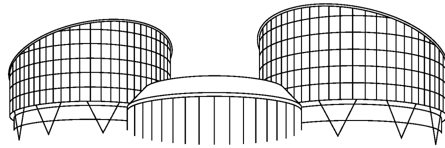

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 67122/14
Torgeir NORDBØ
against the United Kingdom

The European Court of Human Rights (First Section), sitting on 16 January 2017 as a Committee composed of:
Kristina Pardalos, *President,*
Pauliine Koskelo,
Tim Eicke, *judges,*
and Renata Degener, *Deputy Section Registrar,*
Having regard to the above application lodged on 2 October 2014,
Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Torgeir Nordbø, is a Swedish national, who was born in 1960 and lives in Chonburi, Thailand. He was represented before the Court by Mr Nicholas Barnes, a lawyer based in Guernsey.

2. The United Kingdom Government ("the Government") were represented by their Agents, Mr Paul McKell and Mr Chanaka Wickremasinghe of the Foreign and Commonwealth Office.

3. The Swedish Government did not make use of their right to intervene in the proceedings (Article 36 § 1 of the Convention).

A. The circumstances of the case

The applicant's case

4. In 2001 the applicant purchased a lease for land with a bungalow, on the isle of Sark in the Channel Islands. At the time of purchase the lease had

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12 years remaining on it. The land and the bungalow were owned by third parties (the “owners”).

5. On 12 June 2013 the lease expired and the owners obtained permission to serve a notice to quit on the applicant out of the jurisdiction, as he was by then resident in Thailand. The applicant disputed the notice and declined to quit the premises.

6. The owners then brought eviction proceedings in the Court of the Seneschal, the local, first instance judge (the “eviction proceedings). The applicant objected that the Court of the Seneschal was not “a human rights compliant instrument” and so was not compatible with Article 6 of the Convention. He also submitted that his eviction would be incompatible with his rights under Article 8 and Article 1 of Protocol No. 1 of the Convention.

7. At a hearing on 8 November 2013, the applicant suggested that the Seneschal should recuse himself and his case be postponed until the Supreme Court had given its judgment in an unrelated case concerning the independence of the Seneschal, *Barclay (no. 2*) (see paragraph 27 below).

8. On 15 November 2013 the Seneschal gave a decision in which he declined to recuse himself from the proceedings, observing that, if he did so, he would have to do the same in all court sittings, and the administration of justice on the island would come to a halt.

9. The applicant appealed the decision of the Seneschal not to recuse himself to the Royal Court of Guernsey, requesting that the Seneschal make a declaration of incompatibility stating that the 2008 and 2010 Sark Reform Laws (see paragraph 29, below) were not compliant with the Human Rights Act (the “human rights proceedings”) (see paragraph 15 below).

10. In the meantime, the eviction proceedings continued and the applicant made four further requests to adjourn the proceedings in part due to his ill-health. The Seneschal granted the first three but as the applicant did not produce the medical certificate requested by the court and the property owners objected to further adjournments, the Seneschal refused the fourth request. The Seneschal stated his sympathy with the owners’ position that the applicant’s continued calls for adjournments and his refusal without reason to accept e-mail communication despite using it himself in the court proceedings, constituted an abuse of process. He also underlined that the owners should be allowed to have their case heard within a reasonable timeframe.

11. In a judgment dated 16 May 2014 the Seneschal granted the owners’ application for the applicant’s eviction. In doing so, he noted that the applicant had not produced any documents to support his claim that he had purchased the lease, nor submitted any reasons to support his argument that the lease had not ended. The Seneschal found that the lease in question ceased on 12 May 2013 and so use of the property reverted to the owners. As to the applicant’s complaint that this finding infringed his rights under Article 8 and Article 1 of Protocol No. 1 of the Convention, the Seneschal

noted that these arguments were peripheral to the claim but that the owners also had rights under those articles therefore a balance must be struck, and the interference was lawful.

12. In respect of costs, the Seneschal found that there had been a measure of obstructionism on the part of the applicant and thus awarded the owners full indemnity costs of GBP 15,567, and GBP 1,000 in other costs.

13. The owners then sought the applicant's eviction and removal of the applicant's property from the land. An order for removal of the applicant's property was made on 25 July 2014. The applicant did not challenge this order.

14. The applicant appealed the judgment of 16 May 2014 to the Royal Court of Guernsey. He also made an urgent application to halt the eviction, which was rejected on 13 August 2014. He then made repeated requests to adjourn the appeal proceedings for a variety of reasons.

