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This Factsheet does not bind the Court and is not exhaustive

# New technologies

## Electronic data

### **S. and Marper v. the United Kingdom**

4 December 2008 (Grand Chamber)

This case concerned the indefinite retention in a database of the applicants' fingerprints, cell samples and DNA profiles<sup>1</sup> after criminal proceedings against them had been terminated by an acquittal in one case and discontinued in the other case.

The European Court of Human Rights held that there had been a **violation of Article 8** (right to respect for private life) of the [European Convention on Human Rights](#). It considered in particular that the use of modern scientific techniques in the criminal-justice system could not be allowed at any cost and without carefully balancing the potential benefits of the extensive use of such techniques against important private-life interests. Any State claiming a pioneer role in the development of new technologies bore special responsibility for "striking the right balance". The Court concluded that the blanket and indiscriminate nature of the powers of retention of the fingerprints, cellular samples and DNA profiles of persons suspected but not convicted of offences, as applied in this particular case, failed to strike a fair balance between the competing public and private interests.

### **B.B. v. France (application no. 5335/06), Gardel v. France and M.B. v. France (no. 22115/06)**

17 December 2009

The three applicants – convicted of rape of 15 year-old minors by a person in a position of authority – complained, in particular, about their inclusion in the national Sex Offender Database.

The Court held that there had been **no violation of Article 8** (right to respect for private life) of the Convention. It took the view that the length of the data conservation – 30 years maximum – was not disproportionate in relation to the aim pursued – prevention of crime – by the retention of the information. Moreover, the consultation of such data by the court, police and administrative authorities, was subject to a duty of confidentiality and was restricted to precisely determined circumstances.

### **Mandil v. France, Barreau and Others v. France and Deceuninck v. France**

13 November 2011 (decisions on the admissibility)

The applicants are "Faucheurs volontaires" (Volunteer Reapers) who had participated in digging up experimental crops of transgenic beetroot. Relying in particular on Article 8 (right to respect for private life), the applicant in the first case complained about his conviction for refusing to provide a biological sample to be stored on the national computerised DNA database; the applicants in the second case argued that the storage of their DNA on the national computerised database and the conviction of a number of them for refusing to provide a biological sample amounted to a violation of their right to respect for private life; the applicant in the third case submitted in particular that the

<sup>1</sup>. DNA profiles are digitised information which is stored electronically on the National DNA Database together with details of the person to whom it relates.

order to take cell samples containing his genetic information constituted a disproportionate interference with his integrity and his private life.

The Court declared the applications **inadmissible** for failure to respect duty of confidentiality in friendly settlement negotiations. It considered that the applicants had violated the principle of confidentiality enshrined in Article 39 § 2 of the Convention and Rule 62 of the Rules of Court and that their conduct had constituted a violation of the right of individual petition for the purposes of Article 35 § 3 (a) of the Convention.

### **Bernh Larsen Holding As and Others v. Norway**

14 March 2013

This case concerned the complaint by three Norwegian companies about a decision of the tax authorities ordering tax auditors to be provided with a copy of all data on a computer server used jointly by the three companies. The applicant companies alleged in particular that the measure in question had been taken in an arbitrary manner.

The Court held that there had been **no violation of Article 8** (right to respect for home and correspondence) of the Convention. It agreed with the Norwegian courts' argument that, for efficiency reasons, tax authorities' possibilities to act should not be limited by the fact that a tax payer was using a "mixed archive", even if that archive contained data belonging to other tax payers. Moreover, there were adequate safeguards against abuse.

### **M.K. v. France (no. 19522/09)**

18 April 2013

The applicant, a French national who had been the subject of two investigations concerning book theft, which ended in one case with his acquittal and in the other with a decision not to prosecute, complained of the fact that his fingerprints had been retained on a database by the French authorities.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention. It considered, in view of the circumstances of the case, that the retention of the data in question had amounted to disproportionate interference with the applicant's right to respect for his private life.

