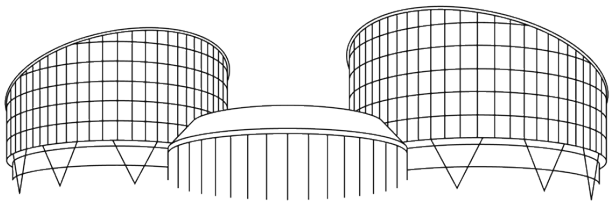

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 420/07
by Karin KÖPKE
against Germany

The European Court of Human Rights (Fifth Section), sitting on 5 October 2010 as a Chamber composed of:

Peer Lorenzen, *President,*
Renate Jaeger,
Karel Jungwiert,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva,
Ganna Yudkivska, *judges,*

and Claudia Westerdiek, *Section Registrar,*

Having regard to the above application lodged on 22 December 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Karin Köpke, is a German national who was born in 1953 and lives in Feldberg. She was represented before the Court by Mr K. Nicolai, a lawyer practising in Neustrelitz.

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 started working as a shop assistant in 1968. From 1 August 1991 until her dismissal on 5 November 2002 she was employed as a shop assistant and cashier in a supermarket in Feldberg. She has been unemployed since then.

The applicant's employer noted in September 2002 that there were irregularities concerning the accounts in the drinks department of that supermarket, in that the sum of the till receipts for empty deposit bottles which had been printed out exceeded the total value of empty deposit bottles received by the supermarket. It suspected the applicant and another employee of having manipulated the accounts.

Between 7 October 2002 and 19 October 2002 the applicant's employer, with the help of a detective agency, carried out covert video surveillance of the supermarket's drinks department. The camera covered the area behind the cash desk including the till, the cashier and the area immediately surrounding the cash desk. The detective agency made a video and examined the data obtained. It drew up a written report and produced several photos from the recording, which it sent to the applicant's employer together with two copies of the video (one concerning the applicant and one concerning the other employee monitored).

On 5 November 2002 the applicant's employer dismissed the applicant without notice for theft. The applicant was accused of having manipulated the accounts in the drinks department of the supermarket and of having taken money (some 100 euros during the period in which she had been filmed) from the tills for herself which she had hidden in her clothes.

2. The proceedings before the Labour Court

On 14 November 2002 the applicant, who was represented by counsel throughout the proceedings, brought an action in the Neubrandenburg Labour Court against her employer, requesting that the court find her dismissal invalid. She further claimed compensation for non-pecuniary damage she had suffered as a result of the covert video surveillance and requested to be given the videotapes, including all copies made thereof. She was granted legal aid for these proceedings.

The applicant contested having manipulated the tills or having stolen money and submitted that she had only put tips she had received from customers into her pockets. In accordance with the supermarket's practice, she had later put these tips into a separate till where all tips received by supermarket staff were collected. She further objected to the use of the

covert video surveillance, arguing that this surveillance had breached her right to protection of her privacy.

On 29 August 2003 the Neubrandenburg Labour Court dismissed the applicant's action, having held a hearing in which it heard as witnesses the three staff members of the defendant party involved in the applicant's video surveillance and dismissal and having watched the video tapes submitted by the defendant party.

The Labour Court found that the defendant party had been entitled to dismiss the applicant without notice. It considered that the defendant party had been authorised to observe the applicant by means of covert video surveillance and to use the recording obtained thereby. The losses discovered in the drinks department during stocktaking and the irregularities between the amount of money paid out for returned empty deposit bottles and the value of the full bottles sold in the market during the applicant's working time had constituted sufficient grounds for the defendant party to order her surveillance. The defendant party's property rights had been seriously interfered with.

In such circumstances, the video observation of an employee was lawful, as had been confirmed by the Federal Labour Court in its judgment of 27 March 2003 (file no. 2 AZR 51/02, see 'Relevant domestic law and practice' below). In case of the covert video surveillance of an employee on suspicion of theft, the employer's fundamental right to respect for his property rights had to be weighed against the employee's fundamental right to privacy *vis-à-vis* third persons, including his employer or his colleagues. Special circumstances were necessary to justify an interference with the employee's right to privacy, which had to be proportionate.

