*iv. Applicant's detention between 7 September 2000 and 11 June 2002*
The judge of the Riga Regional court gave no reasons justifying the applicant's continued detention. The Court considers that the suspicion that the applicant had committed a crime, which was part of a complex criminal case, and the fact that the applicant was residing in Latvia illegally might have justified his continued detention. However, the judge of the Riga Regional court said nothing about these reasons. Furthermore neither the applicant nor his defence counsel ever had a chance to comment in this respect. Moreover, it took two years for the first instance court to commence adjudication of the case. This was contrary to the time-limits set by Article 241 of the Criminal Procedure Code and thus infringed the principle of legal certainty protected by the Convention.
*Conclusion*: violation (unanimously).

Article 41 – EUR 5,000 for non-pecuniary damage.

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**PRIVATE AND FAMILY LIFE**
Impossibility to challenge in court a declaration of paternity after expiry of the statutory time-limit: *inadmissible*.

**KŇÁKAL - Czech Republic** (N° 39277/06)
Decision 8.1.2007 [Section V]

In 2001 the applicant met his future partner, who was already pregnant. Shortly afterwards she gave birth to a daughter in respect of whom he acknowledged paternity, and he was entered as the father in the birth register. His partner then discontinued the paternity suit she had brought against the child's putative biological father. In 2004 the applicant and his partner ended their relationship. The applicant, claiming that he had lost all ties with the child, requested the attorney-general's office to initiate an action to disclaim paternity on his behalf. The attorney-general dismissed his request on the ground that the applicant himself had failed to bring an action to disclaim paternity within the statutory time-limit of six months, and that the possibility of disclaiming paternity would neither result in a positive change in the child's life nor lead to the restoration of ties between the child and her biological father. A constitutional appeal by the applicant was also dismissed.

Article 6(1) – In view of the decision of the Constitutional Court, which had considered that the applicant's right to disclaim paternity had lapsed, as he had failed to exercise that right within the statutory time-limit of six months, the Court found that he had asserted a right which could not arguably be said to have been recognised under domestic law: *incompatible* ratione materiae.

Article 8, whether or not in conjunction with Article 13 – There was nothing to substantiate the applicant's argument that it was in the child's interest that the right to disclaim paternity should be unrestricted. In the Court's opinion a fair balance had been struck between the various interests involved. In particular, it could not be regarded as unjustified that, once the limitation period for the applicant's own action to disclaim paternity had expired, greater weight had been given by the authorities to the interests of the child than to those of the applicant. Unlike the situation in the case of *Paulík v. Slovakia* (no. 10699/05, 10 October 2006 – see Case-Law Report / Information Note no. 90), the applicant in this case had known even before the child's birth that he was not her biological father but had nevertheless acknowledged paternity in full awareness of the consequences. Moreover, the child in question was an infant who was partly dependent on the applicant's maintenance payments: *manifestly ill-founded*.

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**CORRESPONDENCE**
Minor disciplinary penalty for breach of requirement to conduct correspondence through prison administration: *no violation*.

**PUZINAS - Lithuania (no. 2)** (N° 63767/00)
Judgment 9.1.2007 [Section II]

*Facts*: The applicant is the president of an organisation for prisoners' mutual assistance and support. In 1999, while serving a sentence in prison, he signed a letter on behalf of his organisation and certain other prisoners complaining about the conditions of detention and about various allegedly unlawful acts of the prison administration. The complaint was addressed to State officials and media representatives and was sent via an inmate who had been released from the prison, in order to avoid censorship. The prison department director held that the sending of the complaint through channels other than the prison administration had breached the Prison Code and punished the applicant by prohibiting him from receiving a parcel during a personal visit. The director also held that the applicant could only send the complaint to the State authorities, not to other organisations or persons and that the Prison Code prohibited complaints on behalf of other prisoners. The applicant's appeal against the penalty was rejected by the administrative courts. The courts held that he had been punished not for corresponding with representatives of the media, but for a breach of the requirement to conduct such correspondence through the prison administration which had deprived the latter of the right to submit their comments as to the issues set out in his complaint.

*Law*: The ordinary and reasonable requirements of imprisonment may justify a system of internal inquiry into prisoners' complaints about their treatment and conditions of detention. The applicant's complaints had received an adequate judicial review and the penalty imposed on him had been of a minor nature. His possible fear of censorship had not been a valid excuse for circumventing an apparently legitimate prison rule regarding the channels of complaint. In the specific circumstances of the present case, the authorities had not overstepped their margin of appreciation and the interference had been proportionate and necessary in a democratic society.
*Conclusion*: no violation (unanimously).

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**CORRESPONDENCE**
Interception of prisoners' letters to their lawyer: *violation*.

**EKİNCİ and AKALIN - Turkey** (N° 77097/01)
Judgment 30.1.2007 [Section II]

*Facts*: The applicants were serving a prison sentence for belonging to a terrorist organisation. They complained that their letters had been intercepted by the prison authorities. Under domestic law, letters to or from prisoners were vetted by the prison administration, except for applications addressed to official bodies. Any correspondence regarded as inappropriate was transferred to a disciplinary board, which decided whether the letter should be sent in its entirety or whether the inappropriate parts should first be crossed out. Any letters regarded as totally objectionable were destroyed if so decided by the disciplinary board. The applicants' lawyer complained that their letters had been subject to scrutiny and in particular that two letters they had addressed to him had not been sent on. In those letters the applicants had complained about operations by security forces in prisons and claimed that they had been ill-treated.

*Law*: Correspondence with one's lawyer, regardless of its purpose, was privileged under Article 8, especially where that correspondence constituted a preliminary step in the use of a remedy to complain about treatment during a period of detention. The interception of private letters "calculated to hold the authorities up to contempt" or "contain[ing] material deliberately calculated to hold the prison authorities up to contempt" was not "necessary in a democratic society"; nor was a prohibition on allegations against prison officers.
*Conclusion*: violation (unanimously).

Article 41 - Each of the applicants was awarded EUR 1,000 for non-pecuniary damage.

## ARTICLE 9

**FREEDOM OF RELIGION**
Unlawful termination of meeting organised by Jehovah's Witnesses: *violation*.

**KUZNETSOV and Others- Russia** (N° 184/02)
Judgment 11.1.2007 [Former Section I]

*Facts*: The applicants are 103 Russian nationals in Chelyabinsk who are all Jehovah's Witnesses. In 1999 a lease agreement was signed which allowed the community of Jehovah's Witnesses to which the applicants belonged to rent the auditorium of a vocational training college for religious meetings. One Sunday in 2000, in accordance with the lease agreement, Jehovah's Witnesses were using the college facilities to hold a meeting for predominantly hearing-impaired to study the Bible and join in public worship. Many of the participants were elderly and also had impaired vision. The meeting was open to the public. The was disrupted by the chairwoman of the Regional Human Rights Commission ("the Commissioner"), accompanied by two senior police officers, who called for the meeting to be stopped. Mr Kuznetsov submitted that, given the intimidating behaviour of the Commissioner and the police, he thought it best to comply. The following day the Jehovah's Witnesses group was given notice of the termination of its lease agreement with the college "because of certain irregularities committed by the college administration at the time of its signing". The applicants unsuccessfully requested a criminal investigation into the actions of the Commissioner and the police officers. They also filed a civil complaint with the district court, but this was dismissed on the ground that the applicants had failed to show a causal link between the Commissioner's arrival and the premature termination of their meeting.

*Law*: Article 9 – The Court found it established that the order to terminate the meeting had emanated from the Commissioner, whereas Mr Kuznetsov merely had relayed it to the hearing-impaired audience, with whom the police officer could not communicate directly. That order amounted to an interference with the applicants' right to freedom of religion. The acts by the Commissioner and the police had not been in accordance with the law. The Court rejected the Government's claim that the applicants had lacked the appropriate documents for the religious meeting, noting that domestic law did not require any such documents. Neither did the Court accept the Government's claim that the Commissioner had come to the meeting to investigate a complaint about the unauthorised presence of children at a religious event: that claim had not been supported by any evidence. The Government had failed to submit any documents relating to the official powers of the Commissioner and no such documents had been produced in the domestic proceedings. There were, however, strong and concordant indications that she had acted without any legal basis and in a personal capacity. The involvement of two senior police officers gave her intervention a spurious authority. However, the police officers were not formally subordinated to her and she had had no authority to give them orders, such as to have the meeting dispersed. No inquiry had been ongoing, nor had there been any complaint about disturbance of public order or any other indication of an offence warranting police involvement. Therefore the legal basis for breaking up a religious event conducted on premises lawfully rented for that purpose had been lacking. The interference had not been "prescribed by law" and the Commissioner had not acted in good faith and had breached a State official's duty of neutrality and impartiality vis-à-vis the applicants' religious congregation.
*Conclusion*: violation (unanimously).

Article 6 – The Court was struck by the inconsistent approach of the Russian courts, on the one hand finding it established that the Commissioner and her aides had come to the applicants' religious meeting and that it had been terminated ahead of time, and on the other hand refusing to see a link between those two elements without furnishing an alternative explanation for the early termination of the meeting. Their findings of fact appeared to suggest that the Commissioner's arrival and the applicants' decision to

interrupt their religious service simply had happened to coincide. That approach had permitted the domestic courts to avoid addressing the applicants' main complaint, namely that neither the Commissioner nor the police officers had had any legal basis for interfering with the conduct of the applicants' religious event. The crux of the applicants' grievances – the alleged violation of their right to freedom of religion – had been left outside the scope of review by the domestic courts which had declined to undertake an examination of the merits of the complaint. In sum, the domestic courts had failed in their duty to state the reasons on which their decisions had been based and to demonstrate that the parties had been heard in a fair and equitable manner.
*Conclusion*: violation (unanimously).

Article 41 – The Court awarded Mr Kuznetsov, on behalf of all the applicants, EUR 30,000 for non-pecuniary damage.

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**MANIFEST RELIGION OR BELIEF**
Refusal of a residence permit because of allegedly harmful religious activities: *admissible*.

**PERRY - Latvia** (N° 30273/03)
Decision 18.1.2007 [Section III]

The applicant, who is a pastor and a national of the United States, set up a religious community which was registered as a church in Latvia, where he lived, having been issued with a temporary residence permit "in connection with his pedagogical activities". He subsequently received a new temporary permit "for purposes of religious activities", which authorised him to organise public activities of a religious nature. However, the renewal of his permit was denied on the basis of a law stipulating that a residence permit could not be issued to a person who was "active in a totalitarian or terrorist organisation or one that use[d] violent methods; [who] represent[ed] a danger for national security or public order; or [who was] a member of any secret anti-State or criminal organisation". However, by virtue of his wife's residence permit he was also issued with a temporary residence permit, but without being authorised to conduct religious activities. He was unsuccessful in a number of appeals to a higher administrative authority in which he argued that his freedom to manifest his religion had been breached. He then appealed to the courts. His claim was upheld by a court, which set aside the impugned decision on account of the lack of evidence of acts that represented a danger for national security or that were incompatible with the operational principles of the Christian church in question. The national authority responsible for issuing permits appealed and the appellate court upheld the arguments of the authority, which had refused to issue a permit on account of the pastor's lack of theological training, one of its sources of information being the Lutheran Academy. The applicant appealed on points of law. The chamber of the Supreme Court quashed and set aside the judgment and remitted the case to the Regional Court, which dismissed the applicant's appeal with a finding that there was a potential threat to national security. He lodged a further appeal on points of law which was also dismissed. After a number of appeals, the procurator stated that he had no objection to the granting of a residence permit to the applicant "for purposes of religious activities". The applicant was thus issued with a new permit but left Latvia and returned to the United States before it expired.

*Admissible* under Articles 9 and 14, the applicant having exhausted all available and appropriate remedies in respect of the measure which had been directed against the exercise of his religious rights.

*Inadmissible* under Article 8 for non-exhaustion of domestic remedies. In such a situation, the administrative-law remedy should in principle have been exhausted.

## ARTICLE 10

**FREEDOM OF EXPRESSION**
Newspaper closure without detailed reason or identification of which published phrases threatened national security and territorial integrity: *violation*.

**KOMMERSANT MOLDOVY - Moldova** (N° 41827/02)
Judgment 9.1.2007 [Section IV]

*Facts*: The applicant published a series of articles criticising the authorities of Moldova for their actions in respect of the break-away Moldavian Republic of Transdniestria (MRT) and reproducing harsh criticism of the Moldovan Government by certain MRT and Russian leaders. The economic court of Moldova ordered the closure of the newspaper. The court considered that the articles had exceeded the limits of publicity in the Press Act and endangered the territorial integrity of Moldova, national security and public safety and created the potential for disorder and crime, violating the Constitution. The court did not specify which expression or phrase constituted a threat but maintained that the articles did not represent a fair summary of public statements by public authorities. The applicant was ordered to pay court fees. The judgment was upheld on appeal. The newspaper was subsequently re-registered under the name "Kommersant-Plus".

