



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

***Grand Chamber
activity report
2007***

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



GRAND CHAMBER

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I. INTRODUCTION

At the beginning of the year, there were 22 cases (concerning 25 applications) pending before the Grand Chamber. At the end of the year there were 25 cases (concerning 25 applications).

17 new cases (concerning 19 applications) were referred to the Grand Chamber, 8 by relinquishment of jurisdiction by the respective Chambers pursuant to Article 30 of the Convention (see Chapter III below), and 9 by a decision of the Grand Chamber's Panel to accept a request for re-examination under Article 43 of the Convention (see Chapter IV below). In addition, one request for an Advisory Opinion was brought before the Court, pursuant to Article 47 of the Convention (see Chapter V below).

The Grand Chamber held 16 oral hearings (see Chapter VI below).

The Grand Chamber adopted 1 decision on admissibility (see Chapter VII below) and delivered 12 judgments on the merits (concerning 12 applications), 5 in relinquishment cases and 7 in rehearing cases (see Chapter VIII below), as well as 2 strike-out judgments (see Chapter IX below).

II. COMPOSITION OF THE COURT

Jean-Paul **Costa**¹ (French), *President*,
Christos **Rozakis** (Greek), *Vice-President*,
Nicolas **Bratza**² (British), *Vice-President*,
Boštjan **Zupančič** (Slovenian), *Section President*,
Peer **Lorenzen** (Danish), *Section President*,
Françoise **Tulkens**³ (Belgian), *Section President*,
Giovanni **Bonello** (Maltese),
Loukis **Loucaides** (Cypriot),
Ireneu **Cabral Barreto** (Portuguese),
Riza **Türmen** (Turkish),
Corneliu **Bîrsan** (Romanian),
Karel **Jungwiert** (Czech),
Volodymyr **Butkevych** (Ukrainian),
Josep **Casadevall** (Andorran),
Nina **Vajić** (Croatian),
John **Hedigan**⁴ (Irish),
Margarita **Tsatsa-Nikolovska** (citizen of “the Former Yugoslav
Republic of Macedonia”),
András **Baka** (Hungarian),
Rait **Maruste** (Estonian),
Kristaq **Traja** (Albanian),
Snejana **Botoucharova** (Bulgarian),
Mindia **Ugrekheldze** (Georgian),
Anatoly **Kovler** (Russian),
Vladimiro **Zagrebelky** (Italian),
Antonella **Mularoni** (San Marinese),
Elisabeth **Steiner** (Austrian),
Stanislav **Pavlovski** (Moldovan),
Lech **Garlicki** (Polish),
Javier **Borrego Borrego** (Spanish),
Elisabet **Fura-Sandström** (Swedish),
Alvina **Gyulumyan** (Armenian),
Khanlar **Hajiyev** (Azerbaijani),
Ljiljana **Mijović** (citizen of Bosnia and Herzegovina),
Dean **Spielmann** (Luxemburger),
Renate **Jaeger** (German),
Egbert **Myjer** (Netherlands),
Sverre Erik **Jebens** (Norwegian),
David Thór **Björgvinsson** (Icelandic),
Danutė **Jočienė** (Lithuanian),
Ján **Šikuta** (Slovakian),

¹ Elected President on 29 November 2006, with effect from 19 January 2007

² Elected Vice-President on 4 December 2006, with effect from 19 January 2007

³ Elected Section President on 4 December 2006, with effect from 19 January 2007

⁴ Took retirement in March 2007

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Dragoljub **Popović** (Serbian),
Ineta **Ziemele** (Latvian),
Mark **Villiger** (Swiss),
Isabelle **Berro-Lefèvre** (Monegasque),
Mrs Paivi Hirvela⁵ (Finnish),
Mr Giorgio Malinverni⁶ (Swiss), ***Judges***

Erik **Fribergh** (Swedish), ***Registrar***,
Michael **O’Boyle** (Irish), ***Deputy Registrar***,
Johan **Callewaert**⁷(Belgian), ***Deputy Grand Chamber Registrar***

⁵ Took up office on 1 January 2007

⁶ Took up office on 19 January 2007

⁷ Appointed Deputy Grand Chamber Registrar on 1 December 2006

III. CASES REFERRED TO THE GRAND CHAMBER BY RELINQUISHMENT OF JURISDICTION (ARTICLE 30 OF THE CONVENTION AND RULE 72 OF THE RULES OF COURT)

The following 8 cases (concerning 8 applications) were referred to the Grand Chamber in the course of 2007 by decisions of the respective Chambers to relinquish jurisdiction:

(1) Guja v. Moldova, n° 14277/04

Referred on 20 February 2007 by the Fourth Section (hearing on 6 June 2007, see Chapter V below).

(2) Korbely v. Hungary, n° 9174/02

Referred on 20 February 2007 by the Second Section (hearing on 4 July 2007, see Chapter V below).

(3) Saadi v. Italy (formerly N.S. v. Italy) n° 37201/06

Referred on 29 March 2007 by the Third Section (hearing on 11 July 2007, (see Chapter V below).

(4) N. v. the United Kingdom, n° 26565/02

Referred on 22 May 2007 by the Fourth Section (hearing on 26 September 2007, (see Chapter V below).

(5) S. and Marper v. the United Kingdom, n° 30562/04

Referred on 2 October 2007 by the Fourth Section (hearing on 27 February 2008).

(6) A. and Others v. the United Kingdom, n° 3455/05

Referred on 6 November 2007 by the Fourth Section (hearing on 19 March 2008).

(7) Bykov v. Russia, n° 4378/02

Referred on 22 November 2007 by the First Section (hearing on 18 June 2008).

(8) Andrejeva v. Latvia, n° 55707/00

Referred on 11 December 2007 by the Third Section (hearing date to be determined).

IV. CASES REFERRED TO THE GRAND CHAMBER BY DECISION OF ITS FIVE-MEMBER PANEL

In 2007 the five-member Panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 7 meetings (on 12 February, 26 March, 23 May, 9 July, 24 September, 12 November, and 10 December 2007) to examine requests by the parties for cases to be referred to the Grand Chamber for re-examination under Article 43 of the Convention. It considered requests concerning a total of 246 cases, 75 of which were submitted by the respective Governments (in 5 cases both the Government and the applicant submitted requests) (see list in Appendix).

The Panel accepted rehearing requests in the following 9 cases (concerning 11 applications; a summary is only given for those cases where no hearing has yet been held):

(1) Burden and Burden v. the United Kingdom, n° 13378/05

(see Chapter VI)

(2) Demir and Beykara v. Turkey, n° 34503/97

The case concerns two Turkish nationals, Kemal Demir and Vicdan Baykara. At the material time, Ms Baykara was the general secretary of the *Tüm Bel Sen* trade union and Mr Demir a member.

The case concerns a finding by the Court of Cassation that *Tüm Bel Sen* had no separate legal personality and the consequent cancellation of a collective bargaining agreement it had entered into with the Gaziantep Town Council.

Tüm Bel Sen was founded in 1990 by civil servants from various localities, with the object of promoting democratic trade unionism to serve the aspirations and needs of its members.

In 1993 it entered into a collective bargaining agreement with Gaziantep Town Council regulating all aspects of working conditions at the council, including salaries, benefits and welfare services. It later sued the council on the ground that it had defaulted on its obligations, in particular, those of a financial nature. It won the case at first instance.

However, on 6 December 1995 the Court of Cassation ruled that at the time *Tüm Bel Sen* was founded, Turkish law did not permit civil servants to form unions and that it could not rely on the relevant international treaties as

they were not yet applicable in Turkish law. It therefore concluded that *Tum Bel Sen* did not have legal personality or the capacity to enter into a collective bargaining agreement.

Following an audit of the town council's accounts by the Audit Court, the State asked the members of *Tum Bel Sen* to reimburse the additional revenue they had received under the defunct collective bargaining agreement.

The applicants complain under Articles 11 (freedom of assembly and association) and 14 (prohibition of discrimination) that the Turkish courts denied them the right to form a trade union and to enter into a collective bargaining agreement.

In a Chamber judgment of 21 November 2006, the Court held unanimously that there had been a violation of Article 11 (freedom of assembly and association) of Convention. The case was referred to the Grand Chamber at the Government's request.

(3) Kovačič and others v. Slovenia, n° 44574/98, 45133/98, 48316/99

(see Chapter VI)

(4) Yumak and Sadak v. Turkey, n° 10226/03

(see Chapter VI)

(5) Maslov v. Austria, n° 1638/03

The applicant, Juri Maslov, is a Bulgarian national who was born in 1984 and who, at the age of six, lawfully entered Austria with his parents and two siblings. He went to school in Austria and speaks German. He currently lives in Bulgaria.

The application concerns the 10-year residence prohibition against Mr Maslov, issued by the Vienna Federal Police Authority, relying on Section 36 § 1 of the 1997 Aliens Act. The prohibition was made following Mr Maslov's convictions by the Vienna Juvenile Court in September 1999 and then in May 2000. The first conviction was, in particular, for burglary, extortion and assault which resulted in an 18-month prison sentence, 13 months of which were suspended on probation. Mr Maslov was also instructed to start drug therapy. The second conviction was for a series of burglaries resulting in 15 months' imprisonment. The Juvenile Court considered Mr Maslov's rapid relapse into crime after his first conviction

and his failure to undergo drug withdrawal treatment as aggravating circumstances. That court also noted that, though still living with his parents, he had completely eluded their educational influence, had repeatedly been absent from home and had dropped out of school. Mr Maslov was released from prison in May 2002 and, ultimately, deported to Bulgaria on 22 December 2003.

Mr Maslov relies on Article 8 (right to respect for private and family life) of the Convention.

In a Chamber judgment of 22 March 2007, the Court held, by four votes to three, that there had been a violation of Article 8 of the Convention. It found that the residence prohibition had a basis in domestic law and that it “pursued the legitimate aim” of preventing disorder and crime. However, given the nature of the offences which were non-violent and a result of juvenile delinquency, given Mr Maslov’s good conduct following his release from prison the second time and given his lack of ties with his country of origin, the Court found that a ten-year residence prohibition appeared disproportionate to that “legitimate aim”.

The case was referred to the Grand Chamber at the Government’s request.

(6) Salduz v. Turkey, n° 36391/02

In December 2001 the applicant was convicted for aiding and abetting the PKK and sentenced to four years and six months’ imprisonment, later reduced to two and a half years’ imprisonment.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial), Mr Salduz complains about the unfairness of proceedings against him, in particular about the fact that the submissions of the Principal Public Prosecutor of the Court of Cassation had not been communicated to him and that he had been denied the assistance of a lawyer during police custody.

In a Chamber judgment of 26 April 2007, the Court held unanimously that there had been a violation of Article 6 § 1 on account of the non-communication of the Public Prosecutor’s written opinion. It further held by five votes to two that there had been no violation of Article 6 § 3 (c) on account of the lack of legal assistance during police custody. The case was referred to the Grand Chamber at the applicant’s request.

(7) Šilih v. Slovenia, n° 71463/01

The applicants, Franja and Ivan Šilih, are Slovenian nationals. On 3 May 1993, the applicants' son, Gregor Šilih, aged 20, went to Slovenj Gradec General Hospital complaining of nausea and itching skin.

On the basis of a diagnosis of urticaria (a type of allergic reaction), M.E. ordered the administration of intravenous injections of a drug containing glucocorticosteroid (Dexamethason) and an antihistaminic (Synopen). Following the injections, Gregor Šilih's condition significantly deteriorated, probably indicating that he was allergic to one or both of the drugs. A diagnosis of anaphylactic shock was made. He was transferred to intensive care, where he stopped breathing. He was given cardiopulmonary resuscitation and then connected to a respirator. His blood pressure and pulse returned to normal, but he remained in a coma with severe brain damage. He was transferred to Ljubljana Clinical Centre, where he died on 19 May 1993.

On 13 May 1993 the applicants lodged a criminal complaint against M.E. for medical negligence, which was dismissed for lack of sufficient evidence. On 1 August 1994 they lodged a request for the opening of a criminal investigation against M.E. which was ultimately unsuccessful. In July 1995 the applicants also brought civil proceedings against Slovenj Gradec General Hospital and M.E.

The applicants obtained a medical opinion that myocarditis (inflammation of the heart muscle), considered to be a contributory factor in Gregor Šilih's death, could have occurred when he was in anaphylactic shock or even later. As a result, on 30 November 1995, they lodged a request to reopen a criminal investigation. Their request was granted and, in the course of the investigation, a forensic expert stated that the administration of antihistaminic had led to Gregor Šilih's allergic reaction. He expressed doubts as to the pre-existence of myocarditis.

On 28 February 1997 the applicants lodged an indictment against M.E. for the criminal offence of "causing death by negligence" but were directed to request additional investigative measures. Several witnesses were examined and a forensic expert concluded that the reason for Gregor Šilih's death was rather uncertain. The investigation was closed on 3 May 2000.

In August 2000 the applicants complained to the Judicial Council about the length of the criminal proceedings and requested that certain judges involved in the case stand down. Their request was rejected.

The criminal proceedings were discontinued on 18 October 2000 on the ground of insufficient evidence. The applicants appealed unsuccessfully. The applicants also lodged an unsuccessful constitutional appeal and a criminal complaint.

On 25 August 2006 the applicants' civil claim was rejected, more than 11 years after the proceedings were instituted. The case is currently pending on appeal.

The applicants allege that their son died as a result of medical negligence and complained about the inefficiency of the Slovenian judicial system in establishing liability for his death. They further complain about the length of the legal proceedings and allege that the criminal proceedings were unfair. They rely, in particular, on Articles 2, 6 (right to a fair hearing) and 13 (right to an effective remedy) of the Convention.

In a Chamber judgment of 28 June 2007, the Court held unanimously that there had been a violation of Article 2 (right to life) of the Convention concerning the lack of effective legal proceedings to establish the cause of and responsibility for the death of the applicants' son in hospital.

On 27 September 2007, the case was referred to the Grand Chamber at the Government's request.

(8) Gorou v. Greece, n° 71463/01

The applicant is a civil servant employed by the Ministry of Education. In 1998 she lodged a complaint and a civil claim against her hierarchical superior, alleging perjury and defamation.

The applicant complains that insufficient reasons have been given for the decision rejecting her application for leave to appeal on points of law in September 2002. In addition, she complains of the length of the proceedings. She relies on Article 6 § 1 (right to a fair trial) of the Convention.

In a Chamber judgment of 14 June 2007, the Court held by four votes to three that there had been no violation of Article 6 § 1 as regards the allegation that the proceedings had been unfair, and unanimously that there had been a violation of Article 6 § 1 as regards the length of the proceedings, namely more than four years and three months at one level of jurisdiction.

On 14 September, the case was referred to the Grand Chamber at the applicant's request.

(9) Zolotukhin v. Russia, n° 14939/03

The case concerns proceedings against the applicant for disorderly conduct in 2002. Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice), the applicant complains that, after he had already served a three days' detention for committing disorderly acts, he had been re-detained and tried again for the same offence.