Weighing these competing interests in the present case, the Labour Court found that the defendant party had been entitled to put the applicant under covert video surveillance. Having regard to the organisation of work in the drinks department of the supermarket, there were no other means to protect the defendant party's property rights. The surveillance had not been random, but carried out following suspicions of theft against two employees. The video records obtained had been used by the management staff of the defendant party and had been submitted to the court in order to justify the applicant's dismissal without notice. There was no risk of the records being used in a different manner. Therefore, the applicant neither had a right to non-pecuniary damage nor to be given the video tapes.

The Labour Court, having regard to the evidence before it including the information obtained by examining the video tapes in question, found that the defendant party had had sufficient grounds to conclude that the applicant had repeatedly committed offences against its property during the relevant period. The applicant had not proven that the money she had undeniably taken from the till had been tips. In any event, it had not been necessary to hear the witnesses named by the applicant to prove that the money

concerned had been tips because such tips were, in any event, also the property of the defendant party according to the work regulations in place.

3. Proceedings before the Labour Court of Appeal

On 18 May 2004 the Mecklenburg Western-Pomerania Labour Court of Appeal, which had granted the applicant legal aid, dismissed the applicant's appeal and refused to grant her leave to appeal on points of law.

The Labour Court of Appeal, referring to the case-law of the Federal Labour Court (judgment of 27 March 2003, file no. 2 AZR 51/02, see 'Relevant domestic law and practice' below), endorsed the Labour Court's finding that the defendant party had been authorised to carry out the covert video surveillance of the cash desk area of the drinks department. Her dismissal without notice had been justified as, following the examination of the videotapes in the proceedings, the applicant had stopped contesting that she had taken money from the till on several occasions.

The covert video surveillance of the applicant had complied with section 6b of the Federal Data Protection Act (*Bundesdatenschutzgesetz*, see 'Relevant domestic law and practice' below), which transferred Directive 95/46/EG into domestic law. The workplace of a cashier behind the cash desk was not an area in the supermarket accessible to the public. Therefore, video surveillance thereof did not have to be made visible under section 6b § 2 of that Act. In any event, a cashier whose surveillance had been justified could not rely on the fact that the video surveillance had also covered customers who were standing at the cash desk and in respect of whom the covert video surveillance had not been permitted.

The Labour Court of Appeal further considered that it had not been necessary to take further evidence in the proceedings, in particular to play the videotapes, after the applicant had stopped contesting having taken money from the till and having put it in her pockets on several occasions. As this fact alone justified the applicant's dismissal without notice, the use of the impugned videotapes as evidence in the proceedings had not been necessary. Even assuming that the defendant party had illegally obtained knowledge of the fact that the applicant had taken money from the till and even if this evidence were excluded, the defendant party had not been prevented from alleging this issue and the applicant had been obliged to reply truthfully.

Moreover, it had not been necessary to take further evidence in order to verify whether the applicant had taken only tips from the till which she had later put into another till designated for tips. An employer could not be expected to further employ a cashier who put money from the till into her pockets without keeping any records on where the money was to be found. The witnesses named by the applicant to prove that there had been a separate till for tips and that the applicant had put money into that till would

not be sufficient to prove that all the money taken from the till in the drinks department had been tips and had been put into the till designated for tips.

The Labour Court of Appeal finally found that, at least at that stage of the proceedings, the applicant could not ask for the videotapes to be erased. The defendant party had a right to keep the videotapes at least until a final decision was given in the court proceedings brought by the applicant and until the admissibility and necessity of the tapes as evidence was no longer at issue (compare section 6b § 5 of the Federal Data Protection Act).

4. Proceedings before the Federal Labour Court

By a decision of 14 December 2004 the Federal Labour Court dismissed the applicant's complaint about the refusal of the Labour Court of Appeal to grant her leave to appeal. It further dismissed the applicant's request for legal aid as her complaint had not had reasonable prospects of success.

The Federal Labour Court found, in particular, that the Labour Court of Appeal had not diverged from the Federal Labour Court's case-law. In any event, the Labour Court of Appeal had left open whether the video surveillance of the applicant had been lawful and whether the evidence obtained thereby should have been used in the proceedings before the labour courts. It had instead based its judgment on facts uncontested between the parties. As it had considered the applicant's dismissal lawful, it had also considered her claim for damages ill-founded. The lawfulness of the video surveillance had therefore been irrelevant to the outcome of the proceedings.

