

Secondly, it is necessary to ensure that the Commission and the Member States are able to take appropriate measures.

A.A.K. v TÜRK■YE

(Request No 56578/11)

STOP

Article 8 • Private life • Placement under judicial supervision of the applicant at the end of a trial proceedings concluding that she suffered from a mental disorder that impaired her ability to

- the existence of effective safeguards in the internal procedure to prevent abuse by ensuring that the applicant's rights and interests are respected
- Participation of the applicant in the decision-making process at all stages
- Judicial mechanism which has proceeded with fairness and diligence

It is necessary and sufficient data have been collected to assess the

- limitation of the applicant's powers and to prevent possible injustices
- Measurement in time and purpose • Possibility of periodic revision of two years, for the purpose of removing the custody measure

According to the findings of a new psychiatric expertise

This appropriation is intended to cover:

3 October 2023

This judgment shall become final under the conditions laid down in Article 44 (2) of the EEC Treaty.

He may have some shape changes.

A.A.K. v. TÜRKİYE

In the case A.A.K. v. Türkiye,
The European Court of Human Rights (section two), sitting
in a chamber composed of:

Mr Arnfinn Bårdsen, Chairman of the Committee,

Mr Jovan Ilievski,

I'm going to tell you something.

Saadet Yüksel,

Lorraine Schembri Orland,

Diana Sarcu,

Mr Davor Deronjinić, members of the Judges,

and Hasan Bakırcı, the secretary of the section,

See also:

the application (No 56578/11) directed against the Republic of Türkiye and

A national of that State, Ms A.A.K. (■ the applicant ■) brought an action before the Court of Justice

Article 34 of the Convention for the Protection of Human Rights

and fundamental freedoms (■ Convention ■) on 17 June 2011,

the decision to inform the Turkish government

(■ the Government ■) the request,

the observations of the parties,

Having regard to the opinion of the Standing Committee on the Environment, Public Health and
Consumer Protection,

Gives the following judgment, adopted on that date:

What is the meaning of this article?

1. The present case concerns the judicial custody of the

The applicant, at the end of a procedure in which it was concluded that she suffered from a

It raises questions in the context of

the angle of Articles 6 and 8 of the Convention, taken in isolation and combined with

Article 13 of the Treaty.

In fact

The applicant was born in 1955 and resides in Yenipazar (Aydın).

represented by Mr S. Cengiz, lawyer in İzmir.

3. The Government was represented by its co-agent Mrs Aysun

Akceviz, acting head of the Ministry's Human Rights Department

the Court of Justice of the Republic of Turkey.

I. The genesis of the case

4. On 18 and 21 January 2002, the applicant

Private course teacher ■ was examined at the Institute of Legal Medicine for the purpose of

He was diagnosed with a psychiatric disorder.

The patient was diagnosed with a mild schizophrenia.

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25. On 13 October 2004, it was re-examined by the doctors of the Institute.

According to the resulting report, she suffered from

It's a common form of schizophrenia.

6. In December 2007, one of her students in private lessons informed the

The applicant claimed that the N.E. teacher in her class had disclosed to the students a

Most of the questions prepared for the purposes of a departmental competition.

The applicant shall forward that notification to the competent authorities.

On the occasion that N.E. tried to talk to him, she exclaimed:

D'indigne, why did you steal the questions . . .

fraud ■ .

7. On 14 May 2008, a public action was brought by the Prosecutor of

Yenipazar (■ Prosecutor ■) against the applicant for insulting a

official, i.e. N.E.

In its memorandum of 27 May 2008, filed at its trial, the Court of First Instance

The applicant accused Clerk H.C. of having been recruited by illegal means.

At the hearing on 23 October 2008, she explained that she had been taken to H.C. because

He had confused her by blinding her with his eyes.

8. By judgment of 6 November 2008, the Court of First Instance of

Yenipazar (■ court ■) sentenced the applicant to ten months

d'imprisonment suspended.

9. On 7 July 2008, the Prosecutor again referred the applicant to the Court of First Instance.

court for insulting a government official, namely H.C. On 27 November 2008,

She was also sentenced by this chief to two months and fifteen days

d'imprisonment suspended.

10. On 26 December 2008, the Prosecutor appealed this last judgment,

believing that the behaviour as well as the words and writings confused the

The applicant would have required that an assessment of

his mental capacity.

11. On 11 February 2009, teacher N.E. was found guilty of

the conclusion of a disciplinary procedure to impede the fairness of a competition

the public.

The applicant's legal title

12. On 10 April 2009, the Aydın Prosecutor's Office instructed the Prosecutor to

on the question whether the applicant should be placed under guardianship in

the application of Article 405 (1) of the Civil Code No 4721 (■ CC ■ - paragraph 40);

(see below).

On 4 May, the prosecutor requested a copy of the case files.

On 12 May 2009, following an examination, the applicant brought an action for a preliminary ruling on

the

the court under Article 405 (2) of the EC Treaty (ibidem).

13. The proceedings were opened before the court on 13 May 2009.

decided on the medical examination of the applicant at the Adnan University Hospital

Menderes (■ the hospital ■) and the establishment of a list of persons

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3qualified to be his legal guardian and an inventory of his
It's a legacy.

According to the information provided to the Court, the applicant did not
He had no real estate or bank savings.

14. At an unspecified date, the applicant asked the Bar in writing
d'Aydın to designate an attorney-at-law, acting as assistant
The Court of Justice.

15. The Court held its first hearing on 4 June 2009.

The applicant objected to her medical examination at the hospital.
the local safety authority to implement this measure.

16. By a decision of 11 June 2009, the Aydın Bar dismissed the
Application for legal aid by the applicant on the ground that she had a
monthly income of between 600 and 1 000 Turkish pounds, estimated
Enough to call a council.

17. On 10 June 2009, the Court was informed that the guardian most qualified to
To protect the applicant's interests would be H.K., i.e. her husband.

18. On 29 June 2009, the applicant objected to the decision of the
the d ■ Aydın bar (paragraph 16 above).

19. On 9 July 2009, the Aydın Bar welcomed the opposition of the
the applicant and instructed M.A. to represent her ex gratia.

20. The second hearing took place on 16 July 2009, in the presence of the
the applicant, who informed the court that a lawyer from the D ■ Aydın bar was going to the
represent and have passed the required medical examination.

The Court took note of the fact that the medical report concerned was in progress.
To be put on the net.

