the applicants' home town, although not of the same standard as in Sweden. Despite the seriousness of the fourth applicant's handicap, Down's syndrome could not be compared to the final stages of a fatal illness. Thus, having regard to the high threshold of Article 3, particularly where the case did not concern the direct responsibility of the State for the possible harm, the applicants' deportation to Bosnia and Herzegovina would not be contrary to the standards of this provision. The present case did not disclose the exceptional circumstances required by the Court's case-law to consider that the applicants' removal would result in a violation of Article 3: manifestly ill-founded.

INHUMAN OR DEGRADING TREATMENT
Threat to inflict pain during police investigation of a person suspected of abducting and killing a child: *communicated*.
Menace d'infliger des souffrances au cours de l'enquête policière à une personne soupçonnée de l'enlèvement et du meurtre d'un enfant : *communiquée.*

GAFGEN - Germany (Nº 22978/05)
[Section III]

The applicant was arrested on suspicion of having kidnapped an eleven-year-old boy, the youngest son of a renowned banker's family, in order to extort ransom from his parents. During the police interrogations the applicant was threatened with suffering considerable pain if he did not disclose the child's whereabouts. Upon this threat, the applicant confessed having kidnapped and killed the boy. The Regional Court convicted the applicant, *inter alia*, of murder and extortionate kidnapping, and sentenced him to life imprisonment. The court dismissed the applicant's motion to discontinue proceedings against him. Despite it having been established that the applicant had been threatened with the infliction of considerable pain, this breach of his constitutional rights did not prevent criminal proceedings. The use of the items of evidence which had been obtained by the applicant's extracted confession had been proportionate given the seriousness of the offence he was charged with. The Constitutional Court dismissed the applicant's complaint. The police officers involved were subsequently convicted for coercion.
Communicated under Articles 3 and 6.

ARTICLE 5

Article 5(1)(f)

PREVENT UNAUTHORISED ENTRY INTO COUNTRY
Detention of an asylum seeker at Heathrow airport: *admissible*.

SAADI - United Kingdom (Nº 13229/03)
Decision 27.9.2005 [Section IV]
(see below)

Article 5(2)

INFORMATION ON REASONS FOR ARREST
Iraqi asylum seeker told that the reasons for his detention were that he met the Government's policy criteria to be detained: *admissible*.

SAADI - United Kingdom (Nº 13229/03)
Decision 27.9.2005 [Section IV]

The applicant fled Iraq and upon his arrival at Heathrow airport on 30 December 2000 applied for asylum. He was granted temporary admission, but asked to report back at the airport. On 2 January 2001 he was detained and transferred to Oakington Reception Centre. His legal representative was told on 5 January that the reason for the detention was that the applicant was an Iraqi who met the criteria to be detained at Oakington. His asylum application was initially rejected, but in appeal proceedings the adjudicator found that the applicant was a refugee and granted him asylum. The applicant applied for permission for judicial review of the detention, claiming that it had been unlawful under domestic law and under Article 5 of the Convention. The Court of Appeal and the House of Lords held that detention had been lawful under domestic law. They also found it had been compatible with Article 5(1)(f) of the Convention for the purpose of "preventing unauthorised entry".
Admissible under Article 5.

Article 5(3)

JUDGE OR OTHER OFFICER
Holding in detention for seven days without judicial review: *violation*.

SALOV - Ukraine (Nº 65518/01)
Judgment 6.9.2005 [Section II]
(see Article 10, below)

ARTICLE 6

Article 6(1) [civil]

RIGHT TO A COURT
Non-enforcement of a final judgment on account of limited budgetary resources: *violation*.

"AMAT-G" LTD and MEBAGHISHVILI - Georgia (Nº 2507/03)
Judgmen 27.9.2005 [Section II]
(see Article 1 of Protocol No. 1, below)

FAIR HEARING
Quashing in supervisory review proceedings of a procedural decision that had become final: *violation*.

SALOV - Ukraine (Nº 65518/01)
Judgmentt 6.9.2005 [Section II]
(see Article 10, below)

IMPARTIAL TRIBUNAL
Independence and impartiality of District Court judge hearing a case – lack of sufficient guarantees against pressure from the Presidiums of the regional courts: *violation*.

SALOV - Ukraine (N° 65518/01)
Judgment 6.9.2005 [Section II]
(see Article 10, below)

Article 6(1) [criminal]

FAIR HEARING
Use in criminal proceedings of evidence obtained as a result of an extorted confession: *communicated*.

GAFGEN - Germany (N° 22978/05)
[Section III]
(see Article 3, above)

FAIR HEARING
Use of transcripts obtained by telephone tapping as evidence in criminal proceedings: *admissible*.

POPESCU – Romania (N° 71525/01)
Decision 22.9.2005 [Section III]
(see Article 8 below)

ARTICLE 8

PRIVATE LIFE
Storage of personal information in security police records, and refusal to impart full extent of personal information in such records: *admissible*.

