CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 14029/05
by Friedrich SCHUMACHER
against Germany

The European Court of Human Rights (Fifth Section), sitting on 26 February 2008 as a Chamber composed of:

Peer Lorenzen, *President,*
Karel Jungwiert,
Volodymyr Butkevych,
Renate Jaeger,
Mark Villiger,
Isabelle Berro-Lefèvre,
Mirjana Lazarova Trajkovska, *judges,*
and Claudia Westerdiek, *Section Registrar*

Having regard to the above application lodged on 11 April 2005,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Friedrich Schumacher, is a German national who was born in 1953 and lives in Vestenbergsgreuth in Germany.

A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

1. Background to the case

The applicant is the father of three children born in wedlock: a son F., born on 15 September 1986, and two daughters born in 1980 and 1983.

In June 1994 the applicant's wife left the joint household together with the three children and denied the applicant contact with them.

On 20 June 1994 the applicant requested the Cologne District Court (*Amtsgericht*) to grant him rights of contact with his three children.

On 11 March 1997 the Cologne District Court, having heard expert opinion, suspended the applicant's rights of contact.

On 22 May 1997 the Cologne Court of Appeal (*Oberlandesgericht*) limited the suspension of rights of contact until 30 June 1998.

On 4 April 2000, during a court hearing, the parents agreed on two contact visits, to take place on 25 April and 23 May 2000 within the premises of the Cologne Youth Office. Following these visits, the mother refused to consent to further contact visits.

On 19 September 2000, in the proceedings relating to the parents' divorce, the parents agreed that the applicant should enjoy supervised contact visits with his son F. on a monthly basis.

Following one contact between the applicant and F., which took place on 10 November 2000, the child's mother refused to grant the applicant further rights of contact.

The applicant's marriage was dissolved on 21 March 2001 without a decision on the applicant's rights of contact having been taken.

2. Proceedings on the applicant's request for rights of contact

On 14 February 2001 the applicant, who was represented by counsel, having regard to the fact that the mother did not comply with the access agreement concluded on 19 September 2000, requested the Cologne District Court to grant him rights of contact with his son F. by interim order.

On 15 May 2001 the District Court held a hearing.

On 31 May 2001 the District Court refused the applicant's request for an interim contact order on the ground that it deemed it necessary to examine further whether a regulation of rights of contact was in F.'s best interests. It noted that F., when heard by the court, had objected to contact with his father and that the tensions and conflicts between the parents were known to the court through a multitude of judicial proceedings pending between them.

The District Court further ordered both parents to contact a municipal family counselling centre and to make use of the counselling offered to them. It further appointed a curator *ad litem* to represent the child's interests.

On 25 October 2001 the District Court held a hearing in the main proceedings.

On 15 November 2001 the District Court refused the applicant's request in the main proceedings, on the ground that fixed monthly contact visits would jeopardise the child's welfare. It noted that F., who was fifteen years of age, had repeatedly declared that he refused contact with his father. According to the Youth Office's opinion, F. should not be forced into contact with the applicant. According to the curator's submissions, F. did not refuse contact with his father capriciously. Apparently, the hurt he had sustained in recent years had been so serious that he now did not wish to agree to personal contact with his father. There was no indication that F. had been influenced by his mother in this respect. The judicial conflicts concerning custody and rights of contact and the confrontations had led to the adolescent's seeking psychotherapeutic treatment. Having regard to these circumstances, the District Court considered that it was in the child's best interests to refuse the applicant's request for rights of contact. The applicant remained, however, free to stay in touch with his son by mail.

On 11 December 2001 the applicant lodged an appeal with the Cologne Court of Appeal.

On 30 January 2002 the applicant's counsel submitted reasons for his appeal. He alleged, in particular, that F. had been influenced by his mother against him and that a prohibition on contact visits would jeopardise the child's welfare. The mother contested these submissions.

On 6 December 2002 the Court of Appeal held a hearing in the presence of the applicant, F.'s mother, F., his curator *ad litem* and a Youth Office representative. The applicant alleged that F. suffered from parental alienation syndrome (PAS) and requested the court to hear expert opinion in this respect.