21. On 14 August 2009, the Hospital Health Council issued its report
d ■ psychiatric evaluation, after examining the applicant:

She was diagnosed with paranoid personality disorder.

Although she is no longer able to appreciate the reality of events,
Doctors said it justified his death.

If it were possible for the applicant to recover from this
condition with appropriate treatment, however, she had refused treatment
proposed for that purpose.

According to the applicant, the doctors had given their opinion in favour of the
d ■ a consultation which does not meet the appropriate criteria for this act
I'm a medical doctor.

22. On 27 August 2009, Mr M.A. announced his resignation to the D ■ Aydın Bar,
arguing his deep disagreement with the applicant who had asked him to
appeal against the judgment of the court on the grounds of partiality, on the basis of
purely personal reasons, without any objectivity,
That is to say, contrary to law.

23. It is apparent from the file that, on 19 September 2009, the applicant
Other tests and a psychological interview appear to be in the service of

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4psychiatry of the Faculty of Forensic Medicine of the University Hospital
I'm going to Istanbul.

24. At the hearing on 17 September 2009, Ms M.A. stated that she was
the applicant has been removed from office (see paragraph 22 above) and
The court read a faxed memo,
sent by the applicant.

25. By a decision of 24 September 2009, the Advocate General's Office considered that:
The Court of Justice of the European Communities (hereinafter referred to as the Court of Justice of the
European Communities (hereinafter referred to as the Court of Justice of the European Communities)
the applicant.

26. At the next hearing on 1 October 2009, the applicant
explained that he had asked the Istanbul bar to appoint him a new
consultation, as well as having requested the University Hospital of Istanbul for the purpose of
In addition, there is a need for new expertise (see paragraph 23 above).

27. On 20 October 2009, the Advocate General's Office informed the Court that the
The applicant's application for leave to appeal had been dismissed and no other lawyer had been
appointed.

It would not have been done in office.

28. At the hearing on 22 October 2009, the
The applicant was heard at the Court of First Instance.

It challenged the expert report of 14 August 2009 (paragraph 21).
(see above) and recalled that she had already addressed the university hospital
d ■ Istanbul for a new evaluation (see paragraph 26 above).

The Court ordered the applicant's husband to appear before the Court and,
The Court of First Instance opposed the first expertise.
request the Legal Medical Institute to determine whether the person concerned was suffering
There's always a lot of trouble justifying her being put under guardianship.

29. At the hearing on 24 November 2009, the applicant was present,
accompanied by her husband H.K.; the latter stated that, if he was appointed, he
would assume the role of guardian with all the responsibilities that this entails
would involve.

30. On 23 December 2009, the applicant was taken to the Institute of
The Council of Experts, No 4, under the heading 'Medicinal Law'
The psychogram drawn up at the end of the interviews
It revealed a psychotic state.

However, according to the applicant, she had not passed any actual examination.
I'm at the Institute of Legal Medicine and everything would have been decided on the basis of his
precedent.
I've got a record.

31. On 21 January 2010, the Court, with the applicant's agreement,
d ■ await the final report of the Legal Medical Institute.

32. This report was submitted to the file on 29 January 2010.
the applicant's psychiatric background (paragraphs 4 and 5 above); and
Reviewing the new elements of the dossier, the
Confirmed that the applicant was suffering from paranoid disorders
So it was not the capacity to act, it was the need to appoint a guardian.

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5The Institute of Forensic Medicine stated that these disorders were of a
The Commission's proposal for a directive on the approximation of the laws of the Member States on
the approximation of the laws of the
the ability to analyse events to draw conclusions
Consequently, the applicant was not able to identify and protect
to their own interests or to resist the manipulative influences of others;
In short, she was unable to engage in anything in any way
autonomous and free.

33. On 2 March 2010, H.K., supported by the applicant, challenged
Report and requested its review by the Plenary of the Institute of Legal Medicine
The Court dismissed this request on the grounds that the report criticised
There was no contradiction and therefore it was enough to sit down a
Judgment.

By judgment delivered on the same day, the applicant was placed under the
Her husband H.K. had to fulfill this duty for one year.
initial period of two years, which may be extended for the same period,
If the court had received a request to that effect, it is clear from the
that the measure was primarily aimed at managing the applicant's assets,
that H.K. had been instructed to report annually on the management
the inventory of the goods paid on the register and that the land management and the
Banks had been prohibited from concluding with the interested party any
act without the consent of the court.

34. On 25 March 2010, the applicant brought an action for annulment,
The Court of First Instance of the European Communities held that the Court of First Instance did not
have jurisdiction to hear the case in its entirety.
The Court of First Instance ruled that the Court of First Instance had failed to fulfil its obligations.
It is undeniable that the report of the Institute for Legal Medicine is unproven.
established at its own expense (paragraphs 30 and 32 above).

By judgment of 6 December 2010, the Court of Cassation dismissed the
the applicant considers that the judgment under appeal complies with the law and procedure.
The judgment was notified to the guardian H.K. on 14 January 2011.

35. The applicant brought an appeal to rectify the judgment.
By decision of 14 March 2011, the Court of Cassation dismissed that appeal on the ground that:
This route was closed against judgments in custody cases.

III. The request for an extension of the protection measure

36. On 9 July 2014, about four years and four months later,
H.K. appealed to the court of first instance of Nazilli to request the removal of
Recalling that the hospital had previously stated that
He was able to recover his wife with proper treatment.
(paragraph 21 above), it contends that the applicant no longer
H.K. therefore demanded that two
university hospitals are responsible for carrying out new expertise
She's a psychiatrist.

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637. On 11 July 2014, the Court granted the request and ordered that the applicant be the examination of the applicant by the medical services of the hospital University of Istanbul as well as those of the Dokuz University Hospital Eylül from Izmir.

38. The first hospital submitted its detailed report on 27 February 2015.

Convinced that the obsessive-compulsive-narcissistic personality

The applicant no longer reached a threshold serious enough to jeopardise her health. ment, the doctors concluded that there was no longer any need to maintain the person concerned under guardianship.

39. In a judgment of 19 March 2015, the Court upheld this conclusion:

And he lifted up the measure.

The legal framework and internal practice

Members of the Commission

I. The table under protection

40. Article 405 (1) and (2) of the Civil Code No 4721 (■ CC) is worded as follows:

■ 1. is placed under guardianship any adult who, because of illness or mentally handicapped, unable to provide for themselves, or in need of continuous assistance for its needs and protection, or which endangers its security of others.