*Law*: The closure of the newspaper constituted an interference with the applicant's right to freedom of expression which was prescribed by law. The interference could be considered to have pursued the legitimate aims of protecting the national security and territorial integrity of the Republic of Moldova, given the sensitive topic dealt with in the impugned articles and the sometimes harsh language used. The Court considered however that the domestic courts did not give relevant and sufficient reasons to justify the interference, limiting them essentially to repeating the applicable legal provisions. The courts did not specify which elements of the applicant's articles were problematic and in what way they endangered the national security and the territorial integrity of the country or defamed the President and the country. The courts avoided all discussion of the necessity of the interference. The only analysis made was limited to the issue of whether the articles could be considered as good-faith reproductions of public statements for which the applicant could not be held responsible in accordance with the domestic law. In light of the lack of reasons given by the domestic courts, the Court was not satisfied that they had applied standards which were in conformity with the principles embodied in Article 10 or that they had based themselves on an acceptable assessment of the relevant facts.
*Conclusion*: violation (unanimously).

Article 41 – EUR 8,000 in respect of pecuniary damage.

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**FREEDOM OF EXPRESSION**
Applicant ordered to pay compensation for having circulated defamatory letter: *violation*.

**KWIECIEŃ - Poland** (No 51744/99)
Judgment 9.1.2007 [Section IV]

*Facts*: The applicant was a party to administrative proceedings before the District Office. The applicant considered that decisions of the District Office issued in his cases were incorrect and unlawful as evidenced by the fact that they had been quashed by higher administrative authorities. He formed that view on the basis of administrative proceedings where the District Office ordered him to demolish a building on his property as being illegally erected. Those proceedings, following the applicant's complaints, were discontinued by the District Office decision in which the authority held that the contested building had been erected legally. The applicant also referred to the District Office's decision by which he had been refused planning permission. The Governor, following the applicant's appeal, reversed the contested decision and issued the planning permission sought by the applicant. The Head of the

District Office stood for election to the district council in the local elections scheduled. The applicant sent the Head an open letter wherein he called on him to withdraw from standing for election. The applicant sent copies of the letter to the Governor, the Regional Assembly, Municipal Council, local mayors, the Prime Minister's Office and a number of local newspapers. One thousand copies of the letter were to be made available to the inhabitants of the district. The Head brought an action against the applicant in the regional court which ordered the applicant to publish in a local newspaper and in a letter to the claimant, a statement that he had included untrue information in his open letter and to include an apology. The court also ordered the applicant to pay compensation for the benefit of a charity and compensation to the claimant in the form of damages. The court of appeal dismissed the applicant's appeal.

*Law*: The general aim of the applicant's open letter had been to attract the voters' attention to the suitability of the Head as a candidate for local public office and, as such, the statements contained in the letter were a matter of public interest for the local community. The domestic authorities had failed to recognise that the case involved a conflict between the right to freedom of expression and the protection of the reputation and the rights of others. They had also given no consideration to the fact that the limits of acceptable criticism of someone heading a local administrative authority were wider than in relation to a private individual. Furthermore, they had unreservedly qualified all of the applicant's comments as groundless statements of fact. The Court considered however that the applicant's open letter also had included statements which could reasonably have been regarded as value judgments. The applicant had also provided specific examples of decisions issued by the District Office but subsequently quashed on appeal. The Court therefore found that the applicant's allegations that the Head did not run the District Office competently were not devoid of a factual basis. The applicant had not acted in bad faith and his statements were not a gratuitous personal attack on the Head but part of a debate on matters of public interest. The Court particularly noted the summary nature of the proceedings that were brought against the applicant. Neither the regional court nor the court of appeal had sufficiently examined the evidence adduced by the applicant which, at least to some extent, could be considered as justifying his critical remarks about the Head. On that account the fairness of the proceedings could be called into question. The court of appeal's judgment was amended one day after the local elections had taken place, by which time the proceedings had lost all relevance to the claimant's electoral prospects. Regarding the severity of the sanction imposed, the Court noted that both awards were the maximum amounts which could be imposed and that the domestic courts failed to provide any reasons to justify the imposition of such heavy sanctions or to carry out any assessment of proportionality. The Court found the sanctions to be excessive.
*Conclusion*: violation (unanimously).

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**FREEDOM OF EXPRESSION**
Conviction for publishing the declarations of an armed terrorist group in a daily newspaper: *no violation*.

**FALAKAOĞLU and SAYGILI - Turkey** (N$^{os}$ 22147/02 and 24972/03)
Judgment 23.1.2007 [Section II]

*Facts*: The applicants were respectively the editor and proprietor of a daily newspaper which published a declaration entitled “We will vanquish the terror of solitary confinement”, signed on behalf of all detainees held on charges of belonging to an armed terrorist group. The relevant passages referred to: a campaign against the transfer of detainees to certain types of solitary confinement cell, which had to be demolished because of the terror they created; hunger strikes that had turned into a “death fast”; repeal of a statutory provision concerning the prevention of terrorism; the need to release detainees who had sustained incapacitating injuries in a brutal attack, together with the “hunger-strike warriors”; the perpetrators of certain killings who had to be held to account; and an appeal for others to join in this “just struggle”. The statement was accompanied by a list of names of hunger strikers and the prisons in which they were held. Subsequently, the daily newspaper published an article entitled “For the attention of the press and public opinion - We will resist and demolish [solitary confinement] cells! No more terror by solitary confinement!”, reiterating the ideas set out in the previous article. Consequently, by two separate indictments, proceedings were brought against the applicants in the National Security Court on charges of having published the impugned articles contrary to the legislation on the prevention of terrorism and on

the press. In their pleadings in response to the indictment concerning the first article, the applicants claimed that it had been published in the form of an announcement and that nothing in it constituted an offence. It had not consisted in a statement by illegal or terrorist groups but merely one by detainees who had not yet been convicted. The applicants were found guilty of publishing statements by terrorist organisations, were sentenced to a heavy fine and were ordered to close the daily newspaper in question for one day. They appealed on points of law. The Court of Cassation dismissed their appeal and upheld the decision given at first instance. The newspaper was shut down for two days. In response to the indictment concerning the second article, the applicants set out the same arguments as in their first pleadings. They were found guilty of publishing statements by terrorist groups, sentenced to heavy fines and ordered to close the newspaper for three days. The National Security Court considered that the offence was capable of undermining national security, as the article satisfied all the conditions for the offence of publication of statements by armed terrorist organisations to be made out. Under the legislation on the press, the proprietors of newspapers and editors-in-chief were liable in such circumstances. The applicants appealed on points of law. The Court of Cassation upheld the decision given at first instance.

*Law*: Article 10 - The press had the task of imparting information and ideas on all matters of public interest but could not overstep the bounds set, *inter alia*, for the protection of vital interests of the State such as national security or territorial integrity against the threat of terrorism or for the prevention of disorder or crime. National authorities, which had a certain margin of appreciation, assessed whether there was a pressing social need warranting the restriction of such freedom. The impugned interference was to be considered in the light of the case as a whole, with particular reference to the expressions used in the offending article and to the context of its publication, and taking into account the problems related to the prevention of terrorism. The applicants had been convicted of publishing statements by terrorist groups in a daily newspaper of which they had been, respectively, the editor-in-chief and proprietor. The statements had been written by detainees, asserting their membership of terrorist groups and setting out their demands, and the seriousness of their appeal to raise support for an unlimited hunger strike could not be disregarded. The content could not be assessed independently of the authors' personality, nor of the context of the publication. The offending statements had been published not long after the simultaneous intervention of the security forces in twenty prisons where coordinated hunger strikes had taken place, involving hundreds of detainees who had been charged under prevention of terrorism legislation. That operation, condemned in the offending statements, had given rise to violent clashes between security forces and detainees in which many detainees had been injured or killed and police officers had been injured. The offending announcements consisted in a direct appeal to public opinion, for the purpose of mobilising “support” for the action launched to “demolish” the prisons – an action in which the authors risked their lives. That appeal had been published on its own, with no presentation or analysis by a journalist. In this connection, whilst it was true that the applicants had not personally associated themselves with the views contained in the offending announcements, they had nevertheless provided the authors with an outlet and had permitted dissemination of the statements. Having the power to shape the editorial direction of the newspaper, they could not be exonerated from all liability for the content of the articles, and the right to impart information could not be used as an alibi or pretext for the distribution of statements by terrorist groups. Lastly, the nature and severity of the penalties imposed were elements to be taken into account in assessing the proportionality of interference with the right to freedom of expression. Accordingly, the penalties imposed, having regard to the margin of appreciation which national authorities had in such a case, could not be regarded as disproportionate to the legitimate aims pursued.
*Conclusion*: no violation (unanimously).

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**FREEDOM OF EXPRESSION**
Civil defamation on account of criticism against a government-appointed expert who had made provocative statements himself: *violation*.

**ARBEITER - Austria** (N° 3138/04)
Judgment 25.1.2007 [Section I]

*Facts*: At the time of the events the applicant was the chairman of the workers' committee at the regional hospital of Carinthia, member of the regional parliament and speaker on health matters of the regional branch of the Social Democratic Party. In the context of a political debate concerning reform of the regional health system the regional government in 2001 commissioned a company to draft an expert opinion on the future of Carinthian hospitals, particularly with regard to reducing costs. In interviews with regional newspapers, the company's managing director, Mr Köck, advocated cutbacks in superfluous services and closing smaller hospitals and hospital departments. He also criticised the actual functioning of regional hospitals, stating that many unnecessary surgical operations were carried out and that the mortality rate due to medical negligence was relatively high.
In May 2001 Mr Köck co-founded a private investment company whose purpose was to take over and run hospitals with a view to maximising their potential. His appointment as expert by the regional government, approved by the regional branch of the Austrian People's Party and the Austrian Freedom Party, was contested by the Social Democratic Party. The latter also expressed misgivings that Mr Köck's role as a government-appointed expert on the reform of regional hospitals, giving him access to relevant data on the subject, was not compatible with his involvement in a private hospital management company.
In June 2001 a regional newspaper published an article in which the applicant criticised Mr Köck for wishing to eradicate whole departments and hospitals from Carinthia and to break up a good health system in order to take over hospitals using his newly-founded company. He went on to associate Mr Köck with another alleged technical "hot shot" previously employed by the Governor of Carinthia, Mr Jörg Haider, and who had ended up before the Public Prosecutor's Office.
A regional court issued an injunction ordering the applicant to retract his comments and prohibiting him from making similar statements. It found that the impugned statements were statements of fact which gave the impression that Mr Köck was totally unqualified and, furthermore, referred to his alleged criminal activity. Mr Köck had not taken any steps which would have justified the applicant's reproaches. The applicant's statements were therefore untrue and defamatory statements of facts in respect of which a civil offence had been made out. Mr Köck's situation was not comparable to the situation of a politician or a private person who had entered the public scene and therefore had to display a greater degree of tolerance.
A court of appeal dismissed an appeal by the applicant, noting that the fact that Mr Köck had proposed to close some hospitals and had founded a private investment company for hospitals did not constitute a sufficient basis for establishing that he would misuse his mandate to push private business dealings. The applicant had, furthermore, stressed the reproach of criminal conduct by drawing a comparison with a "wonder-wizard who had ended up before the Public Prosecutor's Office". The court did not agree with the applicant's argument that the impugned statements had to be understood as permissible value judgments.

*Law*: The Court could not agree with the regional court's findings that the statements made by the applicant had been untrue and defamatory and had given the impression that Mr Köck was totally unqualified and involved in criminal activities. The applicant had expressed his indignation at Mr Köck's alleged intentions, this being the applicant's own opinion rather than an actual statement of fact. At the time certain objective factors had supported the applicant's allegations: Mr Köck had advocated cutbacks and had recently founded a hospital investment company. While asserting that he was not focusing on Carinthian hospitals yet, he had not excluded that possibility in the future. Unlike the domestic courts, the Court did not find that the reference to a previous expert employed by Governor Haider had implied that Mr Köck was guilty of criminal conduct but had appeared more as an example of the Austrian Freedom Party's ways of choosing and supporting experts. The applicant's statements had to be seen as permissible contributions within the broader context of an ongoing general, political debate. Mr Köck had entered the public arena by repeatedly discussing the issue at stake with the press and, as a consequence, had to bear a

higher degree of tolerance to criticism. Furthermore, having regard, on the one hand, to Mr Köck's critical proposals and active involvement in a public discussion, and, on the other hand, to the applicant's position as spokesman for those people primarily concerned, a certain degree of exaggeration had to be tolerated in the applicant's response and reaction. In sum, the domestic courts had restricted the applicant's freedom of expression while relying on reasons which could not be regarded as sufficient and relevant.
*Conclusion*: violation (unanimously).

Article 41 – EUR 7,934 in respect of pecuniary damage.