In a Chamber judgment of 7 June 2007, the Court found unanimously that the applicant had been prosecuted and tried concerning an offence for which he had already been convicted and served a term of detention. Consequently there had been a violation of Article 4 of Protocol No. 7.

On 5 September 2007, the case was referred to the Grand Chamber at the Government's request.

V. ADVISORY OPINION

By letter of 17 July 2007 to the President of the Court, the Chair of the Ministers' Deputies of the Council of Europe requested the Court, in accordance with Article 47 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), to give an advisory opinion on the following questions:

- (a) can a list of candidates for the post of judge at the European Court of Human Rights, which satisfies the criteria listed in Article 21 of the Convention, be refused solely on the basis of gender-related issues?
- (b) are Resolution 1366 (2004) and Resolution 1426 (2005) in breach of the Assembly's responsibilities under Article 22 of the Convention to consider a list, or a name on such list, on the basis of the criteria listed in Article 21 of the Convention?

The request is currently under consideration by the Grand Chamber, pursuant to Rule 87 § 1 of Rules of Court.

VI. HEARINGS

In 2007 hearings were held in the following 16 cases (a summary is given only for those cases in which a judgment has not been delivered by the end of the year):

(1) Dickson v. the United Kingdom, n° 44362/04

Referral case. Hearing on the merits on 10 January 2007.

Judgment was delivered on 4 December 2007 (see Chapter VIII below).

(2) D.H. and others v. the Czech Republic, n° 57325/00

Referral case. Hearing on the merits on 17 January 2007.

Judgment was delivered on 13 November 2007 (see Chapter VIII below).

(3) Kafkaris v. Cyprus, n° 21906/04

Relinquishment case. Hearing on the merits on 24 January 2007.

The applicant, Panayiotis Agapiou Panayi, alias Kafkaris, is a Cypriot national, who was born in 1946. He is currently serving a mandatory sentence of life imprisonment in Nicosia Central Prison.

On 9 March 1989 the applicant was found guilty by Limassol Assize Court on three counts of premeditated murder under the Criminal Code (Cap. 154). The next day he was sentenced to life imprisonment on each count. The applicant had planted and detonated a bomb in a car, killing its passengers, a man and his two young children, aged 11 and 13.

During the hearing before the assize court concerning the sentencing of the applicant, the prosecution invited the court to examine the meaning of the term “life imprisonment” in the Criminal Code and, in particular, to clarify whether it entailed imprisonment of the convicted person for the rest of his life or just for a period of 20 years, as provided by the Prison (General) Regulations of 1981 and the Prison (General) (Amending) Regulations of 1987 (the Regulations), adopted under section 4 of the Prison Discipline Law (Cap 286).

The assize court held that the term “life imprisonment” used in the Criminal Code meant imprisonment for the remainder of the life of the convicted person and therefore did not consider it necessary to examine whether the sentences it imposed would run concurrently or consecutively.

On the day on which the applicant was admitted to prison, he was given written notice by the prison authorities that the date set for his release was 16 July 2002, subject to his good conduct and industry during detention. After committing a disciplinary offence, his release was postponed to 2 November 2002.

The applicant appealed against his conviction, which was dismissed on 21 May 1990 by the Supreme Court.

On 9 October 1992 the Supreme Court declared the Regulations in question to be unconstitutional and *ultra vires* and, on 3 May 1996, the Prison Law of 1996 (Law 62(I)/96) was enacted, repealing and replacing the Prison Discipline Law.

The applicant was not released on 2 November 2002.

Consequently, on 8 January 2004 he submitted a habeas corpus application to the Supreme Court challenging the lawfulness of his detention, which was dismissed. He appealed unsuccessfully.

The applicant complains about his life sentence and continuing detention. In particular, he complains that his mandatory life sentence amounted to an irreducible term of imprisonment, that his continuous detention beyond the date set for his release by the prison authorities was unlawful and that it had left him in a prolonged state of distress and uncertainty over his future. He also claims that, as a result of the repeal of the Regulations, the amendment of the relevant legislative provisions and their retroactive application, he has been subjected to an unforeseeable prolongation of his term of imprisonment from a definite 20-year sentence to an indeterminate term for the remainder of his life.

He relies on Article 3 (prohibition of inhuman or degrading treatment or punishment) of the Convention, Article 5 (right to liberty and security) of the Convention and Article 7 (no punishment without law). He further complains under Article 14 (prohibition of discrimination) in that, while most other inmates serving life sentences have been released having served their 20-year sentence, he remains the longest serving life prisoner and, also, that, as a life prisoner, he is now excluded from the possibility of any remission to his sentence under section 12 of the Prison Law of 1996.

The application was lodged with the European Court of Human Rights on 3 June 2004 and declared admissible on 11 April 2006. The case was referred to the Grand Chamber at the Chamber's request.

(4) Stoll v. Switzerland, n° 69698/01

Referral case. Hearing on the merits on 7 February 2007.

Judgment was delivered on 10 December 2007 (see Chapter VIII below).

(5) Arvanitaki-Roboti and others v. Greece, n° 27278/03

Referral case. Hearing on the merits on 7 March 2007.

In the case of *Arvanitaki-Roboti and Others* the 91 applicants, all Greek nationals, are members of the National Health System (Εθνικό Σύστημα Υγείας) in their capacity as doctors and are employed by the public hospital "Ο Ευαγγελισμος".

In the case of *Kakamoukas and Others* the 58 applicants, all Greek nationals, are the heirs of owners of property expropriated by the State in 1925, namely an area of land measuring 534,892 sq.m on the outskirts of Salonika.

These cases both concern, in particular, the excessive length of the proceedings to which the applicants have been parties.

In the case of *Arvanitaki-Roboti and Others* the applicants brought administrative proceedings in 1994 seeking to have set aside a hospital's refusal to pay them an allowance for overtime work, set at a percentage of their basic salary. The proceedings ended with the dismissal of their claims by the Supreme Administrative Court in a judgment of 6 February 2003.

In the case of *Kakamoukas and Others* the applicants or their ascendants brought administrative proceedings in 1994 seeking to have the encumbrance affecting their land removed. In three judgments delivered in October 1997 the Supreme Administrative Court granted their request. An appeal by the Town Council was declared inadmissible on 28 November 2001. Moreover, in September 1999 the applicants or their ascendants requested the Supreme Administrative Court to set aside a decision to allocate the land in question for the development of a sports and leisure zone. Those proceedings are still pending before the Supreme Administrative Court.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention, the applicants complain in particular about the length of the administrative proceedings to which they have been parties: eight years and more than nine months for two levels of jurisdiction in the case of *Arvanitaki-Roboti and Others*; three years and more than one month for the first set of proceedings, and more than seven years to date for the pending proceedings, in the case of *Kakamoukas and Others*.

In addition, in the case of *Arvanitaki-Roboti and Others*, the applicants complain that the proceedings in question were unfair and that there has been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

The application in *Arvanitaki-Roboti and Others* was lodged with the European Court of Human Rights on 4 August 2003 and the application in *Kakamoukas and Others* was lodged on 17 October 2002.

In a Chamber judgment of 18 May 2006, in *Arvanitaki-Roboti and Others*, the Court held, unanimously, that there had been a violation of Article 6 § 1 on account of the length of the proceedings and declared inadmissible the applicants' complaints of unfairness and of a breach of their right of property. In respect of non-pecuniary damage, the Court awarded each applicant EUR 7000, except for one, to whom it awarded EUR 6895.

In a Chamber judgment of 22 June 2006, in *Kakamoukas and Others*, the Court held, unanimously, that there had been a violation of Article 6 § 1 on account of the length of the proceedings and decided, by five votes to two, to award each applicant EUR 5000 or EUR 8000, depending on the case, in respect of the non-pecuniary damage sustained, as this damage was not sufficiently compensated by the finding of a violation of the Convention.

The cases were referred to the Grand Chamber at the Greek Government's request, pursuant to Article 43 of the Convention.

(6) E.B. v. France, n° 43546/02

Relinquishment case. Hearing on the merits on 14 March 2007.

The applicant is a French national aged 45. She is a nursery school teacher and has been living with another woman, R., who is a psychologist, since 1990.

The application concerns the refusal by the French authorities to grant the applicant's request to adopt a child, allegedly on account of her sexual orientation.

In February 1998 the applicant applied to the Jura Social Services Department for authorisation to adopt a child. During the adoption procedure she did not hide her homosexuality or her stable relationship with R.

On the basis of the reports drawn up by a social worker and a psychologist, the commission responsible for examining applications for authorisation to adopt gave a decision in November 1998 rejecting the application. This decision was confirmed by the president of the council for the *département* of the Jura in March 1999. The reasons given for both decisions were the lack of "identificational points of reference" due to the absence of a paternal image or reference and the ambiguous nature of the applicant's partner's commitment to the adoption plan.

The applicant lodged an application with Besançon Administrative Court, which set both decisions aside on 24 February 2000. The *département* of the Jura appealed against the judgment. Nancy Administrative Court of Appeal set aside the Administrative Court's judgment on 21 December 2000. It held that the refusal to grant the applicant authorisation had not been based on her choice of lifestyle and had not therefore given rise to a breach of Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination).

The applicant appealed on points of law, arguing in particular that her application to adopt had been rejected on account of her sexual orientation. In a judgment of 5 June 2002, the *Conseil d'Etat* dismissed E.B.'s appeal on the ground, among other things, that the Administrative Court of Appeal had not based its decision on a position of principle regarding the applicant's sexual orientation, but had had regard to the needs and interests of an adopted child.

The applicant alleged that she was refused authorisation to adopt on account of her sexual orientation and that she was discriminated against on the ground of her homosexuality. She relied on Articles 8 and 14 of the Convention.

The application was lodged with the European Court of Human Rights on 2 December 2002. On 19 September 2006, under Article 30 of the Convention, the Chamber relinquished jurisdiction in favour of the Grand Chamber.

(7) Ramanauskas v. Lithuania, n° 74420/01

Relinquishment case. Hearing on the merits on 28 March 2007

The applicant is a Lithuanian national who worked as a prosecutor. He submits that in late 1998 and early 1999 he was approached by AZ, a person previously unknown to him, through VS, a private acquaintance. AZ – who was, in fact, an officer of a special anti-corruption police unit of the Ministry of Interior (STT) – offered the applicant a bribe of 3,000 US dollars (USD) in return for a promise to obtain the acquittal of a third person. The applicant having initially refused, AZ thereafter reiterated the offer a number of times before the applicant agreed.

The Government submitted that VS and AZ had approached the applicant and negotiated the conditions for the bribe on their own initiative, before the authorities were informed.

On an unspecified date AZ informed the STT that the applicant had agreed to accept a bribe and, on 27 January 1999, the Deputy Prosecutor General authorised VS and AZ to simulate criminal acts of bribery.

On 28 January 1999 the applicant accepted USD 1,500 from AZ. On 11 February 1999 AZ paid the applicant a further USD 1,000.

The same day, the Prosecutor General brought a criminal case against the applicant for accepting a bribe, under the then Article 282 of the Criminal Code.

On 29 August 2000 the applicant was convicted of accepting a bribe of USD 2,500 from AZ and sentenced to 19 months and six days' imprisonment. VS was not examined during the trial.

The judgment was upheld on appeal and the applicant's cassation appeal was unsuccessful.

On 31 January 2002 the applicant was released on licence.

The applicant complains that he was incited to commit an offence by the State authorities and that, as a result, he was unfairly convicted of bribery. He further alleges that the principle of equality of arms and his defence rights were violated in that one of the two undercover agents in the case was not examined during the trial by the courts or the parties and that the domestic courts did not adequately review his entrapment allegations. He relies on Article 6 (right to a fair hearing) of the Convention.

The application was lodged with the European Court of Human Rights on 17 August 2001 and declared admissible on 26 April 2005. On 19 September 2006 the Chamber to which the case had originally been assigned relinquished jurisdiction in favour of the Grand Chamber under Article 30 of the Convention.

(8) Saadi v. the United Kingdom, n° 13229/03

Referral case. Hearing on the merits on 16 May 2007

The applicant is a 30-year-old Iraqi national who lives in London. As Iraqi Kurd and a member of the Iraqi Workers' Communist Party, he fled from Iraq when, in the course of his duties as a hospital doctor, he treated and facilitated the escape of three fellow party members who had been injured in an attack.

He arrived at London Heathrow Airport on 30 December 2000 where he immediately claimed asylum. The immigration officer contacted Oakington Reception Centre, a new detention facility for asylum seekers considered unlikely to abscond and to whom a "fast-track" procedure could be applied.

As there was no available space at Oakington, the applicant was initially granted "temporary admission". He was taken into detention at Oakington on 2 January 2001.

The applicant was initially given a standard form which did not make clear that the reason for his detention was that the fact-track procedure was being applied to his asylum claim.

On 5 January 2001 the applicant's representative telephoned the Chief Immigration Officer and was told that the reason for the detention was that the applicant was an Iraqi who met the criteria to be detained at Oakington.

The applicant's asylum claim was initially refused on 8 January 2001 and he was formally refused leave to enter the UK. He was released the next day. He appealed against the Home Office decision and was subsequently granted asylum on 14 January 2003.

The applicant, together with three other Kurdish Iraqi detainees who had been held at Oakington, applied for permission for judicial review of their detention claiming that it was unlawful under domestic law and under Article 5 (right to liberty and security) of the European Convention on Human Rights. Both the Court of Appeal and the House of Lords held that the detention was lawful in domestic law. In connection with Article 5 they

each held that the detention was for the purpose of deciding whether to authorise entry and that the detention did not have to be “necessary” to be compatible with that provision. They further maintained that the detention was “to prevent unauthorised entry” and that the measure was not disproportionate. The House of Lords also found that, given the high number of interviews every day (up to 150), detention was necessary for the speed and efficiency of the system.

The applicant complains about his detention at Oakington and about the fact that he was given no reasons for it. He relies on Article 5 §§ 1 (right to liberty and security) and 2 (everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him), and Article 14 (prohibition of discrimination) of the Convention.

The application was lodged with the European Court of Human Rights on 18 April 2003 and declared admissible on 27 September 2005.

In its Chamber judgment of 11 July 2006 the Court held by four votes to three that there had been no violation of Article 5 § 1, and, unanimously, that there had been a violation of Article 5 § 2 of the Convention.

The case was referred to the Grand Chamber at the applicant’s request.

(9) Guja v. Moldova, n° 14277/04

Relinquishment case. Hearing on the merits on 6 June 2007

The applicant was Head of the Press Department of the Moldovan Prosecutor General’s Office.

The case concerns his dismissal for giving a newspaper two letters received by the Prosecutor General’s Office.

In January 2003 the President of Moldova visited the Centre for Fighting Economic Crime and Corruption where there was a discussion of the problem of public officials placing pressure on law-enforcement bodies relating to pending criminal proceedings. The President stressed the need to fight corruption and called on law enforcement officers to disregard undue pressure from public officials. The President’s statement was reported in the media.