2. Administrative bodies, notaries and courts which, in the exercise of

If they find that there is a situation requiring a custodial

They must immediately inform the competent custody authority. ■

41. Article 409 of the ECHR provides, for its part, that it is not possible to decide on an application for placement under guardianship due to mental illness or mental capacity only on the basis of a report

According to this article, the judge may hear the person concerned before deciding,

If necessary in view of the content of the medical report.

42. Pursuant to Article 414 of the CC, the principle is to entrust the

of tutoring the spouse of the person concerned (except in the case of

Under Articles 472 and 474, any investment decision

under the shade can be lifted as soon as it is no longer justified by the light

The application for withdrawal may be submitted by both the

No one under guardianship except by their guardian.

43. According to Article 382 of the Code of Civil Procedure No 6100, promulgated

on 12 January 2011, the issues relating to the custody are covered by the

This is a simplified procedure and is subject to the conditions laid down in the first subparagraph.

In the case of an inquiry, where it is for the judge to administer ex officio the evidence and

carry out all necessary investigations on its own before

It was exactly the same before the entry into force of this code.

but on the basis of provisions laid down in other laws,

The old code did not expressly regulate non-contentious procedures.

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744. Article 36 of the Constitution provides that everyone has the right, the applicant or the defendant, using all legitimate means and means to defence and to enjoy a fair trial. before the courts.

The Committee on Legal Affairs and Citizens' Rights

45. Except for legal aid for the exemption of costs

The Court of First Instance of the European Communities shall have jurisdiction over the courts and tribunals of the Member States in accordance with the Code of Civil Procedure.

Jurisdiction of the courts, the assignment of an attorney-at-law in office,

Legal aid is governed by Law No 1136 on the profession.

d'avocat, as amended by Law No 4667 of 2 May 2001 and

According to Article 176 of Regulation No 25418 of 30 March 2004,

The assistance in question is provided to persons who are not able to

d'assume the costs of representation by a lawyer.

The application for legal aid ■ duly supported and documented ■ is

made with the office established for that purpose within the office concerned;

The Office is composed of lawyers appointed by the Board of Directors of the

A rejection of the application is liable to be opposed by the Court of Justice.

If the application is accepted, the Office shall designate a staff member (Article 178).

Attorney-at-law, who is responsible for carrying out all duties

If the attorney-in-charge asks to be excused

The Court of First Instance, acting in accordance with the procedure laid down in the Rules of

Procedure of the Court of First Instance of the European Communities,

(Article 179), unless the resignation is

It's justified.

III. The texts of the Council of Europe

46. Recommendation No R(99)4 adopted by the Committee on 23 February 1999

Ministers in the Member States on the principles of protection

The legal framework for incapacitated adults (■ Principles ■) provides for the following:

Part II is as follows:

■ Principle 1 ■ Respect for human rights

With regard to the protection of the incapacitated, the fundamental principle of

The basis for those set out in this text is respect for the dignity of each person.

As a human being, the laws, procedures and practices relating to the protection of

In the case of incapacitated adults, respect for human rights and freedoms is essential.

In the light of the restrictions on these rights contained in the

relevant international legal instruments.

Principle 7 ■ Fairness and effectiveness of the procedure

1. Procedures leading to the adoption of measures to protect the elderly

The Commission's proposal for a regulation on the protection of the environment should be based on the principle of subsidiarity.

2. Appropriate procedural safeguards should be provided for the protection of the human rights of the person concerned and to prevent possible abuses.

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8 Principle 8 ■ Prominence of the interests and welfare of the person concerned

1. When establishing or implementing a protection measure the interests and welfare of the latter must be taken into account.

In a prominent way.

2. This principle implies, inter alia, that the choice of a person to represent or the incapacitated major must be governed primarily by the person's ability to protect and promote the interests and welfare of the major concerned.

3. This principle also implies that the assets of the incapable major are managed and used for his benefit and to ensure his welfare.

Principle 9 ■ Respect for the wishes and feelings of the person concerned

1. When establishing or implementing a protection measure

In the event of a major failure, it is appropriate, as far as possible, to investigate, to take into account and properly respect past and present wishes and the feelings of I'm interested in it.

2. This principle implies in particular that the wishes of the adult concerned the choice of a person to represent or assist him shall be taken into account and, wherever possible, duly respected.

3. It also follows that a person representing or assisting a minor incapable should provide adequate information whenever possible and appropriate, in particular as regards any important decision affecting the This is done so that the latter can express his opinion. ■

47. Regarding the procedural arrangements relating thereto, the said Recommendation It says:

■ Principle 12 ■ Survey and evaluation

1. Appropriate procedures for the investigation should be laid down. and the assessment of the adult's personal abilities.

2. No protective measures having the effect of restricting legal capacity d ■ an incapacitated adult should only be taken unless the person taking the measure has not seen or heard of the person concerned and a recent report, The report should be in writing or in writing. recorded in writing.

Principle 13 ■ Right to be heard personally

The person concerned should have the right to be heard personally in the the framework for any proceedings which may affect its legal capacity.

Principle 14 ■ Duration, review and appeal

1. Protective measures should, to the extent possible and It should be considered that periodic revisions should be made.

...

3. Appropriate remedies should be provided for. ■

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9IN the law

On the legal violation of Article 8 of the

The Convention

A. Subject to dispute and admissibility

48. The applicant regretted that her legal incapacity had been

It was delivered without good reason and without the assistance of a council.

Complains in particular that the domestic courts would not have undertaken the

the necessary steps to ensure that he has a lawyer in his office and for

to respond to his complaints against the medical reports which had

In short, the Turkish judiciary would not have been able to

even to protect her from this disproportionate measure that would have ruined her

The future.

In that regard, the applicant alleges an infringement of her right to a trial

Equity guaranteed by Article 6 (1) of the Convention and

disregarding his right to protection of his private life

Article 8, two provisions which it invokes in isolation and combined with

Article 13 of the Treaty.

49. The Court observes that the main questions raised in the present case

They are undoubtedly part of the private and family life sphere of the United Nations.

the applicant, as they are closely linked to identity and personal development.

as well as the right to form and develop relationships with others

The Court of First Instance considers that the Court of First Instance is unable to

to depart from its general tendency to place itself under the angle of Article 8

As regards such questions (see, for example, Bensaid v. United Kingdom,

In the light of the above, the Commission concludes that, in the light of the above considerations, it is

not possible for the Commission to conclude that, in the light of the above considerations, it is not

possible to conclude that the aid is compatible with the internal market.

