



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

Information Note on the Court's case-law 87

June 2006

Draon v. France (just satisfaction – striking out) [GC] - 1513/03
Judgment 21.6.2006 [GC]

Article 41

Just satisfaction

Compensation for disability not detected prenatally owing to error: *friendly settlement*

[This summary also covers the Grand Chamber judgment in the case of *Maurice v. France*, no. 11810/03, 21 June 2006]

Facts: the applicants are the parents of children affected by severe congenital disabilities which, on account of medical error, were not detected during the prenatal examination. They brought proceedings against the negligent health-care establishments, but on account of the application to pending cases of the Law of 4 March 2002 on medical liability for the birth of a disabled child, which had entered into force while their claims were pending, although they obtained orders requiring the establishments to pay them compensation for non-pecuniary damage and the disruption to their lives, they did not receive compensation for the special burdens arising from their children's disabilities, which they might legitimately have expected to obtain before the Law of 4 March 2002 was enacted. In two judgments on the merits, of 6 October 2005, the Grand Chamber held that the Law of 4 March 2002 had deprived the applicants, without sufficient compensation, of a substantial portion of the damages they had claimed, making them bear an individual and excessive burden, in breach of Article 1 of Protocol No. 1.

Law: Article 41 – The applicants requested in respect of pecuniary damage an amount corresponding to the sums they would have received as the law stood prior to enactment of the Law of 4 March 2002. The *Draon* case was struck out of the Court's list following a friendly settlement under the terms of which Mr and Mrs Draon were to receive EUR 2,488,113.27, including in particular a capital sum of EUR 1,428,540 plus interest, paid in respect of the provision of their child's needs by his parents throughout his life. The *Maurice* case was struck out of the Court's list following a friendly settlement under the terms of which the applicants were to receive EUR 2,440,279.14, including in particular a capital sum of EUR 1,690,000 plus interest, paid in respect of the provision of their child's needs by her parents throughout her life.

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This summary by the Registry does not bind the Court.

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