SEGERSTEDT-WIBERG - Sweden (N° 62332/00)
Decision 20.9.2005 [Section II]

The five applicants are affiliated to political parties of the left, namely the liberal and communist parties. Some of them are anti-Nazi activists engaged in humanitarian projects. As they suspected that information on them had been entered in the security police records because of their political views, they submitted requests to the Security Police to have access to the police records on them. Until April 1999 absolute secrecy applied to such records, and the requests which the applicants made prior to this date were thus rejected. Following changes to the legislation in this area, which opened the possibility to access personal files on a case-by-case assessment, the five applicants were granted access to certain parts of the information recorded on them. Following requests for full disclosure, the second, third, fourth and fifth applicants were released additional information, but certain parts could only be read within the Security Police's premises and could not be copied by technical means. Access to additional information was denied to the first applicant. They all brought proceedings before the Administrative Court of Appeal against the refusal of the Security Police to grant full access to the files, as well as questioning the lawfulness of the storage by the Security Police of information which did not justify considering them as a security risk. The court rejected the requests, finding that full disclosure of the files might jeopardise future measures or operations by the police. Leave to appeal against the refusals was denied. In the case of the third applicant, who worked for a private company that undertook projects on behalf of National

Defence, his employer asked him to resign following a request by a military authority which had looked at his security police files. The applicant was eventually transferred from his position and no longer considered for promotions. The applicants allege that the storing of the information that was released to them, the refusal to grant them access to all information and the adverse effects which keeping such information had had on their respective careers, had breached their right to respect for private life. They also complain that it had entailed a restriction of their political freedoms under Articles 10 and 11, as well as of a breach of Article 13.
Admissible under Articles 8, 10, 11 and 13.

HOME
Inspection of buildings which sheltered livestock: *article 8 inapplicable.*

LEVEAU and FILLON – France (N° 63512/00 and N° 63513/00)
Decision 6.9.2005 [Section II]

The applicants are pig farmers. The veterinary service carried out an inspection of their piggeries in order to count the number of animals. The applicants complained that the inspection constituted unlawful entry of their homes. The domestic courts found that there had been no inspection or search of their homes, as the inspection had been confined to the piggeries and had not included the applicants' offices or private dwellings, which were on a separate site away from the buildings housing the pigs.

Inadmissible under Article 8 - The veterinary inspectors had entered only those buildings where the animals were kept, with the specific aim of counting the animals. The buildings in question were separate from the applicants' dwellings. Furthermore, the farm offices had not been included in the inspection.
The concept of “home” could be interpreted widely and apply to business premises. The right of a company to respect for its registered office or business premises could fall within the scope of Article 8 of the Convention. However, it was difficult to see how a farm specialising in pig production and housing several hundred pigs could be described as a “home”, or even as business premises, unless perhaps the company itself were to allege unlawful entry of its headquarters or offices.
That had not occurred in this case. Moreover, Mr Leveau had lodged the application in his capacity as a private individual and not as the manager of the limited liability company which ran his farm. In addition, his dwelling was on a separate site away from the buildings used to house the pigs. Article 8 did not therefore apply: incompatible *ratione materiae*.

PRIVATE LIFE
Interception of telephone communications by the special services: *admissible*.

POPESCU – Romania (N° 71525/01)
Decision 22.9.2005 [Section III]

The applicant was arrested on suspicion of helping to organise several cigarette-smuggling operations centred on a military airfield, and was placed in detention pending trial. The public prosecutor's office committed the applicant and eighteen other defendants for trial before the Bucharest Military Court on charges of criminal conspiracy and smuggling. The prosecutor attached to his application, as evidence for the prosecution, a list of telephone calls made between the defendants at the time of the operations in question, compiled by the intelligence services. During the proceedings the transcripts of the telephone calls intercepted by the intelligence agents were produced at the request of the defendants' lawyers. The applicant's lawyer objected that the provisions governing telephone tapping and the use of intercepted calls as evidence in criminal proceedings were unconstitutional. The objection was dismissed. With regard to the merits, the Military Court sentenced the applicant to twelve years' imprisonment for criminal conspiracy and smuggling. It based its decision in particular on the list of telephone calls between the

defendants and the transcripts of the calls intercepted by the intelligence services, finding that their use as evidence had been lawful. The public prosecutor's office and the defendants lodged appeals with the Military Court of Appeal, which dismissed the appeal from the public prosecutor's office, but allowed the applicant's appeal in part, reducing his prison sentence to eight years. In the meantime, the applicant's lawyer had again raised the same objection of unconstitutionality, which the Military Court of Appeal referred to the Constitutional Court. The latter dismissed the objection, finding that the provision in issue contained sufficient guarantees against arbitrary acts by the authorities. The Military Court of Appeal subsequently upheld the decision at first instance regarding the lawfulness of the telephone tapping and the use of the transcripts as evidence. The applicant and the public prosecutor's office each appealed to the Supreme Court of Justice. In a final judgment, the Supreme Court allowed the public prosecutor's appeal and dismissed the applicant's appeal, increasing his prison sentence to fourteen years. It considered that the applicant's role in the offences of smuggling and conspiracy had been "decisive", and that his guilt had been amply proven by, among other things, the telephone calls intercepted by the intelligence services. It further found that the proceedings before the lower courts had been in no way flawed.

Admissible under Article 6 § 1 and Article 8 as to the complaints concerning the interception of the applicant's telephone calls and the use of the transcripts as evidence in the criminal proceedings.

Inadmissible as to the remainder of the application: The allegations of violation of the principle of equality of arms and the presumption of innocence, lack of independence and impartiality of the domestic courts and lack of access to legal assistance were ill-founded. The complaint concerning the military character of the courts which had heard the applicant's case and convicted him was out of time.

ARTICLE 10

FREEDOM OF EXPRESSION
Conviction for disseminating false information about a candidate for the presidency of Ukraine during the presidential elections: *violation*.