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**FREEDOM OF EXPRESSION**
Disciplinary penalty on remand prisoner for contacting media without prior judicial authorisation: *inadmissible*.

**SOTIROPOULOU - Greece** (N° 40225/02)
Decision 18.1.2007 [Section I]

(see Article 3 above).

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**FREEDOM OF EXPRESSION**
Refusal to grant citizenship through naturalization, allegedly due to the applicant's political activities as a member of Russian minority: *communicated*.

**PETROPAVLOVSKIS - Latvia** (N° 4230/06)
[Section III]

In 1998 the Latvian Parliament adopted the Law on Education which declared Latvian as the only language of instruction in all state and municipal schools, whereas before the education had been conducted both in Latvian and in Russian. In 2003-2004 the applicant actively participated in meetings and demonstrations against these changes and made public statements advocating the Russian-speaking minority's right to education in Russian. In the meantime, the applicant sought to acquire the Latvian citizenship. The Naturalization Board, having found that he met the relevant legal requirements, recommended that the Cabinet of Ministers grant him the citizenship. However, the Cabinet of Ministers refused to do so, allegedly having taken into account the applicant's previous political activities. He challenged this decision before the administrative courts which terminated the proceedings without examining the case on its merits. The courts stated that a decision of the Cabinet of Ministers on granting citizenship was not an administrative act, but a political decision taken in the exercise of its constitutional functions and as such not subject to court review. Moreover, the law did not impose any obligation on the Cabinet of Ministers to motivate such decisions.
*Communicated* under Articles 10, 11 and 13 of the Convention.

## ARTICLE 11

**FREEDOM OF PEACEFUL ASSEMBLY**
Unlawful administrative penalty imposed for breach of rules on holding demonstrations: *violation*.

**MKRTCHYAN - Armenia** (N° 6562/03)
Judgment 11.1.2007 [Section III]

*Facts*: In 2002 the applicant took part in an authorised demonstration on Freedom Square in Yerevan, during which he called on the participants to leave Freedom Square and to follow him in a procession towards the Parliament building. Later on that evening he was arrested for organising an unlawful

procession and having violated the prescribed rules on organising demonstrations and street processions. The district court found that he had committed an administrative offence and fined him the equivalent of one Euro. The court of appeal upheld this decision.

*Law*: The fine had been imposed on the applicant for a violation of the prescribed rules for organising and holding rallies and street processions, pursuant the Code of Administrative Offences. Therefore, the interference had a basis in domestic law. However, it was in dispute between the parties whether at the material time there had been any legal act in Armenia which envisaged the "prescribed rules" referred to in the Code. The Government alleged that the "prescribed rules" were envisaged by the former USSR laws, while the applicant contended that the legal acts of the former USSR were no longer valid and applicable in Armenia following its independence and that no other "prescribed rules" existed in Armenia. The Court noted the absence of any domestic provision clearly stating whether the former USSR laws remained or did not remain in force on the territory of Armenia. The Court also drew attention to the absence of any domestic case-law concerning the disputed matter. The domestic courts also had failed to refer to any legal act prescribing the rules for holding rallies and street processions which the applicant had been found to have violated. At the relevant time, there had been no legal act applicable in Armenia which contained those rules, the relevant law having been adopted only in 2004. The Court accepted that it may take some time for a country to establish its legislative framework in a transition period, but it could not accept the delay of almost thirteen years to be justifiable, especially when such a fundamental right as freedom of peaceful assembly was at stake.
*Conclusion*: violation (unanimously).

## ARTICLE 12

**RIGHT TO MARRY**
Refusal to grant an accused leave to marry in prison pending trial: *communicated*.

**FRASIK - Poland** (N° 22933/02)
[Section IV]

In 2000 the applicant was arrested and detained on remand on suspicion of having committed rape. Earlier, the applicant and the victim had had a relationship which had lasted for some four years and had terminated several months before the above events. Since the beginning of the trial, the victim and the applicant applied several times to the trial court for leave to marry in prison. This request was refused by a judge in a letter (allegedly not subject to appeal) stating that the conditions in a remand centre or prison were not suitable for wedding ceremony and that the relationship between the accused and the injured person was not, in reality, of a close nature, but had been invented only for the sake of the criminal proceedings. During the trial, the victim wished to exercise her right not to testify. The court rejected her request, holding that her wish had been dictated by her fear of the applicant rather than by her affection for him and, secondly, that their relationship – both past and present – had lacked the necessary psychological, physical and financial bonds to regard it as a "particularly close personal relationship" within the meaning of the Code of Criminal Procedure. Since she persisted in refusing to testify, the court imposed a fine on her. In her testimony, the victim stated that she had forgiven the applicant and no longer considered that he had raped her. In 2001 the district court convicted the applicant as charged and sentenced him to five years' imprisonment. The regional court upheld the conviction but mitigated the sentence to three years' imprisonment, taking into account the complete change of the victim's attitude to the applicant. The Supreme Court dismissed his appeal recognising, however, that the refusal to grant him leave to contract a marriage in prison had constituted a violation of Article 12 of the Convention.
*Communicated* under Articles 5(4), 12 and 13 of the Convention.

**RIGHT TO MARRY**
Refusal to grant leave to marry in prison: *communicated*.

**JAREMOWICZ - Poland** (N° 24023/03)
[Section IV]

In 2003, while serving a sentence of imprisonment, the applicant got acquainted and developed a relationship with a female detainee. Upon his transfer to another prison, he requested the prison governor's authorisation to have visits from her. This being refused, the applicant and this person applied to the regional court and to the Minister of Justice for leave to get married in prison. Upon referral, the prison governor and the regional director of the prison service refused both requests, stating that the couple had not been able to substantiate their relationship in the period prior to their imprisonment. In reply to the applicant's complaint, the Ombudsman stated that their relationship had developed in an illegal manner by means of sending kites in prison, which was decisive for considering their union unworthy from the point of view of their social rehabilitation.
*Communicated* under Articles 12, 13 and 14 of the Convention.

## ARTICLE 13

**EFFECTIVE REMEDY**
Application for a stay of execution of a deportation order: *no violation*.

**SALAH SHEEKH - Netherlands** (N° 1948/04)
Judgment 11.1.2007 [Section III]

(see Article 3 above).

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**EFFECTIVE REMEDY**
No judicial review possible against an order withdrawing a residence permit on grounds of national security: *violation*.

**MUSA and Others - Bulgaria** (N° 61259/00)
Judgment 11.1.2001 [Section V]

(see Article 8 above “Private Life/Family Life”).

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**EFFECTIVE REMEDY**
Denial of effective domestic remedy in respect of ill-treatment by the police: *violation*.

**CHITAYEV and CHITAYEV - Russia** (N° 59334/00)
Judgment 18.1.2007 [Section IV]

(see Article 3 above “Torture”).

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**EFFECTIVE REMEDY**
Impossibility to challenge refusal to grant citizenship: *communicated*.

**PETROPAVLOVSKIS - Latvia** (N° 4230/06)
[Section III]

(see Article 10 above).

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**EFFECTIVE REMEDY**
Impossibility to challenge refusal to grant leave to marry in prison: *communicated*.

**FRASIK - Poland** (N° 22933/02)
**JAREMOWICZ - Poland** (N° 24023/03)
[Section IV]

(see Article 12 above).

## ARTICLE 14

**DISCRIMINATION (Article 9)**
Restriction on pastoral activity for lack of theological training, applicable solely to foreign nationals: *admissible*.

**PERRY - Latvia** (N° 30273/03)
Decision 18.1.2007 [Section III]

(see Article 9 above).

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**DISCRIMINATION (Article 12)**
Refusal to grant leave to marry in prison: *communicated*.

**JAREMOWICZ - Poland** (N° 24023/03)
[Section IV]

(see Article 12 above).

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**DISCRIMINATION (Article 3 of Protocol No. 1)**
Refusal to register a former clergyman as candidate for parliamentary elections: *communicated*.

**SEYIDZADE - Azerbaijan** (N° 37700/05)
[Section I]

(see Article 3 of Protocol No. 1 below).

## ARTICLE 34

**HINDER THE EXERCISE OF THE RIGHT OF PETITION**
Police questioning touching on an application to the Court after the applicant was interviewed on Russian television: *no violation*.

**SISOJEVA and Others - Latvia** (N° 60654/00)
Judgment 8.1.2007 [GC]

(see Article 37 below).

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**HINDER THE EXERCISE OF THE RIGHT OF PETITION**
Alleged pressure put on prisoners by prison authorities to withdraw their application to the Court: *admissible*.

**DRUZENKO and Others - Ukraine** (N°s 17674/02 and 39081/02)
Decision 15.1.2007 [Section V]

(see Article 3 above).

## ARTICLE 35

### Article 35(1)

**EXHAUSTION OF DOMESTIC REMEDY**
Failure to raise all the complaints before a domestic court: *inadmissible*.

**AUGUSTO - France** (N° 71665/01)
Judgment 11.1.2007 [Section I]

(see Article 6(1) above).

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**SIX MONTH PERIOD**
Date when time starts to run for the purposes of the six-month time-limit in cases of consecutive periods of pre-trial detention: *violation*.

**SOLMAZ - Turkey** (N° 27561/02)
Judgment 16.1.2007 [Section II]

(see Article 5(3) above).

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### Article 35(3)

**ABUSE OF THE RIGHT OF PETITION**
Applicant using in his observations offensive expressions against Government's representative: *inadmissible*.

**DI SALVO - Italy** (N° 16098/05)
Decision 11.1.2007 [Section III]

In 1984 the applicant was convicted of perjury and given a suspended prison sentence. He subsequently applied for a review, alleging that he had discovered new evidence to prove that he was innocent, and the proceedings were reopened. In 2005, following his application for a review based on new evidence, the Court of Appeal quashed his conviction and acquitted him. The applicant, contending that under Italian law a person was entitled to compensation only when he or she had served a custodial sentence, complained of a breach of his right to compensation for wrongful conviction under Article 3 of Protocol No. 7, on account of the fact that he had been given a suspended sentence and had never served time. After notice of his application had been given, in his observations in reply to those of the Government the applicant made offensive remarks about the Government's co-Agent. For example, he claimed that the co-Agent had "malevolently sought to mislead the Court" and that his opinion was "motivated by self-interest and petty". When asked by the Section Registrar to withdraw his insulting expressions the applicant refused, ignoring a warning that his application might be found inadmissible on account of its abusive nature. The Court examined the Government's observations without finding any expression in them that might, as the applicant had claimed, be regarded as offensive towards him. In his own observations, by contrast, the applicant, who was himself a lawyer, had engaged in a personal attack against the Government's representative and had used expressions that the Court considered to be insulting. Furthermore, in view of the Registrar's warning, the applicant had had the opportunity to withdraw from his observations all the expressions which, without affecting the merits of his arguments, formed a gratuitous and personal attack on the co-Agent. Instead of using that opportunity he had requested the Court to order the Government to indicate which expressions were allegedly offensive, whereas that had been made quite clear in the Registrar's letter. The applicant had subsequently carried on a pointless debate about the ethics of the Government's representative, reiterating his allegations that the co-Agent had deliberately inserted errors into his observations in order to provoke the other party. In the Court's view, the applicant's conduct was incompatible with the purpose of the right of individual application, as provided for in Articles 34 and 35, and constituted an abuse of that right within the meaning of Article 35(3): *inadmissible*.

## ARTICLE 37

### Article 37(1)(c)

**SPECIAL CIRCUMSTANCES REQUIRING FURTHER EXAMINATION**
Temporary arrangements for asylum seeker insufficient to "resolve matter": *no reason to strike out*.

**SALAH SHEEKH - Netherlands** (N° 1948/04)
Judgment 11.1.2007 [Section III]

(see Article 3 above).

**CONTINUED EXAMINATION NOT JUSTIFIED**
Failure by the applicants to act upon respondent Government's proposals to regularise their immigration status: *striking out of Article 8 complaint*.

**SISOJEVA and Others - Latvia** (N° 60654/00)
Judgment 8.1.2007 [GC]

*Facts*: Mr and Mrs Sisojev took up residence in Latvia in the late 1960s as Soviet nationals and their children were born there. However, following the break-up of the Soviet Union and the restoration of Latvian independence in 1991 they became stateless. Although they were subsequently granted permanent resident status in Latvia, this was revoked by a district court in 1996 on the grounds of an alleged breach of the immigration rules. The district court's decision was set aside on an appeal by the applicants. A subsequent ruling by the district court that Mrs Sisojeva was entitled under an agreement between Latvia and Russia on arrangements for retired members of the armed forces and their families to apply for a passport as a "permanently resident non-citizen" and that her husband and their daughter were entitled to permanent residence permits was set aside in September 1999 by the Supreme Court on the grounds that the applicants had committed serious breaches of Latvian immigration law by secretly obtaining duplicate passports, registering places of residence in two different countries and supplying false information to the authorities. The regional court to which the case was remitted dismissed the applicants' applications and its decision was upheld by the Supreme Court in April 2000. The applicants were reminded by the immigration authorities that they were required to leave Latvia. In November 2003 the immigration authorities wrote to the applicants to explain the procedure Mrs Sisojeva should follow if she wished to regularise her stay in Latvia and obtain an identity document as a stateless person, whereupon her daughter and husband could be issued with residence permits. None of the applicants complied with these instructions. The Latvian Government then informed the Court, before which the present application was by then pending, that Mr Sisojev and their daughter could be issued with residence permits, initially for five-years and subsequently of indefinite duration. In December 2005 the immigration authorities again reminded the applicants that it was open to them to regularise their stay, but received no response. The applicants stated that, in the interim, Mrs Sisojeva had been summoned to the regional headquarters of the security police and questioned about her application to the Court and an interview she had given to a Russian television channel. The applicants continue to reside in Latvia without valid resident permits.