On 13 December 2002 the Court of Appeal ordered the preparation of an expert opinion by psychological expert O. as to whether the exercise of rights of contact was contrary to F.'s welfare.

On 9 January 2003 the applicant requested the Court of Appeal to rectify the record of its hearing and to include the applicant's request to hear an expert opinion on PAS. The applicant further objected to the commission of expert O., on the ground that the latter was not licensed as a psychologist for children and adolescents, but only for adults. Furthermore, the question put to the expert did not sufficiently take into account the problems relating to PAS.

On 25 February 2003 the Court of Appeal refused the applicant's request for rectification of its record. It further appointed psychological expert Z. to replace O., who had been prevented by illness from accepting the commission.

On 19 March 2003 the applicant named three witnesses to demonstrate that F. had been manipulated by his mother and submitted a written witness statement. He further requested the Court of Appeal to allow him contact with his son by interim order.

On 21 March 2003 the Court of Appeal asked the applicant whether the request for an interim order could be suspended, having regard to the Youth Office's efforts. In reply, the applicant declared on 28 March 2003 that the matter did not allow for any further delay, taking into account the fact that F. would soon reach the age of majority.

On 10 April 2003 the applicant alleged that the Youth Office had delayed the proceedings and complained about the length of the proceedings on access rights. He further expressed doubts as to the competency of the court-appointed expert. Additionally, he named a further witness.

On 5 May 2003 the applicant rejected expert Z., alleging that she lacked the necessary qualifications.

On 6 May 2003 the Court of Appeal refused the applicant's request for an interim contact order. Having regard to F.'s own statements when heard by the court and to the Youth Office's submissions, that court considered that there were serious indications that court-ordered visits would lead to a deterioration of the relationship between father and son.

On 20 June 2003 the Court of Appeal released expert Z. from her duties at her own request and decided to commission an expert, to be named by the psychological institute of Cologne University.

On 28 July 2003 the applicant accepted the nomination of Professor P. as an expert.

On 31 July 2003 the Court of Appeal commissioned the expert Professor P., who submitted his expert opinion on 16 December 2003. The expert considered that there was no indication that the applicant presented a danger to the child's welfare. However, the severe conflicts between their parents prevented all three children from maintaining an emotional relationship with them. In this respect, both parents were seriously harming their children.

The expert further considered that F. could be rather easily influenced by third persons. He did not, however, meet all the criteria defining parental alienation syndrome. Having regard to F.'s age and his strong resistance to contact visits, the expert urgently advised the court not to order forced contact visits. Such an order would not only jeopardise F.'s welfare, but would also complicate the instigation of voluntary contact after F. had reached adult age.

In January 2004 the Court of Appeal scheduled a hearing for 20 February 2004, which was postponed at defence counsel's request to 19 March 2004.

On 19 February 2004 the applicant submitted two comments in reply to the expert opinion prepared by two psychological experts. He further repeated his request to summon the nominated witnesses to the hearing.

On 19 March 2004 the Court of Appeal held a hearing in the presence of both parents, F., the curator *ad litem*, the expert Professor P. and another psychological expert summoned by the applicant. Following deliberations, F. declared that he was ready to meet the applicant on a monthly basis as

from May 2004. The applicant declared that he would not pursue the proceedings further as long as the meetings took place.

On 1 May 2004 a meeting took place between the applicant and F.

On 13 May 2004 F. informed the Court of Appeal that he did not wish to continue the meetings because his father had failed to show personal interest and, in particular, because his father had taken enforcement measures against him.

On 24 May 2004 the applicant, through his counsel, contested these submissions and urgently requested the Court of Appeal to render a decision without a further hearing.

On 25 May 2004 the Court of Appeal served the applicant's submissions on the defendant, the curator and the Youth Office for comments within two weeks. The Court of Appeal further considered that the applicant had not pursued his original request to hear the expert Professor P. in person.