SALOV - Ukraine (Nº 65518/01)
Judgment 6.9.2005 [Section II]

Facts: The applicant is a lawyer who at the time of the events in question was the legal representative of a candidate for the presidency of Ukraine in the 1999 elections. In October 1999, the applicant allegedly distributed a number of copies of a forged special edition of the Verkhovna Rada (Parliament) newspaper, which included a statement attributed to the Speaker of the Verkhovna Rada, claiming that presidential candidate and incumbent President Leonid Kuchma was dead. On 1 November 1999 the applicant was arrested and placed in detention for having disseminated false information about Mr Kuchma. On 10 November 1999 he lodged a petition seeking his release from detention with the District Court, which was dismissed on 17 November 1999. On 7 March 2000 the District Court ordered an additional investigation to be undertaken into the circumstances of the case, having found no evidence to convict the applicant of the offences with which he was charged. However, in April 2000, the Presidium of the Regional Court allowed a *protest* lodged by the prosecution against the ruling of 7 March 2000 and remitted the case for further judicial consideration. The applicant was released from detention in June 2000. In July 2000, the District Court, chaired by the judge who had initially ordered an additional investigation into the facts, convicted the applicant to a five-year suspended prison sentence for interfering with the citizens' right to vote for the purpose of influencing election results by means of fraudulent behaviour. As a result, he also lost his licence to practise law for three years and five months.

Law: Article 5(3) – The applicant had been apprehended by the police on 1 November 1999 but his detention was not reviewed by a court until 17 November 1999, 16 days after his arrest. Even if the Court were to accept the Ukrainian Government's argument that the applicant had contributed to the delay by

not applying for release until 10 November, his detention for even seven days without any judicial control fell outside the strict constraints of time laid down by Article 5(3).
Conclusion: violation (unanimously).

Article 6(1) – *Applicability*: The remittal of the case for additional investigation by the District Court had marked a procedural step which had been the precondition to a new determination of the criminal charge. Article 6(1) guarantees were therefore applicable to the case.
Compliance – (i) Independence and impartiality of the courts: The applicant's doubts as to the impartiality of the District Court judge might be said to have been objectively justified, taking into account the insufficient legislative and financial guarantees against outside pressure on the judge hearing the case and, in particular, the lack of such guarantees in respect of possible pressure from the President of the Regional Court, the binding nature of the instructions given by the Presidium of the Regional Court and the wording of the relevant intermediary judicial decisions in the case.
(ii) Equality of arms: The principle of equality of arms dictated that the public prosecutor's *protest* lodged with the Presidium of the Regional Court should have been communicated to the applicant and/or his advocate, who should have had a reasonable opportunity to comment on it before it was considered by the Presidium.
(iii) Lack of reasons for a judicial decision: The domestic courts gave no reasoned answer as to why the district court had originally found no evidence to convict the applicant of the offences with which he was charged and yet, subsequently found him guilty of interfering with voters' rights.
(iv) Rule of law and legal certainty: The resolution by the Presidium of the Regional Court to consider the prosecution's late request for supervisory review against the resolution of 7 March 2000, and to set it aside a month after it had been adopted could be described as arbitrary, and as capable of undermining the fairness of the proceedings. Hence, the criminal proceedings in their entirety were unfair.
Conclusion: violation (unanimously).

Article 10 – It was common ground between the parties that the applicant's conviction had constituted an interference with his right to freedom of expression. The interference was prescribed by law, and had pursued the legitimate aim of providing voters with true information in the presidential campaign. As to the necessity in a democratic society, whilst the article could be described as a false statement of fact, the applicant had not produced or published it himself and had referred to it in conversations with others as a personalised assessment of factual information, the veracity of which he doubted. The domestic courts had failed to prove that he was intentionally trying to deceive other voters and to impede their ability to vote. Moreover, the impact of the information contained in the newspaper was minor as he only had eight copies of the forged newspaper and spoke to a limited number of people about it. Concerning the proportionality of the interference, the imposition of a five years sentence (suspended for two), a fine and the annulment of the applicant's licence to practice law had constituted a very severe penalty. The necessity of the interference had not been shown by the respondent State, and the decision to convict the applicant for discussing information disseminated in the forged copy of a newspaper was manifestly disproportionate to the legitimate aim pursued.
Conclusion: violation (unanimously).

Article 41 – The Court awarded the applicant EUR 227.55 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage. It also made an award for costs and expenses.

FREEDOM OF EXPRESSION
Conviction of a publisher sentenced to pay a fine for having published a novel insulting the Muslim religion: *no violation*.

I.A. – Turkey (N° 42571/98)
Judgment 13.9.2005 [Section II]

Facts: The applicant, the owner and managing director of a publishing company, published 2,000 copies of a book which addressed theological and philosophical issues in a novelistic style. The Istanbul public prosecutor charged the applicant with insulting "God, the Religion, the Prophet and the Holy Book" through the publication. The court of first instance sentenced the applicant to two years' imprisonment and payment of a fine, and immediately commuted the prison sentence to a small fine. The applicant appealed to the Court of Cassation, which upheld the judgment.

Law: Article 10 – It was not disputed that the applicant's conviction had amounted to interference with his right to freedom of expression. The interference had been prescribed by law and had pursued the legitimate aims of preventing disorder and protecting morals and the rights of others. As to deciding whether the interference had been necessary, this involved weighing up the conflicting interests relating to the exercise of two fundamental freedoms, namely the applicant's right to impart his ideas on religion, on the one hand, and the right of others to respect for their freedom of thought, conscience and religion, on the other. Certain passages in the novel in question had attacked the Prophet Muhammad in an abusive manner. Therefore, the measure at issue had been intended to provide protection against offensive attacks on matters regarded as sacred by Muslims and could reasonably be regarded as meeting a "pressing social need". In addition, the authorities had not exceeded their margin of appreciation, and the reasons given by the domestic courts to justify the measure taken against the applicant had been relevant and sufficient. As to whether the conviction had been proportionate, the Court noted that the national courts had not seized the book in question, and that the small fine imposed appeared to be proportionate to the aims pursued.
Conclusion: no violation (four votes to three).

FREEDOM OF EXPRESSION
Newspaper held jointly liable, together with a journalist it employed, who was convicted for defamation: *admissible*.