*Law*: Article 8 – The Court acknowledged that, if not from the time of the removal of their names from the register of residents in May 1996, then at the latest from the time of the final dismissal of their appeal by the Supreme Court in April 2000, the applicants had experienced a period of insecurity and legal uncertainty in Latvia that had continued until November 2003. Nevertheless, they had been guilty of obtaining duplicate passports and registering themselves as resident in both Russia and Latvia without informing the Latvian authorities, although they had undoubtedly been aware that their conduct was illegal. The problems the applicants had experienced following the cancellation of their initial residence permits had thus stemmed to a large extent from their own actions. The first concrete proposal aimed at regularising the applicants' stay had been made in November 2003, so they could not claim the existence of uncertainty after that date. Moreover, despite having long been an illegal resident in Latvia, Mr Sisojev had been and continued to be in paid employment and his daughter had been able to complete a course of higher education and obtain a degree. The applicants did not face any real and imminent risk of deportation. Despite repeated reminders from the immigration authorities, they had not acted on their recommendations or made any attempt to get in touch to try to find a solution to any difficulties they might have in obtaining the required documents. Nor was there any indication that the Latvian Government had acted in bad faith. In conclusion, the Court found that the options outlined by the Latvian authorities for regularising the applicants' situation had been adequate and sufficient to remedy their complaint of a violation of Article 8. The matter giving rise to the complaint could therefore be considered to be "resolved".
C*onclusion*: striking out (16 votes to one).

Article 34 – It was of the utmost importance for the effective operation of the system of individual petition that applicants or potential applicants were able to communicate freely with the Court without

being subjected to any form of pressure from the authorities to withdraw or modify their complaints. The word "pressure" had to be taken to cover not only direct coercion and flagrant acts of intimidation of applicants but also other improper indirect acts or acts designed to dissuade or discourage them from pursuing a Convention remedy. Mrs Sisojeva could reasonably have expected the police or the prosecuting authorities to take an interest in her allegations on Russian television of corruption on the part of immigration officials and the questioning was in accordance with Latvian legislation allowing the security police to investigate corruption offences. Accordingly, the Court accepted the Government's explanation that the main focus of the questioning had been the allegation of corruption, not the proceedings before the Court. Nevertheless, in questioning Mrs Sisojeva about her reasons for lodging an application with the Court, the police officer had exceeded the remit of the investigation by a considerable margin. In that connection, the Court reiterated that, even if a Government had reason to believe that, in a particular case, the right of individual petition was being abused, the appropriate course was to alert it and inform it of their misgivings. However, having regard to all the circumstances – including the incidental nature of the questioning, the polite manner in which it was conducted and the absence of any attempt to force Mrs Sisojeva to give evidence or to disclose the names of the allegedly corrupt officials – there was insufficient evidence to conclude that her questioning should be regarded as a form of "pressure", "intimidation" or "harassment" which might have induced the applicants to withdraw or modify their application or hindered them in any other way in the exercise of their right of individual petition.
*Conclusion*: no violation (unanimously).

For further details, see Press Release no. 32.

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**CONTINUED EXAMINATION NOT JUSTIFIED**
Opinion of the guardianship judge of the deceased applicant's sole heir advising her, for her own protection, not to pursue the application: *striking out of the list*.

**BENAZET - France** (N° 49/03)
Decision 4.1.2007 [Section II]

The applicant complained to the European Court of Human Rights that there had been a number of violations of the Convention on account of his compulsory psychiatric treatment. He died while his application was pending before the Court. His daughter and sole heir was placed under the State-supervised guardianship of an association for disabled adults and young people. The association considered that it was unable to decide alone whether or not it was advisable for the deceased's application to be taken over and pursued by his daughter and sought authorisation from the guardianship judge. The judge indicated that, in the light of her medical history, it did not appear advisable to him, in the interest of the protection of the child placed under guardianship, that she should take over the various suits that her father had brought and in particular the application in question: *struck out*.

## ARTICLE 1 OF PROTOCOL No. 1

**POSSESSIONS**
**PEACEFUL ENJOYMENT OF POSSESSIONS**
Setting aside of a trade mark registration: *Article 1 of Protocol No. 1 applicable, no violation*.

**ANHEUSER-BUSCH INC. - Portugal** (N° 73049/01)
Judgment 11.1.2007 [GC]

*Facts*: The applicant company produced beer which it marketed under the brand name "Budweiser". In 1981 it applied to the National Institute for Industrial Property (NIIP) to have the name registered as a trade mark in Portugal. The application was opposed by a Czech company which had registered "Budweiser Bier" as an appellation of origin in 1968 under the terms of the Lisbon Agreement of 1958 for

the Protection of Appellations of Origin and their International Registration. In 1995 the applicant company obtained a court order cancelling the registration of the appellation of origin on the grounds that it did not qualify for protection under the Lisbon Agreement. The NIIP then registered its mark. The Czech company challenged that decision in a court of first instance, relying on a bilateral agreement between Portugal and Czechoslovakia that protected registered appellations of origin. The court of first instance found against the Czech company, but its decision was overturned by the court of appeal, which ruled that the applicant company's trade mark registration was invalid. An appeal by the applicant company to the Supreme Court was dismissed in 2001 on the grounds that the appellation of origin was protected by the bilateral agreement. The applicant company's trade mark registration was therefore set aside. In its application to the Court, the applicant company complained that it had been deprived of its trade mark by the application of a bilateral agreement that had come into force after its application to register the mark was filed.

*Law*: Article 1 of Protocol No. 1 – Intellectual property as such enjoyed the protection of Article 1 of Protocol No. 1. Unlike the Chamber, the Grand Chamber considered that an application for the registration of a trade mark also came within that provision, as it gave rise to interests of a proprietary nature. While it was true that registration of the mark only became final if the mark did not infringe legitimate third-party rights, so that, in that sense, the rights attached to an application for registration were conditional, the party wishing to register the mark was nevertheless entitled to expect that the application would be examined under the applicable legislation if it satisfied the relevant substantive and procedural conditions. The applicant company had therefore owned a set of proprietary rights recognised under Portuguese law, even though they could be revoked under certain conditions: *Article 1 of Protocol No. 1 applicable*.
As to whether the decision to apply the provisions of the bilateral agreement to a prior application for registration of a mark could amount to interference with the peaceful enjoyment of possessions, the Court noted that the applicant company's main complaint was about the manner in which the national courts had interpreted and applied the domestic law. In that connection, it reiterated that its jurisdiction to verify whether domestic law had been correctly interpreted and applied was limited and that it was not its function to take the place of the national courts, but to ensure that the decisions of those courts were not flawed by arbitrariness or otherwise manifestly unreasonable, particularly when, as here, the case turned upon difficult questions of interpretation of domestic law. The applicant company's case was distinguishable from those in which the Court had found retrospective intervention by the legislature as, in the instant case, the question whether the legislation had been retrospectively applied was in itself in issue whereas, in the earlier cases, the retrospective effect of the legislation had been both indisputable and intentional. The only effective registration in existence when the bilateral agreement came into force was of the appellations of origin registered in the Czech company's name and, although that registration was subsequently cancelled, the Court could not examine what consequences cancellation might have on any right of priority attaching to the mark. In the absence of any arbitrariness or manifest unreasonableness, the Court could not call into question the findings of the Supreme Court or its interpretation of the bilateral agreement. Confronted with the conflicting arguments of two private parties concerning the right to use the name, the Supreme Court had reached its decision on the basis of the material it considered relevant and sufficient for the resolution of the dispute, after hearing representations from the interested parties. Accordingly, the Supreme Court's judgment did not constitute interference with the applicant company's right to the peaceful enjoyment of its possessions.
*Conclusion*: no violation (fifteen votes to two).

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**PEACEFUL ENJOYMENT OF POSSESSIONS**
State withholding tax refund from applicant company: *violation.*

**INTERSPLAV - Ukraine** (N° 803/02)
Judgment 9.1.2007 [Section IV]

*Facts*: The applicant company was an enterprise which manufactured purchased goods, bearing a 20% VAT rate. Part of the applicant's production was exported from Ukraine at a zero VAT rate. The applicant

was entitled to a refund of the VAT due on the price of the goods. This should have been made within a one-month period following the applicant's submission of the calculations to the local tax administration. If the refund is delayed, compensation is payable. Both payments (the refund and compensation) are made by the State Treasury upon the submissions of the relevant tax authority. The applicant had complained twice about the failure to issue certificates for the VAT refunds on time. While recognising the existence of the State's debts to the applicant, the authorities found no fault with the tax administration. The applicant complained to General Prosecutor's Office, without any result and instituted more than 140 sets of proceedings in the commercial court against the Town Tax Administration and the State Treasury Department in order to receive compensation. He requested the court to oblige the Tax Administration to confirm the amounts of compensation due. The court found for the applicant and ordered the tax administration to issue the requested confirmation for the amounts claimed. The applicant later changed the subject of its claim and requested the courts to award it the amounts of the VAT refund and compensation directly. The Tax Administration and Treasury opposed the claims; the former on the basis of an alleged lack of competence in VAT refunding, the latter on the basis of the impossibility of refunding any VAT without prior confirmation of such an amount by the Tax Administration. The court found for the applicant and awarded the claimed amounts in its decisions. It confirmed the applicant's right to compensation for the various delayed VAT refunds. The applicant maintained that the tax authorities claimed that the court decisions given in its favour should not be directly enforceable, but would require the prior confirmation of the awarded amounts by the Tax Administration. The applicant lodged a claim with the commercial court against the Regional Department of the State Treasury and the Town Tax Administration for their refusal to enforce the judgments and for a proposal to convert the amounts awarded by the above judgments into loan bonds with a five-year term. The court found for the applicant and ordered the defendants to enforce the impugned judgments. The applicant maintained that the amount of the State debt to the company as confirmed by court decisions exceeded 1 million euros.

*Law*: Having met the criteria and requirements established by the domestic legislation, the applicant could reasonably have expected the refund of the VAT it had paid in the course of its business activities, as well as compensation for any delay. The tax authorities did not dispute the amounts of the VAT refunds to be paid to the applicant, but simply refused to confirm them without any apparent reason, relying erroneously on a lack of competence in refunding matters. VAT refunds to the applicant had been systematically delayed. Such delays were caused by the situation in which the tax authorities, not disputing the amounts of VAT refunds due to the applicant, constantly failed to confirm these amounts. Such failure prevented the applicant from recovering the claimed amounts in due time and created a situation of chronic uncertainty. It forced the applicant to appeal to the courts on a regular basis with identical claims. It may be considered reasonable to require that such refusals be challenged in a single or a few cases. The applicant's recourse to this remedy had not however prevented the tax authorities from continuing the practice of delaying payment of the VAT refunds, even after court decisions had been given in the applicant's favour. The systematic nature of the failings of the State authorities has resulted in an excessive burden being imposed on the applicant. The constant delays with VAT refund and compensation in conjunction with the lack of effective remedies to prevent or terminate such an administrative practice, as well as the state of uncertainty as to the time of return of the applicants funds, upset the “fair balance” between the demands of the public interest and the protection of the right to peaceful enjoyment of possessions.
*Conclusion*: violation (unanimously).

Article 41 – EUR 25,000 for pecuniary damage.

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**PEACEFUL ENJOYMENT OF POSSESSIONS**
Refusal to refund election deposit: *violation*.

**RUSSIAN CONSERVATIVE PARTY OF ENTREPRENEURS and Others – Russia** (N° 55066/00)
Judgment 11.1.2007 [Former Section I]

(see Article 3 of Protocol No. 1 below).

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**PEACEFUL ENJOYMENT OF POSSESSIONS**
Negation of the applicant company's claim against the State and absence of domestic procedures: *violation*.