A few days later the applicant gave the national newspaper *Jurnal de Chişinău* two letters received by the Prosecutor General's Office, neither of which bore any sign of being confidential.

The first – sent to the Prosecutor General by the Deputy Speaker of Parliament, Mr V. Mişin, on 21 June 2002 – was written on the Parliament's official headed paper. It asked the Prosecutor General to “get personally involved in the case” of four police officers charged with illegal detention and ill-treatment of detainees. Mr Mişin stated that the police officers, who had asked for protection from prosecution, were part of one of the “best teams” in the Ministry of Internal Affairs (the Ministry) and were being prevented from working normally "as a result of the efforts of the employees of the Prosecutor General's Office". He also asked in that context whether the "Vice Prosecutor General fights crime or police".

The second letter – from Mr A. Ursachi, a Vice-Minister in the Ministry, to a deputy prosecutor general – was written on official Ministry headed paper. It revealed that one of the police officers mentioned in the first letter had previously been sentenced only to a fine (which he was exempted from paying) and that he had been re-employed by the Ministry, despite being convicted, among other things, of illegal detention endangering life or health or causing physical suffering and abuse of power accompanied by acts of violence, use of firearm or torture.

On 31 January 2003 *Jurnal de Chişinău* published an article entitled: “Vadim Mişin intimidates the prosecutors” describing the President's anti-corruption drive and noting that abuse of power had become a widespread problem in Moldova. The paper cited Mr Mişin's apparent attempts to protect the four police officers as an example, printing photographs of the two letters.

The applicant was subsequently asked by the Prosecutor General to explain how the two letters had come to be published by the press. On 14 February 2003 the applicant admitted having given the two letters to the newspaper, stating that he had acted in line with the President's anti-corruption drive, in order to create a positive image of the Prosecutor's Office, and that the letters were not confidential.

Prosecutor I.D., who was suspected of having given the applicant the letters, was later dismissed.

On 17 February 2003 the applicant informed the Prosecutor General that the letters had not been obtained from I.D. He also expressed concern about I.D.'s dismissal.

On 3 March 2003 the applicant was dismissed on the grounds, among other things, that the letters had been secret and that he had failed to consult the heads of other departments of the Prosecutor General's Office before handing over the letters, in breach of the press department's internal regulations.

On 21 March 2003 the applicant brought an unsuccessful civil action against the Prosecutor General's Office seeking reinstatement, arguing, among other things, that the letters were not classified as secret in accordance with the law and that he had not been obliged to consult other heads of department.

The applicant complains about his dismissal, relying on Article 6 § 1 (right to a fair hearing) of the Convention and Article 10 (freedom of expression) of the Convention.

The application was lodged with the European Court of Human Rights on 30 March 2004. On 20 February 2007 the Chamber to which the case was allocated relinquished jurisdiction in favour of the Grand Chamber under Article 30.

(10) El Majjaoui and Stichting Touba v. the Netherlands, n° 25525/03

Relinquishment case. Hearing on the merits on 13 June 2007

Judgment was delivered on 20 December 2007 (see Chapter VIII below).

(11) Korbely v. Hungary, n° 9174/02

Relinquishment case. Hearing on the merits on 4 July 2007.

The applicant is a retired military officer who was serving a sentence at Budapest Prison when the application was introduced.

In 1994 the Budapest Military Public Prosecutor's Office indicted the applicant for his participation in the quelling of a riot in Tata during the 1956 uprising. He was charged with having commanded, as captain, a 15-strong squad in an assignment, on 26 October 1956, to regain control of the building of the Tata Police Department, which had been taken over by armed rioters, and with having shot, and ordered his men to shoot at, civilians. Several people died or were injured in the incident.

On 29 May 1995 the Military Bench of the Budapest Regional Court discontinued the criminal proceedings, holding that the crime with which

the applicant was charged – homicide and incitement to homicide, rather than a crime against humanity – was statute-barred. The prosecution appealed.

On 7 May 1998 the Military Bench of the Budapest Regional Court discontinued the criminal proceedings against the applicant, ruling that a conviction could not be grounded on the Geneva Convention on the Protection of Civilian Persons in Time of War. That decision was upheld by the Supreme Court on 5 November 1998.

However, on the prosecution's motion for review the Supreme Court's review bench quashed this decision. The case was eventually remitted to the Military Bench of the Budapest Regional Court which held on 18 January 2001 that Mr Korbély was guilty of a crime against humanity, having committed and incited to commit multiple killings. It ruled that the applicant should be prosecuted under the Geneva Convention and sentenced him to three years' imprisonment and the loss of certain rights for a period of five years. He was given a discharge on account of an amnesty.

On appeal, the Supreme Court held that the crime against humanity which the applicant had committed should be classified as the murder of more than one person and increased the sentence to five years' imprisonment. Given the increased sentence, the applicant was no longer entitled to a discharge; however, its duration was to be reduced by one eighth because of the relevant amnesty provisions.

Mr Korbély appealed unsuccessfully against his conviction and also applied for a pardon, likewise without success. He began to serve his sentence on 24 March 2003 and on 31 May 2005 he was conditionally released.

The applicant submits that he was convicted unlawfully, as the acts of which he stood accused did not constitute a war crime at the time when they had taken place. He further complains of the length of the proceedings against him. He relies on Article 6 (right to a fair trial within a reasonable time) and 7 (no punishment without law) of the Convention.

The application was lodged with the European Court of Human Rights on 20 January 2002. On 3 May 2007 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber, under Article 30 of the Convention.

(12) Naseem Saadi (formerly N.S.) v. Italy, n° 37201/06

Relinquishment case. Hearing on the merits on 11 July 2007.

The application was brought by a Tunisian national, Nassim Saadi who was born in 1974 and lives in Milan (Italy). He and his partner, an Italian national, have a seven-year-old child.

The application concerns the possible deportation of the applicant to Tunisia, where he claims to have been sentenced in 2005, in his absence, to twenty years' imprisonment for membership of a terrorist organisation acting abroad in peacetime and for incitement to terrorism.

In December 2001 the applicant was issued with an Italian residence permit, valid until October 2002, "for family reasons".

In October 2002 Mr Saadi, who was suspected, among other things, of international terrorism, was arrested and placed in pre-trial detention. He was accused of conspiracy to commit acts of violence (including attacks with explosive devices) in States other than Italy with the intention of arousing widespread terror; he was also accused of falsifying documents and receiving stolen goods.

According to the applicant, on 9 May 2005 the Milan Assize Court reclassified the offence of international terrorism, amending it to criminal conspiracy. It found Mr Saadi guilty of that offence and of forgery and receiving, and sentenced him to four years and six months' imprisonment. It acquitted the applicant of aiding and abetting clandestine immigration. Both the prosecution and the applicant appealed. The proceedings are currently pending before the Italian courts.

On 11 May 2005 a military court in Tunis sentenced the applicant in his absence to twenty years' imprisonment for membership of a terrorist organisation acting abroad in peacetime and for incitement to terrorism.

Mr Saadi was released on 4 August 2006. On 8 August 2006, however, the Minister of the Interior ordered him to be deported to Tunisia, applying the provisions of the Law of 27 July 2005 on "urgent measures to combat international terrorism". The Minister observed that "it was apparent from the documents in the file" that the applicant had played an "active role" in an organisation responsible for providing logistical and financial support to persons belonging to fundamentalist Islamist cells in Italy and abroad. The applicant was therefore placed in the Milan temporary holding centre pending his deportation.

Mr Saadi made a request for political asylum which was rejected on 14 September 2006. On the same day he lodged an application with the European Court of Human Rights. Under Rule 39 of the Rules of Court (interim measures), the Court asked the Italian Government to stay the applicant's expulsion until further notice.

The maximum time allowed for the applicant's detention with a view to expulsion expired on 7 October 2006 and he was released on that date. However, on 6 October 2006 a new deportation order had been issued against him, this time to France (the country from which he had arrived in Italy), with the result that he was immediately taken back to the Milan temporary holding centre. The applicant applied for a residence permit and requested refugee status, without success.

On 3 November 2006 the applicant was released, as fresh information made it clear that it would not be possible to deport him to France.

On 29 May 2007 the Italian embassy in Tunis requested the Tunisian Government to provide a copy of the alleged judgment convicting the applicant in Tunisia, as well as diplomatic assurances that, if the applicant were to be deported to Tunisia, he would not be subjected to treatment contrary to Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention, that he would have the right to have the proceedings reopened and that he would receive a fair trial.

The applicant alleges that enforcement of his deportation to Tunisia would expose him to the risk of being subjected to torture or inhuman and degrading treatment contrary to Article 3 of the Convention. Relying on Article 6 (right to a fair trial), he complains that the proceedings in Tunisia were unfair, as he was tried in his absence and by a military court. Under Article 8 (right to respect for private and family life), the applicant alleges that his deportation to Tunisia would deprive his partner and his son of his presence and support. Lastly, relying on Article 1 of Protocol No. 7 (procedural safeguards relating to expulsion of aliens), the applicant complains that his expulsion is neither necessary to protect public order nor grounded on reasons of national security.

The application was lodged on 14 September 2006. On 29 March 2007 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber, under Article 30 of the Convention.

(13) Burden and Burden v. the United Kingdom, n° 13378/05

Referral case. Hearing on the merits on 12 September 2007.

The case concerns two British nationals, Joyce and Sybil Burden, who were born in 1918 and 1925 respectively. The applicants are unmarried sisters and have lived together all their lives, for the last 30 years in a house built on land they inherited from their parents. Each sister has made a will leaving all her property to the other sister.

The sisters, both in their eighties, are concerned that, when one of them dies, the other will be forced to sell the house to pay inheritance tax. Under the 1984 Inheritance Tax Act, inheritance tax is charged at 40% on the value of a person's property. That rate applies to any amount in excess of 285,000 pounds sterling (GBP) (420,844 euros (EUR)) for transfers during the tax year 2006-2007 and GBP 300,000 (EUR 442,994) for 2007-2008.

Property passing from the deceased to his or her spouse or "civil partner" (a category introduced under the 2004 Civil Partnership Act for same-sex couples, which does not cover family members living together) is currently exempt from charge.

The applicants complain that, when one of them dies, the survivor will face a heavy inheritance tax bill, unlike the survivor of a marriage or a civil partnership. They rely on Article 1 of Protocol No. 1 (protection of property) of the Convention, taken in conjunction with Article 14 (prohibition of discrimination) of the Convention.

The application was lodged with the European Court of Human Rights on 29 March 2005. A hearing on the admissibility and merits took place in public in the Human Rights Building, Strasbourg, on 12 September 2006.

In its Chamber judgment of 12 December 2006 the Court held by four votes to three that there had been no violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1.

On 8 March 2007 the applicants requested that the case be referred to the Grand Chamber under Article 43 and on 23 May 2007 the panel of the Grand Chamber accepted that request.

(14) N. v. the United Kingdom, n° 26565/05

Relinquishment case. Hearing on the merits on 26 September 2007.

The case concerns an application brought by N., a Ugandan national who was born in 1974. She entered the United Kingdom on 28 March 1998 under an assumed name. She was seriously ill and was admitted to hospital.

On 31 March 1998 solicitors lodged an asylum application on her behalf, claiming that she had been ill-treated and raped by the National Resistance Movement in Uganda because of her association with the Lord's Resistance Army, and asserting that she was in fear of her life and safety if she were returned.

By November 1998, the applicant was diagnosed as having two AIDS defining illnesses, and as being extremely advanced from an HIV point of view; her CD4 count was 20 cells/mm³, reflecting considerable immunosuppression. The report stated that, without active treatment, her prognosis was “appalling” and put her life expectancy at less than 12 months should she be forced to return to Uganda, where there was “no prospect of her getting adequate therapy”.

The Secretary of State refused the asylum claim on 28 March 2001, finding that her claims were not credible, that there was no evidence that the Ugandan authorities were interested in the applicant and that treatment of AIDS in Uganda was comparable to any other African country, and all the major anti-viral drugs were available in Uganda at highly subsidised prices. The applicant appealed.

On 10 July 2002 her appeal was dismissed concerning the asylum refusal, but allowed in relation to Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

The Secretary of State appealed against the Article 3 finding, contending that all the AIDS drugs available under the National Health Service in the United Kingdom could also be obtained locally in Uganda, and most were also available at a reduced price through UN-funded projects and from bilateral AIDS donor funded programmes. The applicant's return would not, therefore, be to a “complete absence of medical treatment”, and so would not subject her to “acute physical and mental suffering”. The Immigration Appeal Tribunal allowed the appeal on 29 November 2002 and found: “Medical treatment is available in Uganda for the [applicant's] condition even though the Tribunal accept that the level of medical provision in Uganda falls below that in the United Kingdom.”

The applicant appealed unsuccessfully to the Court of Appeal and the House of Lords.

The applicant maintains that to return her to Uganda would cause her suffering and early death amounting to inhuman and degrading treatment. She relies on Article 3 of the Convention.

The application was lodged with the European Court of Human Rights on 22 July 2005. On 22 May 2007 the Chamber relinquished jurisdiction in favour of the Grand Chamber.

(15) Kovacic and others v. Slovenia, n° 44574/98, 45133/98, 48316/99

Referral case. Hearing on the merits on 14 November 2007.

The applicants are three Croatian nationals: Ivo Kovačić (now deceased) was born in 1922 and lived in Zagreb; Marjan Mrkonjić was born in 1941 and lives in Zurich; and, Dolores Golubović (now deceased) was born in 1922 and lived in Karlovac (Croatia). Mr Kovačić's and Ms Golubović's applications have been taken up by their heirs.

The case concerns the freezing of the applicants' savings, which they had deposited with the Zagreb office of a Slovenian bank, the Ljubljana Bank (Ljubljanska banka), prior to the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) in 1991.

Before 1991, the applicants or their relatives all deposited hard foreign currencies in savings accounts with the Ljubljana Bank's Zagreb office (in Croatia), which was financially and economically independent of the Ljubljana Bank (a Slovenian bank). Funds in hard foreign currencies deposited with commercial banks in the SFRY were in general transferred to the National Bank of Yugoslavia in Belgrade. Accounts in hard foreign currency were guaranteed by the SFRY with account holders receiving interest at rates of up to 12 %.

However, as an emergency response to the hyper-inflation suffered by the SFRY in the 1980s, withdrawal of hard foreign currency from so-called "old savings accounts" was progressively restricted by legislation and, in 1988, the Ljubljana Bank froze all its foreign-currency accounts. As a result the applicants or their relatives were generally unable to gain access to the money in their accounts.

Since Slovenia and Croatia became independent in 1991, Croatia has taken the view that either the Ljubljana Bank or the Slovenian State should

meet the liabilities owed to customers of the Croatian branch. However, Slovenia considers that those liabilities should be divided under the succession arrangements among the five States formed from the dissolved SFRY. The total amount of savings in strong foreign currencies deposited with the Croatian branch of the Slovenian bank has been estimated at approximately EUR 150,000,000 with accrued interest, and 140,000 investors appear to be involved.