5. Proceedings before the Federal Constitutional Court

On 31 January 2005 the applicant lodged a constitutional complaint with the Federal Constitutional Court. She argued, in particular, that her right to privacy (*allgemeines Persönlichkeitsrecht*) had been breached by the unlawful covert video surveillance, by the processing of the data obtained thereby and by their use in the proceedings before the labour courts, which had refused to order the destruction of the video recording. Moreover, she submitted that her right to a fair trial and to be heard had been violated in that the labour courts had failed to take relevant evidence. She further submitted that the Federal Labour Court's refusal to grant her legal aid had breached her right of equal access to court.

On 28 June 2006 the Federal Constitutional Court declined to consider the applicant's constitutional complaint and dismissed the applicant's request to be granted legal aid (file no. 1 BvR 379/05). It found that the applicant's complaint had no prospects of success as there was nothing to indicate that her fundamental rights had been violated by the decisions of the labour courts.

B. Relevant domestic law and practice

1. Provisions of the Federal Data Protection Act

Provisions aimed at protecting individuals against infringements of their right to privacy as a result of the way in which their personal data are handled are contained in the Federal Data Protection Act. Changes to that Act entered into force in 2001 in order to implement Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Section 6b of the Federal Data Protection Act contains rules on the monitoring of publicly accessible areas with optic-electronic devices. Such video surveillance is lawful only in so far as it is necessary, in particular, to pursue legitimate aims for specifically defined purposes and if there are no indications of overriding the legitimate interests of the data subject (section 6b § 1 no. 3). Suitable measures shall be taken to make it visible that the area is being monitored and to identify the controller (section 6b § 2). The data shall be erased as soon as they are no longer needed to achieve the purpose or if further storage would conflict with the legitimate interests of the data subject (section 6b § 5).

On 1 September 2009 a new section 32 of the Federal Data Protection Act entered into force. It codifies (see judgment of the Berlin Labour Court of 18 February 2010, file no. 38 Ca 12879/09)) the previously developed case-law of the Federal Labour Court on video surveillance at the workplace (see below). Under paragraph 1 of section 32, an employee's personal data may be collected, processed or used for employment-related purposes where necessary for decisions regarding hiring or, after hiring, for carrying out or terminating the employment contract. Employees' personal data may be collected, processed or used to investigate criminal offences only under the following circumstances: if there is a documented, factual reason to believe that the data subject has committed a criminal offence in the course of his work; if the collection, processing or use of such data is necessary to investigate the criminal offence; if the employee does not have an overriding legitimate interest in ruling out the possibility of the collection, processing or use of such data, and, in particular, if the type and extent are not disproportionate to the aim pursued.

2. Case-law of the Federal Labour Court

On 27 March 2003 the Federal Labour Court rendered a leading judgment on the lawfulness of covert video surveillance in the workplace (file no. 2 AZR 51/02).

The Federal Labour Court, upholding the judgment rendered by the Schleswig-Holstein Labour Court of Appeal on 4 December 2001

(file no. 1 Sa 392 b/01), found that the covert video surveillance of an employee by his employer interfered with the employee's fundamental right to privacy as guaranteed by Article 2 § 1, read in conjunction with Article 1, of the Basic Law, which also had to be respected in the relationship between private persons, including employment relations. This right had to be weighed against the employer's interest in securing evidence for his claim, having regard to the necessity of an effective judicial system required by the rule of law.

However, such an interference with the employee's right to privacy was justified and did not entail an exclusion of the evidence obtained thereby in subsequent court proceedings if there was a substantiated suspicion that the employee had committed an offence or was guilty of other serious misconduct towards his employer, if less intrusive means to examine the suspicion had been exhausted, if the video surveillance was, in practice, the only means which remained to verify the suspicion and if it was not as a whole disproportionate.

The Federal Labour Court confirmed this judgment in several subsequent decisions (see the decision of the Federal Labour Court of 29 June 2004, file no. 1 ABR 21/03; decision of 14 December 2004, file no. 1 ABR 34/03; and decision of 26 August 2008, file no. 1 ABR 16/07).