### **Youth Initiative For Human Rights v. Serbia**

25 June 2013

This case concerned access to information obtained via electronic surveillance by the Serbian Intelligence Agency. The applicant NGO complained that the intelligence agency's refusal to provide it with the information it had requested – it had requested to be provided with information on how many people the agency had subjected to electronic surveillance in 2005 – prevented it from exercising its role as "public watchdog".

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention. It found that the agency's obstinate reluctance to comply with a final and binding order to provide information it had obtained was in defiance of domestic law and was tantamount to being arbitrary.

**Under Article 46** (binding force and implementation) of the Convention, the Court further held that the most natural way to implement its judgment in this case would be to ensure that the agency provided the applicant NGO with the information it had requested on how many people had been subjected to electronic surveillance in 2005.

### **Nagla v. Latvia**

16 July 2013

This case concerned the search by the police of a well-known broadcast journalist's home, and their seizure of data storage devices. The applicant's home was searched following a broadcast she had aired in February 2010 informing the public of an information leak from the State Revenue Service database. The applicant complained that the search of her home meant that she had been compelled to disclose information

that had enabled a journalistic source to be identified, violating her right to receive and impart information.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention. It emphasised that the right of journalist's not to disclose their sources could not be considered a privilege, dependent on the lawfulness or unlawfulness of their sources, but rather as an intrinsic part of the right to information that should be treated with the utmost caution. In this case the investigating authorities had failed to properly balance the interest of the investigation in securing evidence against the public interest in protecting the journalist's freedom of expression.

### **Peruzzo and Martens v. Germany**

4 June 2013 (decision on the admissibility)

The applicants, who had been convicted of serious criminal offences, complained under Article 8 (right to respect for private life) of the Convention about the domestic courts' orders to collect cellular material from them and to store it in a database in the form of DNA profiles for the purpose of facilitating the investigation of possible future crimes.

The Court declared the application **inadmissible** (manifestly ill-founded). The measures complained of were found to constitute a proportionate interference with the applicants' right to respect for their private life and were necessary in a democratic society.

### **Brunet v. France**

18 September 2014<sup>2</sup>

The applicant complained in particular of an interference with his private life as a result of being added to the police database STIC (system for processing recorded offences) - containing information from investigation reports, listing the individuals implicated and the victims - after the discontinuance of criminal proceedings against him.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention, finding that the French State had overstepped its discretion to decide ("margin of appreciation") on such matters: the retention could be regarded as a disproportionate breach of the applicant's right to respect for his private life and was not necessary in a democratic society. The Court considered in particular that the applicant had not had a real possibility of seeking the deletion from the database of the information concerning him and that the length of retention of that data, 20 years, could be assimilated, if not to indefinite retention, at least to a norm rather than to a maximum limit.

### **Pending applications**

#### **Ivashchenko v. Russia (no. 61064/10)**

Communicated to the Russian Government on 5 October 2011

The applicant is a photojournalist. When returning to Russia after a travel to Abkhazia where he had taken several photographs concerning, as he described it, "the life of this unrecognised Republic", his belongings, including a laptop and several electronic storage devices, were subjected to an inspection. The applicant complains in particular that the customs authorities unlawfully and without valid reasons examined the data contained on his laptop and storages devices. He further alleges that the actions of the customs authorities also amounted to a violation of his right to impart information. He argues in particular that no sufficient procedural safeguards were in place to protect him from unjustified interference or to protect journalistic sources.

The Court communicated the case to the Russian Government and put questions to the parties under Articles 8 (right to respect for private life and correspondence), 10 (freedom of expression) and 13 (right to an effective remedy) of the Convention.

<sup>2</sup>. This judgment will become final in the circumstances set out in Article 44 § 2 of the [European Convention on Human Rights](#).

### **Big Brother Watch and Others v. the United Kingdom (no. 58170/13)**

Application communicated to the UK Government on 9 January 2014

The applicants, three NGOs and one academic working internationally in the fields of privacy and freedom of expression, allege they are likely to have been the subjects of surveillance by the United Kingdom intelligence services. Their concerns have been triggered by media coverage following the revelations by Edward Snowden, a former systems administrator with the United States National Security Agency (the NSA).