In 2003, after a change of legislation in Croatia, 42 individuals, including Mr Kovačić and Mr Mrkonjić, lodged requests for the seizure and sale of real estate owned by the Ljubljana Bank in Croatia. In the course of those proceedings, the Zagreb main branch's assets were liquidated. As a result, Mr Kovačić was awarded 49,794.30 German marks (DEM) (equivalent to EUR 25,459.42) plus interest and Mr Mrkonjić was awarded 180,515.72 Croatian kunas (HRK) (equivalent to EUR 24,728). Both were awarded costs for the enforcement proceedings.

On 20 July 2005 Mr Kovačić and Mr Mrkonjić received payment of their foreign-currency deposits in full.

Ms Golubović did not bring proceedings in Croatia to recoup her foreign currency savings; she claimed that she had been advised by a bank official that, although the Croatian courts had jurisdiction, judgments were not being enforced due to lack of funds. On 29 May 2001 her savings amounted to: DEM 39,085.45 plus 14,092.89 US Dollars, 5,627.59 Swiss francs (CHF), 10,077.41 Austrian schillings and 193,495 Italian lire.

The applicants or their heirs complain that they were not able to withdraw their foreign currency savings from the Zagreb main branch of the Ljubljana Bank. They rely on Article 1 of Protocol No. 1 (right to property) to the European convention on human rights. They claim that the Ljubljana Bank or Slovenia, as a successor State which had assumed the SFRY's guarantee obligations for foreign-currency savings on the break-up of Yugoslavia, should repay them the money deposited with accrued interest.

Mr Kovačić also complains that he has been discriminated against on the grounds of nationality, in that Slovenian account holders of the Zagreb branch were allowed to withdraw their savings. He relies on Article 14 (prohibition of discrimination) of the Convention.

The applications were lodged with the European Court of Human Rights on 17 July 1998, 2 June 1998 and 24 December 1998, respectively.

In its Chamber judgment of 6 November 2006 the Court unanimously decided to strike out the case on the grounds that two of the applicants had received payment in full of their foreign currency deposits and that it was still open to the third applicant to bring proceedings in Croatia.

On 5 February 2007 the applicant requested that the case be referred to the Grand Chamber under Article 43 and on 23 May 2007 the panel of the Grand Chamber accepted that request.

(16) Yumak and Sadak v. Turkey, n° 10226/03

Referral case. Hearing on the merits on 21 November 2007.

The applicants, Mehmet Yumak and Resul Sadak, are Turkish nationals. Mr Yumak is self-employed and Mr Sadak is Mayor of Idil.

The case concerns Turkish electoral law, according to which a party must obtain at least 10 % of the national vote in parliamentary elections in order to win seats in the National Assembly.

In the parliamentary elections of 3 November 2002 the applicants stood as candidates for the political party DEHAP (Democratic People's Party) in the province of Şırnak.

As a result of the ballot, DEHAP obtained approximately 45.95 % of the vote (47,449 votes) in Şırnak province, but did not secure 10 % of the vote nationally. The applicants were not elected, in accordance with section 33 of the Election of Members of Parliament Act (Law No. 2939), which states that “parties may not win seats unless they obtain, nationally, more than 10% of the votes validly cast”. Consequently, of the three parliamentary seats allotted to Şırnak province, two were filled by the AKP (Justice and Development Party), which obtained 14.05 % of the vote (14,460 votes), and the third by an independent candidate, Mr Tatar, who obtained 9.69 % of the vote (9,914 votes).

Relying on Article 3 of Protocol No. 1 (right to free elections) to the Convention, the applicants submit that setting a threshold of 10% of the vote in parliamentary elections interfered with the free expression of the opinion of the people in their choice of the legislature.

The application was lodged with the European Court of Human Rights on 1 March 2003 and declared admissible on 9 May 2006.

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In its Chamber judgment of 30 January 2007 the Court held by five votes to 2 that there had been no violation of Article 3 of Protocol No. 1.

On 21 April 2007 the applicants requested that the case be referred to the Grand Chamber under Article 43 and on 9 July 2007 the panel of the Grand Chamber accepted that request.

VII. DECISION ON ADMISSIBILITY

Behrami and Behrami v. France (71412/01); Saramati v. France, Germany and Norway (78166/01)

On 31 May 2007 the Grand Chamber decided to strike the *Saramati* application against Germany out of its list of cases and declared inadmissible the application of *Behrami* and *Behrami* and the remainder of the *Saramati* application against France and Norway. The application had been relinquished by a Chamber of the Court under Article 30 of the Convention.

Behrami and Behrami v. France

At the relevant time (March 2000) Mitrovica was within the sector of Kosovo for which a multinational brigade led by France was responsible; it was one of four brigades making up the international security force (KFOR) presence in Kosovo, mandated by UN Security Council (UNSC) Resolution 1244 of June 1999.

On 11 March 2000 Gadaf and Bekim Behrami were playing with some other boys in the hills in the Sipolje area of Mitrovica. They found a number of undetonated cluster bombs, which had been dropped during the bombardment of FRY by NATO in 1999, and began playing with them. One of the children threw a bomb into the air; it detonated and killed Gadaf Behrami. Bekim Behrami was also seriously injured and later had numerous eye operations.

The UN Interim Administration for Kosovo (UNMIK) - mandated by the same Resolution 1244 – investigated the incident and reported, on 18 March 2000, that Gadaf Behrami had died from numerous injuries following a cluster bomb explosion and that the incident amounted to “an unintentional homicide committed by imprudence”.

On 22 May 2000 Agim Behrami was informed that no criminal prosecution was to be brought because the bomb did not explode during the NATO bombardment. He was also informed that he had the right to pursue a criminal prosecution within eight days.

On 25 October 2001 Agim Behrami complained to the Kosovo Claims Office that France had not respected the provisions (concerning de-mining) of Resolution 1244. The claim was ultimately rejected on the ground that mine clearance had been the responsibility of the UN since 5 July 1999.

The applicants alleged that Gadaf Behrami's death and Bekir Behram's injuries were caused by the failure of the French KFOR troops to mark and/or defuse the un-detonated cluster bombs which KFOR had known to be present on the site in question. They relied on Article 2 (right to life) of the Convention.

Saramati v. France, Germany and Norway

In April 2001 the applicant was arrested by UNMIK police and later detained. On 23 May 2001 a prosecutor filed an indictment accusing the applicant of attempted murder, causing serious bodily harm, unlawful possession of weapons or exploding substances, causing minor bodily injury and violent behaviour. He appealed successfully against a further detention order and was released.

On 13 July 2001 he was arrested by two UNMIK police officers. The applicant initially submitted that it was a German KFOR officer who orally issued the arrest order and informed him that he was being arrested by order of the KFOR Commander (COMKFOR), a Norwegian officer at that time. He was taken to a KFOR camp under escort by American KFOR soldiers. On 14 July 2001 the COMKFOR authorised the applicant's further detention for 30 days.

On 26 July 2001, and in response to a letter from the applicant's representatives taking issue with the legality of his detention, the KFOR Legal Adviser advised that KFOR had the authority to detain under Resolution 1244 as it was necessary "to maintain a safe and secure environment" and to protect KFOR troops. KFOR had information concerning the applicant's involvement with armed groups operating in the border region between Kosovo and the Former Yugoslav Republic of Macedonia and was satisfied that the applicant represented a threat to the security of KFOR and to those residing in Kosovo.

On 11 August 2001 the applicant's detention was again extended.

On 6 September 2001 the applicant's case was transferred to the district court for trial. During each trial hearing from 17 September 2001 to 23 January 2002 the applicant's representatives requested his release and the trial court responded that his detention was the responsibility of KFOR. On 3 October 2001 a French General became the COMKFOR.

On 23 January 2002 the applicant was convicted of attempted murder under Article 30 § 2(6) of the Criminal Code of Kosovo in conjunction with

Article 19 of the Criminal Code of the FRY. On 26 January 2002 he was transferred by KFOR to the UNMIK detention facilities in Pristina.

On 9 October 2002 the Supreme Court of Kosovo quashed the applicant's conviction and his case was sent for re-trial to Pristina District Court. His release from detention was ordered. A re-trial has yet to be fixed.

The applicant complained under Article 5 (right to liberty and security) and Article 13 (right to an effective remedy) of the Convention, about his detention by KFOR between 13 July 2001 and 26 January 2002. He further complained under Article 6 § 1 (right to a fair trial) that he did not have access to court and, under Article 1 (obligation to respect human rights), that France, Germany and Norway had failed to guarantee the Convention rights of individuals living in Kosovo.

A hearing was held in public in the Human Rights Building, Strasbourg, on 31 May 2007

Withdrawal of Saramati case against Germany

Mr Saramati initially claimed that a German KFOR officer had been involved in his arrest and also referred to the fact that Germany was the lead nation in the multinational force in the southeast.

The German Government responded that, despite detailed investigations, they had not been able to establish any involvement of a German KFOR officer in Mr Saramati's arrest.

Mr Saramati maintained that he had made his submission in good faith, but that he was unable to produce any objective supporting evidence. He also considered that German KFOR control of the relevant sector was insufficient as a ground to bring him within the jurisdiction of Germany. He therefore asked to withdraw his case against Germany.

Finding that respect for human rights did not require a continued examination of Mr Saramati's case against Germany (Article 37 § 1), the Court decided to strike out the case as far as it concerned Germany.

Admissibility

The Court observed that the applicants in *Behrami and Behrami* complained about the impugned inaction of KFOR troops and that Mr Saramati complained about his detention by, and on the orders of, KFOR.

The President of the Court agreed that the parties' submissions to the Grand Chamber could be limited to the admissibility of the cases.

The Court considered that the question raised by the cases was, less whether the States concerned exercised extra-territorial jurisdiction in Kosovo but, far more centrally, whether the European Court of Human Rights was competent to examine under the Convention those States' contribution to the relevant civil and security presence exercising control of Kosovo.

The Court considered that issuing detention orders fell within the security mandate of KFOR and that the supervision of de-mining fell within the mandate of UNMIK. It went on to ascertain whether the impugned action of KFOR (detention of Mr Saramati) and inaction of UNMIK (the alleged failure to de-mine in the Behrami case) could be attributed to the UN. In that respect, the Court first established that Chapter VII of the UN Charter could provide a framework for the delegation of the UNSC's security powers to KFOR and of its civil administration powers to UNMIK. Since KFOR was exercising lawfully delegated Chapter VII powers of the UNSC and since UNMIK was a subsidiary organ of the UN created under Chapter VII, the impugned action and inaction was, in principle, "attributable" to the UN which had a legal personality separate from that of its member states and was not a Contracting Party to the Convention.

The Court then considered whether it was competent to review the acts of the States in question carried out on behalf of the UN and, more generally, as to the relationship between the Convention and the UN acting under Chapter VII of its Charter.

The Court first observed that nine of the 12 original signatory parties to the Convention in 1950 had been members of the UN since 1945, that the great majority of the Contracting Parties joined the UN before they signed the Convention and that all Contracting Parties were members of the UN. Indeed, one of the aims of the Convention was the collective enforcement of rights in the Universal Declaration of Human Rights of the General Assembly of the UN. More generally, the Convention had to be interpreted in the light of any relevant rules and principles of international law applicable in relations between its Contracting Parties.

The primary objective of the UN was the maintenance of international peace and security. While it was equally clear that ensuring respect for human rights represented an important contribution to achieving international peace, the fact remained that the UNSC had primary responsibility, as well as extensive means under Chapter VII, to fulfil that

objective, notably through the use of coercive measures. The responsibility of the UNSC was unique and had evolved as a counterpart to the prohibition, now customary international law, on the unilateral use of force. In the applicants' cases, Chapter VII allowed the UNSC to adopt coercive measures in reaction to an identified conflict considered to threaten peace, namely UNSC Resolution 1244 establishing UNMIK and KFOR.

Since operations established by UNSC Resolutions under Chapter VII of the UN Charter were fundamental to the mission of the UN to secure international peace and security and since they relied for their effectiveness on support from member states, the Convention could not be interpreted in a manner which would subject the acts and omissions of Contracting Parties which were covered by UNSC Resolutions and occurred prior to or in the course of such missions, to the scrutiny of the Court. To do so would be to interfere with the fulfilment of the UN's key mission in the field including the effective conduct of its operations. It would also be tantamount to imposing conditions on the implementation of a UNSC Resolution which were not provided for in the text of the Resolution itself. That reasoning equally applied to voluntary acts of the States concerned such as the vote of a permanent member of the UNSC in favour of the relevant Chapter VII Resolution and the contribution of troops to the security mission: such acts might not have amounted to obligations flowing from membership of the UN but they remained crucial to the effective fulfilment by the UNSC of its Chapter VII mandate and, consequently, by the UN of its imperative peace and security aim.

The Court went on to find the present cases to be clearly distinguishable from its earlier judgment in the *Bosphorus* case, on which the applicants had relied. It was distinguished in terms of the responsibility of the respondent States under Article 1 and of the Court's competence *ratione personae* (the impugned acts and omissions of KFOR and UNMIK could not be attributed to the respondent States and, moreover, did not take place on the territory of those States or by virtue of a decision of their authorities). The *Bosphorus* case was also distinguishable because there was, in any event, a fundamental distinction between the international organisation/international cooperation at issue in the *Bosphorus* case and those at issue in the present cases: UNMIK was a subsidiary organ of the UN created under Chapter VII and KFOR was exercising powers lawfully delegated under Chapter VII of the Charter by the UNSC. As such, their actions were directly attributable to the UN, an organisation of universal jurisdiction fulfilling its aforementioned imperative collective security objective.

In light of that conclusion, the Court considered that it was not necessary to examine the remaining submissions of the parties on the admissibility of

the application, including on the competence of the Court to examine complaints against the States concerned about extra-territorial acts or omissions and on whether the applicants had exhausted any effective remedies available to them within the meaning of Article 35 § 1 of the Convention.

VIII. JUDGMENTS

(1) Anheuser-Busch Inc. v. Portugal, n° 73049/01

The case concerns an application brought by a company, Anheuser-Busch Inc., which is an American public limited company whose registered office is in St Louis (Missouri, United States). It produces beer and sells it under the brand name “Budweiser” in a number of countries around the world.

In 1981 the applicant company applied to the Portuguese National Institute for Industrial Property (INPI) to register “Budweiser” as a trade mark. The INPI did not grant the application immediately because “Budweiser Bier” had already been registered as a designation of origin on behalf of a Czechoslovak company, Budejovický Budvar. In 1989 the applicant company sought a court order setting aside the registration of that designation, which was granted in 1995, and the INPI subsequently registered the “Budweiser” trade mark.