COMPLAINTS

The applicant argued that the covert video surveillance of her by her employer and the recording and uncontrolled processing and use of the personal data obtained thereby had violated her right to privacy protected by Article 8 of the Convention.

The applicant further complained under Article 6 of the Convention that the proceedings before the domestic courts had been unfair in that the courts had dismissed her request to take witness evidence proving that her action had been well-founded.

Moreover, the applicant submitted that the refusal of the Federal Labour Court to grant her legal aid for the proceedings before it had breached Article 6, read in conjunction with Article 14 of the Convention.

THE LAW

A. Complaint under Article 8 of the Convention

In the applicant's submission, the covert video surveillance, ordered by her employer and carried out by a detective agency, and the recording and use of the data obtained thereby in the proceedings before the domestic courts had breached her right to privacy under Article 8, 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."

1. Applicability of Article 8

The applicant considered that the covert video surveillance of her place of work in the drinks department of the supermarket carried out between 7 and 19 October 2002 for some fifty hours, the recording of personal data, the examination of the tapes by third persons without her knowledge and consent, the use of the video tapes as evidence in the proceedings before the labour courts and the courts' refusal to order the destruction of the tapes had seriously interfered with her right to privacy.

The Court reiterates that the concept of private life extends to aspects relating to personal identity, such as a person's name or picture (see *Schüssel v. Austria* (dec.), no. 42409/98, 21 February 2002, and *von Hannover v. Germany*, no. 59320/00, § 50, ECHR 2004-VI). It may include activities of a professional or business nature and may be concerned in measures effected outside a person's home or private premises (compare *Peck v. the United Kingdom*, no. 44647/98, §§ 57-58, ECHR 2003-I; *Perry v. the United Kingdom*, no. 63737/00, §§ 36-37, ECHR 2003-IX (extracts); and *Benediktsdóttir v. Iceland* (dec.), no. 38079/06, 16 June 2009).

In the context of the monitoring of the actions of an individual by the use of photographic equipment, the Court has found that private-life considerations may arise concerning the recording of the data and the systematic or permanent nature of the record (compare *P.G. and J.H. v. the United Kingdom*, no. 44787/98, § 57, ECHR 2001-IX; *Peck*, *cited above*, §§ 58-59; and *Perry*, cited above, § 38). It further considered relevant in this connection whether or not a particular individual was targeted by the monitoring measure (compare *Rotaru v. Romania* [GC], no. 28341/95, §§ 43-44, ECHR 2000-V; *Peck*, cited above, § 59; and *Perry*, cited above, § 38) and whether personal data was processed or used in a manner constituting an interference with respect for private life (see, in

particular, *Perry*, cited above, §§ 40-41, and *I. v. Finland*, no. 20511/03, § 35, 17 July 2008). A person's reasonable expectations as to privacy is a significant though not necessarily conclusive factor (see *Halford v. the United Kingdom*, 25 June 1997, § 45, *Reports of Judgments and Decisions* 1997-III, and *Perry*, cited above, § 37).

The Court notes that in the present case a video recording of the applicant's conduct at her workplace was made without prior notice on the instruction of her employer. The picture material obtained thereby was processed and examined by several persons working for her employer and was used in the public proceedings before the labour courts. The Court is therefore satisfied that the applicant's "private life" within the meaning of Article 8 § 1 was concerned by these measures.

2. Compliance with Article 8

The applicant submitted that the interference with her rights under Article 8 had not been justified. It had not been in accordance with the law. The labour courts had not correctly applied the domestic law and had not addressed her claims in the light of the applicable case-law. At the time the applicant had been subjected to covert video surveillance by her employer, Directive 95/46/EC had not yet been implemented in domestic law as far as working relations were concerned and the surveillance of the applicant had not been authorised by domestic law. The legal provisions applied also did not contain sufficient safeguards against abuse. In any event, the suspicion of theft committed by an employee could not justify the video surveillance of that person.

The Court notes at the outset that the applicant did not complain of surveillance measures taken by State agents – the video surveillance was carried out on instruction of her employer, a private company. Her complaint raises the issue of whether there was adequate State protection of her private life in connection with the video surveillance at her workplace.