This Decision shall enter into force on the day following that of its publication in the Official Journal of the European Union.

50. In the present case, the difference between the purpose of the

Article 6 (1) guarantees and Article 8 guarantees

It does not necessarily justify an examination of the facts from the angle of each of these two

(see, for example, Golder v United Kingdom, 21 February 1975,

§§ 41 to 45, series A no 18, Bianchi v. Switzerland, no 7548/04, § 113, of 22 June 2006,

In Case C-4824/06 Macready v Czech Republic, Nos 4824/06 and 15512/08, § 41, 22 April

2010), especially since in the present case the proceedings in dispute were governed by the

The Court of First Instance held that the Court of First Instance had the power to

d'office the truth (paragraph 43 above); the situation of the parties in

procedures based on the principle of inquisition are different from those based on

On the principle of contradiction, it is understood that in this case the active role

of the judge is an element that could be used to compensate for a certain

In this respect, the Court of First Instance considers that there is a need to ensure that there is no

inequality between the parties to the proceeding, so as to reduce the importance of

A separate examination under Article 6 § 1.

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1051. Master of the legal qualification of the facts of the case (see Radomilja and Others v Croatia [GC], Nos 37685/10 and 22768/12, § 126,

This Decision shall enter into force on the day following that of its publication in the Official Journal of the European Union.

In the present case, Telek and Others v. Türkiye, Nos 66763/17 and 2 others, § 76, 21 March

The Court of Justice of the European Communities held that, in the light of the above, the Court of First Instance's findings of fact and conclusions on the interpretation of Article 107 (1) (c) of the Treaty on the Functioning of the European Union (TFEU) should be interpreted as meaning that Article 107 (1) TFEU should be interpreted as meaning that it is compatible with the internal market.

considers, therefore, that, in the present case, the complaints raised against the

Article 6 § 1 and/or 13 are absorbed by those derived from Article 8

The Court of First Instance held that the Court of First Instance did not have jurisdiction to review the application for annulment of the contested decision.

The Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under Article 107 (1) (c) of the Treaty and that it had failed to fulfil its obligations under Article 107 (1) of the Treaty.

In the light of the above, the Commission concludes that the measures provided for in Article 107 (1) TFEU are compatible with the internal market and that they are compatible with the internal market.

This Decision shall enter into force on the day following that of its publication in the Official Journal of the European Union.

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

the legal proceedings, but also the administrative procedures involved (paragraph 65 below).

It will therefore examine this matter from the point of view of Article 8 of the Treaty.

Convention, as worded in the relevant part thereof:

■ 1. Everyone has the right to respect for his private and family life . . .

2. There may be no interference by a public authority in the exercise of this right provided that such interference is provided for by law and constitutes a measure which, In a democratic society, there is a need . . . for public safety . . .

the prevention of criminal offences, the protection of health or morals, or

Protection of the rights and freedoms of others. ■

52. In the absence of preliminary exceptions made by the

Government, the Court finds that, within the framework set out above, the is not manifestly unfounded within the meaning of Article 35 (3) (a) of the Convention and that it is not otherwise in conflict with any other ground

It is not admissible.

The Court therefore declares it admissible.

B. Fund

1.Arguments of the parties

(a) The applicant

53. The applicant submits that it has simply suffered a penalty

The Court of First Instance of the European Communities has held that the Court of First Instance is not a party to the proceedings.

by a lawyer, without prejudice to the relevant case-law of the

Court of Justice (Jucius and Juciuvien■ v Lithuania, No 14414/03, 25 November 2008) and

In short, the court did not take any

measure to ensure effective representation in that procedure,

It is not a matter for the Commission to decide whether it will take the necessary measures to ensure that it is able to take action.

54. Furthermore, the applicant states that, even in the second

In the case of proceedings which resulted in the removal of the custody measure, the judge has never

(Artico v Italy, 13 May 1980, § 33,

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11series A No 37, Granger v United Kingdom, 28 March 1990, § 47, series A No 174,

The Commission considers that it is appropriate to take the necessary measures to ensure that the measures are implemented in accordance with the principle of proportionality.

55. Returning to the facts of the case, the applicant emphasizes the following:

In his view, the following elements are crucial for assessing the fairness of the procedure:

The contested decision:

■ Yenipazar, the district where the court was located, is a small town

And the two judges and the two prosecutors who were stationed at the time were connivance;

■ The custody action had been introduced by one of the following:

Prosecutors, irritated by the number of complaints filed by the applicant;

Advocate General Aydın resigned without

The Court of First Instance and the Court of First Instance agreed that the

the applicant, without hearing the applicant or verifying the impact that this could have on the have at the end of his trial;

■ The Court never considered granting new aid

The Court of First Instance, contrary to its obligations under Article 36 of

(paragraph 44 above), nor did it assure that the applicant

undergoing extensive psychiatric examinations before deciding to put her

Under the watchful eye.

56. In addition to this procedural aspect, the applicant complained that

has been declared incapable on the grounds of insufficient reports

In the course of the study, the researchers and the Institute of Forensic Medicine had drawn up a

In the case of a long-term medical history which has not been properly examined; in this respect, the

Mr Martel said that his objections to these reports had never been taken up in

count by the court.

The applicant adds that the fact that it was declared incapable of solving

The Court of First Instance of the European Communities held that the Court of First Instance did not have jurisdiction to rule on the merits of such proceedings.

Prosecutor ruined her future when she was an architect with a degree in engineering.

It follows from this that in no case is it to be placed under the guardianship of a

could present any interest which could justify the measure

This is a disproportionate number of women who have suffered for about four years.

57. In addition, the latest expert report by the hospital

In addition, the Commission's proposal for a directive on the protection of workers' rights (see paragraph 38 above)

The diagnosis of the origin of the declaration of incapacity was incorrect.

the applicant, if H.K., her husband and guardian, had not requested the withdrawal of this

She would have been condemned to live in incapacity to act, which would have

would demonstrate that the national system does not provide any protection for persons

They're vulnerable.

(b) The Government

58. The Government recalls from the outset that the proceedings at issue were

It was governed by the principle of inquisition, according to which it belonged to the court of

Collect all the evidence, which he does not have

I missed it.

