

## **EGMR 25181/94 vom 25. August 1998**

Hudoc Ch, 1998-08-25, FR

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FR: CourEDH 25181/94 du 25 août 1998

IT: CorteEDU 25181/94 del 25 agosto 1998

### **Regeste**

Violation of Art. 10;Not necessary to examine Art. 6-1;Not necessary to examine Art. 8;Pecuniary damage - claim dismissed;Costs and expenses partial award - domestic proceedings;Costs and expenses partial award - Convention proceedings; Violation: 10

### **Erwägungen**

#### **E. 25**

August 1998 In the case of Hertel v. Switzerland [1] , The European Court of Human Rights, sitting, in accordance with Article 43 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and the relevant provisions of Rules of Court B [2] , as a Chamber composed of the following judges: Mr R. Bernhardt , President , Mr F. Matscher , Mr A. Spielmann , Mr N. Valticos , Mrs E. Palm , Mr L. Wildhaber , Mr K. Jungwiert , Mr J. Casadevall , Mr V. Toumanov , and also of Mr H. Petzold , Registrar , and Mr P.J. Mahoney , Deputy Registrar , Having deliberated in private on 28 March and 24 June 1998, Delivers the following judgment, which was adopted on the last-mentioned date: PROCEDURE 1. The case was referred to the Court, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention, by a Swiss national, Mr Hans Ulrich Hertel (“the applicant”), on 29 May 1997 and thereafter by the European Commission of Human Rights (“the Commission”) and the Government of the Swiss Confederation (“the Government”) on 3 June and 15 July 1997 respectively. It originated in an application (no. 25181/94) against Switzerland lodged by the applicant with the Commission under Article 25 on 13 September 1994. Having been designated by the initials H.U.H. during the proceedings before the Commission, the applicant subsequently agreed to the disclosure of his identity. The applications and request referred to Article 48 of the Convention, as amended by Protocol No. 9, which Switzerland has ratified. The object of the applications and request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Articles 6 § 1, 8 and 10 of the Convention. 2. In response to the enquiry made in accordance with Rule 35 § 3 (d) of Rules of Court B, the applicant designated the lawyer who would represent him (Rule 31). 3. The Chamber to be constituted included ex officio Mr L. Wildhaber, the elected judge of Swiss nationality (Article 43 of the Convention), and Mr R. Ryssdal, the President of the Court (Rule 21 § 4 (b)). On 3 July 1997, in the presence of the Deputy Registrar, the President drew by lot the names of the other seven members, namely Mr F. Matscher, Mr A. Spielmann, Mr N. Valticos, Mrs E. Palm, Mr K. Jungwiert, Mr J. Casadevall and Mr V. Toumanov (Article 43 in fine of the Convention and Rule 21 § 5). Subsequently Mr Ryssdal, who had died on 18 February 1998, was replaced as President of the Chamber by Mr R. Bernhardt, the Vice-President of the Court (Rule 21 § 6, second sub-paragraph). 4. As President of the Chamber (Rule 21 § 6), Mr Ryssdal, acting through the Registrar, had

consulted the Agent of the Government, the applicant's lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 39 § 1 and 40). Pursuant to the order made in consequence, the Registrar received the applicant's and the Government's memorials on 5 and 12 December 1997 respectively. On 16 January 1998 the Secretary to the Commission indicated that the Delegate did not wish to reply in writing. 5. On 2 March 1998 the Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions. 6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 26 March 1998. The Court had held a preparatory meeting beforehand. There appeared before the Court: (a) for the Government Mr P. Boillat, Head of the International Affairs Department, Federal Office of Justice, Agent, Mr J. Lindenmann, Acting Head of the Human Rights and Council of Europe Section, Federal Office of Justice, Adviser; (b) for the Commission Mr M.A. Nowicki, Delegate; (c) for the applicant Mr R. Schaller, of the Geneva Bar, Counsel. The Court heard addresses by Mr Nowicki, Mr Schaller and Mr Boillat. AS TO THE FACTS I. the CIRCUMSTANCES OF THE CASE 7. Mr Hertel has a degree in technical sciences from the Zürich Federal Institute of Technology and is the author of a thesis submitted to the Zürich Institute of Veterinary Sciences. He is now retired and lives at Wattenwil (Canton of Berne), where he conducts private research in his own laboratory. The research paper published by the applicant and Professor Blanc and issue no. 19 of the Journal Franz Weber

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