The Court communicated the application to the UK Government and put questions to the parties under Article 8 (right to respect for private life) of the Convention.

## E-mail

### **Copland v. the United Kingdom**

3 April 2007

The applicant was employed by a college of further education, a statutory body administered by the State, as a personal assistant to the principal. From the end of 1995 she was required to work closely with the deputy principal. Her telephone, e-mail and internet usage were subjected to monitoring at the deputy principal's instigation. According to the UK Government, this was in order to ascertain whether the applicant was making excessive use of college facilities for personal purposes.

The Court held that there had been a **violation of Article 8** (right to respect for private life and correspondence) of the Convention. It first observed that telephone calls from business premises were *prima facie* covered by the notions of "private life" and "correspondence". It followed logically that e-mails sent from work should be similarly protected, as should information derived from the monitoring of personal internet usage. In the instant case, the Court considered that the collection and storage of personal information relating to the applicant's use of the telephone, e-mail and internet, without her knowledge, had amounted to an interference with her right to respect for her private life and correspondence. While leaving open the question whether the monitoring of an employee's use of a telephone, e-mail or internet at the place of work might be considered "necessary in a democratic society" in certain situations in pursuit of a legitimate aim, the Court concluded that, in the absence of any domestic law regulating monitoring at the material time, the interference was not "in accordance with the law".

### **Muscio v. Italy**

13 November 2007 (decision on the admissibility)

This case concerned the president of a Catholic parents' association who had received unsolicited e-mails (spam) of an obscene nature. Having instituted proceedings against a person or persons unknown, he contested the decision to take no further action on his complaint.

The Court declared **inadmissible** (manifestly ill-founded) the applicant's **complaint under Article 8** (right to respect for private and family life) of the Convention. It considered that receiving undesirable messages amounted to interference with the right to respect for private life. However, once connected to the Internet, e-mail users no longer enjoyed effective protection of their privacy and exposed themselves to the risk of receiving undesirable messages. In that context, the legal action brought by the applicant had had no chance of succeeding, since the national authorities and Internet service providers encountered objective difficulties in combating spam. The Court could not therefore require the State to make additional efforts to discharge its positive obligations under Article 8 of the Convention.

### **Benediktsson v. Iceland**

16 June 2009 (decision on the admissibility)

The applicant complained that, by affording her insufficient protection against unlawful publication of her private e-mails in the media, Iceland had failed to secure her rights guaranteed by Article 8 (right to respect for private life and correspondence). She

submitted that an unknown third party had obtained the e-mails in question, without her knowledge and consent from a server formerly owned and operated by her former employer who had gone bankrupt. The e-mail communications consisted in particular of direct quotations or paraphrasing of e-mail exchanges between the applicant and the former colleague of a multinational company's Chief Executive Officer and his wishes to find a suitable lawyer to assist him in handing over to the police allegedly incriminating material he had in his possession and to represent him in a future court case against the leaders of the multinational company in question. At the time there was an ongoing public debate in Iceland relating to allegations that undue influence had been exerted by prominent figures on the most extensive criminal investigations ever carried out in the country.

The Court declared the application **inadmissible** (manifestly ill-founded). It found that there was nothing to indicate that the Icelandic authorities had transgressed their margin of appreciation and had failed to strike a fair balance between the newspaper's freedom of expression and the applicant's right to respect for her private life and correspondence under Article 8 of the Convention.

### **Helander v. Finland**

10 September 2013 (decision on the admissibility)

This case concerned a complaint brought by a prisoner that the prison authority had refused to forward legal correspondence to him, which had been sent to the prison's official e-mail address by his lawyer.

The Court declared the case **inadmissible** (manifestly ill-founded) as the applicant's lawyer had immediately been informed that his e-mail would not be conveyed to his client and that lawyer and client remained able at all times to communicate quickly by telephone, letter or personal visit. The Court also recognised that, under Finland's current legislation, lawyer-client confidentiality could not be guaranteed in e-mail correspondence, and that the prison authority therefore had a genuine reason for not forwarding the message on.