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1259. With regard to the award of an attorney in office, the Government emphasises that the applicant's application was welcomed by the Court of First Instance at first but annulled her application. The decision was subsequently based on the unacceptable behaviour of the person concerned. In any event, this decision would not have resulted in a disadvantage. It is important for the person concerned.

60. Throughout the proceedings, the applicant was able to appear at the hearings, to express themselves, to challenge the evidence. The Court of First Instance of the European Communities shall have jurisdiction to hear the case before the Court of First Instance.

I'm not sure.

61. In the light of these considerations, the Government considers that the applicant has been granted all the necessary guarantees under the inquisition procedure; and that if she was eventually placed under guardianship, this decision was based on objective medical evaluations and had unquestionably a legal basis. This is the case in the case of Article 405 of the CC.

As regards the question of ■ legitimate purpose ■, the Government refers to the two medical examinations carried out by specialists; and The Commission's findings would not support any criticism. The applicant, who had refused treatment, was unable to understand and protect his interests and the measure in dispute was rightly to protect them.

Moreover, the interference at issue would not have had any repercussions. The applicant's privacy was important, since the applicant had never suggested whether it has actually suffered or suffered damage disproportionate to the objective pursued.

62. Finally, the Government recalls that the measure in question was published in the Official Journal of the European Union on 27 February 2015. demonstrates that the regime in force in Türkiye is based on guarantees. The Court of First Instance's decision on the application of the principle of equal treatment for men and women the Committee of Ministers of the Council of Europe (paragraphs 46 and 47); above).

2. Appraisal of the Court

(a) General principles and considerations

63. No one disputes that the decision to place the applicant under the guardianship of has been an interference in the exercise of his right to respect for his life. This interference was provided for by Law ■ Article 405 of the EC Treaty (paragraph 40 above) ■ and pursued a legitimate aim, namely the protection of a person who is incapable of self-sufficiency by reason of. These points do not lend themselves to controversy (see

In the light of the above, the Commission concludes that the measures in question are not compatible with the internal market and that they are incompatible with the internal market.

64. The necessity of the intervention in question in a society

The Court of First Instance of the European Court of Human Rights held that, for a question as complex as

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13 this is to determine an individual's mental abilities.

As a rule, authorities should enjoy a wide margin of appreciation;

However, this is in line with the Court's duty to

More stringent rules on deprivation of legal capacity, which

It is undeniable that they constitute a serious interference in the exercise by

the person concerned has the right to respect for his or her privacy guaranteed by Article 8 of the

The Convention also applies in cases where persons with disorders

The Court of First Instance considers that the Court of First Instance is unable to determine whether a person who is mentally ill has been deprived of legal capacity.

a particular importance for the quality of the decision-making process.

65. If Article 8 does not contain any explicit procedural requirements, the

The Court has laid down the procedural requirements necessary for the observance of the

It is also important to note that the Commission's proposal for a regulation on

Article 6 provides, inter alia, that the decision-making process

In order to achieve the objectives set out in the first subparagraph of this paragraph, it is necessary to ensure that measures of interference are proportionate and proportionate.

to fully respect the interests protected by this provision (see paragraph

For example, Jucius and Juciuvienė, cited above, § 30, Soares de Melo v Portugal,

No 72850/14, § 65, 16 February 2016, and Mehmet Ulusoy and Others v. Turkey,

This requirement thus covers the procedures for the application of Regulation (EC) No 54969/09, § 109, 25 June 2019.

In addition to administrative and judicial matters, it also goes hand-in-hand with the

(ii) to ensure the proper respect for, inter alia, privacy;

which is at the heart of the present dispute (see among others, Golder,

The Court of First Instance held that, in the light of the above-mentioned findings, the Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under Article 107 (1) of the Treaty.

No 307-B, Bianchi, cited above, § 112, and Tapia Gasca and D. Spain,

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

66. The extent of the margin of appreciation enjoyed by authorities in

This will therefore depend on the quality of the decision-making process:

the procedure has been severely deficient for one reason or another,

Internal authorities' findings are more liable to bail out (see Principle 1

■ Paragraph 46 above; Görgülü v Germany, No 74969/01, § 52,

On 26 February 2004, Chtoukatourov v Russia, No 44009/05, §§ 87 to 89,

In the light of the above, the Commission concludes that the measures provided for in Article 107 (1) TFEU are compatible with the internal market.

Salontaji-Drobnjak v. Serbia, No 36500/05, §§ 141-143, of 13 October 2009, is replaced by the following:

Ümit Bilgiç, cited above, § 113, Lashin v. Russia, no. 33117/02, §§ 79 and 80,

In the light of the above, the Commission concludes that the measures in question do not constitute State aid within the meaning of Article 107 (1) TFEU.

The Court of Justice of the European Communities held that, in the absence of a formal decision on the compatibility with the internal market of the measures in question, the Commission was not able to assess the compatibility of the measures with the internal market.

(b) Application of these principles in each case

(i) As regards the alleged exclusion from the benefit of a board appointed from office

67. With regard to the decision-making aspect and insofar as

The applicant denounces its exclusion from the benefit of an attorney in office,

It should be emphasised that the Convention does not imply that the State must provide free legal assistance in any dispute relating to a

■ right of a civil nature ■ . However, the Court admits, like the

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14 the applicant (paragraphs 53 to 57 above), that the proceedings in the present case

■ which posed a very serious issue ■ had to be surrounded by guarantees

appropriate procedures to protect the applicant's rights; and

In the case of H.F. v. Slovakia (see, for example, H.F. v.

This Decision shall enter into force on the day following that of its publication in the Official Journal.

Under such safeguards, Article 8 may restrict

Authorities to provide the assistance of a lawyer when this is necessary

(mutatis mutandis, Airey v Ireland, 9 October 1979), the Court of First Instance of the European

Communities held that the Court of First Instance did not

§ 26, series A No 32, and Romanov v. Russia, No 63993/00, § 108, 20 October

2005), given the seriousness of the challenge for the interested party (P.,

In the light of the above, the Commission considers that it is appropriate to take the necessary measures to ensure that the aid is compatible with the internal market and is compatible with the internal market.

The Court of First Instance held that, in view of the fact that the Court of First Instance did not have jurisdiction, the Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under Article 107 (1) (c) of the Treaty.

Ivinovi■, cited above, § 45, in the end).