The Court reiterates that, although the purpose of Article 8 is essentially to protect the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private life. These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves (see *von Hannover*, cited above, § 57; *I. v. Finland*, cited above, § 36; *K.U. v. Finland*, no. 2872/02, §§ 42-43, 2 December 2008; and *Benediktsdóttir*, cited above). The boundary between the State's positive and negative obligations under Article 8 does not lend itself to precise definition. In both contexts regard must be had to the fair balance that has to be struck between the competing interests – which may include competing

private and public interests or Convention rights (see *Evans v. the United Kingdom* [GC], no. 6339/05, §§ 75 and 77, ECHR 2007-IV) – and in both contexts the State enjoys a certain margin of appreciation (see *von Hannover*, ibid.; *Reklos and Davourlis v. Greece*, no. 1234/05, § 36, ECHR 2009-... (extracts); and *Benediktsdóttir*, ibid.).

The Court further reiterates that there are different ways of ensuring respect for private life and that the nature of the State's obligation will depend on the particular aspect of private life that is at issue. The choice of the means to secure compliance with Article 8 in the sphere of protection against acts of individuals is, in principle, within the State's margin of appreciation (see *X and Y v. the Netherlands*, 26 March 1985, § 24, Series A no. 91; *M.C. v. Bulgaria*, no. 39272/98, § 150, ECHR 2003-XII; and *K.U. v. Finland*, cited above, § 43). The Court has found, however, that in certain circumstances, the State's positive obligation under Article 8 is only adequately complied with if the State safeguards respect for private life in the relations of individuals between themselves by legislative provisions providing a framework for reconciling the various interests which compete for protection in the relevant context. The Court has thus considered, in particular, that effective deterrence against grave acts, where fundamental values and essential aspects of private life are at stake, requires efficient criminal-law provisions (see *X and Y v. the Netherlands*, cited above, §§ 23, 24 and 27; *M.C. v. Bulgaria*, cited above, § 150, both concerning serious sexual offences against minors; and *K.U. v. Finland*, cited above, §§ 43, 49, concerning an advertisement of a sexual nature in the name of a minor on an Internet dating site). It has further held, for instance, that the Contracting Parties are obliged to set up an adequate regulatory framework in order to secure the respect of the physical integrity of hospital patients (see, in particular, *Codarcea v. Romania*, no. 31675/04, §§ 102-104, 2 June 2009, with further references).

In the present case, the Court therefore has to examine whether the State, in the context of its positive obligations under Article 8, has struck a fair balance between the applicant's right to respect for her private life and both her employer's interest in protection of its property rights, guaranteed by Article 1 of Protocol no. 1 to the Convention, and the public interest in the proper administration of justice.

The Court notes at the outset that at the relevant time the conditions under which an employer could resort to the video surveillance of an employee in order to investigate a criminal offence the employee was suspected of having committed in the course of his or her work were not yet laid down in statute law. In particular, the new section 32 of the Federal Data Protection Act, which covers this issue, entered into force only on 1 September 2009 (see 'Relevant domestic law and practice' above). However, the Court finds that the Federal Labour Court, in its case-law, by interpreting the scope of the employees' fundamental right to privacy as

guaranteed by Article 2 § 1, read in conjunction with Article 1, of the Basic Law, developed important limits on the admissibility of such video surveillance which safeguarded employees' privacy rights against arbitrary interference (see 'Relevant domestic law and practice' above). In particular, an employer was only authorised to set up the video surveillance of an employee at his or her workplace if there was a prior substantiated suspicion that the employee had committed an offence and if such surveillance was altogether proportionate to the aim of investigating the offence at issue. These safeguards were in fact later codified in section 32 of the Federal Data Protection Act (see 'Relevant domestic law and practice' above). This reflects and complies with the increased vigilance in protecting private life which is necessary to contend with new communication technologies which make it possible to store and reproduce personal data (compare *von Hannover*, cited above, § 70 with further references). The Court further observes that this case-law has been expressly referred to and applied by the domestic courts in the applicant's case. Moreover, it takes the view that a covert video surveillance at the workplace following substantiated suspicions of theft does not concern a person's private life to an extent which is comparable to the affection of essential aspects of private life by grave acts in respect of which the Court has considered protection by legislative provisions indispensable (see above).