On 27 May 2004 the applicant stated that rights of contact should be granted in accordance with the agreement made during the hearing on 19 March 2004. Alternatively, he requested to be granted an interim contact order for June 2004. As a further alternative, he requested the Court of Appeal to hold a hearing without further delay and to hear the expert Professor P.

On 8 June 2004 the applicant's counsel submitted a personal letter dated 31 May 2004 from the applicant to his son and requested the court to render a decision without further delay.

On 21 June 2004 the applicant's counsel submitted further comments.

On 22 June 2004 the Cologne Court of Appeal dismissed the applicant's appeal. That court accepted that the applicant wished to exercise rights of contact in accordance with his son's best interests. It considered, however, that the exercise of rights of contact would jeopardise F.'s welfare. The Court of Appeal, having heard F. personally, was firmly convinced that F. had formed his own strong opinion on the question of contact with his father which could be only marginally influenced by his mother's wishes. Under these circumstances, the court did not consider it necessary to examine whether F. had been negatively influenced by his mother or to hear further expert opinion.

The Court of Appeal further noted that F., during the hearing held on 19 March 2004, and under the influence of the expert's and the court's submissions that the exercise of rights of contact would not be harmful to him, had agreed to see his father once a month if the applicant refrained from instituting judicial proceedings. Accordingly, one meeting took place, on 1 May 2004. Having learned that the applicant had taken enforcement measures against him by attempting to execute costs orders obtained against him in separate proceedings, F. refused to agree to further contact. Even taking into account the explanations given by the applicant for taking these enforcement measures, according to which the enforcement measures

were aimed at the mother and were addressed to the son for purely formal reasons, the Court of Appeal considered that F.'s reaction was understandable, at least on an emotional level. Having regard to the fact that F. had almost reached the age of majority, his firmly established will had to be respected. The Court of Appeal further considered that forced contact visits were not likely to contribute to establishing a stable relationship with his father.

This decision was served on the applicant's counsel on 29 June 2004.

On 9 July 2004 the applicant lodged an extraordinary appeal (*Gegenvorstellung*) against the Court of Appeal's decision. He complained, in particular, that the Court of Appeal had given its decision without having heard the witnesses named by the applicant and without a further oral hearing. He further complained about the length of the proceedings before the Court of Appeal.

On 11 July 2004 the applicant extended the scope of his extraordinary appeal and requested the Court of Appeal to reopen the proceedings because of an infringement of his right to a fair hearing.

On 21 July 2004 the curator *ad litem* requested the court to grant an extension of the time-limit for comments on the applicant's submissions until 27 August 2004.

On 23 July 2004 the applicant lodged a complaint with the Federal Constitutional Court (*Bundesverfassungsgericht*).

On 27 July 2004 the Court of Appeal informed the curator that the time-limit could only be extended until 19 August 2004, having regard to the urgency of the matter.

On 7 September 2004 the Court of Appeal dismissed the applicant's extraordinary appeal. The Court of Appeal pointed out that it had referred to the written expert opinion submitted by Professor P. only in support of the assumption that contact with the applicant would not in principle jeopardise the child's welfare. This assumption was in the applicant's favour and induced the court to propose contact visits. Under these circumstances, it had not been necessary personally to hear the expert. Based on its own impression during the hearing held on 13 March 2004, the Court of Appeal confirmed that it had no doubt that F.'s refusal further to see the applicant was based on an autonomous decision. Under these circumstances, it was out of the question to impose contact visits on the adolescent, who was at the time seventeen and a half years of age.

This decision was served on the applicant's counsel on 8 September 2004.

On 13 October 2004 the Federal Constitutional Court, sitting as a panel of three judges, refused to accept the applicant's constitutional complaint for adjudication pursuant to the relevant provisions of its Rules of Procedure without giving any further reasons. This decision (file no. 1 BvR 2094/04) was served on the applicant on 19 October 2004.

B. Relevant domestic law

According to Article 1684 subsection 1 of the Civil Code, a child is entitled to have contact with its parents; each parent is obliged to have contact with, and is entitled to such contact with, the child.

Pursuant to subsection 2, each parent is obliged to refrain from any actions which could disturb the relationship of the other parent with the child.