KRONE VERLAGs GmbH - Austria (Nº 72331/01)
Decision 22.12.2005 [Section III]

Facts: The applicant company owns the daily newspaper *Neue Kronenzeitung,* which published an article about the alleged harassment and rape by a prince of two winners of beauty contests, Ms O. and Ms S. The article quoted a Ms R., who had told a journalist of the applicant company, that "the girls were only boasting and now try to make as much money as possible out of this unfortunate incident." Ms O. and Ms S. filed a private prosecution for defamation against Ms R. The Regional Court convicted Ms R. of defamation and imposed a fine on her, finding the applicant company jointly and severally liable for the fine and costs pursuant to Section 35 of the Media Act. After having paid the costs of the defamation proceedings to Ms O. and Ms S., the courts allowed the applicant company's action and ordered Ms R. to pay the applicant company 50% of the costs of the defamation proceedings. In a final judgment, the Supreme Court stated that the applicant company had paid another person's debt, and was in principle entitled to the full amount of the sum paid. However, the special internal relationship between the applicant company and Ms R., who was an employee, stood against full reimbursement. The applicant company complains about its joint and strict liability under Section 35 of the Media Act regardless of its compliance with journalistic diligence.
Admissible under Article 10.

FREEDOM OF EXPRESSION
Civil and criminal conviction of a journalist for insult and defamation: *inadmissible*.

<u>IVANCIUC – Romania</u> (N° 18624/03)
Decision 8.9.2005 [Section III]

The applicant, a journalist working for a weekly satirical review, published an article in which he accused a local politician and senior official of having on several occasions abused his position for personal gain. The deputy prefect in question instituted criminal proceedings for defamation and insult against the applicant and the weekly review. Although duly summoned on several occasions, the applicant did not attend any hearings or take any active steps to defend himself. In a judgment of 6 March 2002 the court of first instance acquitted the applicant on the criminal charges, finding that one of the elements constituting the offence was lacking, namely intent. However, the court considered that the applicant was liable in tort, as he had not checked thoroughly the facts set out in his article. It ordered the applicant and the weekly review jointly to pay damages to the plaintiff. All the parties to the proceedings lodged an appeal with the County Court. The applicant's lawyer raised two objections of unconstitutionality before the court, both of which were dismissed. With regard to the merits, the County Court found the applicant guilty of insult and defamation and ordered him to pay damages to the plaintiff and a fine. It found that the statements made by the applicant in the article at issue had been defamatory, as they had no basis in fact, and that some of the terms used had been insulting.

Inadmissible under Article 10: The applicant's conviction amounted to interference with his right to freedom of expression. The interference had been prescribed by law and had pursued the legitimate aim of "protection of the rights of others". As to whether the measure had been necessary, the Court noted that the article in question had related to a subject of general interest, namely the conduct of a local politician and senior official. However, the Court shared the view of the national courts that the assertions in question had lacked any factual basis; furthermore, it was not satisfied that the applicant had acted in good faith. Consequently, it found the reasons given by the domestic courts to justify convicting the applicant to be relevant and sufficient. As to whether the conviction had been proportionate, the fine imposed had been little more than a token amount, and the amount of damages to be paid to the plaintiff had been moderate. In addition, the applicant had displayed a clear lack of interest in the proceedings. Accordingly, his conviction had not been disproportionate to the legitimate aim pursued and could be considered to be "necessary in a democratic society": manifestly ill-founded.

Inadmissible under Article 6: The applicant alleged that the court had convicted him without hearing him. However, he had displayed a complete lack of interest in the proceedings and the County Court had not acted in breach of any internal procedure. As to the dismissal of the two objections of unconstitutionality by the County Court, the Convention did not secure the right to refer a question for a preliminary ruling except in cases of arbitrary treatment. That did not apply in this case: the court had given sufficient reasons for its decision on the first objection, and the second objection had not related to a provision which was decisive for the outcome of the case. Hence, the refusal to grant the application for a preliminary ruling had not been such as to adversely affect the fairness of the proceedings: manifestly ill-founded.

ARTICLE 12

MARRY
Prohibition on marriage of father-in-law and daughter-in-law: *violation*.

B. and L. - United Kingdom (N° 36536/02)
Judgment 13.9.2005 [Section IV]

Facts: The applicants, who are father-in-law and daughter-in-law, complain that they are prevented by law from marrying. The first applicant (B.) is the father of the second applicant's (L.) former husband. When their respective marriages failed, the applicants moved in together with L.'s son, who is B.'s grandson but now refers to B. as "Dad". The Marriage Act 1949 prohibits the marriage of a parent-in-law to a child-in-law unless the former spouse of each party is dead. The law was amended in 1986 and there is now no such prohibition regarding other relationships of affinity but not consanguinity, e.g. step-parent with step-child. The prohibition may be lifted by a personal Act of Parliament. There are no established criteria for such a procedure, which is at Parliament's discretion, and legal aid is not available for the costs of obtaining a personal Act of Parliament.

Law: Article 12 – The limitations imposed on the right of a man and woman to marry and to found a family must not be so severe as to impair the very essence of that right. The bar on the marriage between parents-in-law and children-in-law meant that B. and L. were unable to obtain legal and social recognition of their relationship. The fact that, hypothetically, the marriage could take place if both their former spouses died, did not remove that impairment. The same applied to the possibility of applying to Parliament as that was an exceptional and costly procedure, totally at the discretion of the legislative body and not subject to discernable rules or precedent. The bar on marriage, although pursuing a legitimate aim in protecting the integrity of the family and preventing harm to children who may be affected by the changing relationships of the adults around them, did not prevent such relationships occurring. Furthermore, since no incest, or other criminal law provisions prevented extra-marital relationships between parents-in-law and children-in-law, it could not be said that the ban on the applicants' marriage prevented the second applicant's son from being exposed to any alleged confusion or emotional insecurity. In a similar case to that of the applicants, Parliament had found that barring the marriage served no useful purpose of public policy. The Court considered that the inconsistency between the stated aims of the incapacity and the waiver applied in some cases undermined the rationality and logic of the law in question. In the circumstances of this case, there had been a breach of Article 12.
Conclusion: violation (unanimously).