The Czech company challenged that decision in the Lisbon Court of First Instance, relying on the “1986 Agreement”, a bilateral treaty between Portugal and Czechoslovakia (now applicable in the Czech Republic) which came into force in 1987, protecting registered designations of origin. The Court of First Instance found against it, but the Court of Appeal overturned that decision and ordered the INPI to refuse to register “Budweiser” as a trade mark.

The applicant company appealed to the Supreme Court, which dismissed the appeal in 2001, holding that the designation of origin “Ceskebudejovický Budvar”, which translated into German as “Budweis” or “Budweiss”, was protected by the 1986 Agreement. The registration of “Budweiser” as a trade mark on behalf of the applicant company was therefore set aside.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicant company complained that the application of the 1986 Agreement, which had come into force after it had applied for registration of the “Budweiser” trade mark, had infringed its right to the peaceful enjoyment of its possessions. It argued that, under existing international legal instruments, the right to protection of a trade mark was secured from the date on which the application to register it was made and that it had been deprived of that right without receiving any compensation, despite the fact that there had been no public-interest grounds to justify

affording protection to a registered designation of origin on the basis of the treaty between Portugal and Czechoslovakia.

In its Chamber judgment of 11 October 2005 the Court held by five votes to two that there had been no violation of Article 1 of Protocol No. 1. The case was referred to the Grand Chamber on 15 February 2006 at the request of the applicant association.

In a judgment delivered on 11 January 2007, the Court held by 15 votes to two that there had been no violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

(2) Evans v. the United Kingdom, n° 6339/05

On 12 July the applicant and her partner J started fertility treatment at the Bath Assisted Conception Clinic. On 10 October 2000, during an appointment at the clinic, Ms Evans was diagnosed with a pre-cancerous condition of her ovaries and was offered one cycle of *in vitro* fertilization (IVF) treatment prior to the surgical removal of her ovaries. During the consultation held that day with medical staff, Ms Evans and her partner J were informed that they would each need to sign a form consenting to the treatment and that, in accordance with the provisions of the Human Fertilisation and Embryology Act 1990 (“the 1990 Act”), it would be possible for either of them to withdraw his or her consent at any time before the embryos were implanted in the applicant’s uterus. Both parties then signed the forms, consenting to be treated together.

On 12 November 2001 the couple attended the clinic for treatment, resulting in the creation of six embryos which were placed in storage and, on 26 November 2001, Ms Evans underwent an operation to remove her ovaries. She was told she would need to wait for two years before the implantation of the embryos in her uterus.

In May 2002 the relationship between the applicant and J ended and he contacted the clinic to ask that the embryos be taken out of storage and destroyed.

The applicant brought proceedings before the High Court seeking, among other things, an injunction to require J. to restore his consent. Her claim was refused on 1 October 2003, J having been found to have acted in good faith, as he had embarked on the treatment on the basis that his relationship with Ms Evans would continue. On 1 October 2004, the Court of Appeal upheld the High Court’s judgment. Leave to appeal was refused.

On 27 February 2005 the European Court of Human Rights, to whom the applicant had applied, requested, under Rule 39 (interim measures) of the Rules of Court, that the United Kingdom Government take appropriate measures to prevent the embryos being destroyed by the clinic before the Court had been able to examine the case. The embryos were not destroyed.

The applicant complained that requiring the male gamete provider's consent for the continued storage and implantation of the fertilised eggs is in breach of her rights under Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination) of the Convention and the rights of the embryos, under Article 2 (right to life).

In its Chamber judgment of 7 March 2006, the Court held unanimously, that there had been no violation of Article 2 concerning the applicant's embryos; by five votes to two that there had been no violation of Article 8 concerning the applicant; and unanimously that there had been no violation of Article 14 concerning the applicant.

The Court also decided to continue to indicate to the United Kingdom Government under Rule 39 that it take appropriate measures to ensure the preservation of the applicant's embryos until the Court's judgment became final or pending any further order.

The case was referred to the Grand Chamber at the applicant's request.

In a judgment delivered on 10 April 2007 the Court held unanimously that there had been no violation of Article 2 (right to life) of the Convention; by thirteen votes to four that there had been no violation of Article 8 (right to respect for private and family life) of the Convention; and by thirteen votes to four that there had been no violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 8.

(3) Vilho Eskelinen and Others v. Finland, n° 63235/00

The applicants are: Vilho Eskelinen, Arto Huttunen, Markku Komulainen, Lea Ihatsu, Toivo Pallonen and the heirs of the late Hannu Matti Lappalainen (Päivi, Janne and Jyrki Lappalainen). They are all Finnish nationals.

Mr Eskelinen, Mr Huttunen, Mr Komulainen, Ms Ihatsu, Mr Pallonen and Hannu Matti Lappalainen all worked for the Sonkajärvi District Police. Under a collective agreement of 1986, they were entitled to a special allowance for working in a remote area. When that allowance was withdrawn in 1988, they were given individual wage supplements to make up the difference.

On 1 November 1990, after being moved to another duty police station even further away from their homes, the applicants lost their individual wage supplements. They maintain, however, that Kuopio Provincial Police Command promised them compensation.

On 3 July 1991 the Ministry of Finance refused a request for authorisation to pay each applicant a monthly individual wage supplement of 500-700 Finnish marks (EUR 84-118). The applicants subsequently lodged an application for compensation, which was rejected.

The applicants appealed, asking for an oral hearing to prove, among other things, that they had been promised compensation. Their appeal was rejected on the ground that, at the relevant time, only the Ministry of Finance (and not the provincial police command) could authorise compensation. The court also found that no compensation had been awarded in other similar cases.

Following a further appeal, the Supreme Administrative Court in a judgment of 27 April 2000 found that the applicants had no statutory right to the individual wage supplements and that it was unnecessary to hold a hearing, given that the alleged promises made by the provincial police command had no bearing on the case.

The applicants complained under Article 6 § 1 (right to a fair hearing) of the Convention about the excessive length of the proceedings and the lack of an oral hearing. They further complained under Article 1 of Protocol No. 1 (protection of property) that they lost their entitlement to a special allowance and had received no compensation. Under Article 14 (prohibition of discrimination), they maintained that they were treated differently from other police personnel. They also relied on Article 13 (right to an effective remedy).

On 21 March 2006 the Chamber relinquished jurisdiction in favour of the Grand Chamber.

In a judgment delivered on 19 April 2007 the Court held: by 12 votes to 5 that Article 6 § 1 (right to a fair hearing) of the Convention was

applicable, and by 14 votes to 3 that there had been a violation of Article 6 § 1 of the Convention as regards the length of the proceedings; unanimously that there had been no violation of Article 6 § 1 as regards the lack of an oral hearing; by 15 votes to 2 that there had been a violation of Article 13 (right to an effective remedy); unanimously that there had been no violation of Article 1 of Protocol No. 1 (protection of property) taken alone or in conjunction with Article 14 (prohibition of discrimination).

(4) Ramsahai and others v. the Netherlands, n° 52391/99

The case concerns the killing by the police of Moravia Ramsahai, born on 6 December 1979.

In the evening of Sunday 19 July 1998, during a community festival in the Bijlmermeer district of Amsterdam, Moravia Ramsahai stole a scooter from its owner at gunpoint and drove off on it.

The police were notified. Two uniformed police officers on patrol, Officers Brons and Bultstra, spotted a scooter driven by a person fitting the description they had been given – later identified as Moravia Ramsahai – and tried to arrest him.

Officer Bultstra saw Moravia Ramsahai draw a pistol from his trouser belt. Officer Bultstra drew his service pistol and ordered Moravia Ramsahai to drop his weapon. Moravia Ramsahai failed to do so. Officer Brons then approached. Moravia Ramsahai, raised his pistol and pointed it towards Officer Brons, who drew his pistol and fired. Moravia Ramsahai was hit in the neck. At 10.03 p.m. Officer Brons called an ambulance. When it arrived, at about 10.15 p.m., Moravia Ramsahai was already dead.

A criminal investigation was ordered. Parts of the investigation were carried out by the Amsterdam/Amstelland Police Force (to which Officers Brons and Bultstra belonged); it was initially in charge of the investigation for the first 15-and-a-half hours and then involved only under the authority of an officer of the State Criminal Investigation Department (*Rijksrecherche*).

Ultimately the public prosecutor, finding that Officer Brons had acted in legitimate self-defence, decided that no prosecution should be brought.

The applicants complained about the circumstances surrounding the shooting of Moravia Ramsahai and the lack of an effective and independent investigation into his death. They relied on Article 2 (right to life) of the

Convention, Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy).

In its Chamber judgment of 10 November 2005, the Court held by five votes to two that there had been no violation of Article 2 concerning the shooting by a police officer of Moravia Ramsahai and a violation of Article 2 concerning the investigation into his death.

The case was referred to the Grand Chamber on 12 April 2006 at the request of the Government.

In a judgment delivered on 15 May 2007 the Court held unanimously that there had been no violation of Article 2 (right to life) of the Convention concerning the shooting of Moravia Ramsahai by a police officer; by 13 votes to four that there had been a violation of Article 2, in that the investigation into his death was inadequate; by 16 votes to one that there had been a violation of Article 2, in that the investigation was not sufficiently independent; by 13 votes to four that there has been no violation of Article 2 concerning the position of the public prosecutor supervising the police investigation into Moravia Ramsahai's death; unanimously that there had been no violation of Article 2 concerning the extent of the involvement of the relatives of Moravia Ramsahai in the investigation; and by 15 votes to two that there had been no violation of Article 2 concerning the procedure before the Court of Appeal.

(5) O'Halloran and Francis v. the United Kingdom, n° 15809/02 and n° 25624/02

The applicants are British nationals. Their vehicles were filmed being driven above the speed limit on 7 April 2000 and 12 June 2001 respectively.

In each case the applicant was subsequently informed that the police intended to prosecute the driver of the vehicle. He was asked for the full name and address of the driver of the vehicle on the relevant occasion or to supply other information that was in his power to give and which would lead to the driver's identification. Each applicant was further informed that failing to provide information was a criminal offence under section 172 of the Road Traffic Act 1988.

Mr O'Halloran answered his letter confirming that he was the driver at the relevant time. Mr Francis, however, wrote to the police invoking his right to silence and privilege against self-incrimination.

On 27 March 2001 Mr O'Halloran was tried before the North Essex Magistrate's Court. Prior to the trial, he sought unsuccessfully to have his confession excluded as evidence, relying on sections 76 and 78 of the Police and Criminal Evidence Act 1984 read in conjunction with Article 6 (right to a fair trial) of the Convention. He was convicted of driving in excess of the speed limit and fined 100 pounds sterling (GBP) (equivalent to EUR 147.66), ordered to pay GBP 150 (EUR 221.49) costs and had his licence endorsed with six penalty points. On 19 October 2001 his application for judicial review of the magistrates' decision was refused.

On 28 August 2001 Mr Francis was summoned to the Magistrates' Court for failing to comply with section 172(3) of the Road Traffic Act 1988. On 15 April 2002 he was convicted and fined GBP 750 (EUR 1107.49) with GBP 250 (EUR 369.16) costs and three penalty points. He maintains that the fine was substantially heavier than that which would have been imposed had he pleaded guilty to the speeding offence.

Mr O'Halloran complains that he was convicted solely or mainly on account of the statement he was compelled to provide under threat of a penalty similar to the offence itself. Mr Francis complains that being compelled to provide evidence of the offence he was suspected of committing infringed his right not to incriminate himself. Both applicants rely on Article 6 §§ 1 (right to a fair trial) and 2 (presumption of innocence) of the Convention.

On 11 April 2006 the Chamber of the Court dealing with the case relinquished jurisdiction in favour of the Grand Chamber.

In a judgment delivered on 29 June 2007 the Court held by 15 votes to two that there had been no violation of Article 6 § 1 (right to a fair trial) of the Convention.

(6) Folgero and others v. Norway, n° 15472/02

The applicants, all members of the Norwegian Humanist Association (*Human-Etisk Forbund*), are parents whose children were at primary school at the time of the events complained of.

In the autumn of 1997 the Norwegian primary school curriculum was changed, with two separate subjects – Christianity and philosophy of life – being replaced by a single subject covering Christianity, religion and philosophy, known as *KRL* (*kristendoms-kunnskap med religions- og livssynsorientering*). Under the previous system, parents had been able to

apply for their child to be exempted from Christianity lessons; however, it was only possible to request exemption from certain parts of *KRL*.

The applicants and other parents made unsuccessful requests to have their children entirely exempted from *KRL*. On 14 March 1998 they brought unsuccessful proceedings before Oslo City Court, complaining that their exemption requests had been turned down.

On 25 March 2002, four sets of parents (not including the applicants) lodged a communication with the United Nations Human Rights Committee under the Protocol to the 1966 International Covenant on Civil and Political Rights. The Committee found, in the complainants' case, that *KRL*, with its rules on exemptions, violated the Covenant.

The applicants complain that the refusal to grant full exemption from *KRL* prevented them from ensuring their children received an education in conformity with their religious and philosophical convictions. They also complain that they were required to describe in detail the parts of the course which conflicted with their convictions, which Christian parents were not required to do, and which risked stigmatising their children or placing them in a difficult position. They rely on Article 9, Article 2 of Protocol No. 1, Article 8 and Article 14.

On 18 May 2006 the Chamber dealing with the case relinquished jurisdiction in favour of the Grand Chamber.

In a judgment delivered on 29 June 2007 the Court held by nine votes to eight, that there had been a violation of Article 2 of Protocol No. 1 (right to education) to the Convention; unanimously, that it was not necessary to examine the applicants' complaint under Article 14 (prohibition of discrimination) of the Convention taken in conjunction with Articles 8 (right to respect for private life) and 9 (freedom of conscience and religion) and Article 2 of Protocol No. 1.

(7) J.A. Pye (Oxford) Ltd v. the United Kingdom, n° 44302/02

The applicants are two United Kingdom companies, J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd.

One of the applicant companies ("Pye") was the registered owner of a plot of 23 hectares of agricultural land in Berkshire. The owners of property adjacent to the land, Mr. and Mrs. Graham ("the Grahams"), occupied the land under a grazing agreement until 31 December 1983. On 30 December 1983 the Grahams were instructed to vacate the land as the grazing

agreement was about to expire. They did not do so. With agreement, the Grahams took a cut of grass in August 1984, and from September 1984 onwards until 1999 the Grahams continued to use the land for farming without Pye's permission.

In 1997, Mr Graham claimed that the land was his by virtue of at least 12 years' adverse possession, and registered cautions (official warnings) at the Land Registry. Pye sought the cancellation of the cautions before the High Court and issued proceedings seeking possession of the disputed land.

The High Court held that, since the Grahams' adverse possession took effect from September 1984, Pye had lost title to the land as a result of the combined operation of the Limitation Act 1980, which set up the 12-year limitation period, and the Land Registration Act 1925, which extinguished title at the end of that limitation period. The Grahams were therefore entitled to be registered as the new owners.