The family courts can restrict or suspend a parent's rights of contact if such a measure is necessary for the child's welfare. A decision restricting or suspending that right for a lengthy period or permanently may only be taken if otherwise the child's welfare would be jeopardised (Article 1684 § 4).

COMPLAINTS

1. The applicant complained under Article 6 § 1 of the Convention about the length of the proceedings on contact rights.

2. The applicant further complained under Article 6 § 1 of the Convention about the conduct of the proceedings before the domestic courts. He complained, in particular, that the domestic courts had failed to summon the witnesses nominated by him and had failed to take into account their written statements. He further complained that the Youth Office representatives attending the court hearings had not been personally acquainted with the present case. Furthermore, the Court of Appeal had failed to consider the written comments made by two psychological experts and had failed to extend the expert examination on the question of the child's suffering from PAS. He further complained that the Court of Appeal had refused to rectify its record.

3. The applicant further complained under Article 8 about the proceedings denying him rights of contact with his son.

4. Invoking Article 13 of the Convention, the applicant further complained that the Federal Constitutional Court had rejected his constitutional complaint without giving any reasons.

THE LAW

1. The applicant's complaint about the length of the proceedings

The applicant complained that the length of the proceedings on rights of contact, in particular before the Cologne Court of Appeal, had been

incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

The Court observes that the period to be taken into consideration began on 14 February 2001, when the applicant lodged his request to be granted rights of contact, and ended on 19 October 2004, when the Federal Constitutional Court's decision was served on the applicant.

The proceedings thus lasted some three years and eight months for three levels of jurisdiction. They were pending approximately two and a half years before the Cologne Court of Appeal. The proceedings relating to the applicant's request dated 9 July 2004 to reopen the proceedings before the Court of Appeal did not form part of the main appeal proceedings.

The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). In cases relating to civil status, what is at stake for the applicant is also a relevant consideration, and special diligence is required in view of the possible consequences which the excessive length of proceedings may have, notably on enjoyment of the right to respect for family life (see *Laino v. Italy* [GC], no. 3158/96, § 18, ECHR 1999-I).

The Court considers that the present case has to be regarded as complex because of the number of persons involved and, in particular, the serious conflicts between the applicant and his former wife. The Court further observes that the Court of Appeal, at the outset, considered it necessary itself to establish the relevant facts by taking of expert opinion.

As regards the applicant's own conduct, the Court observes that the applicant on 9 January and 5 May 2003 lodged objections against two psychological experts appointed by the Cologne Court of Appeal. This contributed to a delay of the proceedings of about seven months. The Court further observes that the applicant, during the oral hearing held on 19 March 2004, declared that he would not further pursue the proceedings as long as the prospective meetings with his son took place. It follows that the period of some six weeks which elapsed until F. refused further visiting contacts cannot be held imputable to the domestic authorities.

As regards the conduct of the proceedings by the domestic courts, the Court observes that the District Court, as first instance court with primary responsibility for determining the case, dealt with the application for contact within nine months. The Cologne Court of Appeal held its first hearing on

the applicant's appeal in December 2002, almost a year after the applicant had lodged his appeal. The Court considers, however, that this lapse of time was at least partially justified by the fact that the Court of Appeal, prior to the oral hearing, had to consider written submissions by the various persons and institutions involved in the proceedings, including both parents, the Youth Office and the curator *ad litem*. Following the first oral hearing, the Court of Appeal expedited the proceedings by ordering the preparation of expert opinion. Bearing in mind that the domestic courts are better placed than the Court to assess the necessity of taking expert opinion and having particular regard to the fact that the applicant requested the Court of Appeal to hear expert opinion, the Court does not see any reason to assume that the Court of Appeal should have dispensed with hearing expert opinion from the outset. As pointed out above, it then took the Court of Appeal some seven months to appoint an expert who was not rejected by the applicant. Following the submission of the expert opinion in December 2003, the Court of Appeal swiftly scheduled a fresh oral hearing which led to the attempt to instigate contact visits between the applicant and his son. When it became clear in May 2004 that this attempt had failed, the Court of Appeal, following further observations submitted by the applicant, gave its final decision on 22 June 2004.