**AON CONSEIL ET COURTAGE S.A. and CHRISTIAN DE CLARENS S.A. - France** (N° 70160/01)
Judgment 25.1.2007 [Section I]

*Facts*: The applicant companies carried on insurance broking activities and were liable for value-added tax (VAT), which they paid in respect of their transactions in 1978 pursuant to an Article of the General Tax Code. However, the Sixth Directive of the Council of the European Communities, dated 1977 and taking effect from 1978, provided for a VAT exemption for insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents. The Ninth Council Directive then extended the time-limit for the implementation of those provisions. As the new directive had no retroactive effect, the Sixth Directive was applicable from 1 January to 30 June 1978. One of the applicant companies lodged four applications with the administrative court seeking a VAT refund on the basis of the Sixth Directive, but they were all dismissed. An administrative circular of 1986 stipulated that "... no further action shall be taken to collect sums remaining due at the date of publication of the present circular from insurance brokers which did not charge value-added tax on their transactions between 1 January and 30 June 1978 and which have received re-assessments as a result". In 1992 the Administrative Court of Appeal ruled in favour of another company, declaring that the Article of the General Tax Code, as worded in the relevant period, had been incompatible with the provisions of the Sixth Directive. Considering that the French State had created an illegal situation by failing to incorporate into domestic law the provisions of the Sixth Directive within the time allowed, the applicant companies claimed compensation for their losses from the authorities. The requests were rejected pursuant to an Article in the Code of Tax Procedure on the grounds that such a request was inadmissible and that, moreover, the amount of the loss was to be reduced by the amount of payroll tax owed by the VAT-exempt companies. The applicant companies brought proceedings in the administrative court seeking to establish the negligence of the French State for not having incorporated the Sixth Directive into domestic law and, accordingly, for causing them a loss corresponding to the undue payment of the VAT which they claimed should be refunded. The court declared their applications inadmissible pursuant to the Article in the Code of Tax Procedure and did not find that Article to be incompatible with the Community rule. It was only since the date of the judgment of the Administrative Court of Appeal that it had been possible to determine, for all tax-paying entities, the period provided for under that Article in respect of which actions could be brought for repayment of sums already paid, for payments in respect of rights to deduct not exercised, or for compensation of a loss, on the basis of incompatibility with the Article in the General Tax Code. The companies appealed. Shortly afterwards the *Conseil d'Etat* quashed the above-mentioned 1992 judgment, which had been favourable to a company seeking a refund of the VAT that it had paid in respect of the period 1 January to 31 December 1978. However, on the same day the *Conseil d'Etat* gave a decision departing from its case-law when it declared another appeal admissible, finding that a company was entitled to rely on the provisions of the Sixth Directive. It considered that a release from the disputed tax liability, for which there was no statutory basis as it was incompatible with the directive, should be granted for the sums paid unduly in respect of the period from 1 January to 30 June 1978. In the present case, however, the Administrative Court of Appeal dismissed the appeals by the applicant companies, which then appealed on points of law. The *Conseil d'Etat* dismissed their appeals, finding that the object of the claim, on grounds of negligence on the part of the State, for payment of compensation in an amount

equal to that of the value-added tax, was in reality the same as that of a claim for a refund of that tax, and that as such the action was thus subject to the formalities and time-limits laid down in the relevant provisions of the Code of Tax Procedure.

*Law*: As to the existence of a possession, the legal situation facing the applicant companies was such as to fall within the scope of the Article on which they relied. The tax authorities had begun to give effect to the Sixth Directive only in an administrative circular, which was directed at companies refusing to pay VAT but which completely failed to address the matter of refunds of undue VAT to companies that had already paid it. The *Conseil d'Etat* had refused to grant refunds to the insurance companies concerned, considering in particular that it should not have to review a national rule in the light of a Community rule. The applicant companies had been denied the benefit of the Directive for a period of almost seven and a half years from the date of notification of the Ninth Directive. It was therefore unacceptable to impose on the companies a time-limit for bringing proceedings when there was no effective remedy under domestic law. Then the *Conseil d'Etat* had departed from its case-law and an effective remedy for the purpose of obtaining a refund had become available to them through the French administrative courts. However, the applicant companies had submitted their claims several years earlier, following the judgment of the Administrative Court of Appeal, which had upheld such a claim from a company for the first time. But whilst the applicant companies could legitimately have considered that this precedent was capable of making available an effective domestic remedy, that judgment had nevertheless been quashed by the *Conseil d'Etat*. The binding provisions of the Sixth Directive had still not been incorporated into French law at the time the applicant companies submitted their claims and the departure from case-law by the *Conseil d'Etat* had been somewhat belated. The applicant companies had nevertheless brought their action in the domestic courts at a time when their right was not only intact, in the light of the applicable Community rules, but also flouted at domestic level by both the authorities and the administrative courts. A limitation period could not therefore be imposed on the applicants in the circumstances of the case. As regards the limitation period in tax matters provided for in the Code of Tax Procedure, the applicants' claim had been based on a Community rule that was perfectly clear, precise and directly applicable. That right had not disappeared with the expiry of the impugned limitation period provided for by the domestic legislation since it was not in dispute that that very legislation had then been in breach of the directly applicable Community law and that the limitation period concerned an ineffective domestic remedy. The fact that the administrative courts had relied on that domestic limitation period could not by itself justify a failure to comply with the present requirements of European law. The unreasonable construction of a procedural requirement which prevented a claim for compensation from being examined on the merits had thereby entailed a breach of the right to the effective protection of the courts. Furthermore, the limitation period in tax matters laid down in the Code of Tax Procedure could not negate a substantive right created by the Sixth Directive. The applicant companies, at the time they lodged their appeals, had had a valid claim against the State for the VAT paid in error. A claim of that nature constituted an asset and therefore amounted to "a possession within the meaning of the first sentence of Article 1 [of Protocol No. 1], which was accordingly applicable in the present case". In any event, the applicants had had at least a legitimate expectation of being able to obtain the reimbursement of the sum. In the case of *S.A. Dangeville v. France* (judgment of 16 April 2002, no. 36677/97, ECHR 2002-III) the Court had found, firstly, that such interference with the peaceful enjoyment of possessions was not required in the general interest and, secondly, that both the negation of the claim against the State and the absence of domestic procedures affording a sufficient remedy to ensure the protection of a right to the peaceful enjoyment of one's possessions had upset the fair balance that ought to have been maintained between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. In the present case, the balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights had also been upset.
*Conclusion*: violation (unanimously as regards the company Christian de Clarens and by five votes to two as regards the company Aon Conseil et Courtage).

Article 41 – The Court awarded Aon Conseil et Courtage about EUR 164,000 for pecuniary damage and Christian de Clarens S.A. about EUR 74,000 for pecuniary damage.

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**DEPRIVATION OF PROPERTY**
**FORESEEABILITY**
Court order finally annulling, more than thirty years after their lawful acquisition, a title to properties belonging to a foundation set up by a religious minority: *violation*.

**FENER RUM ERKEK LİSESİ VAKFI - Turkey** (N° 34478/97)
Judgment 9.1.2007 [Former Section II]

*Facts*: The applicant is a foundation under Turkish law which was set up at the time of the Ottoman Empire. Its constitution adheres to the provisions of the Lausanne Treaty of 1923 affording protection to old foundations providing public services for religious minorities. In 1936 the applicant foundation filed a declaration of its aims and immovable property, in accordance with a law of 1935 by virtue of which it had obtained legal personality. In 1952 the applicant foundation received a gift of part of a building in Istanbul and purchased another part in 1958.
In 1992 the Treasury applied for the annulment of the applicant foundation's title deeds in respect of that property and the deletion of its name from the land register. In 1996 the District Court granted the application. Basing its decision on an expert report which referred to a Court of Cassation precedent from 1974, the court held that foundations belonging to religious minorities as defined by the Treaty of Lausanne and whose constitutive documents did not indicate a capacity to acquire immovable property were precluded from purchasing or accepting a gift of such property. Accordingly, their immovable property was restricted to that set out in their constitutive documents and finalised in the declaration of property made in 1936. The Court of Cassation upheld the judgment.

*Law*: The applicant foundation had been able to enjoy its property as rightful owner, from the dates of acquisition (1952 and 1958) until the date of the judgment of the Court of Cassation (1996), and had paid the various property taxes in respect of it. The final removal by the Turkish courts of the applicant foundation's property title from the land registers, 38 and 44 years after the acquisition of the properties in question, had amounted to a deprivation of its possessions.
The Turkish court had based its decision on a report stating that, under the 1974 case-law, religious minority foundations whose constitutive documents did not indicate that they had capacity to acquire immovable property were precluded from acquiring such property by any means. However, no statutory provision prohibited the foundations concerned from acquiring assets other than those which were included in the 1936 declaration. The applicant foundation's acquisitions had been validated by a certificate from the provincial governor's office and entered in the land register. The applicant foundation had thus been certain of having acquired the properties lawfully, at the time of the acquisitions in 1952 and 1958, and until the 1974 case-law had had "legal certainty" that it was entitled to acquire immovable property.
Consequently, the annulment of the applicant foundation's title to property pursuant to case-law adopted 16 years and 22 years after its acquisition, could not have been foreseen.
*Conclusion*: violation (unanimously).

Article 41 – The property was to be re-registered in the applicant foundation's name, failing which EUR 890,000 was to be paid in respect of pecuniary damage.

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**DEPRIVATION OF PROPERTY**
Final determination of the merits of pending litigation by legislative intervention that deprived the applicants of a pre-existing "asset" forming part of their "possessions": *violation*.

**AUBERT and Others and 8 Other case - France** (N° 31501/03)
Judgments 9.1.2007 [Section II]

(see Article 6(1) above).

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**DEPRIVATION OF PROPERTY**
Financial obligation arising out of the imposition of a heavy fine: *violation*.

**MAMIDAKIS - Greece** (N° 35533/04)
Judgment 11.1.2007 [Section I]

(see Article 6(1) above).

## ARTICLE 3 OF PROTOCOL No. 1

**VOTE**
**STAND FOR ELECTION**
Entire party list disqualified on account of incorrect information provided by some candidates on it: *violation*.

**RUSSIAN CONSERVATIVE PARTY OF ENTREPRENEURS and Others – Russia** (N° 55066/00)
Judgment 11.1.2007 [Former Section I]

*Facts*: The applicants are the Russian Conservative Party of Entrepreneurs and two Russian nationals, Mr Zhukov (one of the party's candidates for the 1999 elections to the State Duma of the Russian Federation, the lower chamber of Parliament) and Mr Vasilyev, a party supporter.
The applicant party is a national party established under the laws of the Russian Federation. In September 1999 it nominated 151 candidates for the elections to the State Duma. In October, the Central Electoral Commission ("the CEC") confirmed receipt of the party's list and the party paid its electoral deposit. In November 1999 the CEC refused registration of the applicant party's list of candidates, having found that certain people on the list, including the candidate listed second, had provided incorrect information about their income and property. Section 51(11) of the 1999 Elections Act provided for disqualification of the entire party's list in the event of "withdrawal" of one of the top three candidates on the list. That provision was interpreted by the CEC as encompassing all instances of "withdrawal", whether voluntary or not. As a result, all candidates on the list, including Mr Zhukov, were disqualified. Disagreeing with the CEC's interpretation, the applicant party successfully challenged its decision before the domestic courts. On 22 November 1999 it obtained a final judgment to the effect that section 51(11) applied only if the "withdrawal" had been voluntary. The judgment was immediately enforced, the CEC registering the applicant party and allowing it to carry on its electoral campaign. Nevertheless, later that month a deputy prosecutor-general lodged an application for supervisory review, requesting the Supreme Court to reopen the proceedings and to accept the CEC's original interpretation of section 51(11). The Presidium of the Supreme Court subsequently quashed the earlier judgments by way of supervisory-review proceedings and upheld the CEC's position. In December 1999 the CEC annulled its earlier decisions, refused the registration of the applicant party's list and ordered the party's name to be removed from the ballot papers. The applicant party appealed unsuccessfully and on 19 December 1999 the elections took place.
In April 2000 the Constitutional Court of the Russian Federation declared unconstitutional the part of section 51(11) which provided for the refusal or cancellation of a party's registration in the event of the withdrawal of one of its top three candidates. However, the Constitutional Court also ruled that the finding that section 51(11) was unconstitutional had been of no consequence for the State Duma elections of December 1999 and could not be relied upon to seek a review of the election results. All further appeals by the applicant party were unsuccessful, including its application to have its election deposit returned.