Article 14 – No separate issue arising under Article 14 of the Convention in conjunction with Article 12.

Article 41 – The finding of a violation constituted sufficient just satisfaction for the non-pecuniary damage sustained by the applicants. The Court made an award in respect of costs and expenses.

ARTICLE 37

Article 37(1)(c)

CONTINUED EXAMINATION NOT JUSTIFIED
Effect of unilateral declaration by Government: *struck out*.

VAN HOUTEN - Netherlands (Nº 25149/03)
Judgment 29.9.2005 [Section III]

The authorities refused to grant the applicant a disability pension, in view of which he brought several sets of proceedings against them, the first set in 1988. The courts delivered decisions unfavourable to the applicant in 1994, 1997 and 2001. By letter of 7 July the Government submitted to the Court a unilateral decision stating that attempts to reach a friendly settlement between the parties had been unsuccessful. However, the Government expressly acknowledged the unreasonable duration of the domestic proceedings and accepted the applicant's claims for non-pecuniary damage, up to a maximum of EUR 5,000, and the costs of the proceedings, to the amount of EUR 1,000. The Government's admission was in line with the applicable jurisprudential standards. The Court understood the Government's acceptance of the applicant's claims as an undertaking to pay those sums to the applicant in the event of the Court's striking the case out of its list. Accordingly, respect for human rights as defined in the Convention and the Protocols thereto did not require a continued examination of the application: struck out of the list.

ARTICLE 1 OF PROTOCOL No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS
Non-enforcement of a final judgment on account of limited budgetary resources: *violation*.

"AMAT-G" LTD and MEBAGHISHVILI - Georgia (Nº 2507/03)
Judgment 27.9.2005 [Section II]

Facts: The first applicant is a limited liability company. The second applicant is the company's General Director. Between 1998 and 1999 the applicant company supplied the Georgian Ministry of Defence with various types of fish products. In December 1999, the Regional Court allowed the applicants' action against the Ministry for breach of contract, and ordered the Ministry to pay the applicant company compensation in the amount of EUR 113,860. The decision was not challenged and became binding a month after. An Enforcement Agent initiated a forcible execution procedure against the Ministry of Defence, drawing up a list of non-military buildings which could be put up for sale by tender to discharge the debt. Although the Ministry's appeal seeking an adjournment of the enforcement was dismissed, no further steps were taken for the enforcement of the judgment. A subsequent claim by the applicant company for loss of business profits was dismissed by the domestic courts. The judgment debt of 6 December 1999 has still not been paid to the applicant company. On 2 July 2004, Governmental Ordinance No. 62 introduced a mechanism for the gradual payment of outstanding judgment debts, establishing an order of priority for the enforcement of court decisions.

Law: Article 6(1) – It was not open to a State authority to cite lack of funds as an excuse for not honouring a judgment debt. Whilst a delay in the execution of a judgment may be justified in particular circumstances, that delay may not be such as to impair the essence of the right protected under Article 6(1). Ordinance No. 62 on the payment of judgments debts could not be taken as a particular

circumstance which could justify the delay of well over five years which had already occurred in the present case. The applicant company should not have been prevented from benefiting from the decision given in its favour, which was of vital importance for its functioning, on the ground of the State's financial difficulties. Hence, by failing for five years and eight months to ensure the execution of a binding judgment, the Georgian authorities had deprived the provisions of Article 6(1) of the Convention of all useful effect.
Conclusion: violation (unanimously).

Article 13 – Although the Government maintained that the applicant had not made use of criminal law remedies to challenge the non-enforcement of the judgment, in particular the alleged inactivity of the Enforcement Agent, the enforcement of the judgment was contingent upon appropriate budgetary measures rather than on the Enforcement Agent's conduct.
Conclusion: violation (unanimously).

Article 1 of Protocol No. 1 – It was not disputed that the Regional Court's decision of 6 December 1999 provided the applicant company with an established, enforceable claim which constituted a "possession" within the meaning of this provision. The impossibility for the applicant company to obtain the execution of that judgment had constituted an interference with its right to the "peaceful enjoyment of possessions". Whilst the Government claimed that the interference had been lawful as from 2 July 2004 with the adoption of Ordinance No. 62, the Court considered that the adoption of such an Ordinance had amounted to the authorities' second attempt to interfere with the applicant company's right to the peaceful enjoyment of its possession. Under Georgian legislation, a Governmental Ordinance did not fall within the category of normative legal act, and constituted an "individual legal act", valid for one occasion only and not intended to prescribe a general rule of conduct for recurrent applications. Moreover, as the Ordinance did not enable the applicant company to foresee the inordinate delay in the payment of the judgment debt nor did it specify when the applicant would be entitled to receive the payment due, the interference could not be seen as based on legal provisions that met the Convention requirements of lawfulness.
Conclusion: violation (unanimously).

Article 41 – The Court awarded the applicant EUR 200,000 in respect of pecuniary damage. It also made an award for costs and expenses.

PEACEFUL ENJOYMENT OF POSSESSIONS
Changes in social-security legislation resulting in the reduction of benefits payable to existing beneficiaries: *inadmissible*.