The Court further notes that both the District Court and the Federal Constitutional Court conducted the proceedings before them speedily. It took the District Court some nine months to render a decision on the applicant's request in the main proceedings. The proceedings were pending before the Federal Constitutional Court for less than three months.

The Court does not overlook the fact that the proceedings at issue concerned the applicant's contact with his son and thus had to be treated with special diligence, as the passage of time could lead to growing alienation between parent and child and could thus have irreversible consequences. The Court notes, however, that the applicant's son refused to have contact with the applicant from the very beginning and throughout the proceedings. It was only under the Court of Appeal's influence during the deliberations held in March 2004 that F. consented to the instigation of contact visits. Having regard to these facts, the Court is not convinced that the length of the proceedings contributed to the alienation between the applicant and his son in the instant case.

Having regard to the reasons set out above, the Court considers that the length of the proceedings before the Cologne Court of Appeal and before the other court instances was justified by the circumstances of this particular case.

It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

2. The applicant's complaint under Article 8 of the Convention

The applicant alleged that the denial of contact with his son infringed his right to respect for his family life, as guaranteed by Article 8 of the Convention, which provides:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Court considers that the denial of rights of contact with his son interfered with the applicant's right to respect for his family life, as guaranteed by Article 8 § 1. Any such interference will constitute a violation of this Article unless it is in accordance with the law, pursues an aim or aims that are legitimate under paragraph 2 of Article 8 and can be regarded as "necessary in a democratic society".

The Court accepts that the decision at issue had a basis in national law, namely Article 1684 of the Civil Code, and that it was aimed at protecting the best interests of the child, which is a legitimate aim within the meaning of paragraph 2 of Article 8 (see *Görgülü v. Germany*, no. 74969/01, § 37, 26 February 2004). It therefore remains to be determined whether the decisions could be regarded as "necessary in a democratic society".

In this respect, the Court has to consider whether, in the light of the case as a whole, the reasons adduced to justify these measures were relevant and sufficient for the purposes of paragraph 2 of Article 8 of the Convention. Undoubtedly, consideration of what lies in the best interest of the child is of crucial importance in every case of this kind. Moreover, it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities regarding custody and contact issues, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see *Sahin* and *Sommerfeld v. Germany* [GC], nos. 30943/96 and 31871/96, § 64 and § 62 respectively, ECHR 2003-VIII; *T.P. and K.M. v. the United Kingdom* [GC], no. 28945/95, § 71, ECHR 2001-V; *Görgülü*, cited above, § 41 and *Wildgruber v. Germany* (dec.), no. 32817/02, 16 October 2006).

The margin of appreciation to be accorded to the competent national authorities will vary in accordance with the nature of the issues and the importance of the interests at stake. In particular when deciding on custody, the Court has recognised that the authorities enjoy a wide margin of appreciation. However, stricter scrutiny is called for as regards any further

limitations, such as restrictions placed by those authorities on parental rights of contact, and as regards any legal safeguards designed to secure effective protection of the rights of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between a young child and one or both parents would be effectively curtailed (see *Elsholz v. Germany* [GC], no. 25735/94, § 49, ECHR 2000-VIII; *Kutzner v. Germany,* no. 46544/99, § 67, ECHR 2002-I; and *Görgülü*, cited above, § 42).

The Court finally points out that whilst Article 8 contains no explicit procedural requirements, the decision-making process involved in measures of interference must be fair and such as to afford due respect to the interests safeguarded by Article 8 (see *T.P. and K.M.* , cited above, § 72; *Sahin,* cited above, § 68; and *Sommerfeld*, cited above, § 66).

In reviewing whether the domestic courts, in the exercise of their margin of appreciation, based their decisions on relevant grounds, the Court observes that the German courts considered that it would be contrary to the adolescent's best interests to impose contact visits on him against his will. Having regard to the fact that F. was already seventeen and a half years of age when the Court of Appeal reached its decision, that court considered that F.'s firmly established will not to see his father had to be respected. It further considered that an imposition of contact visits against the adolescent's will was not likely to establish a stable relationship with his father.