*Law*: Article 3 of Protocol No. 1 - *The right to stand for election (complaint by the applicant party and Mr Zhukov)*: The final and enforceable judgment of 22 November 1999, which had cleared the way for the applicant party and Mr Zhukov to stand in the elections, had been quashed by means of supervisory-review proceedings on an application by a State official who was not a party to the proceedings. The

purpose of his application had been precisely to obtain a fresh determination of an issue that had been already settled. The Government had not pointed to any circumstances of a substantial and compelling character that could have justified that departure from the principle of legal certainty in the applicants' case. As a result of the re-examination, the applicant party and Mr Zhukov had been prevented from standing for election. By using the supervisory-review procedure to set aside the judgment of 22 November 1999, the domestic authorities had violated the principle of legal certainty in the procedure for determining the applicant party's and Mr Zhukov's eligibility to stand in the elections.
Concerning whether the decision to disqualify the applicant party and Mr Zhukov from standing in the election had been proportionate to the legitimate aims pursued, the Court found that requiring a candidate for election to the national parliament to make his or her financial situation publicly known pursued a legitimate aim, in that it enabled voters to make an informed choice and promoted the overall fairness of elections. In a party-list proportional representation system, where a voter voted for a party list on the understanding that candidates placed higher on the list had more chances of obtaining seats in the parliament, it was not surprising that political parties placed the most well-liked or charismatic figures at the top of their lists. Legal provisions reinforcing the bond between the top candidates and the entire party list were therefore instrumental for promoting the emergence of coherent political thinking, which was also a legitimate aim under the terms of Article 3 of Protocol No. 1.
The Court observed that neither the applicant party nor Mr Zhukov had been found to have been in breach of the electoral laws. Thus, it was not their own conduct that had led to their ineligibility or disqualification. They had been sanctioned for circumstances which were both unrelated to their own conduct and outside their control. Their disqualification for those reasons had been disproportionate to the legitimate aims pursued, this being also the view of the Constitutional Court.
*Conclusion*: violation of the applicant party's and Mr Zhukov's right to free elections (unanimously).

*The right to vote in elections (complaint by prospective voter Vasilyev)*: Concerning Mr Vasilyev's complaint that it had been impossible for him to cast his vote for a party of his choosing (the applicant party) which had been denied registration for the election, the Court did not consider that an allegedly frustrated voting intention could be considered grounds for an arguable claim of a violation of the right to vote. An intention to vote for a specific party was essentially a thought; is existence could not be proved or disproved until and unless it had manifested itself through the act of voting or handing in a blank or spoiled paper. An individual applicant had to be able to claim to be actually affected by the measure of which he complained. But Mr Vasilyev did not furnish any information about the way in which he had exercised his right to vote.
The Court concluded that the right to vote could not be construed as laying down a general guarantee that every voter should be able to find on the ballot paper the candidate or the party he or she had intended to vote for. It reiterated, nevertheless, that the free expression of the opinion of the people was inconceivable without the participation of a plurality of political parties representing the different shades of opinion to be found within a country's population. Accordingly, it had to be regarded in the broader context in which the right to vote could be exercised by Mr Vasilyev: more than 25 political parties and electoral blocs representing a broad gamut of political views and platforms had competed in the 1999 elections to State Duma. The elections were acclaimed as competitive and pluralistic by international observers. It was not alleged that the voters lacked sufficient or adequate information about the candidates. Nor had it been claimed that Mr Vasilyev was subjected to any form of pressure or undue inducement in his voting choices. It could not therefore be said on the basis of the information available that Mr Vasilyev's right to take part in free elections had been unduly restricted.
*Conclusion*: no violation of Mr Vasilyev's right to vote (unanimously).

Article 13 *(the applicant party and Mr Zhukov)*: The applicant party and Mr Zhukov had been denied an effective remedy in respect of the violation of their electoral rights through the use of the supervisory-review procedure.
*Conclusion*: violation (unanimously).

Article 1 of Protocol No. 1 *(the applicant party)*: The Court having found, in particular, that the domestic proceedings concerning the applicants had been conducted in breach of the principle of legal certainty,

there had been a violation of Article 1 of Protocol No. 1 in respect of the domestic authorities' refusal to refund the election deposit to the applicant party.
*Conclusion*: violation (unanimously).

Article 41 – EUR 66,000 for pecuniary damage.

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**STAND FOR ELECTION**
Refusal to register a former clergyman as candidate for parliamentary elections: *communicated*.

**SEYIDZADE - Azerbaijan** (N° 37700/05)
[Section I]

The applicant applied to the district election commission for registration as a candidate in the parliamentary elections in November 2005, submitting an undertaking to terminate any professional activities incompatible with the office of a parliament member. The commission allegedly approved his candidacy. He then resigned from his positions in the Caucasus Muslims Board and in the Baku Islamic University. Subsequently, however, the election commission revoked his registration as a candidate on the grounds that he had continued his activities as a professional clergyman, without any further specification in this respect. The Central Election Commission rejected the applicant's complaint as unsubstantiated. The courts upheld this decision, stating that a clergyman could not be elected to Parliament and that the applicant's resignation from the above positions had not excluded his engaging in "professional religious activities" in terms of the Election Code. Before the Court, the applicant contended, *inter alia*, that the domestic law did not provide for a clear definition of a person engaging in "professional religious activity". He also complained of discrimination, given that the other candidates who had formerly been involved in other activities incompatible with the office of a parliamentarian – in the executive or the judiciary – had actually been registered.
*Communicated* under Article 3 of Protocol no. 1 and Article 14 of the Convention.

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**FREE EXPRESSION OF OPINION OF PEOPLE**
**CHOICE OF THE LEGISLATURE**
Requirement for political parties to obtain at least 10% of the vote in national elections in order to be represented in Parliament: *no violation*.

**YUMAK and SADAK - Turkey** (N° 10226/03)
Judgment 30.1.2007 [Section II]

*Facts*: In the parliamentary elections of November 2002 the applicants stood as candidates for the political party DEHAP (People's Democratic Party) in an electoral constituency formed from a single province. Their party received 45.95% of the votes cast in the province (47,449), but only 6.22% of the national vote. As the Law of 1983 on the election of members of the National Assembly provides "Parties may not win seats unless they obtain, nationally, more than 10% of the votes validly cast", the applicants were not elected. Out of the three members' seats allocated to the province, two went to another party which had obtained 14.05% of the votes (14,460) and one to an independent candidate who had obtained 9.69% of the votes (9,914).

*Law*: The 10% threshold required of political parties in order for them to be represented in parliament was provided for in a law which had been enacted well before the elections concerned, so that the applicants could have foreseen that if their party did not cross the threshold they could not win seats in parliament, regardless of the number of votes won in their electoral constituency. The aim was to avoid excessive and debilitating parliamentary fragmentation, and thus strengthen governmental stability, regard being had in particular to the period of instability which Turkey had gone through in the 1970s. The electoral system concerned, which had a high threshold without any possibility of a counterbalancing adjustment, had produced in Turkey, after the elections in question, the least representative parliament since the

introduction of the multi-party system (45.3% of the electorate - about 14.5 million voters - being completely unrepresented in parliament). However, an analysis of the results of the parliamentary elections held since the adoption of the threshold showed that it could not as such block the emergence of political alternatives within society. The threshold was intended to give small groupings the opportunity to establish themselves nationally and thus form part of a national political project. In addition, the Constitutional Court had not ruled the threshold unconstitutional.
In view of the extreme diversity of electoral systems adopted by the Contracting States, and taking into account the fact that many countries using one or other variant of proportional representation had national thresholds for election to parliament, the Court accepted that the Turkish authorities and Turkish politicians were best placed to assess the choice of an appropriate electoral system. The threshold applied was the highest in Europe and it was therefore desirable for it to be lowered, although in this area the national decision-makers had to be allowed sufficient latitude. The Court also stressed the fact that the electoral system was the subject of much debate within Turkey and that numerous proposals of ways to correct the threshold's effects were being made both in parliament and among leading figures of civil society. In addition, the Constitutional Court had stressed that the constitutional principles of fair representation and governmental stability necessarily had to be combined in such a way as to balance and complement each other. Accordingly Turkey had not overstepped its margin of appreciation, notwithstanding the high level of the threshold complained of.
*Conclusion*: no violation (five votes to two).

## ARTICLE 2 OF PROTOCOL No. 4

### Article 2(2)

**FREEDOM TO LEAVE A COUNTRY**
Inability to travel abroad as a result of an entry arbitrarily made in passport: *violation*.

**SISSANIS - Romania** (N° 23468/02)
Judgment 25.1.2007 [Section III]

*Facts*: The applicant, in connection with criminal proceedings against him, was twice prohibited from leaving the country. On the first occasion a preventive measure was adopted by the police, who ordered him not to leave Romanian territory and stamped his passport with the letter "C". After a thirty-day period in which he had been barred by the public prosecutor from leaving the country, he applied for this mark to be removed from his passport and the request was granted by the court of first instance. New criminal proceedings were subsequently brought against the applicant. The police asked for his passport to be stamped with the letter "C" and the public prosecutor then decided that he should be held in custody for thirty days. The county court sentenced him to immediate imprisonment and remanded him in custody pending determination of his appeal. The Court of Appeal allowed the appeal and ordered his release, then quashed the lower court's judgment and remitted the case to the provincial court, which acquitted him. He made various applications to various domestic authorities seeking to have the letter "C" removed from his passport. He claimed that any preventive measure prohibiting someone from leaving the country had to be ordered by a member of the State legal service, whereas the mark in his passport had been stamped on the instructions of the police. He was told that the applicable law in force at the time of the measure did not require that it be ordered by a member of the State legal service. Moreover, the applicant was criticised for not adducing evidence that the criminal proceedings against him had ended or that he had been acquitted. After several of his applications had either been dismissed or sent back, he ultimately requested the provincial court to annul the administrative decision to stamp the letter "C" in his passport and sought an award for pecuniary and non-pecuniary damage. The court partly granted his claims, ordering the removal of the mark, but refused to make an award for damage. This final judgment was executed by the stamping of the letter "L" in the applicant's passport.

*Law*: Inadmissible in respect of the first measure, as the complaint had been lodged out of time, and admissible in respect of the second.
A measure by means of which an individual was dispossessed of an identity document such as a passport amounted to an interference with the exercise of liberty of movement. Although the applicant's passport had not been confiscated he had not been able to make use of that travel document in order to leave the country. He had thus suffered a restriction on the exercise of his right. The impugned measure had to have some basis in domestic law, which had to be accessible to the person concerned and foreseeable as to its effects. The domestic law did not lay down with sufficient precision the conditions in which the preventive measure prohibiting someone from leaving the country could be imposed. The impugned statutory provision was vague as it simply stated that a foreigner against whom criminal proceedings had been brought could only leave the country after discontinuance of the proceedings or acquittal, or, in the event of conviction, after a sentence had been served. It did not identify the authority empowered to impose such a measure. Moreover, although the relevant authorities were empowered to authorise interference with aliens' freedom of movement, the grounds for doing so were not defined with sufficient precision. Interference by the executive authorities with an individual's rights had to be subject to an effective control which should normally be assured by the judiciary, at least in the last resort. Thus, the procedure for applying the preventive measure consisting in an order not to leave the country did not provide such safeguards, since the law did not lay down any review procedure, whether at the time the measure was imposed or afterwards. In reality, the preventive measure in question was an automatic measure applied for an indeterminate period and it thus interfered with the rights of the individual. The domestic law did not indicate with sufficient clarity the extent or conditions of the authorities' power of discretion in the area at issue. Lastly, the law, having been declared unconstitutional, had been superseded by a law providing that all preventive orders prohibiting someone from leaving the country had to be made by a member of the State legal service. The preventive measure, having been imposed by the police, had been in breach of the applicable domestic law, including the Constitution. Admittedly, the provincial court had rescinded the preventive measure barring the applicant from leaving the country because no measure restricting his liberty had been ordered by a member of the State legal service. However, the court had not awarded any compensation for the damage sustained by the applicant as a result of the unlawful extension of the preventive measure. Furthermore, it had not been suggested to the applicant that he could have availed himself of any other domestic remedy in order to seek compensation. Up to the time when the authorities lifted the preventive measure, the infringement of the applicant's freedom of movement had not been "in accordance with the law". In these circumstances the Court did not need to continue with the examination of the applicant's complaint to establish whether the interference had pursued a legitimate purpose and had been necessary in a democratic society.
*Conclusion*: violation (unanimously)

Article 41 – EUR 5,000 for non-pecuniary damage.

## ARTICLE 1 OF PROTOCOL No. 7

**EXPULSION OF AN ALIEN**
Expulsion of Uzbek national: *communicated*.

**MUMINOV - Russia** (N° 42502/06)
[Section I]

(see Article 3 above under "Expulsion").