15. On 5 September 2014, the Royal Court considered the applicant's appeals in the eviction proceedings and the human rights proceedings. In light of the extended procedural history of the case the court concluded that further delays for procedural reasons were not in the interests of justice, and it was appropriate to refuse the request for an adjournment and hear the appeal in the applicant's absence. It went on to dismiss the appeal, finding that there was no real prospect of success and that the applicant's grounds of appeal had shown an "imperfect understanding of human rights issues".

16. On 2 October 2014, the applicant appealed to the Court of Appeal for Guernsey a few days out of time and paid the court fees for the appeal nine months later. As a result, he needed the leave of court to proceed with the appeal out of time.

17. He subsequently made three requests to the Seneschal to see "all case file documents/evidence that is still unknown" and three similar requests to the higher courts. He requested that the proceedings be adjourned and submitted two further, lengthy sets of submissions to the Court of Appeal claiming that his human rights had been violated. He also insisted on the lack of credibility of the owners in his submissions.

18. The Court of Appeal first considered the procedural position in single judge procedure. Mr David Anderson QC a barrister practicing in England and Wales and sitting as single judge gave his decision on 26 October 2016 in an order, finding that the applicant's appeal had been made out of time. He also noted that the applicant refused to pay the costs awarded by the Seneschal in the eviction process (see paragraph 12 above) because according to the applicant, the Seneschal's judgment was not final and was in violation of the Convention. As to the applicant's request to see all the documents in the case, he recalled that under the relevant procedural rules parties to litigation must disclose all the relevant documents to the opposing party and the court. He could see no reason for concluding this had not been done as it should before the Seneschal, bearing in mind that

the owners had had legal representation. He considered that the applicant's request had the look of a "fishing expedition". However, he made no final ruling in this respect. Instead, he recalled that the applicant had not paid the outstanding costs awarded against him in the eviction proceedings; had given no reasons for not paying; resided outside the jurisdiction, and had not given any reason why payment was not possible. Accordingly, he ordered that the court could not entertain any further claims by the applicant until payment into court of the costs awarded against him in the eviction proceedings was made.

19. The applicant did not pay the costs but appealed the order of the single judge. He followed up that appeal with repeated requests to adjourn the proceedings. He also indicated in correspondence and lengthy submissions which are detailed in the Court of Appeal's judgment, both that he was submitting an appeal against the order, and that he had not yet appealed the order.

20. The Court of Appeal, constituted by two judges from England and Wales (Nigel Pleming QC (President) and George Bompas QC) and Sir Michael Birt, the Bailiff of Jersey, upheld the order of the single judge in a judgment of 22 December 2016. In light of the applicant's "repeated and confused" submissions, the Court of Appeal first examined whether there was an application before it. Finding that there was, the Court of Appeal went on to consider the applicant's repeated requests for adjournment of the proceedings and concluded that it was in the interests of justice that there were no further adjournments. The Court of Appeal found that the single judge had been correct to conclude that the applicant made his appeal out of time given the significantly late payment of court fees, and notwithstanding the reminders sent to him.

21. As to the applicant's refusal to pay the outstanding costs, the Court of Appeal recalled that payment of those costs in no way prejudiced any challenges the applicant may wish to make about the human rights compatibility of the Seneschal's judgment before the domestic courts or this Court.

22. The applicant did not pay the outstanding costs but sought permission from the Court of Appeal to appeal its decision to Her Majesty in Council (the Judicial Committee of the Privy Council), which is the highest court of appeal for legal proceedings originating in Sark. The Court of Appeal refused permission on 18 May 2017.

23. In light of the applicant's "many and confused" submissions which it summarised in its judgment, the Court of Appeal found itself unsure of whether the applicant had actually made the application for leave for permission to appeal. It decided to assume in his favour that he had. It then reviewed his submissions and recalling that the appeal concerned an interlocutory point of procedure, concluded that there were no arguable errors of law in the judgment of the Court of Appeal and no arguable points

of law of general public importance. It underlined that the applicant had been asked to pay the outstanding costs into court (not to the property owners) and recalled that the payment was due following the final decision of a court, and that it did not prejudice any human rights claims the applicant might wish to pursue.

24. The Court of Appeal indicated in its judgment that the applicant may appeal directly to the Judicial Committee of the Privy Council. The applicant has stated that he does not intend to make such an appeal as in his view it cannot remedy the many dysfunctions he has observed in the lower courts.