The applicant companies appealed successfully, but their appeal was overturned by the House of Lords, which, on 4 July 2002, restored the order of the High Court.

The Land Registration Act 2002 – which does not have retroactive effect – now enables a squatter to apply to be registered as owner after ten years' adverse possession and requires that the registered owner be notified of the application. The registered proprietor is then required to regularise the situation (for example, by evicting the squatter) within two years, failing which the squatter is entitled to be registered as the owner.

Pye complained that the combined operation of the 1925 Act and the 1980 Act resulted in a deprivation of possessions which was not in the public interest and which was disproportionate because no compensation was available, and no procedural safeguards made up for the lack of compensation, in violation of Article 1 of Protocol no. 1.

The Chamber, in its judgment of 15 November 2005 held by four votes to three that there had been a violation of Article 1 of Protocol No. 1.

In a judgment delivered on 30 August 2007 the Court held by ten votes to seven that there had been no violation of Article 1 of Protocol No. 1 (protection of property) to the Convention concerning the applicant companies' loss of ownership of 23 hectares of agricultural land through "adverse possession" to a neighbour who had used the land for more than 12 years without permission.

(8) Lindon & Otchakovsky-Laurens and July v. France, n° 21279/02 and n° 36448/02

In August 1998 the publishing company P.O.L. published a novel by Mr Lindon with the title *Le Procès de Jean-Marie Le Pen* (“Jean-Marie Le Pen on Trial”). The novel raises questions about the responsibility of Mr Le Pen, Chairman of the *Front National*, in murders committed by militants, and about the effectiveness of strategies to combat the far right.

The *Front National* and Mr Le Pen, complaining of defamation on account of remarks contained in the novel, brought proceedings against the writer and his publisher in the Paris Criminal Court. The court found that the offence of defamation was made out in respect of four passages from the offending book.

On 11 October 1999 the court convicted Mr Otchakovsky-Laurens of defamation and Mr Lindon of complicity in that offence, and sentenced each of them to pay a fine of EUR 2286.74, further ordering them, jointly and severally, to pay EUR 3811.23 in damages to Mr Le Pen and to the *Front National*.

In a judgment of 13 September 2000, on an appeal lodged by Mr Lindon and Mr Otchakovsky-Laurens, Paris Court of Appeal upheld their convictions in respect of three out of the four passages in question. On 27 November 2001 a further appeal on points of law was dismissed by the Court of Cassation.

In its edition of 16 November 1999 the newspaper *Libération* published an article in the form of a petition signed by 97 writers to protest about the conviction of Mr Lindon and Mr Otchakovsky-Lauren.

On 7 September 2000, the Paris Criminal Court, on the basis of a complaint by the *Front National* and Mr Le Pen, found the editor Mr July guilty of defamation for having reproduced the passages from the novel that had been found to constitute defamation.

This conviction was upheld by Paris Court of Appeal on 21 March 2001. On 3 April 2002 the Court of Cassation dismissed an appeal he had lodged on points of law.

The applicants complained that their criminal convictions had entailed a violation of Article 10 (freedom of expression) of the Convention. Mr July also complained, under Article 6 § 1 (right to a fair trial), that he was not heard by an independent court, as two out of the three judges on the bench

of the Paris Court of Appeal which ruled on his case had also sat on the bench which upheld the other applicants' conviction of defamation and complicity in defamation.

The Chamber dealing with the cases relinquished jurisdiction in favour of the Grand Chamber.

In a judgment delivered on 22 October 2007 the Court held by 13 votes to four that there had been no violation of Article 10 (freedom of expression) of the Convention concerning the convictions of the writer and publisher of the novel at issue and the conviction for defamation of the publication director of *Libération*.

The Court further held unanimously that there had been no violation of Article 6 § 1 (right to a fair trial) of the Convention concerning the fairness of the proceedings against the newspaper.

(9) D.H. and others v. the Czech Republic, n° 57325/00

The applicants are 18 Czech nationals of Roma origin. Between 1996 and 1999 they were placed in special schools (*zvláštní školy*) for children with learning difficulties unable to follow the ordinary school curriculum. By law, the decision to place a child in a special school is taken by the head teacher on the basis of the results of tests to measure the child's intellectual capacity carried out in an educational psychology and child guidance centre, and requires the consent of the child's legal representative.

Fourteen of the applicants sought a review by the Ostrava Education Department (*školský úřad*) on the grounds that the tests performed had been unreliable and that their parents had not been sufficiently informed of the consequences of giving consent. The Education Department found that the placements had been made in accordance with the statutory rules.

In addition, 12 of the applicants appealed to the Constitutional Court. They argued that their placement in special schools amounted to a general practice that created segregation and racial discrimination through the coexistence of two autonomous educational systems, namely special schools for the Roma and "normal" primary schools for the majority of the population. That appeal was dismissed on 20 October 1999.

The applicants complained under Article 2 of Protocol No. 1 (right to education) to the Convention, taken alone and together with Article 14 (prohibition of discrimination), that they had suffered discrimination in the enjoyment of their right to education on account of their Roma origin.

In its Chamber judgment of 7 February 2006 the Court held that there had been no violation of Article 14, taken in conjunction with Article 2 of Protocol No. 1. The case was referred to the Grand Chamber at the applicants' request.

In a judgment delivered on 13 November 2007 the Court held by 13 votes to four, that there had been a violation of Article 14 (prohibition of discrimination) of the Convention read in conjunction with Article 2 of Protocol No. 1 (right to education) to the Convention on account of the fact that the applicants had been assigned to special schools as a result of their Roma origin.

(10) Dickson v. the United Kingdom, n° 44362/04

The applicants, Kirk and Lorraine Dickson, are British nationals. At the material time Mr Dickson was in Dovergate Prison, Uttoxeter (United Kingdom) and Mrs Dickson lived in Hull (United Kingdom).

In 1994 Mr Dickson was convicted of murder and sentenced to life imprisonment with a tariff (the minimum period to be served) of 15 years. He has no children. In 1999 he met Lorraine via a prison pen pal network while she was also imprisoned. In 2001 they married. Mrs Dickson already had three children from other relationships.

The couple requested artificial insemination facilities to enable them to have a child together, arguing that it would not otherwise be possible, given Mr Dickson's earliest release date and Mrs Dickson's age. The Secretary of State refused their application, explaining his general policy, according to which requests for artificial insemination by prisoners could only be granted in "exceptional circumstances". The grounds given for refusal were: that the applicants' relationship had never been tested in the normal environment of daily life; that insufficient provision had been made for the welfare of any child that might be conceived; that mother and child would have had only a limited support network; and, that the child's father would not be present for an important part of her or his childhood. It was also considered that there would be legitimate public concern that the punitive and deterrent elements of Mr Dickson's sentence were being circumvented if he were allowed to father a child by artificial insemination while in prison.

The applicants appealed unsuccessfully. The application was lodged with the Court on 23 November 2004.

In its Chamber judgment of 18 April 2006, the Court declared the case admissible and held by four votes to three that there had been no violation of Articles 8 or 12.

On 13 September 2006 the panel of the Grand Chamber granted the applicants' request to have their case referred to the Grand Chamber under Article 43. A hearing before the Grand Chamber was held on 10 January 2007.

In a judgment delivered on 4 December 2007 the Court held by 12 votes to five that there had been a violation of Article 8 (right to respect for private and family life) of the Convention.

(11) Stoll v. Switzerland, n° 69698/01

Martin Stoll, a Swiss national who lives in Zürich (Switzerland), is a journalist.

In December 1996 Carlo Jagmetti, who was then the Swiss ambassador to the United States, drew up a “strategic document”, classified as “confidential”, in the course of negotiations between, among others, the World Jewish Congress and Swiss banks concerning compensation due to Holocaust victims for unclaimed assets deposited in Swiss banks.

The document was sent to the person in charge of the matter at the Federal Department of Foreign Affairs in Berne and copies were sent to 19 other people and certain Swiss diplomatic representatives. The applicant obtained a copy, probably as a result of a breach of professional confidence by a person whose identity remains unknown.

On 26 January 1997 the Zürich Sunday newspaper *Sonntags-Zeitung* published two articles by the applicant under the headings “Carlo Jagmetti offends the Jews” and “The ambassador in bathrobe and climbing boots puts his foot in it again”, accompanied by extracts from the report in question. The next day the Zürich daily *Tages-Anzeiger* reproduced large extracts from the strategic document and subsequently the newspaper *Nouveau Quotidien* also published extracts from the report.

On 22 January 1999 Zürich District Court sentenced the applicant to a fine of 800 Swiss francs (approximately EUR 520) for publishing “official confidential deliberations” within the meaning of Article 29 § 3 of the Criminal Code. Appeals lodged by the applicant were dismissed at last instance by the Federal Court on 5 December 2000.

The Swiss Press Council, to which the case had been referred by the Swiss Federal Council in the meantime, accepted that publication had been legitimate, given the importance of the public debate concerning the assets of Holocaust victims. However, it found that by thus shortening the analysis and failing to place the report sufficiently in context, the applicant had irresponsibly made the ambassador's remarks appear sensational and shocking.

The applicant submits that his conviction had infringed Article 10 (freedom of expression) of the Convention.

The application was lodged with the European Court of Human Rights on 14 May 2001 and declared admissible on 3 May 2005. In its Chamber judgment of 25 April 2006 the Court held by four votes to three that there had been a violation of Article 10 of the Convention. Under Article 43 the case was referred to the Grand Chamber at the Government's request.

In a judgment delivered on 10 December 2007 the Court held by twelve votes to five that there had been no violation of Article 10 (freedom of expression) of the Convention in respect of the applicant's conviction for publishing "secret official deliberations" concerning compensation due to Holocaust victims for unclaimed assets.

IX. STRIKE-OUT JUDGMENTS

(1) Shevanova v. Latvia (58822/00)

The applicant is a Russian national who lives in Riga. She has lived in Latvia for 35 years and has been subject to a deportation order since 1998.

In 1970, when she was 22, the applicant settled in Latvia for professional reasons; in 1973 she married a Latvian national, with whom she had a son. The couple divorced in 1980.

In 1981, having lost her Soviet passport, the applicant received a new passport; she found the lost passport in 1989 but failed to return it to the relevant authorities.

In 1991 the Soviet Union broke up and Mrs Shevanova found herself with no nationality. She was registered in Latvia on the list of residents as a permanent resident, and her son was granted the status of “permanent resident non-citizen” of Latvia.

In 1994 the applicant had a false stamp entered in her first Soviet passport (which had been found and hidden), attesting that her registration in Latvia had been cancelled. She was registered in Russia at her brother’s address, and was granted Russian nationality.

In March 1998 the applicant applied to the Department of Nationality and Migration Affairs at the Latvian Ministry of the Interior (*Iekšlietu ministrijas Pilsonības un migrācijas lietu pārvalde*, “the Department”) for a passport as a “permanently resident non-citizen”. The Department then discovered the applicant’s second residence registration in Russia and learnt of the actions with regard to her previous passport, which had been lost and found. It decided on 9 April 1998 to cancel the applicant’s inclusion on the residents’ list and issued a deportation order against her, together with a five-year exclusion order.

None of the administrative and judicial appeals lodged by the applicant with a view to having the deportation order overturned was successful. In February 2001 Mrs Shevanova was arrested and placed in a detention centre for illegal immigrants pending her deportation. Following her hospitalisation, the Department suspended the enforcement of the forced deportation order and the applicant, who was released, continued to reside in Latvia unlawfully.

After the European Court had declared this application admissible, the Latvian authorities offered, in February 2005, to regularise the applicant's situation by issuing her with a permanent residence permit, and invited her to file the necessary documents to that end. However, it appeared from the case file that to date the applicant had not submitted the necessary papers.

The applicant alleged, in particular, that the decision to deport her from Latvia amounted to a violation of her right to respect for her private and family life, guaranteed by Article 8 (right to respect for private and family life) of the Convention.

In a judgment of 15 June 2006, the Court held by six votes to one that there had been a violation of Article 8 of the Convention.

The case was referred to the Grand Chamber at the Government's request.

In a judgment delivered on 7 December 2007 the Court held unanimously that the matter giving rise to the case had been resolved and decided to strike the application out of its list of cases.

(2) Kaftailova v. Latvia (59463/00)

The applicant is of Georgian origin and lives in Riga (Latvia). She had Soviet nationality until 1991 and currently has no nationality.

In 1982 the applicant, who was then resident in Russia, married a Soviet civil servant, employed by the Ministry of the Interior of the USSR. The couple had a daughter in 1984 and settled in Latvia. The couple divorced in October 1990.

In 1991 the Soviet Union broke up and Mrs Kaftailova found herself with no nationality.

In February 1993 the applicant was granted the right to rent a room obtained by her ex-husband in 1987, which was located in a "duty residence" and asked the Department of Nationality and Migration Affairs at the Latvian Ministry of the Interior (*Iekšlietu ministrijas Pilsonības un imigrācijas departaments*, "the Department") to register her on the list of residents (*Iedzīvotāju reģistrs*) as a permanent citizen of Latvia. In her request, however, she indicated an address at which her ex-husband had unlawfully registered her, and not the address in Riga at which she then lived.

Initially the Department granted her request. In July 1993, however, it cancelled the applicant's registration on the ground that the stamp in her passport was false. On 15 February 1994 the Department struck the applicant out of the list of residents, cancelled her personal identification code and overturned the decision granting her the right to rent the room in which she lived.

On 9 January 1995 the Department served a deportation order on the applicant, ordering her to leave Latvia with her daughter. The Department had noted that on 1 July 1992, the critical date laid down by the Law on the Entry into and Residence of Aliens and Stateless Persons in the Republic of Latvia, the applicant had not been officially registered as having any permanent residence in Latvia; in those circumstances, she ought to have applied for a residence permit within one month of that law entering into force, failing which she would be subject to a deportation order; however, the applicant had not done so.

None of the administrative and judicial appeals lodged by the applicant with a view to having her situation regularised was successful.

After the European Court had declared this application admissible, the Latvian authorities offered in January 2005 to regularise the applicant's situation by issuing her with a permanent residence permit, and invited her to file the necessary documents to that end. However, it appeared from the case file that the applicant had not submitted the necessary papers by the date of the Court's judgment.

The applicant alleged, in particular, that the Latvian authorities' refusal to regularise her situation constituted a violation of her right to respect for private and family life, guaranteed by Article 8 (right to respect for private and family life).

In a judgment of 22 June 2006, the Court held by five votes to two that there had been a violation of Article 8.

The case was referred to the Grand Chamber at the Government's request.

In a judgment delivered on 7 December 2007 the Court held unanimously that the matter giving rise to the case had been resolved and decided to strike the application out of its list of cases.

**(3) El Majjaoui and Stichting Touba v. the Netherlands,
n° 25525/03**

The case concerned an application brought by Lamaiz El Majjaoui, a Moroccan national who lived in Flushing (the Netherlands) at the relevant time; and, Stichting Touba Moskee, a foundation based in Flushing, which runs a Mosque serving Muslim believers belonging to the local Moroccan ethnic community.