## GPS (Global Positioning System)

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### **Uzun v. Germany**

2 September 2010

The applicant, suspected of involvement in bomb attacks by a left-wing extremist movement, complained in particular that his surveillance via GPS and the use of the data obtained thereby in the criminal proceedings against him had violated his rights under Article 8 (right to respect for private life) of the Convention.

The Court held that there had been **no violation of Article 8** (right to respect for private life) of the Convention. Given that the criminal investigation had concerned very serious crimes, it found that the GPS surveillance of the applicant had been proportionate.

## Internet

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### **Perrin v. the United Kingdom**

18 October 2005 (decision on the admissibility)

The case concerned the conviction and sentencing to 30 months' imprisonment of a French national based in the United Kingdom – and operating a United States-based Internet company with sexually explicit content – for publishing obscene articles on Internet.

The Court rejected the applicant's **complaint under Article 10** (freedom of expression) of the Convention as **inadmissible** (manifestly ill-founded). It was satisfied that the criminal conviction was necessary in a democratic society in the interests of the

protection of morals and/or the rights of others and that the sentence was not disproportionate.

### **Paeffgen GmbH v. Germany**

18 September 2007 (decision on the admissibility)

The case concerned proceedings brought against the applicant company, engaged in e-commerce, by other companies and private individuals claiming that its registration and use of certain Internet domains breached their trademark rights and / or their rights to a (business) name.

The Court declared **inadmissible** (manifestly ill-founded) the applicant company's **complaint under Article 1** (protection of property) **of Protocol No. 1** to the Convention. It found that the court orders requiring the applicant company to cancel the domains had struck a fair balance between the protection of its possessions and the requirements of the general interest (i.e. to prevent the company from continuing to violate third parties' trademark rights).

### **K.U. v. Finland (application no. 2872/02)**

2 December 2008

This case concerned an advertisement of a sexual nature posted about a 12-year old boy on an Internet dating site. Under Finnish legislation in place at the time<sup>3</sup>, the police and the courts could not require the Internet provider to identify the person who had posted the ad. In particular, the service provider refused to identify the person responsible, claiming it would constitute a breach of confidentiality.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention. It considered that posting the ad was a criminal act which made a minor a target for paedophiles. The legislature should have provided a framework for reconciling the confidentiality of Internet services with the prevention of disorder or crime and the protection of the rights and freedoms of others, and in particular children and other vulnerable individuals.

### **Times Newspapers Ltd v. the United Kingdom (nos. 1 & 2)**

10 March 2009

The applicant company, owner and publisher of *The Times* newspaper, alleged that the rule under United Kingdom law, whereby a new cause of action in libel proceedings accrues each time defamatory material on the Internet is accessed ("the Internet publication rule"), constituted an unjustifiable and disproportionate restriction on its right to freedom of expression. In December 1999 the applicant newspaper published two articles that were allegedly defamatory of a private individual. Both articles were uploaded onto *The Times'* website on the same day as they were published in the paper version of the newspaper. During the subsequent libel proceedings against the applicant newspaper, it was required to add a notice to both articles in the Internet archive announcing that they were subject to libel litigation and were not to be reproduced or relied on without reference to the applicant company's legal department.

In this judgment the Court underlined that, in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet plays an important role in enhancing the public's access to news and facilitating the dissemination of information in general. In the present case, it found that there had been **no violation of Article 10** (freedom of expression) of the Convention: since the archives were managed by the newspaper itself and the domestic courts had not suggested that the articles be removed altogether, the requirement to add an appropriate qualification to the Internet version had not been disproportionate.

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<sup>3</sup>. A legal framework had been introduced by the time of the European Court of Human Rights' judgment under the Exercise of Freedom of Expression in Mass Media Act.

### Willem v. France

16 July 2009

This case concerned the call for a boycott of Israeli products by a mayor, notably via the municipality's internet site. The mayor was subsequently convicted of provoking discrimination.