In these circumstances, the Court is satisfied that, at least at the relevant time, respect for private life in the relations of the applicant and her employer in the context of a covert video surveillance could still adequately be protected by the domestic courts' case-law, without the State having been obliged to set up a legislative framework in order to comply with its positive obligation under Article 8.

In examining the manner in which the domestic courts applied this case-law in the concrete circumstances of the applicant's case and weighed the competing interests at issue, the Court observes, on the one hand, that the covert video surveillance of an employee at his or her workplace must be considered, as such, as a considerable intrusion into the employee's private life. It entails a recorded and reproducible documentation of a person's conduct at his or her workplace, which the employee, being obliged under the employment contract to perform the work in that place, cannot evade. However, as noted by the German courts, the video surveillance of the applicant was only carried out after losses had been detected during stocktaking and irregularities had been discovered in the accounts of the drinks department in which she worked, raising an arguable suspicion of theft committed by the applicant and another employee, who alone were targeted by the surveillance measure.

The Court further notes that the domestic courts were aware that the surveillance measure was limited in time – it was carried out for two weeks. They had also taken note of the fact that the measure was restricted in

respect of the area it covered in that it did not extend to the applicant's workplace in the supermarket and the drinks department as a whole, but covered only the area behind and including the cash desk, the cashier and the area immediately surrounding the cash desk which, moreover, could not be considered a particularly secluded place as the drinks department as such was accessible to the public.

The domestic courts further underlined that the visual data obtained were processed by a limited number of persons working for the detective agency and by staff members of the applicant's employer. They were used only for the purposes of the termination of the employment relationship with the applicant, including the proceedings the applicant brought in this respect in the labour courts. The interferences with the applicant's private life were thus restricted to what was necessary to achieve the aims pursued by the video surveillance.

The domestic courts further gave weight to the fact that the employer, on the other hand, had a considerable interest in the protection of its property rights under Article 1 of Protocol no. 1. It must be considered essential for its employment relationship with the applicant, a person to whom it had entrusted the handling of a till, that it could rely on her not to steal money contained in that till. The Court further agrees with the labour courts' finding that the employer's interest in the protection of its property rights could only be effectively safeguarded if it could collect evidence in order to prove the applicant's criminal conduct in proceedings before the domestic courts and if it could keep the data collected until the final determination of the court proceedings brought by the applicant. This also served the public interest in the proper administration of justice by the domestic courts, which must be able to establish the truth as far as possible while respecting the Convention rights of all individuals concerned. Furthermore, the covert video surveillance of the applicant served to clear from suspicion other employees who were not guilty of any offence.

In respect of the balance struck between the two competing interests, the Court further observes that the domestic courts considered that there had not been any other equally effective means to protect the employer's property rights which would have interfered to a lesser extent with the applicant's right to respect for her private life. Having regard to the circumstances of the case, the Court agrees with this finding. The stocktaking carried out in the drinks department could not clearly link the losses discovered to a particular employee. Surveillance by superiors or colleagues or open video surveillance did not have the same prospects of success in discovering a covert theft.

Having regard to the foregoing, the Court concludes in the present case that there is nothing to indicate that the domestic authorities failed to strike a fair balance, within their margin of appreciation, between the applicant's right to respect for her private life under Article 8 and both her employer's

interest in the protection of its property rights and the public interest in the proper administration of justice.

The Court would observe, however, that the balance struck between the interests at issue by the domestic authorities does not appear to be the only possible way for them to comply with their obligations under the Convention. 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 are made possible by new, more and more sophisticated technologies.

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

B. Complaints under Article 6, taken alone and in conjunction with Article 14 of the Convention

The applicant further argued that the proceedings before the domestic courts had been unfair in that these courts had refused to hear any of the numerous witnesses she had named in order to prove that her action had been well-founded as she had not committed any theft.

Moreover, the applicant complained that the Federal Labour Court had refused to grant her legal aid even though she had not been in a position to afford a lawyer. Had her counsel not agreed to represent her without requesting fees, she would have been put at a disadvantage in pursuing her claim in court because of her financial situation and would not have been able to pursue her claim before that court and subsequently before the Federal Constitutional Court.

The applicant relied on Article 6, taken alone and read in conjunction with Article 14 of the Convention.

The Court has examined the remainder of the applicant's complaints as submitted by her. However, having regard to all the material in its possession, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that the remainder 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