On 2 December 1999 Stichting Touba Moskee applied for a work permit (*tewerkstellingsvergunning*) to allow it to appoint Mr El Majjaoui as its imam.

On 30 October 2000 the General Directors of the Employment Services Authority turned down the application on the ground that it had to be assumed that there was already an adequate supply of priority candidates (European Union or European Economic Area nationals, or others with equivalent status as regards residence and the right to work, possessing the requisite qualifications) since insufficient efforts had been made to fill the position from that priority group, for example, by advertising the position in the local and national press. In addition, it had not been shown that Mr El Majjaoui would earn the statutory minimum wage.

Mr El Majjaoui lodged an objection on 29 November 2000, stating, among other things, that rules about the minimum wage did not apply to him and that there was a dearth of imams in the Netherlands. His objection was rejected on 19 September 2001.

He and Stichting Touba Moskee then appealed to the Regional Court of The Hague on 16 October 2001. They claimed that, among other things, efforts to find a suitable imam through the Labour Exchange (*Arbeidsbureau*) had failed and, given the unreasonable length of time taken up by the pending proceedings (by that time, nearly two years) and in the absence of any other candidate for the position, Mr El Majjaoui had started work as the imam at the mosque and everyone was satisfied with his performance. It was also argued that the decision of 19 September 2001 violated Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights. The applicants' case and subsequent appeal were rejected.

The applicants complained about the refusal to give Mr El Majjaoui a work permit, relying on Article 9 (freedom of thought, conscience and religion) and Article 18 (limitation on use of restrictions on rights) of the European Convention on Human Rights.

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The application was lodged with the European Court of Human Rights on 18 August 2003 and declared admissible on 14 February 2006.

On 7 December 2006 the Chamber to which the cases had been allocated relinquished jurisdiction in favour of the Grand Chamber, under Article 30 of the Convention.

In a judgment delivered on 20 December 2007 the Court held by fourteen votes to three that the matter giving rise to the applicants' complaints had been resolved and decided to strike the application out of its list of cases.

X. THIRD-PARTY INTERVENTIONS

Leave to submit third party comments was given by the President of the Grand Chamber in 2007 pursuant to Rule 44 § 2 (a) of the Rules of Court in the following cases:

(1) D.H. and others v. the Czech Republic, n° 57325/00

The following Associations were given leave to submit third party comments

1. Fédération Internationale des Ligues des Droits de l'Homme
2. Minority Rights Group International
3. Interights
4. International STEP by STEP Association

(2) Stoll v. Switzerland, n° 69698/01

The Governments of France and the Slovak Republic were given leave to submit third party comments.

(3) E.B. v. France, n° 43546/02

The following Associations were given leave to submit third party comments

1. Fédération Internationale des Ligues des Droits de l'Homme
2. ILGA-Europe (the European Region of the International Lesbian and Gay Association)
3. APGL (Association des Parents et futurs Parents Gays et Lesbiens)
4. BAAF (British Agencies for Adoption and Fostering)

(4) Saadi v. the United Kingdom, n° 13229/03

The following Associations were given leave to submit third party comments:

1. The United Nations High Commission for Refugees (UNHCR)
2. The Aire Centre
3. The European Council on Refugees and Exiles (ECRE)
4. Liberty

(5) Naseem Saadi (formerly N.S.) v. Italy, n° 37201/06

The United Kingdom Government was given leave to intervene under Article 36 § 2 of the Convention.

(6) Burden and Burden v. the United Kingdom, n° 13378/05

The Governments of all the member states were given leave to intervene in the written procedure.

(7) N. v. the United Kingdom, n° 26565/05

The Helsinki Foundation for Human Rights was given leave to submit third party comments.

(8) Kovacic and others v. Slovenia, n° 44574/98, 45133/98, 48316/99

The Government of Croatia was given leave to intervene under Article 36 § 2 of the Convention and Rule 61 § 3 of the Rules of Court.

(9) Yumak and Sadak v. Turkey, n° 10226/03

The Association Minority Rights Group International was given leave to submit third party comments.

XI. LIST OF ARTICLE 43 REQUESTS EXAMINED BY THE GRAND CHAMBER'S PANEL

See Appendix.

XII. LIST OF CASES PENDING BEFORE THE GRAND CHAMBER ON 31 DECEMBER 2007

- | | | |
|------|-----------|--|
| (1) | 25781/94, | Cyprus v. Turkey (Art. 41) |
| (2) | 35014/97, | Hutten-Czapska v. Poland (Art. 41) |
| (3) | 21906/04, | Kafkaris v. Cyprus |
| (4) | 19324/02, | Leger v. France |
| (5) | 27278/03, | Arvanitaki-Roboti and others v. Greece |
| (6) | 43546/02, | E.B. v. France |
| (7) | 74420/01, | Ramanauskas v. Lithuania |
| (8) | 38311/02, | Georgios Kakamoukas and others v. Greece |
| (9) | 13229/03, | Saadi v. the United Kingdom |
| (10) | 14277/04, | Guja v. Moldova |
| (11) | 9174/02, | Korbely v. Hungary |
| (12) | 37201/06, | Saadi (formerly N.S.) v. Italy |
| (13) | 13378/05, | Burden and Burden v. the United Kingdom |
| (14) | 26565/05, | N. v. the United Kingdom |
| (15) | 34503/97, | Demir and Baykara v. Turkey |
| (16) | 44574/98, | Kovacic and others v. Slovenia |
| (17) | 10226/03, | Yumak and Sadak v. Turkey |
| (18) | | Avis Consultatif/Advisory Opinion |
| (19) | 1638/03, | Maslov v. Austria |
| (20) | 36391/02, | Salduz v. Turkey |
| (21) | 30562/04, | Marper v. the United Kingdom |
| (22) | 3455/05, | A. and others v. the United Kingdom |
| (23) | 71463/01, | Silih v. Slovenia |
| (24) | 12686/03, | Gorou v. Greece |
| (25) | 14939/03, | Zolotukhin v. Russia |
| (26) | 4378/02, | Bykov v. Russia |
| (27) | 55707/00 | Andrejeva v. Latvia |

LIST OF REFERRAL REQUESTS (by Gvts and/or Applicants-as from January 2007)							
Application no.	Applicant	Country	Section	Judgment	Request	Panel Date	Panel Result
20491/92	Shapovalova	Russia	I	5.10.06	App	12.2.07	rejected
22534/93	Zaytsev	Russia					
23423/94	Mokrushina	Russia	I	5.10.06	App	12.2.07	rejected
27699/95	Mehmet Ali Gündüz	Turkey	V	10.8.06	Gvt	12.2.07	rejected
29346/95	Gută	Romania	III	16.11.06	App	26.3.07	rejected
32492/96, 32547-48/96, 33209-10/96	Ananyev	Ukraine	V	30.11.06	App	12.2.07	rejected
34049/96	Zwierzynski	Poland	former I	6.3.07 (revision)	Gvt	24.9.07	rejected
34503/97	Demir and Beykara	Turkey	II	21.11.06	Gvt	23.5.07	ACCEPTED
36268/97	Shelomkov	Russia	I	5.10.06	App	12.2.07	rejected
37290/97	Walker	UK	IV	22.8.06	App	12.2.07	rejected
37410/97	Kamil Uzun	Turkey	II	10.05.07	App	24.9.07	rejected
37451/97	N.A. and others	Turkey	II	9.1.07	App	23.5.07	rejected
37850/97	Aksakal	Turkey	III	15.02.07	App	09.07.07	rejected
39429/98	Irfan Bayrak	Turkey	II	3.5.07	Gvt	24.9.07	rejected
40528/98	Pessino	France	II	10.10.06	Gvt	12.2.07	rejected
41578/98	Gregório de Andrade	Portugal	II	14.11.06	App	26.3.07	rejected

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42268/98	Olenik	Slovenia	III	2.11.06	App	12.2.07	rejected
43278/98 45437/99 48014/99 51362/99 53367/99 60036/00 194/02	Velikovi and Others	Bulgary	V	15.03.07	App	09.07.07	rejected
43662/98	Scordino (n° 3)	Italy	IV	06.03.07	Gvt	09.07.07	rejected
44574/98, 45133/98, 48316/99	Kovačič et autres	Slovénie	III	6.11.06	App	26.3.07	ACCEPTED
45628/99	Apostolidi et autres	Turkey	IV	27.03.07	App	24.9.07	
45807/99	Bencze	Hungary	II	31.10.06	App	12.2.07	rejected
45972/99	Karov	Bulgarie	V	16.11.06	App	26.3.07	rejected
46347/99	Xenides-Arestis	Turkey	III	7.12.06	Gvt & App	23.5.07	rejected
46503/99	Klimentyev	Russia	V	16.11.06	App	23.5.07	rejected
46777/99	Kutbettin Baran	Turkey	IV	23.01.07	App	09.07.07	rejected
48055/99	Akkan and Erkizilkaya	Turkey	II	24.10.06	Gvt	23.5.07	rejected
48316/99	Golubović	Slovenia	Former III	6.11.06	App	14.5.07	ACCEPTED
50073/99	Chadimová	Czech Republic	former II	26.4.07	App	24.9.07	rejected
51358/99	Paşa and Erkal Erol	Turkey	II	12.12.06	Gvt	14.5.07	rejected
51963/99	Namli and others	Turkey	IV	5.12.06	Gvt	23.5.07	rejected

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52058/99	Gorodnitchev	Russia	I	24.5.07	Gvt	12.11.07	rejected
52077/99	Okkali	Turkey	II	17.10.06	Gvt	12.2.07	rejected
52697/99	Mikadze	Russia	I	7.06.07	Gvt	12.11.07	rejected
52955/99	Huylu	Turkey	I	16.11.06	Gvt	23.5.07	rejected
53176/99	Ledyayeva	Russia	I	26.10.06	Gvt	26.3.07	rejected
54330/00	Preložnik	Slovakia	IV	12.12.06	App	23.5.07	rejected
55983/00	Anter and others	Turkey	IV	19.12.06	App	23.5.07	rejected
56026/00	Wende et Kokówka	Poland	IV	10.5.07	App	24.9.07	rejected
56293/00	G. M.	Italy	II	5.07.07	App	12.11.07	rejected
57389/00	Huohvanainen	Finland	IV	13.3.07	App	24.9.07	rejected
57963/00	Duyum	Turkey	IV	27.03.07	App	09.07.07	rejected
58650/00	Dima	Roumanie	I	16.11.06	App	26.3.07	rejected
58749/00	Börekçiogullari (Çökmez) and others	Turkey	III	19.11.06	App + Gvt	26.3.07	rejected
58771/00	Amato	Turkey	III	3.05.07	App	12.11.07	rejected
59519/00	Staroszczyk	Poland	I	22.03.07	Gvt	09.07.07	rejected
60297/00	Giacomelli	Italy	III	2.11.06	Gvt	26.3.07	rejected
60580/00	Tasatan	Turkey	II	10.5.07	App	24.9.07	rejected
61259/00	Musa et autres	Bulgary	V	11.01.07	App	09.07.07	rejected
61517/00	Tunceli Kültür ve Dayanisma Derneği	Turkey	II	10.10.06	Gvt	12.2.07	rejected
62152/00	Majadallah	Italy	I	19.10.06	Gvt	26.3.07	rejected
62242/00	Yüksektepe	Turkey	II	24.10.06	App	26.3.07	rejected
62265/00	Gregori	Italy	II	5.07.07	App	12.11.07	rejected
63252/00	Paduraru	Romania	III	15.3.07	App	24.9.07	rejected

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63501/00	Hobbs, Richard, Walsh and Geen	UK	IV	14.11.06	App	26.3.07	rejected
63767/00	Puzinas	Lituanie	II	9.1.07	App	23.5.07	rejected
72701/00	Krone Verlags GMBH & Co kg	Austria	III	9.11.06	App	26.3.07	rejected
64054/00, 64071/00	Macko and Kozubal'	Slovakia	IV	19.06.07	App	12.11.07	rejected
64140/00	Rozhkov	Russia	V	19.07.07	App	12.11.07	rejected
64330/01	Sekulowicz	Poland	IV	7.11.06	App	12.2.07	rejected
65422/01	Dóbal	Slovakia	IV	12.12.06	App	23.5.07	rejected
65567/01	Koval	Ukraine	I	19.10.06	App	12.2.07	rejected
65582/01	Radchikov	Russia	V	24.05.07	Gvt	12.11.07	rejected
65859/01	Sheydayev	Russia	I	7.12.06	Gvt	23.5.07	rejected
65899/01	Jeruzal	Poland	IV	10.10.06	App	12.2.07	rejected
66018/01	Vaivada	Lituanie	III	16.11.06	App	26.3.07	rejected
66079/01	Boczon	Poland	IV	30.01.07	App	09.07.07	rejected
66543/01	Grässer	Germany	V	5.10.06	App	26.3.07	rejected
66824/01	Lesar	Slovenia	III	30.11.06	App	23.5.07	rejected
67189/01	Ivanov	Bulgary	V	24.05.07	App	12.11.07	rejected
67447/01	Žehelj	Slovenia	III	21.12.06	App	23.5.07	rejected
67579/01	Kutznetsova	Russia	I	7.06.07	Gvt	12.11.07	rejected
68761/01	Bobek	Poland	II	17.07.07	App	10.12.07	rejected
69145/01	Bialas	Poland	IV	10.10.06	App	12.2.07	rejected
69911/01	Inci (Nasiroglu)	Turkey	III	14.06.07	Gvt	12.11.07	rejected
70861/01	Taner Kiliç	Turkey	II	24.10.06	Gvt	12.2.07	rejected
71111/01	Hachette Filipacchi Associes	France	I	14.06.07	App	12.11.07	rejected

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71186/01	Atut Sp. Z.o.o.	Poland	IV	24.10.06	App	12.2.07	rejected
71362/01	Smirnov	Russia	I	7.06.07	Gvt	12.11.07	rejected
71463/01	Silih	Slovenia	III	28.06.07	Gvt	12.11.07	ACCEPTED
72331/01	Dvoynykh	Ukraine	V	12.10.06	App	12.2.07	rejected
73016/01	Andrzejewski	Poland	IV	17.10.06	App	12.2.07	rejected
73049/01	Kadriye Yildiz	Turkey	II	10.10.06	App	26.3.07	rejected
73102/01	Kuc	Poland	IV	17.07.07	App	10.12.07	rejected
73529/01	Beshiri and others	Albania	IV	22.8.06	Gvt	12.2.07	rejected
73547/01	Miroux	France	II	26.9.06	Gvt	12.2.07	rejected
74237/01	Baysayeva	Russia	I	5.4.07	Gvt	24.9.07	
74341/01	Öktem	Turkey	III	19.10.06	App	26.3.07	rejected
74433/01	Kansiz	Turkey	IV	22.05.07	App	12.11.07	rejected
74456/01	Karahanoglu	Turkey	II	3.10.06	Gvt	12.2.07	rejected
75527/01 & 11837/02	Üçak et autres	Turkey	former II	26.4.07	App	24.9.07	rejected
75606/01	Mehmet Ali Miçoogullari	Turkey	II	10.5.07	App	24.9.07	rejected
75870/01	L.L.	France	II	10.10.06	Gvt	12.2.07	rejected
75872/01	Jonczyk	Poland	IV	10.10.06	App	12.2.07	rejected
76680/01	Skugor	Germany	V	10.5.07	App	24.9.07	rejected
77522/01	Sedmak	Slovenia	III	18.1.07	App	23.5.07	rejected
77606/01	Paudicio	Italy	II	24.05.07	App	12.11.07	rejected
78145/01	Kovalev	Russia	I	10.05.07	Gvt	12.11.07	rejected
106/02	Benedicktov	Russia	I	10.5.07	Gvt	24.9.07	rejected
117/02	Kizir and Others	Turkey	II	26.06.07	Gvt	12.11.07	rejected
205/02	Andrey Frolov	Russia	I	29.3.07	Gvt	24.9.07	rejected