68. In the present case, if on 9 July 2009 the D ■ Aydn Bar had finally

appointed M.A. to represent the applicant (paragraphs 19 and 20

She resigned on 27 August the following year without ever taking part in the

■ on the ground that the applicant had ordered it to appeal against the judgment of the Court of First Instance

a court for unacceptable reasons (paragraphs 22 and 25 above);

The two protagonists (compare mutatis

The Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under Article 107 (1) (c) of the Treaty.

D ■ Aydn indicated that no other lawyer was to be appointed (paragraph 27).

(see above) and the Istanbul Bar also seems to have refused to give

Following the applicant's request for legal aid (paragraph 26).

The Court of First Instance also did not respond officially, since it was understood that the

The case file does not contain any trace of a request for legal aid

any letter addressed directly to the judge.

As regards the question whether the conduct of Me M.A.

resignation may constitute a particular circumstance

In the event of a dispute between the Commission and the Member States, the Commission shall adopt a decision on the conclusion of the agreement.

(c) Poland (Dec.), No 40140/98, 30 March 1999) and/or in accordance with Article 36

As the applicant suggests (paragraph 55, in fine,

■ and if, consequently, the court ■ informed of the situation ■

d'office to replace this lawyer so that the applicant is not deprived of

The Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under Article 107 (1) of the Treaty and that it had failed to fulfil its obligations under Article 107 (1) of the Treaty.

The Court considers that the answer to that question is in the negative, since the appropriate procedural safeguards referred to herein (paragraph 65).

(b) are not limited to the provision of legal aid.

70. In this context, it should be recalled that in many cases

that an individual should be placed under guardianship because he/she would not be able to

■ managing his affairs ■ as in this case ■ does not mean that he is

In such cases, it is essential that the person concerned is able to make an informed decision on his or her situation.

the person concerned has access to a court and the possibility to
(see Jucius and Juciuvien■, cited above, § 30 and A.N., cited above,
Article 90 of the EC Treaty.

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15The Court must therefore ascertain whether, having regard to the particularities of the case and the in particular the gravity of the decisions to be taken, the applicant was

The Commission's proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the

The Court of First Instance, acting unanimously on a proposal from the Commission to the European Parliament and to the Council,

In the case of the applicant, the applicant could not be found to have infringed his privacy, as the interference could not be

■ necessary ■ within the meaning of Article 8 (see, inter alia,

W. v. United Kingdom, 8 July 1987, § 64, series A No 121).

(ii) The applicant's participation in the decision-making process

71. Returning to the facts of the case, the Court observes that, notwithstanding its

The applicant had full knowledge of the request for

The Court of First Instance of the European Communities (hereinafter referred to as 'the Court of First Instance')

Chtoukatourov, cited above, § 69) as well as a sufficient capacity to present his

The Court of First Instance held that the Court of First Instance's judgment in *McVicar v United*

Kingdom, No 46311/99, §§ 48-62, ECHR 2002-III, and

Steel and Morris, cited above, § 61); it also took part in

The Court of First Instance shall have jurisdiction over the proceedings in respect of which the Court has jurisdiction.

(compared with the

Chtoukatourov, cited above, § 91, and A.N., cited above, § 120).

As from 14 May 2009, the date of the preliminary hearing, 15 June,

In 2009, the applicant informed the court that it wished to pursue the

proceedings through his lawyer and, following his resignation,

She has often appeared herself at successive hearings and heard in

On 16 July 2009, she explained the examination she had passed.

At the Adnan Menderes University Hospital; on 17 September 2009, she was

send a reminder by e-mail, which has been read;

In 2009, she informed the court of her request for review by the hospital.

On 22 October 2009, it was heard by the

Court of Justice and contested the expert report of 14 August 2009 requesting its

In addition, the Commission's proposal for a regulation on the application for a licence for the use of medical devices was adopted.

The Court of First Instance held that, in the light of the above, the Court of First Instance's findings of

fact and conclusions of the Court of First Instance, the Court of First Instance's findings of fact and

conclusions of fact and conclusions of the Court of First Instance's findings of fact and conclusions of

fact and conclusions of fact and conclusions of the Court of First Instance's findings of fact and

conclusions of fact and conclusions of fact and conclusions of fact.

In 2009, the applicant appeared with her husband H.K.; on 21 January 2010, she

was heard again by the judge; on 2 March 2010 it upheld the appeal

by her husband against the report of the Institute of Legal Medicine; on 2 March 2010,

The previous opposition was rejected and the proceedings were closed in its entirety.

the presence (compare, *ibidem*).

72. Thus, in the case of the first instance proceedings, even if the

the exact content of all the statements of the applicant does not appear in the documents

The Commission's proposal for a regulation on the protection of workers' rights in the Member States

the decision-making process in such a way as to enable it to defend its

the Court of First Instance, but also to enable the Court to form its own opinion.

The Court of First Instance held that the Court of First Instance did not have jurisdiction to rule on the interpretation of Article 409 of the Treaty.

The Court of Justice's case-law (see, *mutatis mutandis*, Kovalev)
c. Russia, No 78145/01, §§ 35-37, 10 May 2007

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16Chtukatourov, cited above, §§ 72, 73 and 91, and A.N., cited above, § 120) and Principle 13 (see paragraph 47 above).

73. Furthermore, it should be emphasised that in this case, the

The dispute was governed by the inquisitive principle that it belonged to the Turkey's civil procedure law

(paragraph 43 above) imposes on the court deciding on the

It is a legal requirement for an individual to gather all the necessary evidence, and that, whether or not the parties have proposed them (for a comparable situation, see H.F., cited above, § 38).

(iii) The fairness of the decisionmaking process

74. Before considering the examination undertaken by the court, it is appropriate to

First, the applicant must answer the arguments drawn from her absence.

d'impartiality and connivance which would have united the four magistrates of the the small town of Yenipazar, including the prosecutor who allegedly requested his

The Court of First Instance ruled that the applicant was not entitled to compensation for the damage caused by the infringement.

(paragraph 55 above).

75. First, the Court observes that, in the present case, Mr M.A.

The Court of First Instance found that the application for a preliminary ruling

the applicant (see paragraph 22 above) and there is no indication that the applicant personally appealed to the judge who initially sat or his successor

(paragraph 28 above) nor did it take any action against the

Prosecutor who accuses her of requesting custody out of animosity.

76. Furthermore, it must be remembered that ■ the personal impartiality of a

the judge presupposes until proof of the contrary ■ (see, for example,

In the light of the above, the Commission considers that it is appropriate to take the necessary measures to ensure that the aid is compatible with the internal market and that it is compatible with the internal market.