The Court found that there had been **no violation of Article 10** (freedom of expression) of the Convention. The reasons given by the French courts to justify the interference with the applicant's freedom of expression had been "relevant and sufficient" for the purposes of Article 10. In addition, the fine imposed had been relatively moderate and proportionate to the aim pursued.

### Renaud v. France

25 February 2010

The applicant complained of his conviction for defaming and publicly insulting a mayor on the Internet site of the association of which he was president and webmaster.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention. It considered that the applicant's conviction had been disproportionate to the legitimate aim of protecting the reputation and rights of others.

### Editorial Board of Pravoye Delo and Shtekel v. Ukraine

5 May 2011

This case mainly concerned the lack of adequate safeguards in Ukrainian law for journalists' use of information obtained from the Internet. In particular, defamation proceedings had been brought against a local newspaper and its editor-in-chief following their publication of a letter downloaded from the Internet alleging that senior local officials were corrupt and involved with the leaders of an organised criminal gang. The domestic courts ruled against the applicants and ordered them to publish an apology and pay 15,000 Ukrainian hryvnias (approximately EUR 2,394), eventually waived via a friendly settlement.

The Court held that the order to the editor-in-chief to apologise had not been done in accordance with the law, and had, therefore, been in **violation of Article 10** (freedom of expression) of the Convention. It further held that there had been a **violation of Article 10** because of the lack of adequate safeguards for journalists using information obtained from the Internet. Notably, "having regard to the role the Internet plays in the context of professional media activities ... and its importance for the exercise of the right to freedom of expression generally ..., the Court consider[ed] that the absence of a sufficient legal framework at the domestic level allowing journalists to use information obtained from the Internet without fear of incurring sanctions seriously hinders the exercise of the vital function of the press as a 'public watchdog' ..." (§ 64 of the judgment).

### Mosley v. the United Kingdom

10 May 2011

This case concerned the publication of articles, images and video footage in the *News of the World* newspaper and on its website which disclosed details of Max Mosley's sexual activities. The applicant complained about the authorities' failure to impose a legal duty on the newspaper to notify him in advance of further publication of the material so that he could seek an interim injunction.

The Court found that there had been **no violation of Article 8** (right to respect for private life) of the Convention. It held in particular that the European Convention on Human Rights did not require media to give prior notice of intended publications to those who feature in them.

### Ahmet Yıldırım v. Turkey

18 December 2012

This case concerned a court decision to block access to Google Sites, which hosted an Internet site whose owner was facing criminal proceedings for insulting the memory of

Atatürk. As a result of the decision, access to all other sites hosted by the service was blocked. The applicant complained that he was unable to access his own Internet site because of this measure ordered in the context of criminal proceedings without any connection to him or his site. He submitted that the measure infringed his right to freedom to receive and impart information and ideas.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention. It found that the effects of the measure in question had been arbitrary and the judicial review of the blocking of access had been insufficient to prevent abuses.

### **Ashby Donald and Others v. France**

10 January 2013

This case concerned the conviction of fashion photographers for copyright infringement following the publication on the Internet site of a fashion company run by two of the applicants, without the authorisation of the fashion houses concerned, of photos taken by the other applicant at fashion shows in 2003.

The Court held that there had been **no violation of Article 10** (freedom of expression) of the Convention. In the circumstances of the case and regard being had to the particularly wide margin of appreciation open to the domestic authorities, the nature and gravity of the penalties imposed on the applicants were not such that the Court could find that the interference in issue was disproportionate to the aim pursued.

### **Neij and Sunde Kolmisoppi v. Sweden**

19 February 2013 (decision on the admissibility)

This case concerned the complaint by two of the co-founders of “The Pirate Bay”, one of the world’s largest websites for sharing torrent files, that their conviction for complicity to commit crimes in violation of the Copyright Act had breached their freedom of expression.

The Court declared the application **inadmissible** (manifestly ill-founded). It held that sharing, or allowing others to share, files of this kind on the Internet, even copyright-protected material and for profit-making purposes, was covered by the right to “receive and impart information” under Article 10 (freedom of expression) of the Convention. However, it considered that the domestic courts had rightly balanced the competing interests at stake – i.e. the right of the applicants to receive and impart information and the necessity to protect copyright – when convicting the applicants.