## Other judgments delivered in January

**N.A. and Others v. Turkey** (Nº 37451/97), 9 January 2007 [Section II (former)] (just satisfaction)
**Gossa v. Poland** (Nº 47986/99), 9 January 2007 [Section IV]
**Uoti v. Finland** (Nº 61222/00), 9 January 2007 [Section IV]
**Beler and Others v. Turkey** (Nº 61739/00, Nº 61740/00, Nº 61753/00, Nº 61757/00 and Nº 61760/00), 9 January 2007 [Section II]
**Crew v. United Kingdom** (Nº 61928/00), 9 January 2007 [Section IV] (friendly settlement)
**Rathfelder v. United Kingdom** (Nº 63507/00), 9 January 2007 [Section IV] (friendly settlement)
**Orel v. Slovakia** (Nº 67035/01), 9 January 2007 [Section IV]
**Gamble v. United Kingdom** (Nº 68056/01), 9 January 2007 [Section IV] (friendly settlement)
**Hıdır Kaya v. Turkey** (Nº 2624/02), 9 January 2007 [Section II]
**Trojańczyk v. Poland** (Nº 11219/02), 9 January 2007 [Section IV]
**Özkan and Adıbelli v. Turkey** (Nº 18342/02), 9 January 2007 [Section II]
**Araguas v. France** (Nº 28625/02), 9 January 2007 [Section II]
**Mihalachi v. Moldova** (Nº 37511/02), 9 January 2007 [Section IV]
**Niva v. Finland** (Nº 37730/02), 9 January 2007 [Section IV] (friendly settlement)
**Moğul v. Turkey** (Nº 40217/02 and Nº 40218/02), 9 January 2007 [Section II]
**SCI Les Rullauds and Others v. France** (Nº 43972/02), 9 January 2007 [Section II]
**Sito v. Poland** (Nº 19607/03), 9 January 2007 [Section IV]
**Kříž v. the Czech Republic** (Nº 26634/03), 9 January 2007 [Section II (former)]
**Mezl v. the Czech Republic** (Nº 27726/03), 9 January 2007 [Section II (former)]

**Stefanova v. Bulgaria** (Nº 58828/00), 11 January 2007 [Section V]
**Quattrone v. Italy** (Nº 67785/01), 11 January 2007 [Section III]
**SWIG v. Russia** (Nº 307/02), 11 January 2007 [Section I] (striking out)
**Mas v. Ukraine** (Nº 11931/02), 11 January 2007 [Section V]
**Herbst v. Germany** (Nº 20027/02), 11 January 2007 [Section III]
**Kunić v. Croatia** (Nº 22344/02), 11 January 2007 [Section I]
**Shneyderman v. Russia** (Nº 36045/02), 11 January 2007 [Section I]
**Cornif v. Romania** (Nº 42872/02), 11 January 2007 [Section III]
**Mazurenko v. Ukraine** (Nº 14809/03), 11 January 2007 [Section V]
**Kolosay v. Ukraine** (Nº 25452/03), 11 January 2007 [Section V]
**Smoje v. Croatia** (Nº 28074/03), 11 January 2007 [Section I]
**Petrova v. Ukraine** (Nº 33635/03), 11 January 2007 [Section V]
**Parkhomenko v. Ukraine** (Nº 5531/04), 11 January 2007 [Section V]
**Galimullin and Others v. Ukraine** (Nº 7516/04), 11 January 2007 [Section V]
**Rakitin v. Ukraine** (Nº 7675/04), 11 January 2007 [Section V]
**Gorou v. Greece (no. 4)** (Nº 9747/04), 11 January 2007 [Section I]
**Sukhopar v. Ukraine** (Nº 16267/04), 11 January 2007 [Section V]
**Guseynova v. Ukraine** (Nº 19175/05), 11 January 2007 [Section V]

**Bell v. United Kingdom** (Nº 41534/98), 16 January 2007 [Section IV]
**Wedler v. Poland** (Nº 44115/98), 16 January 2007 [Section IV]
**Black v. United Kingdom** (Nº 56745/00), 16 January 2007 [Section IV]
**Terrill and Others v. United Kingdom** (Nº 60469/00, Nº 60949/00, Nº 63465/00, Nº 63472/00, Nº 63483/00, Nº 64008/00, and Nº 64115/00), 16 January 2007 [Section IV] (friendly settlement)
**Young v. United Kingdom** (Nº 60682/00), 16 January 2007 [Section IV]
**Atay and Others v. Turkey** (Nº 61693/00, Nº 61695/00, Nº 61696/00, Nº 61699/00, Nº 61705/00, Nº 61710/00, Nº 61712/00, Nº 61714/00, Nº 61733/00 and Nº 62627/00), 16 January 2007 [Section II]
**Veli Tosun and Others v. Turkey** (Nº 62312/00), 16 January 2007 [Section II]

**Okuyucu v. Turkey** (Nº 65887/01), 16 January 2007 [Section II]
**Akgül v. Turkey** (Nº 65897/01), 16 January 2007 [Section II]
**Halil Gündoğan v. Turkey (no. 2)** (Nº 67483/01), 16 January 2007 [Section II]
**Avcı (Cabat) and Others v. Turkey** (Nº 77191/01), 16 January 2007 [Section II]
**Domah v. France** (Nº 3447/02), 16 January 2007 [Section II]
**Sakçı v. Turkey** (Nº 8147/02), 16 January 2007 [Section II]
**Eisenchteter v. France** (Nº 17306/02), 16 January 2007 [Section II]
**Menvielle v. France (no. 2)** (Nº 97/03), 16 January 2007 [Section II]
**Pruneanu v. Moldova** (Nº 6888/03), 16 January 2007 [Section IV]
**Wolf v. Poland** (Nº 15667/03 and Nº 2929/04), 16 January 2007 [Section IV]
**Seidel v. France (no. 3)** (Nº 21764/03), 16 January 2007 [Section II]
**Trznadel v. Poland** (Nº 26876/03), 16 January 2007 [Section IV]
**Kranta v. Turkey** (Nº 31277/03), 16 January 2007 [Section II]
**Bogdanowicz v. Poland** (Nº 38872/03), 16 January 2007 [Section IV]
**Chiesi SA v. France** (Nº 954/05), 16 January 2007 [Section II]

**Kaplan v. Austria** (Nº 45983/99), 18 January 2007 [Section I]
**Rashid v. Bulgaria** (Nº 47905/99), 18 January 2007 [Section V]
**Stanimir Yordanov v. Bulgaria** (Nº 50479/99), 18 January 2007 [Section V]
**Bulgakova v. Russia** (Nº 69524/01), 18 January 2007 [Section III]
**Oberwalder v. Slovenia** (Nº 75567/01), 18 January 2007 [Section III]
**Kezic v. Slovenia** (Nº 76395/01), 18 January 2007 [Section III]
**Sedmak v. Slovenia** (Nº 77522/01), 18 January 2007 [Section III]
**Klimenko v. Russia** (Nº 11785/02), 18 January 2007 [Section III]
**Silka v. Ukraine** (Nº 3624/03), 18 January 2007 [Section V]
**Lapinskaya v. Ukraine** (Nº 10722/03), 18 January 2007 [Section V]
**Kot v. Russia** (Nº 20887/03), 18 January 2007 [Section I]
**Alliance Capital (Luxembourg) SA v. Luxembourg** (Nº 24720/03), 18 January 2007 [Section I]
**Alsayed Allaham v. Greece** (Nº 25771/03), 18 January 2007 [Section I]
**Shchiglitsov v. Estonia** (Nº 35062/03), 18 January 2007 [Section V]
**Khurkunov v. Ukraine** (Nº 5079/04), 18 January 2007 [Section V]
**Subinski v. Slovenia** (Nº 19611/04), 18 January 2007 [Section III]
**Kulikov v. Ukraine** (Nº 36367/04), 18 January 2007 [Section V]
**Ouzounian Barret v. Cyprus** (Nº 2418/05), 18 January 2007 [Section I]
**Vasilev v. Greece** (Nº 2736/05), 18 January 2007 [Section I]
**Zavřel v. the Czech Republic** (Nº 14044/05), 18 January 2007 [Section V]
**A.J. Hadjihanna Bros. (Tourist Enterprises) Ltd. & Hadjihannas v. Cyprus** (Nº 34579/05), 18 January 2007 [Section I]

**Çardakçi and Others v. Turkey** (Nº 39224/98), 23 January 2007 [Section IV]
**Baran v. Turkey** (Nº 46777/99), 23 January 2007 [Section IV]
**Korkmaz and Others v. Turkey** (Nº 47354/99), 23 January 2007 [Section II]
**Jagiełło v. Poland** (Nº 59738/00), 23 January 2007 [Section IV]
**Kepenekliođlu v. Turkey** (Nº 73520/01), 23 January 2007 [Section II]
**Kondu v. Turkey** (Nº 75694/01), 23 January 2007 [Section II]
**Çetinkaya and Çağlayan v. Turkey** (Nº 3921/02, Nº 35003/02 and Nº 17261/03), 23 January 2007 [Section II]
**Kozłowski v. Poland** (Nº 23779/02), 23 January 2007 [Section IV]
**Lilja v. Sweden** (Nº 36689/02), 23 January 2007 [Section II]
**Rodoplu v. Turkey** (Nº 41665/02), 23 January 2007 [Section IV]
**Almeida Azevedo v. Portugal** (Nº 43924/02), 23 January 2007 [Section II]
**Kurt and Others v. Turkey** (Nº 13932/03), 23 January 2007 [Section II]
**Falakaoğlu v. Turkey (no. 3)** (Nº 16229/03), 23 January 2007 [Section II]
**Cretello v. France** (Nº 2078/04), 23 January 2007 [Section II]

**Vereinigung Bildender Künstler v. Austria** (Nº 68354/01), 25 January 2007 [Section I]
**Morea v. Italy** (Nº 69269/01), 25 January 2007 [Section III]
**Iorga v. Romania** (Nº 4227/02), 25 January 2007 [Section III]
**Aja v. Greece** (Nº 22879/02), 25 January 2007 [Section I]
**Belyayev v. Russia** (Nº 24620/02), 25 January 2007 [Section I]
**Hesse v. Austria** (Nº 26186/02), 25 January 2007 [Section I]
**Carjan v. Romania** (Nº 42588/02), 25 January 2007 [Section III]
**Andriotis v. Greece** (Nº 389/03), 25 January 2007 [Section I]
**Makarov v. Russia** (Nº 21074/03), 25 January 2007 [Section I]
**Denisov v. Russia** (Nº 21823/03), 25 January 2007 [Section I]
**Eski v. Austria** (Nº 21949/03), 25 January 2007 [Section I]
**Negoita v. Romania** (Nº 9862/04), 25 January 2007 [Section III]
**Rompoti v. Greece** (Nº 14263/04), 25 January 2007 [Section I]
**Tsekouridou v. Greece** (Nº 28770/04), 25 January 2007 [Section I]
**Elmaliotis v. Greece** (Nº 28819/04), 25 January 2007 [Section I]

**Çobanoğlu and Budak v. Turkey** (Nº 45977/99), 30 January 2007 [Section II]
**Boczoń v. Poland** (Nº 66079/01), 30 January 2007 [Section IV]
**Pielasa v. Poland** (Nº 66463/01), 30 January 2007 [Section IV]
**Pavlík v. Slovakia** (Nº 74827/01), 30 January 2007 [Section IV]
**Kazın Gündoğan v. Turkey** (Nº 29/02), 30 January 2007 [Section II]
**Aslan and Özsoy v. Turkey** (Nº 35973/02 and Nº 5317/02), 30 January 2007 [Section II]
**Ryckie v. Poland** (Nº 19583/05), 30 January 2007 [Section IV]

## Judgments which have become final

### Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three-month time-limit for requesting referral to the Grand Chamber) (see Information Notes Nos. 89, 90):

**Mürvet Fidan and Others - Turkey** (Nº 48983/99)
Judgment 26.9.2006 [Section II]

**Lickov - Former Yugoslav Republic of Macedonia** (Nº 38202/02)
Judgment 28.9.2006 [Section V]

**Ben Naceur - France** (Nº 63879/00)
**Başkaya - Turkey** (Nº 68234/01)
**Keklik and Others - Turkey** (Nº 77388/01)
**Courty and Another - France** (Nº 15114/02)
**Cour - France** (Nº 44404/02)
**Mehmet Kaplan - Turkey** (Nº 6366/03)
**Achache - France** (Nº 16043/03)
**Kalmár - Hungary** (Nº 32783/03)
**Gajcsi - Hungary** (Nº 34503/03)
**E.T. - France** (Nº 7217/05)
Judgments 03.10.2006 [Section II]

**Kuril - Slovakia** (Nº 63959/00)
**Łuczko - Poland** (Nº 73988/01)
**Rybczyńscy - Poland** (Nº 3501/02)
Judgments 03.10.2006 [Section IV]

**Lazarev - Russia** (Nº 9800/02)
**Stetsenko and Stetsenko - Russia** (Nº 878/03)
**Müller - Austria** (Nº 12555/03)
**Zakharov - Russia** (Nº 14881/03)
**Velskaya - Russia** (Nº 21769/03)
**Marchenko - Russia** (Nº 29510/04)
**Bolat - Russia** (N° 14139/03)
**Moscow Branch of the Salvation Army - Russia** (N° 72881/01)
Judgments 05.10.2006 [Section I]