The main objective of the study was to determine whether the concerns of the applicant as objectively justified (ibid., § 96, Wettstein

c. Switzerland, No 33958/96, § 44, ECHR 2000-XII, and Pabla Ky and Finland,

The Court of First Instance, in its judgment in Case 47221/99, § 30, ECR 2004-V, held that the four magistrates of the Court of First Instance

Yenipazar know each other as colleagues can certainly not be enough to consider objectively justified doubts about their

The Court of First Instance of the European Communities held that, in the absence of a formal decision on the compatibility with the internal market, the Commission was unable to assess the compatibility of the measures with the internal market.

No 63151/00, § 48, 19 May 2005), it is understood that the complaints

This should not paralyze the legal system.

In the case of a defendant State and only in small local courts, such as the Court of First Instance

In the case of Yenipazar, the administration of justice could be unduly hampered

The Commission's proposal for a directive on the approximation of the laws of the Member States on the approximation of the laws of the Member States on the approximation of the laws of the Member States on the approximation of the laws of the Member States (see, mutatis mutandis, A.K. v. Liechtenstein, No 38191/12, § 82, 9 July 2015, Nicholas v. Cyprus,

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

77 That being said, the Court recalls that, if the first diagnoses

The applicant's psychiatric records date back to 2002 and 2004 (paragraphs 5 and 6 above).
In addition to the above, new examinations were launched after the opening of the

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17protection procedure on 10 April 2009 (paragraph 14 above); and
The Court had ruled on the basis of these examinations, including that of the applicant.

was perfectly aware of the subject (compare Chtukatourov,

In fact, on 14 August 2009, the Health Council of the University Hospital

D ■ Adnan Menderes concluded that the ■ paranoid personality disorders ■

the applicant's observations were likely to justify her being placed under guardianship

(paragraph 21 above); if the person concerned claims that he has not been duly

In the light of the above, the Commission considers that the

In any event, after having suffered

Other tests and a psychological interview at the Istanbul University Hospital

(paragraph 23 above), the applicant challenged the results of that report

and, contrary to what it suggests (paragraph 56 above)

the court granted the request (see paragraph 28 above);

On 23 December 2009, a counter-expertise was carried out by the

Specialists No 4 at the Institute of Forensic Medicine (paragraph 30 above), including:

Neutrality has never been called into question (Lashin, cited above, § 87), and

the conclusions of the dossier on 29 January 2010 were sufficiently clear

(paragraph 32 above) as to the possible consequences of disturbances

the applicant's material interests (see Chtukatourov, cited above,

§ 93), so that the rejection of the second opposition brought against the latter

The report (paragraph 33 above) could not be successful.

Consequently, the Court could not follow the applicant's complaint against the

Court for failing to sit its judgment on examinations

(paragraph 55 in the end above), without

There is no justification whatsoever.

78. The last medical examination referred to above, carried out by experts

qualified on 23 December 2009, i.e. three months and one week before

the adoption of the judgment at first instance and less than one year before the judgment

In this case, it is possible to calculate the value of the

The Court of First Instance held that, in the absence of a preliminary ruling of the Court of First

Instance, the Court of First Instance held that the Court of First Instance had failed to fulfil its

obligations under Article 107 (1) (c) of the Treaty and that the Court of First Instance had failed to fulfil

its obligations under Article 107 (1) TFEU.

In the light of the above, the Commission concludes that, in the absence of a formal investigation

procedure, the applicant has failed to fulfil its obligations under Article 107 (1) (c) TFEU.

the Court and Principle 12 (paragraph 47 above).

79 Moreover, this procedure has had two levels of jurisdiction.

(compared with A.N., cited above, § 120);

The Court of Cassation, whose role could be decisive in removing a

(De Haan v. The Netherlands, 26 August)

The Court of First Instance held that the Court of First Instance did not rule on the interpretation of

Community law.

The applicant did not lodge a complaint before the Court.

80. In view of the foregoing, the judicial mechanism of Türkiye must:

to have acted with the necessary fairness and diligence.

The Commission's proposal for a directive on the approximation of the laws of the Member States on
the approximation of the laws of the Member

the applicant and to prevent possible injustices (see Principle 7 ■

In the case of H.F., paragraph 46 above (see paragraph 44).

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18iv. The ins and outs of the measure imposed on the applicant

81. In this regard, it is important to emphasise that, according to the judgment of the Court of First Instance,

On 2 March 2010 (see paragraph 33 above), the restriction of legal capacity

the applicant was not complete, was limited in time and

The applicant could be challenged by the applicant herself (compare, for example,

Chtukatourov, cited above, §§ 90 and 94, Stanev, cited above, §§ 239 and 240, Lashin,

The Court of First Instance held that, in the light of the above-mentioned findings, the Court of First Instance's decision to initiate proceedings under Article 107 (1) (c) of the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Court of First Instance') did not have jurisdiction to rule on the interpretation of that provision.

In the present case, the measure at issue concerned the management of the heritage of the the applicant by her husband and guardian H.K. ■ whose designation was appropriate without

The applicant's doubts (see Principles 8 and 9 ■ paragraph 46 above) ■

the basis of an inventory of goods, and it was accompanied by a prohibition of to conclude land and banking transactions without the consent of the court.

the guardian representing the applicant therefore covered only the goods and the latter's financial affairs (see paragraph 13 above) to the extent

(for a similar situation, in law)

The Court of Justice of the European Union (hereinafter referred to as 'the Court of First Instance') has jurisdiction to decide on the application of this Regulation to the Court of Justice of the European Union.

82. Moreover, it should be noted that this measure was imposed for an initial period of two years, which may be extended for the same period

It follows that, in the present case, in accordance with national law,

(paragraph 42 above), the applicant was entitled to the same benefits as her husband

■ a two-year periodic review option for the purpose of lifting

the measure of custody (see Principle 14 ■ Ümit Bilgiç, cited above, § 114; compare,

Drobnjak, cited in paragraph 134, and Stanev, cited in paragraph 239.

This is a crucial guarantee: the right to appeal to a court

The revision of a declaration of incapacity is one of the most important

the individual concerned because, once initiated, such a procedure is

The Court of First Instance of the European Communities held that, in the light of the Court's findings of fact and conclusions, the Court of First Instance was not in a position to rule on the interpretation of the provisions of the Treaty.