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803/02	Intersplav	Ukraine	II	9.1.07	Gvt	23.5.07	rejected
1250/02	Tuncay	Turkey	II	12.12.06	App	23.5.07	rejected
1509/02	Tatishvili	Russia	I	22.02.07	Gvt	09.07.07	rejected
1641/02	OAo Plodovaya Kompaniya	Russia	I	7.06.07	App	12.11.07	rejected
1719/02	De Blasi	Italy	III	5.10.06	App	12.2.07	rejected
1914/02	Dupuis and Others	France	III	7.06.07	Gvt	12.11.07	rejected
2708/02	Solovyev	Russia	I	24.05.07	Gvt	12.11.07	rejected
2726/02	Nerumberg	Romania	III	01.02.07	App	09.07.07	rejected
5060/02	Zorc	Slovenia	III	2.11.06	App	26.3.07	rejected
5935/02	Heglas	Czech Republic	V	01.03.07	App	09.07.07	rejected
6690/02	Pepszolg Kft. ("v.a.")	Hungary	II	27.02.07	App	09.07.07	rejected
7114/02	Mihăescu	Romania	III	2.11.06	App	26.3.07	rejected
7893/02	Acatrinei	Romania	III	26.10.06	App	26.3.07	rejected
8371/02	Shevchenko	Ukraine	V	26.4.07	App	24.9.07	rejected
8694/02	Mutlu	Turkey	II	10.10.06	Gvt	12.2.07	rejected
9446/02	Ihsan and Satun Önel	Turkey	III	21.9.06	Gvt	12.2.07	rejected
10399/02	Volovich	Russia	I	5.10.06	App	12.2.07	rejected
10481/02	Roda and Bonfatti	Italy	II	21.11.06	App & Gvt	26.3.07	rejected
10523/02	Gasser	Italy	III	21.9.06	Gvt	12.2.07	rejected
10582/02 1441/03 7420/03	Necip Kendirci and Others	Turkey	II	03.04.07	App	09.07.07	rejected
10756/02	Gallucci	Italy	II	12.06.07	App	12.11.07	rejected

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11370/02	Vasilyev	Ukraine	V	21.6.07	App	24.9.07	
11931/02	Mas	Ukraine	V	11.1.07	App	23.5.07	rejected
12174/02	Panteleyenko	Ukraine	V	29.6.06	App	12.2.07	rejected
12803/02	Ogurtsova	Ukraine	V	1.2.07	App	23.5.07	rejected
13270/02	Dika	F.Y.R. Macedonia	V	31.05.07	App	12.11.07	rejected
13323/02	Nowak and Zajackowski	Poland	IV	22.8.06	App	12.2.07	rejected
13583/02	V. S.	Ukraine	V	30.11.06	App	26.3.07	rejected
13844/02	Pandy	Belgium	I	21.09.06	App	12.2.07	rejected
13886/02	Maupas and others	France	II	19.9.06	App	12.2.07	rejected
13893/02	Golik	Poland	IV	28.11.06	App	23.5.07	rejected
14255/02	Gladczak	Poland	IV	31.05.07	App	12.11.07	rejected
15377/02	Łukjaniuk	Poland	IV	7.11.06	App	26.3.07	rejected
15394/02	Ilicak	Turkey	III	5.4.07	App	24.9.07	rejected
17721/02	Hürriyet Yilmaz	Turkey	II	5.06.07	App	12.11.07	rejected
18037/02	Gavrileanu	Romania	III	22.02.07	App	09.07.07	rejected
18147/02	Church Scientology Moscow	Russia	I	5.4.07	Gvt	24.9.07	rejected
18219/02	Lysenko	Ukraine	V	7.06.07	App	12.11.07	rejected
18806/02	Jesina	Czech Republic	V	26.7.07	App	10.12.07	rejected
18836/02	Ajzert	Hungary	II	7.11.06	App	26.3.07	rejected
19124/02	Kirsten	Germany	V	15.02.07	App	09.07.07	rejected
19324/02	Le Calvez	France	II	19.12.06	App	26.3.07	rejected
19735/02	Atici	Turkey	II	10.05.07	App	12.11.07	rejected
21508/02	W. S.	Poland	IV	19.6.07	Gvt	24.9.07	rejected
22344/02	Kunić	Croatia	I	11.1.07	App	23.5.07	rejected

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23053/02	Markoski	Fyrom	V	2.11.06	App	12.2.07	rejected
25072/02	Riihikallio and Others	Finland	IV	31.5.07	App	12.11.07	rejected
25476/02	Pogrebna	Ukraine	V	15.02.07	App	09.07.07	rejected
26186/02	Hesse	Austria	I	25.01.07	App	09.07.07	rejected
30465/02	Ahmet Mete (2)	Turkey	II	12.12.06	App	23.5.07	rejected
31105/02	Shinkarenko	Ukraine	V	7.6.07	App	24.9.07	rejected
31780/02	Panteleeva	Ukraine	V	5.07.07	App	10.12.07	rejected
32268/02	Malahov	Moldova	IV	7.06.07	App	12.11.07	rejected
32718/02	Tuleshov and Others	Russia	V	24.5.07	Gvt	12.11.07	rejected
33447/02	Ananyev	Ukraine	V	30.11.06	App	26.3.07	rejected
35229/02	Martellacci	Italy	III	28.9.06	App	26.3.07	rejected
36166/02 36249/02 36263/02 36272/02 36277/02 36319/02 36339/02	Asfuroğlu	Turkey	II	27.03.07	App	09.07.07	rejected
36378/02	Emesz	Hungary	II	31.10.06	App	12.2.07	rejected
36391/02	Salduz	Turkey	II	26.4.07	App	24.9.07	ACCEPTED
36911/02	Mishketkul and Others	Russia	I	24.5.07	Gvt	12.11.07	rejected
39856/02	Oyman	Turkey	II	20.02.07	App	09.07.07	rejected
40132/02	Yuriy Ivanov	Ukraine	V	14.12.06	App	23.5.07	rejected
40464/02	Akhmadova and Sadulayeva	Russia	I	10.05.07	Gvt	12.11.07	rejected
43282/02	Naydenkov	Russia	I	7.6.07	Gvt	24.9.07	rejected

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43432/02	Verdu Verdu	Spain	V	15.02.07	App	09.07.07	rejected
1638/03	Maslov	Austria	I	22.3.07	Gvt	24.9.07	ACCEPTED
2898/03	N.T. Giannousis & Kliafas Brothers S.A.	Greece	I	14.12.06	Gvt	23.5.07	rejected
3046/03	Shlepkin	Russia	I	01.02.07	Gvt	09.07.07	rejected
3864/03	Spanoche	Romania	III	26.07.07	App	10.12.07	rejected
5263/03	Skibińscy	Poland	IV	14.11.06	Gvt	26.3.07	rejected
5410/03	Tysiac	Poland	IV	20.3.07	Gvt	24.9.07	rejected
6098/03	Durdan	Romania	III	26.4.07	App	24.9.07	rejected
6888/03	Pruneanu	Moldova	IV	16.1.07	App	23.5.07	rejected
7873/03	Földes et Földesné Hajlik	Hungary	II	31.10.06	App	26.3.07	rejected
8374/03	Vincent	France	II	24.10.06	App & Gvt	26.3.07	rejected
9119/03	Slukvina	Ukraine	V	21.12.06	App	26.3.07	rejected
9724/03	Litvinyuk	Ukraine	V	01.02.07	App	09.07.07	rejected
10226/03	Yumak and Sadak	Turkey	II	30.01.07	App	09.07.07	ACCEPTED
10736/03	Väänänen	Finland	IV	20.2.07	App	24.9.07	rejected
11184/03	Krempa-Czuchryta	Poland	IV	3.07.07	App	10.12.07	rejected
11423/03	Pello	Estonia	V	12.07.07	App	10.12.07	rejected
12686/03	Gorou	Grèce	I	14.6.07	App	12.11.07	ACCEPTED
13229/03	Molander	Finland	IV	7.11.06	App	26.3.07	rejected
14939/03	Sergey Zolotukhin	Russia	I	7.06.07	Gvt	12.11.07	ACCEPTED
14962/03	Borshchevskiy	Russia	I	21.9.06	Gvt	12.2.07	rejected
15366/03	Börczök Bodor	Hungary	II	3.10.06	App	12.2.07	rejected
16351/03	Konstatinov	Netherlands	III	26.4.07	App	24.9.07	rejected

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18368/03	Pobegaylo	Ukraine	V	29.3.07	App	24.9.07	rejected
19321/03	Pititto	Italy	II	12.06.07	Gvt	12.11.07	rejected
22000/03	Raylyan	Russia	I	15.02.07	App + Gvt	09.07.07	rejected
22931/03	Lazarevska	F.Y.R. Macedonia	V	5.07.07	App	10.12.07	rejected
24245/03	Wallová et Walla	Tzech Republic	V	26.10.06	App	26.3.07	rejected
25326/03	Patera	Czech Republic	former II	26.4.07	App	24.9.07	rejected
25771/03	Alsayed Allaham	Greece	I	18.1.07	App	23.5.07	rejected
25779/03	Salt hiper S.A.	Spain	V	7.06.07	App	12.11.07	rejected
29128/03	Tozkoparan and Others	Turkey	II	17.07.07	App	10.12.07	rejected
30077/03	Hélioplan KFT	Hungary	II	3.05.07	App	12.11.07	rejected
31501/03, 31870/03 13045/04 13076/04 14838/04 17558/04 30488/04 45576/04 20389/05	Aubert and others and 8 others	France	II	9.1.07	App	23.5.07	rejected
32494/03	Aslan	Romania	III	24.5.07	App	24.9.07	rejected
33158/03	Kadriye Sülun	Turkey	II	06.02.07	App	09.07.07	rejected
34797/03	Ulusoy and others	Turkey	II	3.5.07	Gvt	24.9.07	rejected
35615/03	Krzych and Gurbiez	Poland	IV	13.02.07	App	09.07.07	rejected

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36619/03	Wassdahl	Sweden	II	6.2.07	App	23.5.07	rejected
36678/03	Sova	Ukraine	V	21.06.07	Gvt	12.11.07	rejected
37301/03	Hauser-Sporn	Austria	I	7.12.06	Gvt	23.5.07	rejected
37938/03	Murillo Espinosa	Spain	V	7.06.07	App	12.11.07	rejected
38184/03	Matyjek	Poland	IV	24.4.07	Gvt	24.9.07	rejected
1948/04	Salah Sheekh	Netherlands	III	11.1.07	Gvt	23.5.07	rejected
7510/04	Kontrová	Slovakia	Iv	31.5.07	Gvt	24.9.07	rejected
9747/04	Gorou (No 4)	Greece	I	11.1.07	Gvt	23.5.07	rejected
11529/04	Baskiene	Lithuania	II	24.07.07	App	10.12.07	rejected
11801/04	Tsalkitzis	Greece	I	16.11.06	Gvt	26.3.07	rejected
13647/04	Immobilia Bau Kft.	Hungary	II	9.10.07	App	10.12.07	rejected
13910/04	Tarasov	Russia	I	28.9.06	Gvt	12.2.07	rejected
14263/04	Rompoti and Rompotis	Greece	I	25.01.07	Gvt	09.07.07	rejected
14385/04	Oferta Plus SRL	Moldova	IV	19.12.06	Gvt	23.5.07	rejected
14502/04	Nelyubin	Russia	I	2.11.06	Gvt	26.3.07	rejected
17133/04	Ldokova	Ukraine	V	21.12.06	Gvt	23.5.07	rejected
20627/04	Štavbe	Slovenia	III	30.11.06	App	26.3.07	rejected
22689/04	Scorziello	Italy	II	31.07.07	App	10.12.07	rejected
23241/04	Arma	France	III	08.03.07	App	09.07.07	rejected
23848/04	Gergely	Hungary	II	31.10.06	App	26.3.07	rejected
24842/04	Kletsova	Russia	I	12.04.07	App	10.12.07	rejected
26041/04	Casotti	Italy	II	31.07.07	App	10.12.07	rejected
28770/04	Tsekouridou	Greece	I	25.01.07	App	09.07.07	rejected
29508/04	Kozachek	Ukraine	V	7.12.06	Gvt	23.5.07	rejected

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31677/04	Sociedade Agricola Herdade da Palma	Portugal	II	10.07.07	App	12.11.07	rejected
33198/04	Ruciński	Poland	IV	20.02.07	App	09.07.07	rejected
34738/04	Yesil and Sevim	Turkey	II	5.06.07	Gvt	12.11.07	rejected
2418/05	Ouzounian Barret	Cyprus	I	18.01.07	App	09.07.07	rejected
3790/05	OOO PTK "MERKURIY"	Russia	I	14.06.07	Gvt	12.11.07	rejected
7940/05	Carkci	Turkey	II	26.06.07	App	10.12.07	rejected
8932/05	Siałkowska	Poland	I	22.03.07	Gvt	09.07.07	rejected
12263/05	Ippoliti	Italy	III	26.10.06	App	26.3.07	rejected
13378/05	Burden and Burden	UK	IV	12.12.06	App	23.5.07	ACCEPTED
14846/05	Peca	Greece	I	21.06.07	App	12.11.07	rejected
17070/05	Farhi	France	II	16.1.07	Gvt	23.5.07	rejected
17930/05	Leonidopoulos	Greece	I	31.05.07	App	12.11.07	rejected
21198/05	Ayrapetyan	Russia	I	14.06.07	Gvt	12.11.07	rejected
23009/05	Thomas Makris	Greece	I	21.06.07	App	12.11.07	rejected
43120/05	Andrulewicz	Poland	IV	3.4.07	App	24.9.07	rejected
45311/05	Bakonyi	Hungary	II	3.05.07	App	12.11.07	rejected
1543/06	Baczkowski et autres	Poland	IV	3.5.07	Gvt	24.9.07	rejected