C. GOUDSWAARD-VAN DER LANS - Netherlands (Nº 75255/01)
Decision 22.9.2005 [Section III]

The applicant, a widow since 1977, was in receipt of a widow's pension under a social-security law. In 1996, new legislation entered into force, which substantially reduced the applicant's pension. The courts, whilst accepting that a "partial deprivation of the applicant's possessions" had taken place, dismissed her appeals, finding that the new arrangements were in accordance with the criteria which stemmed from Article 1 of Protocol No. 1.

Inadmissible under Article 1 of Protocol No. 1: The Court proceeded on the basis that there had been an "interference" with the applicant's peaceful enjoyment of possessions. The lawfulness of the interference was not in dispute, and it was accepted that the aims pursued were legitimate. Concerning proportionality, the Court noted that the new legislation involved a reduction in disposable income of pension beneficiaries that had additional income in the form of other social benefits, or from paid employment, or were living in a common household with another person, which was the applicant's case. The applicant argued that the reduction in her pension had been disproportionate, basing herself on the premise that her

late husband had paid contributions under a compulsory insurance scheme and she could therefore expect to benefit, in the event of his death, until the age of 65. However, the Court could not accept the applicant's suggestion that her pension entitlements, based as they were on contributions to a particular fund made specifically in order that she should benefit, should remain unaltered once they had been granted. There was no authority in its case-law for so categorical a statement. In actual fact, the Court had accepted the possibility of reductions in social-security entitlements in certain circumstances. The present case was distinguishable from *Kjartan Ásmundsson v. Iceland*, where the Court found a violation of this provision, firstly, because the number of individuals whose pensions had been reduced was not limited, as in the former case. Secondly, because provision had been made to ease the effects of the new legislation on persons in the position of the applicant. And thirdly, and more importantly, because the original legislation had been conceived as a safeguard against poverty for persons who lacked basic maintenance from another socially acceptable source. The information available to the Court was insufficient to allow it to conclude that the applicant was in that position. In conclusion, the applicant had not been made to bear an "individual and excessive burden", as had been the case in *Kjartan Ásmundsson*: manifestly ill-founded.

Other judgments delivered in September

Siemianowski v. Poland (Nº 45972/99), 6 September 2005 [Section II]
Yildiz v. Turkey (Nº 49156/99), 6 September 2005 [Section II]
Gurepka v. Ukraine (Nº 61406/00), 6 September 2005 [Section II]
Pavlyulynets v. Ukraine (Nº 70767/01), 6 September 2005 [Section II]
Volf v. Czech Republic (Nº 70847/01), 6 September 2005 [Section II]
Sacaleanu v. Romania (Nº 73970/01), 6 September 2005 [Section II]
Kepeneklioglu and Canpolat v. Turkey (Nº 35363/02), 6 September 2005 [Section II]
Gouzovskiy v. Ukraine (Nº 41125/02), 6 September 2005 [Section II]
Lehtinen v. Finland (Nº 34147/96), 13 September 2005 [Section IV]
Kaplan and others v. Turkey (Nº 36749/97), 13 September 2005 [Section II]
Skrobol v. Poland (Nº 44165/98), 13 September 2005 [Section IV]
Han v. Turkey (Nº 50997/99), 13 September 2005 [Section II]
Acar v. Turkey (Nº 52133/99), 13 September 2005 [Section II]
Ernekal v. Turkey (Nº 52159/99), 13 September 2005 [Section II]
Vrabel and Durica v. Czech Republic (Nº 65291/01), 13 September 2005 [Section II]
M.B. v. France (Nº 65935/01), 13 September 2005 [Section II]
Gosselin v. France (Nº 66224/01), 13 September 2005 [Section II]
Taskin v. Turkey (Nº 71913/01), 13 September 2005 [Section II]
Ivanova v. Ukraine (Nº 74104/01), 13 September 2005 [Section II]
H.N. v. Poland (Nº 77710/01), 13 September 2005 [Section IV]
Lyutykh v. Ukraine (Nº 22972/02), 13 September 2005 [Section II]
Ostrovar v. Moldova (Nº 35207/03), 13 September 2005 [Section IV]
Dundar v. Turkey (Nº 26972/95), 20 September 2005 [Section II]
Dizman v. Turkey (Nº 27309/95), 20 September 2005 [Section II]
Ozgen and others v. Turkey (Nº 38607/97), 20 September 2005 [Section II]
Temirkan v. Turkey (Nº 41990/98), 20 September 2005 [Section II]
Ertas Aydin and others v. Turkey (Nº 43672/98), 20 September 2005 [Section II]
Bulga and others v. Turkey (Nº 43974/98), 20 September 2005 [Section II]
Derilgen and others v. Turkey (Nº 44713/98), 20 September 2005 [Section II]
Akat v. Turkey (Nº 45050/98), 20 September 2005 [Section II]
Frik v. Turkey (Nº 45443/99), 20 September 2005 [Section II]
Yesilgoz v. Turkey (Nº 45454/99), 20 September 2005 [Section II]
Karakurt v. Turkey (Nº 45718/99), 20 September 2005 [Section IV]
Sevgin and Ince v. Turkey (Nº 46262/99), 20 September 2005 [Section II]
Coruh v. Turkey (Nº 47574/99), 20 September 2005 [Section II]
Baltas v. Turkey (Nº 50988/99), 20 September 2005 [Section II]
Ozturk v. Turkey (Nº 52695/99), 20 September 2005 [Section II]
Turhan v. Turkey (Nº 53648/00), 20 September 2005 [Section II]
Aydin and others v. Turkey (Nº 53909/00), 20 September 2005 [Section II] (friendly settlement)
Aytan v. Turkey (Nº 54275/00), 20 September 2005 [Section II]
Akar and Becet v. Turkey (Nº 55954/00), 20 September 2005 [Section II]
Sahmo v. Turkey (Nº 57919/00), 20 September 2005 [Section II]
Trykhlib v. Ukraine (Nº 58312/00), 20 September 2005 [Section II]
Karayigit v. Turkey (Nº 63181/00), 20 September 2005 [Section II]
Lupandin v. Ukraine (Nº 70898/01), 20 September 2005 [Section II]
Yilmaz v. Turkey (Nº 88/02), 20 September 2005 [Section II]
Tas v. Turkey (Nº 21179/02), 20 September 2005 [Section II]
Drobotyuk v. Ukraine (Nº 22219/02), 20 September 2005 [Section II]
Gavrilenko v. Ukraine (Nº 24596/02), 20 September 2005 [Section II]
Nemeth v. Czech Republic (Nº 35888/02), 20 September 2005 [Section II]