The Court of First Instance held that, for the purposes of the present case, the Court of First Instance must have jurisdiction in respect of the matters referred to in the first subparagraph.

the set of rights and freedoms affected by the declaration of incapacity;

Law is one of the essential procedural rights for the protection of

persons declared partially incapable, such as the applicant (Stanev,

In addition, there is an increasing importance attached to the

Today, the right to legal autonomy is being given to the people of Europe.

mental disorders both by national rights at European level

The Court of First Instance of the European Communities held that the international instruments for the protection of such persons, including the

Recommendation No R (99) 4 mentioned above (paragraphs 46 and 47 above) (see,

In particular, Matter v. Slovakia, No 31534/96, §§ 51 and 68, of 5 July 1999,

Stanev, cited above, §§ 243 to 245, and A.N., cited above, § 126).

84. In the present case, the file and the applicant's observations do not

They do not know exactly why there is no revision

It was not requested at the end of the initial period of two years, since

The applicant was still in custody in March 2014 (paragraph 36 above).

on it).

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19 However, on 9 July 2014, H.K. lodged such an application. The Court of First Instance in Nazilli and, in accordance with the findings of a new psychiatric expertise from the University Hospital in Istanbul, that court ruled on 19 March 2015 that the measure of (paragraphs 36 to 39 and 42 above)

85. Contrary to what the applicant suggests (paragraph 57), these findings did not in any way invalidate the results of the study. the origin of the custody, as no expertise has been made so far. There was no indication of an incurable clinical picture; finally, there is no need to speculate on what would have happened if H.K. had not undertaken this. The law allowed the applicant to do so herself. (paragraph 42 in the end above).

86. In the light of the foregoing, the Court emphasizes the need for. In this context, it is important to draw attention to the fact that the self-determination of the individual and the need to protect the individual. It is also necessary to ensure the protection of its interests, in particular in circumstances where the the ability or specific case to put them in a vulnerable situation. In this context, the Court considers that a fair balance has been found in the case: there were effective guarantees in the internal procedure for prevent abuse ■ as required by the Convention and relevant standards (ii) to ensure that the rights and interests of the the applicant is taken into account.

This was associated with all stages of the proceedings: it was heard. In the course of the proceedings, he was able to present his arguments in person. Competent and impartial internal courts, and the extent to which they. The decision was taken in accordance with the legitimate objective of protection of interests. the applicant's assets and, in a broader sense, her well-being; its limitation in time and its object, and the paths of justice. In this respect, it is important to note that the the measure was disproportionate and/or unsuitable for the applicant's situation.

V. Conclusion

87. The Court therefore considers that, in the present case, partial incapacity was initially. The applicant's judgment in the main proceedings could be deemed necessary in. It is a democratic society and, as a result, it has not infringed the Article 8 of the Convention.

For these reasons, the race, the loneliness,

1. Declare the request admissible;

2. Declares that there has been no infringement of Article 8 of the Convention.

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20 Faced in French, then communicated in writing on 3 October 2023, in the application of Article 77 (2) and (3) of the Regulation.

Hasan Bakır Arıncı

Secretary to the President

This judgment is annexed in accordance with Article 45 (2) of the EC Treaty.

Convention and 74 § 2 of the Rules of Procedure, the statement of opinion of the judge

A. Bårdsen

A.R.B.

H.B.

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21 Consistent Opinion by Judge BÅRDSEN

88. I agree with the conclusions of my colleagues that there is no

In the present case, I have taken a stand on this issue.

I would like to conclude with some hesitation, and I would like to explain the reasons for this.

My questions.

89. Although the Court has chosen to examine the case only from the point of view of

Article 8 of the Convention, Article 6 (1) is not without meaning in this case.

In fact, as regards access to legal aid in such a

Article 8 must be interpreted and applied in the light of the principles

In the light of the above, the Commission considers that the

The Court of First Instance of the European Communities has held that the Court of First Instance has jurisdiction in the matter.

I would like to ask the Commissioner, Mr President, if he would like to make a statement on this subject.

The following six elements should be reinforced.

90. Firstly, I would like to emphasize that the persons concerned by a

In general, the custody procedures must be considered as vulnerable.

Special procedural safeguards may be necessary for the

protecting the interests of persons who, because of their mental disorders,

They are not in a position to do everything for themselves.

In the present case, the authorities established that the applicant suffered from a disease

a severe mental illness that had direct consequences on his ability to

make informed decisions on his own behalf.

91. secondly, I should like to remind you that in the custody proceedings

This was the case in the present case.

the legal issues, but also an in-depth evaluation of health

In addition, it is important to ensure that the information provided to the data subjects and their interactions with others

the applicant was considered to be seriously ill, she could not

be reasonably presumed capable of coping with judgments

The Commission's proposal for a regulation of the European Parliament and of the Council should be adopted in the light of the recommendations of the Council.

92. Thirdly, I note that the applicant did not have a guardian at

She could not bear the cost of assistance herself.

If, initially, a lawyer had been appointed for the

to assist the applicant, precisely because it had been deemed necessary

(d) grant legal aid to the latter.

93. Fourthly, the fact that the designated lawyer resigned in

■ ■ unacceptable behaviour ■ by the applicant cannot

The behaviour in question translated into a

the applicant's lack of confidence in the judge of the administrative court.

As already pointed out, the applicant was alleged to suffer from

This is particularly the case for psychiatric disorders such as paranoia.

the reasons why the assistance of a lawyer would have been beneficial to him.

94. Fifthly, having regard to the situation in which the applicant

was before the administrative court when the appointed lawyer was

In the light of the above, the Court of First Instance would have

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22e strong reasons for considering whether to appoint another

But there is no trace of such an examination.

95. Sixthly, since it is recalled once again that the

The applicant was unable, according to the Government, to take any

the fact that it had not requested

The Court of First Instance considers that the appointment of a new lawyer is not relevant.

that the applicant has indicated in her action that she does not have access to a lawyer,

The very succinct decision of the Court of Cassation is of no value.

on that question.

9. In spite of the arguments presented above, I voted in favour.

Having regard to the Treaty establishing the European Economic Community, and in particular Article 8 thereof,

My colleagues believe that, in view of all the facts of the case,

In particular, all measures taken to safeguard the interests of the

the applicant has not been found to have significantly infringed the protection of life

the applicant as guaranteed by Article 8 of the Convention.