

Information Note on the Court's case-law No.

May 1992

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## ***Megyeri v. Germany* - 13770/88**

Judgment 12.5.1992

### **Article 5**

#### **Article 5-4**

#### **Take proceedings**

Failure to appoint lawyer to assist applicant in proceedings concerning his possible release from detention in a psychiatric hospital: *violation*

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#### **I. ARTICLE 5 § 4 OF THE CONVENTION**

Person confined in psychiatric institution on ground of commission of acts constituting criminal offences but for which he was not responsible on account of mental illness should, unless there are special circumstances, receive legal assistance in subsequent proceedings reviewing his detention.

Assistance not revealed to be unnecessary by analysis of background facts and issues or by existence of other special circumstances - applicant's failure to request assignment of counsel irrelevant.

*Conclusion*: violation (unanimously).

#### **II. ARTICLE 50 OF THE CONVENTION**

A. Damage: award for non-pecuniary damage but, on account of absence of causal link, not for pecuniary damage.

B. Costs and expenses before Convention institutions: reimbursement ordered.

*Conclusion*: respondent State to pay specified sums (unanimously).

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