### **Akdeniz v. Turkey**

11 March 2014 (decision on the admissibility)

This case concerned the blocking of access to two websites on the grounds that they streamed music without respecting copyright legislation. The applicant, who had applied to the European Court of Human Rights as a user of the websites in question, complained in particular of a violation of his freedom of expression.

The Court declared the application **inadmissible** (incompatible *ratione personae*), finding that the applicant could not claim to be a “victim” in the sense of Article 34 (right of individual application) of the Convention. While stressing that the rights of internet users are of paramount importance, the Court nevertheless noted that the two music streaming websites had been blocked because they operated in breach of copyright law. As a user of these websites, the applicant had benefited from their services, and he had only been deprived of one way among others of listening to music. The Court further observed that the applicant had at his disposal many means to access to a range of musical works, without thereby contravening the rules governing copyright.

## **Pending applications**

### **Delfi AS v. Estonia**

10 October 2013 – case referred to the Grand Chamber in February 2014

This case concerns the liability of an Internet news portal for offensive comments that were posted by readers below one of its online news articles. The applicant company

complains that being held liable for the comments of its readers breached its right to freedom of expression.

In its [Chamber judgment](#) of 10 October 2013 the Court held, unanimously, that there had been **no violation of Article 10** (freedom of expression) of the Convention. It found that the finding of liability by the Estonian courts was a justified and proportionate restriction on the portal's right to freedom of expression, in particular, because: the comments were highly offensive; the portal failed to prevent them from becoming public, profited from their existence, but allowed their authors to remain anonymous; and, the fine imposed by the Estonian courts was not excessive. As regards the lawfulness of the interference with the applicant company's right to freedom of expression, though the applicant company had argued that an EU Directive on Electronic Commerce<sup>4</sup>, as transposed into Estonian law, had made it exempt from liability, the Court found that it was for national courts to resolve issues of interpretation of domestic law, and therefore did not address the issue under EU law.

On 17 February 2014 the case was [referred to the Grand Chamber](#) at the request of the applicant company.

The Court held a Grand Chamber [hearing](#) in this case on 9 July 2014.

### **[Jankovskis v. Lithuania \(no. 21575/08\)](#)**

Application communicated to the Lithuanian Government on 21 September 2010

This case concerns in particular the refusal of prison authorities to give a convicted prisoner access to Internet.

The Court communicated the case to the Lithuanian Government and put questions to the parties under Article 10 (freedom of expression) of the Convention.

### **[Kalda v. Estonia \(no. 17429/10\)](#)**

Application communicated to the Estonian Government on 23 October 2013

This case concerns restrictions on the use of the Internet by prisoners. The applicant, who is serving a life sentence in prison, alleges in particular that by refusing him access to the Internet sites of the Council of Europe Information Office in Tallinn, the Chancellor of Justice and the Riigikogu (the Estonian Parliament), his right to receive information without interference by public authority and regardless of frontiers was violated.

The Court communicated the case to the Estonian Government and put questions to the parties under Article 10 (freedom of expression) of the Convention.

## Satellite dish

### **[Khurshid Mustafa and Tarzibachi v. Sweden](#)**

16 December 2008

This case concerned a court decision not to prolong a private tenancy agreement owing to the refusal by the tenants, a married couple of Iraqi origin with three minor children, to remove a satellite dish used to receive television programmes from their country of origin. The landlord offered to allow the applicants to stay if they agreed to remove the satellite dish, but they refused and had to move out. The applicants complained of a violation of their freedom to receive information.

