

COUR EUROPEENNE
DES
DROITS DE L'HOMME

CONSEIL DE L'EUROPE
STRASBOURG

EUROPEAN COURT
OF
HUMAN RIGHTS

COUNCIL OF EUROPE
STRASBOURG

Herrn
Peter BRIODY
Spiegelberg 1
D-88090 IMMENSTAAD

THIRD SECTION

ECHR-LE1.1R m.
JM/MOD/id

27 April 2005

Application no. 14214/05
BRIODY v. Germany

Dear Sir,

I acknowledge receipt of your letter of 11 April 2005, together with a completed application form. **Your application has been given the above file-number, to which you must refer in any further correspondence relating to this case.**

The Court will deal with the case as soon as practicable. It will do so on the basis of the information and documents submitted by you. The proceedings are primarily in writing and you will only be required to appear in person if the Court invites you to do so. You will be informed of any decision taken by the Court.

You should inform me of any change in your address. Furthermore, you should, of your own motion, inform the Court about any major developments regarding the above case, and submit any further relevant decisions of the domestic authorities.

Please note that no acknowledgment will be made as to the receipt of subsequent correspondence. No telephone enquiries either please. **If you wish to be assured that your letter is actually received by the Court then you should send it by recorded delivery with a prepaid acknowledgment of receipt form.**

Yours faithfully,
For the Registrar


J. Marquet
Legal Secretary

II. EXPOSÉ DES FAITS
STATEMENT OF THE FACTS

(Voir chapitre II de la note explicative)
(See Part II of the Explanatory Note)

14.

The Supreme Court of the Constitution (Bundesverfassungsgericht) decided on 14.10.2004 that the decisions of the European Court of Human Rights (ECHR) would not be binding on German Courts.

The decision was promulgated under:

http://www.bverfg.de/entscheidungen/rs20041014_2bvr148104.html

The offending passage under Bookmark 17 reads:

17

As a result of the status of the European Convention on Human Rights as ordinary statutory law below the level of the constitution, the ECHR was not functionally a higher-ranking court in relation to the courts of the States parties. For this reason, neither in interpreting the European Convention on Human Rights nor in interpreting national fundamental rights could domestic courts be bound by the decisions of the ECHR.

Si nécessaire, continuer sur une feuille séparée
Continue on a separate sheet if necessary



III. EXPOSÉ DE LA OU DES VIOLATION(S) DE LA CONVENTION ET/OU DES PROTOCOLES ALLÉGUÉE(S), AINSI QUE DES ARGUMENTS À L'APPUI
STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

(Voir chapitre III de la note explicative)
(See Part III of the Explanatory Note)

15.

The European Convention on Human rights was signed by Germany on 4.11.1950. Article 46 makes abundantly clear that the decisions of the EUCHR are binding.

Article 46 – Binding force and execution of judgments

1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

The decision by the Supreme Court of the Constitution of 14.10.2004 was according to Article 46, therefore, a gross violation of the convention.

The decision opens the way for every imaginable abuse and effectively makes the European Court a dummy institution that can be ignored at will. This is by its very nature a threat which is sufficient for the complainant to feel uneasy and unsafe living in Germany.

In a country which is a member of the Council of Europe one should be able to expect the highest quality of justice, which is now not the case.

IV. EXPOSÉ RELATIF AUX PRESCRIPTIONS DE L'ARTICLE 35 § 1 DE LA CONVENTION
STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION

(Voir chapitre IV de la note explicative. Donner pour chaque grief, en au besoin sur une feuille séparée, les renseignements demandés sous les points 16 à 18 ci-après)
(See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 on a separate sheet for each separate complaint)

16. Décision interne définitive (date et nature de la décision, organe – judiciaire ou autre – l'ayant rendue)
Final decision (date, court or authority and nature of decision)

The decision of the 14.10.2004 was the decision of the highest court in Germany.

17. Autres décisions (énumérées dans l'ordre chronologique en indiquant, pour chaque décision, sa date, sa nature et l'organe – judiciaire ou autre – l'ayant rendue)
Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them)

None

18. Disposez-vous d'un recours que vous n'avez pas exercé? Si oui, lequel et pour quel motif n'a-t-il pas été exercé?
Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.

None

Si nécessaire, continuer sur une feuille séparée
Continue on a separate sheet if necessary



V. EXPOSÉ DE L'OBJET DE LA REQUÊTE
STATEMENT OF THE OBJECT OF THE APPLICATION

(Voir chapitre V de la note explicative)
(See Part V of the Explanatory Note)

19.

1. That Germany shall declare that she will be bound by the decisions of the European Court of Human Rights and that the decision of the Supreme Court of the Constitution shall be retracted.
2. If this retraction is not forthcoming then Germany shall be expelled from the Council of Europe and sanctions imposed on her until such time as the necessary retraction is made.

VI. AUTRES INSTANCES INTERNATIONALES TRAITANT OU AYANT TRAITÉ L'AFFAIRE
STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS

(Voir chapitre VI de la note explicative)
(See Part VI of the Explanatory Note)

20. Avez-vous soumis à une autre instance internationale d'enquête ou de règlement les griefs énoncés dans la présente requête? Si oui, fournir des indications détaillées à ce sujet.
Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

A Complaint to the European Commission is outstanding. Non adherence to the European Convention of Human Rights is also a violation of the Treaty of Maastricht Title I, COMMON PROVISIONS, Article 6-2. The Treaty of Maastricht is, however, not the responsibility of the European Court of Human Rights and this is considered to be a separate matter.



VII. PIÈCES ANNEXÉES

(PAS D'ORIGINAUX,
UNIQUEMENT DES COPIES ;
PRIÈRE DE N'UTILISER NI AGRAFE,
NI ADHÉSIF, NI LIEN D'AUCUNE SORTE)

LIST OF DOCUMENTS

(NO ORIGINAL DOCUMENTS,
ONLY PHOTOCOPIES,
DO NOT STAPLE, TAPE OR BIND DOCUMENTS)

(Voir chapitre VII de la note explicative. Joindre copie de toutes les décisions mentionnées sous ch. IV et VI ci-dessus. Se procurer, au besoin, les copies nécessaires, et, en cas d'impossibilité, expliquer pourquoi celles-ci ne peuvent pas être obtenues. Ces documents ne vous seront pas retournés.)

(See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you.)

21. a) See I para 14
b)
c)



VIII. DÉCLARATION ET SIGNATURE
DECLARATION AND SIGNATURE

(Voir chapitre VIII de la note explicative)
(See Part VIII of the Explanatory Note)

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Lieu/Place

Immerstaad

Date/Date

11.04.2005

Peter Briel

(Signature du/de la requérant(e) ou du/de la représentant(e))
(Signature of the applicant or of the representative)