Polonets v. Ukraine (Nº 39496/02), 20 September 2005 [Section II]
Erturk v. Turkey (Nº 54672/00), 22 September 2005 [Section III]
Mavroudis v. Greece (Nº 72081/01), 22 September 2005 [Section I]
Vasyagin v. Russia (Nº 75475/01), 22 September 2005 [Section I]
Butsev v. Russia (Nº 1719/02), 22 September 2005 [Section I]
Sokolov v. Russia (Nº 3734/02), 22 September 2005 [Section I]
Kalay v. Turkey (Nº 16779/02), 22 September 2005 [Section III]
Sigalas v. Greece (Nº 19754/02), 22 September 2005 [Section I]
Marinovic v. Croatia (Nº 24951/02), 22 September 2005 [Section I]
Denisenkov v. Russia (Nº 40642/02), 22 September 2005 [Section I]
Uysal and others v. Turkey (Nº 13101/03), 22 September 2005 [Section III]
Sallinen and others v. Finland (Nº 50882/99), 27 September 2005 [Section IV]
Asli Güneş v. Turkey (Nº 53916/00), 27 September 2005 [Section II]
Sona Simkova v. Slovakia (Nº 77706/01), 27 September 2005 [Section IV]
Adriana v. Slovakia (Nº 77708/01), 27 September 2005 [Section IV]
Kálnási v. Hungary (Nº 4417/02), 27 September 2005 [Section II]
Pillmann v. Czech Republic (Nº 15333/02), 27 September 2005 [Section II]
Makrakhidze v. Georgia (Nº 28537/02), 27 September 2005 [Section II]
Tetourová v. Czech Republic (Nº 29054/03), 27 September 2005 [Section II]
Broniowski v. Poland (Nº 31443/96), 28 September 2005 [Grand Chamber] (just satisfaction - friendly settlement)
Ioannidou-Mouzaka v. Greece (Nº 75898/01), 29 September 2005 [Section I]
Athanasiou v. Greece (Nº 77198/01), 29 September 2005 [Section I]
Zappia v. Italy (Nº 77744/01), 29 September 2005 [Section III]
Tudorache v. Romania (Nº 78048/01), 29 September 2005 [Section III]
Tacea v. Romania (Nº 746/02), 29 September 2005 [Section III]
Kurti v. Greece (Nº 2507/02), 29 September 2005 [Section I]
Popescu v. Romania (Nº 2911/02), 29 September 2005 [Section III]
Strungariu v. Romania (Nº 23878/02), 29 September 2005 [Section III]
Reynbakh v. Russia (Nº 23405/03), 29 September 2005 [Section I]
Nikopoulou v. Greece (Nº 32168/03), 29 September 2005 [Section I]

Judgments which have become final

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three-month time-limit for requesting referral to the Grand Chamber) (see Information Note No. 76):

Claes and others - Belgium (Nº 46825/99, Nº 47132/99, Nº 47502/99, Nº 49010/99, Nº 49104/99, Nº 49195/99 and Nº 49716/99)
Cottin - Belgium (Nº 48386/99)
Goktepe - Belgium (Nº 50372/99)
Novoselov - Russia (Nº 66460/01)
Znamenskaya - Russia (Nº 77785/01)
Karra - Greece (Nº 4849/02)
H.G. and G.B. - Austria (Nº 11084/02 and Nº 15306/02)
Giannakopoulou - Greece (Nº 37253/02)
Nikolopoulos - Greece (Nº 21978/03)
Nafpliotis - Greece (Nº 22029/03)
Judgments 2.6.2005 [Section I]

Dalan - Turkey (Nº 38585/97)
Pamak - Turkey (Nº 39708/98)
Kilinç - Turkey (Nº 40145/98)
L.C.I. - Czech Republic (Nº 64750/01)
Calheiros Lopes and others - Portugal (Nº 69338/01)
Judgments 7.6.2005 [Section II]

Kirilova - Bulgaria (Nº 42908/98)
I.I. - Bulgaria (Nº 44082/98)
Kuzin - Russia (Nº 22118/02)
Vokhmina - Russia (Nº 26384/02)
Tavlikou Vosynioti - Greece (Nº 42108/02)
Castren Niniou - Greece (Nº 43837/02)
Panagakos - Greece (Nº 43839/02)
Aggelopoulous - Greece (Nº 43848/02)
Fraggalexi - Greece (Nº 18830/03)
Charalambos Karagiannis - Greece (Nº 21276/03)
Kaskaniotis - Greece (Nº 21279/03)
Judgments 9.6.2005 [Section I]

OOO Rusatommet - Russia (Nº 61651/00)
Mayali - France (Nº 69116/01)
Houbal - Czech Republic (Nº 75375/01)
Judgments 14.6.2005 [Section II]