**Notarnicola - Italy** (Nº 64264/01)
**Preziosi - Italy** (Nº 67125/01)
**Spampinato - Italy** (Nº 69872/01)
**Gianazza - Italy** (Nº 69878/01)
**Medici and Others - Italy** (Nº 70508/01)
**Labbruzzo - Italy** (Nº 10022/02)
**Popea - Romania** (Nº 6248/03)
**Penescu - Romania** (Nº 13075/03)
**Capoccia - Italy** (Nº 30227/03)
**Fendi and Speroni - Italy** (Nº 37338/03)
**Messeni Nemagna and Others - Italy** (Nº 9512/04)

**De Nigris - Italy (no. 1)** (Nº 41248/04)
**Marcello Viola - Italy** (Nº 45106/04)
Judgments 05.10.2006 [Section III]

**Sodadjiev - Bulgaria** (Nº 58773/00)
**Klasen - Germany** (Nº 75204/01)
Judgments 05.10.2006 [Section V]

**Çomak - Turkey** (Nº 225/02)
**Mehmet Emin Acar - Turkey** (Nº 1901/02)
**Halis Doğan - Turkey (no. 3)** (Nº 4119/02)
**Falakaoğlu - Turkey** (Nº 11840/02)
**Bonifacio - France (**Nº 18113/02)
**Nebusová - Hungary and Slovakia** (Nº 61/03)
**Tutar - Turkey** (Nº 11798/03)
**Yerebasmaz - Turkey** (Nº 14710/03)
**S.U. - France** (Nº 23054/03)
Judgments 10.10.2006 [Section II]

**Fryckman - Finland** (Nº 36288/97)
**Rybczyńska - Poland** (Nº 57764/00)
**Kędra - Poland** (Nº 1564/02)
**Szymoński - Poland** (Nº 6925/02)
**Kuźniak - Poland** (Nº 13861/02)
**Lozan and Others - Moldova** (Nº 20567/02)
**Zasłona - Poland** (Nº 25301/02)
**Cichla - Poland** (Nº 18036/03)
**Paulik - Slovakia** (Nº 10699/05)
Judgments 10.10.2006 [Section IV]

**Aldoshkina - Russia** (Nº 66041/01)
**Stanislav Zhukov - Russia** (Nº 54632/00)
**Glazkov - Russia** (Nº 10929/03)
**Debelić - Croatia** (Nº 9235/04)
**Tastanidis - Greece** (Nº 18059/04)
**Estamirov and Others - Russia** (Nº 60272/00)
**Mubilanzila Mayeka and Kaniki Mitunga - Belgium** (Nº 13178/03)
Judgments 12.10.2006 [Section I]

**Sebastian Taub - Romania** (Nº 58612/00)
**Barbu - Romania** (Nº 70639/01)
**Danulescu - Romania** (Nº 70890/01)
**Barcanescu - Romania** (Nº 75261/01)
**Tovaru - Romania** (Nº 77048/01)
**Orha - Romania** (Nº 1486/02)
**Patrichi - Romania** (Nº 1597/02)
**Ruxanda Ionescu - Romania** (Nº 2608/02)
**Konnerth - Romania** (Nº 21118/02)
**Ioachimescu and Ion - Romania** (Nº 18013/03)
**Kaya - Romania** (Nº 33970/05)
Judgments 12.10.2006 [Section III]

**Staykov - Bulgaria** (Nº 49438/99)
**Mladenov - Bulgaria** (Nº 58775/00)

**Tarnavskiy - Ukraine** (Nº 6693/03)
**Pivnenko - Ukraine** (Nº 36369/04)
Judgments 12.10.2006 [Section V]

**Yazganoğlu - Turkey** (Nº 57294/00)
**Danelia - Georgia** (Nº 68622/01)
**Gurgenidze - Georgia** (Nº 71678/01)
**Sultan Öner and Others - Turkey** (Nº 73792/01)
**Öz and Başpinar - Turkey** (Nº 41227/02)
**Göcmen - Turkey** (Nº 72000/01)
Judgments 17.10.2006 [Section II]

**Augustyniak - Poland** (Nº 5413/02)
**Piątkowski - Poland** (Nº 5650/02)
**Zielonka - Poland** (Nº 7313/02)
**Gąsiorowski - Poland** (Nº 7677/02)
**Nowak - Poland** (Nº 8612/02)
**Czerwiński - Poland** (Nº 10384/02)
**Chodzyńscy - Poland** (Nº 17484/02)
**Grabiński - Poland** (Nº 43702/02)
**Stankiewicz - Poland** (Nº 29386/03)
**Kwiatkowski - Poland** (Nº 4560/04)
Judgments 17.10.2006 [Section IV]

**Irina Fedotova - Russia** (Nº 1752/02)
**Romanenko and Romanenko - Russia** (Nº 19457/02)
**Kesyan - Russia** (Nº 36496/02)
**Ceglia - Italy** (Nº 21457/04)
**Tomasic - Croatia** (Nº 21753/02)
Judgments 19.10.2006 [Section I]

**Kamer Demir and Others - Turkey** (Nº 41335/98)
**Selim Yıldırım and Others - Turkey** (Nº 56154/00)
**M.A.T. - Turkey** (Nº 63964/00)
**Abdullah Altun - Turkey** (Nº 66354/01)
**Hikmedin Yıldız - Turkey** (Nº 69124/01)
**Diril - Turkey** (Nº 68188/01)
**Gautieri and Others - Italy** (Nº 68610/01)
**Sağir - Turkey** (Nº 37562/02)
**Matache and Others - Romania** (Nº 38113/02)
**Raicu - Romania** (Nº 28104/03)
**Kök - Turkey** (Nº 1855/02)
Judgments 19.10.2006 [Section III]

**Mukhin - Ukraine** (Nº 39404/02)
**Arsov - the former Yugoslav Republic of Macedonia** (Nº 44208/02)
Judgments 19.10.2006 [Section V]

**Baba - Turkey** (Nº 35075/97)
**Terece and Others - Turkey** (Nº 41054/98)
**Ugür Akay - Turkey** (Nº 58539/00)
**Açıkgöz - Turkey** (Nº 76855/01)
**Kaya and Others - Turkey** (Nº 4451/02)
**Kürkçü and Others - Turkey** (Nº 7142/02)

**Maçin - Turkey (no. 2)** (Nº 38282/02)
**Üstüncan and Others - Turkey** (Nº 11914/03)
Judgments 24.10.2006 [Section II]

**Martin - United Kingdom** (Nº 40426/98)
**Romaniak - Poland** (Nº 53284/99)
**Baranowksa - Poland** (Nº 72994/01)
**Orzechowski - Poland** (Nº 77795/01)
**Kusyk - Poland** (Nº 7347/02)
**Stevens - Poland** (Nº 13568/02)
**Sokołowski - Poland** (Nº 15337/02)
**Zych - Poland** (Nº 28730/02)
**Szwagrun-Baurycza - Poland** (Nº 41187/02)
**Stemplewski - Poland** (Nº 30019/03)
**Żak - Poland** (Nº 31999/03)
**Central Mediterranean Development Corporation Limited - Malta** (Nº 35829/03),
24 October 2006 [Section IV]
**Edwards - Malta** (Nº 17647/04)
Judgments 24.10.2006 [Section IV]

**Lenardon - Belgium** (Nº 18211/03)
Judgment 26.10.2006 [Section I]

**Emanuele Calandra and Others - Italy** (Nº 71310/01)
**Novina - Slovenia** (Nº 6855/02)
**Khudobin - Russia** (Nº 59696/00)
Judgments 26.10.2006 [Section III]

**Danov - Bulgaria** (Nº 56796/00)
**Mareš - the Czech Republic** (Nº 1414/03)
**Friedrich - the Czech Republic** (Nº 12108/03)
**Chraidi - Germany** (Nº 65655/01)
Judgments 26.10.2006 [Section V]

**Güner Çorum - Turkey** (Nº 59739/00)
**Dilek Yılmaz - Turkey** (Nº 58030/00)
**Karaoğlan - Turkey** (Nº 60161/00)
**Kahraman - Turkey** (Nº 60366/00)
**Tüzel - Turkey (no. 2)** (Nº 71459/01)
**Drăguță - Moldova** (Nº 75975/01)
**Şahin and Sürgeç - Turkey** (Nº 13007/02 and Nº 13924/02)
**Pakkan - Turkey** (Nº 13017/02)
**Aksoy (Eroglu) - Turkey** (Nº 59741/00)
Judgments 31.10.2006 [Section IV]

## Statistical information[1]

| Judgments delivered | January | 2007 |
|---|---|---|
| Grand Chamber | 2 | 2 |
| Section I | 32(33) | 32(33) |
| Section II | 39(89) | 39(89) |
| Section III | 17 | 17 |
| Section IV | 33(40) | 33(40) |
| Section V | 19 | 19 |
| former Sections | 5 | 5 |
| **Total** | **147(205)** | **147(205)** |

| Judgments delivered in January 2007 | | | | | |
|---|---|---|---|---|---|
| | Merits | Friendly settlements | Struck out | Other | Total |
| Grand Chamber | 2 | 0 | 0 | 0 | 2 |
| Section I | 31(32) | 0 | 1 | 0 | 32(33) |
| Section II | 39(89) | 0 | 0 | 0 | 39(89) |
| Section III | 17 | 0 | 0 | 0 | 17 |
| Section IV | 27(28) | 6(12) | 0 | 0 | 33(40) |
| Section V | 19 | 0 | 0 | 0 | 19 |
| former Section I | 0 | 0 | 0 | 0 | 0 |
| former Section II | 4 | 0 | 0 | 1 | 5 |
| former Section III | 0 | 0 | 0 | 0 | 0 |
| former SectionIV | 0 | 0 | 0 | 0 | 0 |
| **Total** | **139(191)** | **6(12)** | **1** | **1** | **147(205)** |

| Judgments delivered in 2007 | | | | | |
|---|---|---|---|---|---|
| | Merits | Friendly settlements | Struck out | Other | Total |
| Grand Chamber | 2 | 0 | 0 | 0 | 2 |
| Section I | 31(32) | 0 | 1 | 0 | 32(33) |
| Section II | 39(89) | 0 | 0 | 0 | 39(89) |
| Section III | 17 | 0 | 0 | 0 | 17 |
| Section IV | 27(28) | 6(12) | 0 | 0 | 33(40) |
| Section V | 19 | 0 | 0 | 0 | 19 |
| former Section I | 0 | 0 | 0 | 0 | 0 |
| former Section II | 4 | 0 | 0 | 1 | 5 |
| former Section III | 0 | 0 | 0 | 0 | 0 |
| former SectionIV | 0 | 0 | 0 | 0 | 0 |
| **Total** | **139(191)** | **6(12)** | **1** | **1** | **147(205)** |

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

| Decisions adopted | | January | 2007 |
|---|---|---|---|
| **I. Applications declared admissible** | | | |
| Grand Chamber | | 0 | 0 |
| Section I | | 1 | 1 |
| Section II | | 0 | 0 |
| Section III | | 3 | 3 |
| Section IV | | 1(2) | 1(2) |
| Section V | | 3 | 3 |
| **Total** | | **8(2)** | **8(2)** |
| | | | |
| **II. Applications declared inadmissible** | | | |
| Grand Chamber | | 0 | 0 |
| Section I | - Chamber | 3 | 3 |
| | - Committee | 468 | 468 |
| Section II | - Chamber | 4(21) | 4(21) |
| | - Committee | 398 | 398 |
| Section III | - Chamber | 5 | 5 |
| | - Committee | 307 | 307 |
| Section IV | - Chamber | 11 | 11 |
| | - Committee | 466 | 466 |
| Section V | - Chamber | 5 | 5 |
| | - Committee | 439 | 439 |
| **Total** | | **2106(21)** | **2106(21)** |
| | | | |
| **III. Applications struck off** | | | |
| Grand Chamber | | 0 | 0 |
| Section I | - Chamber | 9 | 9 |
| | - Committee | 13 | 13 |
| Section II | - Chamber | 8(15) | 8(15) |
| | - Committee | 16 | 16 |
| Section III | - Chamber | 1 | 1 |
| | - Committee | 6 | 6 |
| Section IV | - Chamber | 12 | 12 |
| | - Committee | 6 | 6 |
| Section V | - Chamber | 3 | 3 |
| | - Committee | 2 | 2 |
| **Total** | | **76(15)** | **76(15)** |
| **Total number of decisions**[1] | | **2182(36)** | **2182(36)** |

[1] Not including partial decisions.

| Applications communicated | January | 2007 |
|---|---|---|
| Section I | 41 | 41 |
| Section II | 101 | 101 |
| Section III | 80 | 80 |
| Section IV | 63 | 63 |
| Section V | 29 | 29 |
| **Total number of applications communicated** | **314** | **314** |

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

**Convention**

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

**Protocol No. 1**

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

**Protocol No. 4**

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

**Protocol No. 6**

| | |
|---|---|
| Article 1 : | Abolition of the death penalty |

**Protocol No. 7**

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