In view of this, the Court is satisfied that the domestic courts' decisions can be taken to have been made in the adolescent's best interests which, in the present case, must override the applicant's interests. Therefore, the national courts adduced relevant reasons to justify their decision to refuse the applicant rights of contact.

In assessing whether those reasons were also sufficient for the purposes of Article 8 § 2, the Court will notably have to determine whether the decision-making process, seen as a whole, provided the applicant with the requisite protection of his interests.

The Court observes, at the outset, that both in the proceedings before the District Court and before the Court of Appeal the applicant, who was represented by counsel, was placed in a position enabling him to put forward all arguments in favour of obtaining rights of contact. The evidential basis for the District Court's decision included both parents' written and oral submissions, his son's personal statements in court and comments filed by the curator *ad litem* and the Youth Office. The Court of Appeal, for its part, based its findings on the contents of the existing case file, fresh submissions by all parties to the proceedings, and the results of two oral hearings, during both of which the adolescent was heard in person.

The Court further notes that the Court of Appeal, having consulted a psychological expert on the question of access rights, did not base its final

decision on the conclusions drawn by that expert, but on its own assessment derived from having heard F. in person. The Court observes that as a general rule it is for the national courts to assess the evidence before them, including the means to ascertain the relevant facts. It would be going too far to say that domestic courts are always required to involve a psychological expert on the issue of contact with a parent not having custody, but this issue depends on the specific circumstances of each case, having due regard to the age and maturity of the child concerned (see *Sommerfeld v. Germany,* cited above, and *Wildgruber v. Germany* (dec.), no. 32817/02, 16 October 2006).

In this connection, the Court notes that F. was seventeen years old when he was heard by the Court of Appeal on the question of contact. The same court had already questioned him during the first hearing some two years earlier. Having had the benefit of direct contact with the adolescent, the Court of Appeal was well placed to evaluate his statements and to establish whether or not he was able to make up his own mind. On that basis the Court of Appeal could reasonably reach the conclusion that it was not justified to force F. to see his father, the applicant, against his will. The Court further observes that, even though the Court of Appeal did not expressly base its decision on the expert's submissions, the conclusions drawn by that court were in line with the expert's recommendations.

The Court finally observes that the length of the proceedings before the family courts was acceptable under the circumstances of this specific case, as set out above. Accordingly, the Court considers that the decision-making process, seen as a whole, provided the applicant with the requisite protection of his interests.

Having regard to these aspects, the Court, even applying a strict scrutiny as the applicant's access rights were concerned, cannot find that the German courts did not sufficiently take into account the applicant's interests.

It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

3. The applicant's further complaint about the conduct of the access proceedings

The applicant complained under Article 6 § 1 of the Convention about the conduct of the proceedings before the domestic courts. The Court, having already addressed the applicant's complaints concerning the conduct of the contact proceedings when examining the fairness of the decision-making process under Article 8, and having regard to all the material in its possession, finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

4. The applicant's complaint concerning the reasoning of the Federal Constitutional Court's judgment

Invoking Article 13 of the Convention, the applicant finally complained that the Federal Constitutional Court had failed to give reasons for its decision. The Court chooses to examine this complaint under Article 6 § 1 of the Convention which, in so far as relevant, reads:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

The Court observes that for national superior courts – such as the Federal Constitutional Court – it suffices to refuse to admit a complaint by simply referring to the legal provisions allowing for that procedure if the questions raised by the complaint – as in the present case – are not of fundamental importance (see *Sawoniuk v. the United Kingdom* (dec.), no. 63716/00, 29 May 2001; *Teuschler v. Germany* (dec.), no. 47636/99, 4 October 2001; and *Wildgruber,* cited above). It also notes that both the District Court and the Court of Appeal had duly reasoned their decisions.

It follows that this part of the application must likewise be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Claudia Westerdiek
Registrar

Peer Lorenzen
President