Krasuski - Poland (Nº 61444/00)
Pisk-Piskowski - Poland (Nº 92/03)
Judgments 14.6.2005 [Section IV]

Labzov - Russia (Nº 62208/00)
Arvanitis - Greece (Nº 35450/02)
Judgments 16.6.2005 [Section I]

Ergin - Turkey (no. 1) (Nº 48944/99)
Ergin - Turkey (no. 2) (Nº 49566/99)
Ergin - Turkey (no. 3) (Nº 50691/99)
Ergin - Turkey (no. 4) (Nº 63733/00)
Ergin - Turkey (no. 5) (Nº 63925/00)
Ergin and Kaskin - Turkey (no. 1) (Nº 50273/99)
Ergin and Kaskin - Turkey (no. 2) (Nº 63926/00)
Judgments 16.6.2005 [Section III]

Independence News and Media and Independent Newspapers Ireland Limited - Ireland (Nº 55120/00)
Storck - Germany (Nº 61603/00)
Judgments 16.6.2005 [Section III (former)]

Perincek – Turkey (Nº 46669/99)
Milatova and others - Czech Republic (Nº 61811/00)
Turek - Czech Republic (Nº 73403/01)
Bulynko - Ukraine (Nº 74432/01)
Alexandr Bulynko - Ukraine (Nº 9693/02)
Kubiznakova - Czech Republic (Nº 28661/03)
Judgments 21.6.2005 [Section II]

Bzdusek - Slovakia (Nº 48817/99)
Blackstock - United Kingdom (Nº 59512/00)
Pihlak - Estonia (Nº 73270/01)
Kolanis - United Kingdom (Nº 517/02)
Judgments 21.6.2005 [Section IV]

Potiri - Greece (Nº 18375/03)
Judgment 23.6.2005 [Section I]

Latasiewicz - Poland (Nº 44722/98)
Zimenko - Russia (Nº 70190/01)
Judgments 23.6.2005 [Section III]

Virgil Ionescu - Romania (Nº 53037/99)
Fourchon - France (Nº 60145/00)
Bach - France (Nº 64460/01)
Zednik - Czech Republic (Nº 74328/01)
Judgments 28.6.2005 [Section II]

Hasan Kilic - Turkey (Nº 35044/97)
Karakas and Yesilirmak - Turkey (Nº 43925/98)
Gallico - Italy (Nº 53723/00)
La Rosa - Italy (no. 2) (Nº 58274/00)
Bekir Yilmaz - Turkey (Nº 28170/02)
Kacar - Turkey (Nº 28172/02)
Mehmet Yigit and others - Turkey (Nº 28175/02)
Fatime Toprak - Turkey (Nº 28179/02)
Nasan Toprak - Turkey (Nº 28180/02)
Mehmet Yigit - Turkey (Nº 28189/02)
Judgments 28.6.2005 [Section IV]

<u>Temel and Taskin - Turkey</u> (Nº 40159/98)
<u>Zafiropoulos - Greece</u> (Nº 41621/02)
<u>Gika - Greece</u> (Nº 394/03)
<u>Grylli - Greece</u> (Nº 1985/03)
<u>Teteriny - Russia</u> (Nº 11931/03)
<u>Patsouraki - Greece</u> (Nº 18582/03)
<u>Patelaki-Skamagga - Greece</u> (Nº 18602/03)
Judgments 30.6.2005 [Section I]

<u>Nakach - Netherlands</u> (Nº 5379/02)
Judgment 30.6.2005 [Section III]

Statistical information[1]

Judgments delivered	September	2005
Grand Chamber	1	6(9)
Section I	12	204(211)
Section II	54	202(206)
Section III	10	116(119)
Section IV	9	108(156)
former Sections	0	23(25)
Total	**86**	**659(726)**

Judgments delivered in September 2005					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	0	0	0	1	1
Section I	12	0	0	0	12
Section II	53	1	0	0	54
Section III	9	0	1	0	10
Section IV	9	0	0	0	9
Total	**83**	**1**	**1**	**1**	**86**

Judgments delivered in 2005					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	5(8)	0	0	1	6(9)
former Section I	6	0	0	1	7
former Section II	6(7)	1(2)	0	0	7(9)
former Section III	8	0	0	0	8
former Section IV	0	0	0	1	1
Section I	198(205)	4	2	0	204(211)
Section II	186(189)	12(13)	3	1	202(206)
Section III	103(106)	7	4	2	116(119)
Section IV	102(150)	3	2	1	108(156)
Total	**614(679)**	**27(29)**	**11**	**7**	**659(726)**

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

Decisions adopted		September	2005
I. Applications declared admissible			
Grand Chamber		0	0
Section I		32	208(210)
Section II		46	200(205)
Section III		33	147(153)
Section IV		18	91(95)
Total		**129**	**646(663)**
II. Applications declared inadmissible			
Grand Chamber		0	2(4)
Section I	- Chamber	4	50(51)
	- Committee	808	4491
Section II	- Chamber	12(13)	64(65)
	- Committee	859	3946
Section III	- Chamber	33	86
	- Committee	487	3732
Section IV	- Chamber	8	106(109)
	- Committee	720	3453
Total		**2931(2932)**	**15930(15937)**
III. Applications struck off			
Section I	- Chamber	6	40
	- Committee	4	43
Section II	- Chamber	13	62
	- Committee	9	61
Section III	- Chamber	10	27
	- Committee	11	94
Section IV	- Chamber	6	39
	- Committee	15	81
Total		**74**	**447**
Total number of decisions[1]		**3134(3135)**	**17023(17047)**

1. Not including partial decisions.

Applications communicated	September	2005
Section I	116	448
Section II	133	726
Section III	107	373
Section IV	90	314
Total number of applications communicated	**339**	**1861**

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