The Court held that there had been a **violation of Article 10** (freedom of expression – freedom to receive information) of the Convention. It observed in particular that the satellite dish had enabled the applicants and their children to receive television programmes in Arabic and Farsi from their native country and region. That information – which included political and social news and, almost equally importantly, cultural expression and entertainment – was of particular interest to them as an immigrant family who wished to maintain contact with the culture and language of their country of origin. It had not been claimed that the applicants had any other means of receiving

<sup>4</sup>. [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

such programmes at the time or that they could have placed the satellite dish elsewhere. Nor could news obtained from foreign newspapers and radio programmes in any way be equated with information available via television broadcasts. The landlord's concerns about safety had been examined by the domestic courts, who had found that the installation did not pose any real safety threat. Moreover, the fact that the applicants had effectively been evicted from their home with their three children had been disproportionate to the aim pursued.

## System of monitoring of mobile phone communications

### Application pending before the Grand Chamber

#### Zakharov v. Russie (no. 47143/06)

Application [communicated](#) to the Russian Government on 19 October 2009 – Relinquishment of jurisdiction in favour of the Grand Chamber in March 2014

The case concerns in particular the compatibility with Article 8 (right to respect for private life and correspondence) of the Convention of the provisions of Russian law governing the secret interception of mobile phone communications.

On 11 March 2014 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

The Court will hold a Grand Chamber hearing in the case on 24 September 2014 at 9.15 a.m.

## Video surveillance

### Peck v. the United Kingdom

28 January 2003

In this case the applicant, who was suffering from depression, complained about the disclosure in the media of footage from a closed-circuit television (CCTV) camera mounted in the street showing him walking alone with a kitchen knife in his hand (he had subsequently attempted suicide by cutting his wrists, but the CCTV footage did not show this), which had resulted in images of himself being published and broadcast widely. He further complained of the lack of an effective domestic remedy in that regard.

The Court found that the disclosure of the footage by the municipal council had not been accompanied by sufficient safeguards and constituted disproportionate and unjustified interference with the applicant's private life, **in breach of Article 8** (right to respect for private life) of the Convention. Furthermore, at the relevant time, the applicant had not had an effective remedy for breach of confidence, **in violation of Article 13** (right to an effective remedy) **read in conjunction with Article 8** of the Convention.

### Perry v. the United Kingdom

11 January 2005

The applicant was arrested in connection with a series of armed robberies of mini-cab drivers and released pending an identification parade. When he failed to attend that and several further identification parades, the police requested permission to video him covertly. The applicant complained that the police had covertly videotaped him for identification purposes and used the videotape in the prosecution against him.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention. It noted that there had been no indication that the applicant had had any expectation that footage would be taken of him in the police station for use in a video identification procedure and, potentially, as evidence prejudicial to his defence at trial. That ploy adopted by the police had gone beyond the normal use of this type of camera and amounted to an interference with the applicant's right to respect for his private life. The interference in question had further not been in accordance with the law because the police had failed to comply with the procedures set out in the applicable

code: they had not obtained the applicant's consent or informed him that the tape was being made; neither had they informed him of his rights in that respect.

### **Köpke v. Germany**

5 October 2010 (decision on the admissibility)

The applicant, a supermarket cashier, was dismissed without notice for theft, following a covert video surveillance operation carried out by her employer with the help of a private detective agency. She unsuccessfully challenged her dismissal before the labour courts. Her constitutional complaint was likewise dismissed.

The Court rejected the applicant's complaint under Article 8 (right to respect for private life) of the Convention as **inadmissible** (manifestly ill-founded). It concluded that the domestic authorities had struck a fair balance between the employee's right to respect for her private life and her employer's interest in the protection of its property rights and the public interest in the proper administration of justice. It observed, however, that the competing interests concerned might well be given a different weight in the future, having regard to the extent to which intrusions into private life were made possible by new, more and more sophisticated technologies.

### **Riina v. Italy**

11 March 2014 (decision on the admissibility)

The applicant, who was sentenced to life imprisonment for having committed very serious crimes, including mafia-type conspiracy and multiple assassinations, complained of the fact that he was under constant video surveillance in his cell, including in the toilets. He contended that the domestic remedies available in respect of these measures were ineffective.

The Court declared the application **inadmissible** under Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life) of the Convention, finding that the applicant had not exhausted the domestic remedies available to him to appeal against the application of the video surveillance measure.

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