B. Relevant domestic law and practice

1. The Human Rights (Bailiwick of Guernsey) Law 2000

25. The Human Rights (Bailiwick of Guernsey) Law 2000, a law modelled on the United Kingdom Human Rights Act 1998, applies throughout the Bailiwick of Guernsey, including Sark. Like the Human Rights Act, the law constrains public authorities in the islands from acting contrary to Convention rights and requires the courts of the islands to take account of the case-law of the Convention bodies. It also requires the courts, so far as it is possible to do so, to read and give effect to primary legislation and subordinate legislation in a way which is compatible with the Convention rights. When it is not possible for them to do so, the islands' courts may make a declaration that the legislation is not compatible with the Convention (a declaration of incompatibility).

2. The Seneschal and the domestic court system

26. The Seneschal is the first instance judge on the island of Guernsey. Decisions of the Seneschal may be appealed to the Royal Court, the Guernsey Court of Appeal and finally the Judicial Committee of the Privy Council. According to the Royal Court (Reform) (Guernsey) Law 2008 any number of judges can be appointed to the Royal Court. Under Section 3(1) they may be appointed if they have been in practice as a lawyer for not less than ten years in Guernsey or in the United Kingdom.

27. Under Section 2(2) of the Court of Appeal (Guernsey) Law 1961 any number of judges may be appointed to the Guernsey Court of Appeal. They must have held judicial office in the British Commonwealth, or have been in practice as a lawyer for not less than ten years in Guernsey, Jersey, or the United Kingdom.

28. The Judicial Committee of the Privy Council is composed of Justices of the Supreme Court of the United Kingdom and other senior United Kingdom and Commonwealth judges (see *L.L. v. the United Kingdom* (dec.), no. 39678/09, §§ 11-12, 15 January 2013).

29. Following domestic judgments the Reform (Sark) Law 2008 and the Reform (Sark) (Amendment) (No.2) Law 2010 were brought into force to update legal procedures on the island. The 2010 act made provision for the appointment, re-appointment, removal and remuneration of the Seneschal. It inserted a new section, which gave the power to determine the Seneschal's remuneration to the Chief Pleas (the parliamentary assembly for Sark).

3. *The compatibility of the Court of the Seneschal with Article 6 of the Convention*

(a) ***Barclay (no. 2)*****: the judgment of the High Court of England and Wales ([2013] EWHC 1183 (Admin))**

30. In *Barclay (no. 2)*, the claimants challenged the Reform (Sark) (Amendment) (No. 2) Law 2010. The High Court of England and Wales, in a judgment of 9 May 2013 rejected the challenges to provisions on appointment, removal and renewal of the Seneschal. It found that there were no grounds to doubt the independence of the members of the appointment committee and the need for the Lieutenant Governor to approve the appointment was an important safeguard. The same applied to the provisions concerning removal from office. There were also safeguards as regards renewal of the Seneschal's appointment after the age of sixty-five.

31. The High Court found, however, that the untrammelled power of the Chief Pleas to reduce the Seneschal's remuneration was incompatible with Article 6. The critical issue was whether there was an objective perception of the risk of pressure on the Seneschal by reason of the possibility of the Chief Pleas arbitrarily reducing his remuneration. Having found that such a possibility existed, the High Court found it necessary to consider whether this provision on its own would violate the principles of impartiality and independence required under Article 6. The High Court stated:

> "91. ... [W]e consider we should take into account first the long standing nature of the central importance of protecting the judiciary as an institution and a judge as an individual from an arbitrary reduction of their salary by the Executive or legislature. That has been the case in England and Wales since the Act of Settlement 1701 (12 & 13 W. III. C.2).
>
> ...
>
> 94. Third, as we have set out, it is important to look at the position in Sark itself. In ascertaining whether there has been a violation of the principles required by Article 6 as to appointment and removal we have had significant regard to the fact that Sark is a very small community. In adopting the same approach to the significance of the power to reduce the salary of the Seneschal, we have little doubt that an objective observer would see the Seneschal as vulnerable to pressure from the members of the Chief Pleas. That pressure could, for example, arise in a matter where the Seneschal had to make a decision which the law appeared to require but which the majority of the community strenuously opposed. That would not be an easy position for any judge in a very small community. It is essential therefore that the Seneschal is perceived to be

under no pressure or influence from the majority in the community through the use by the Chief Pleas of its unfettered power to reduce the Seneschal's remuneration.

...

(g) Conclusion

96. In our view protecting the independence of the Seneschal from such pressures in the small community where the Seneschal might be required to make unpopular decisions to uphold the rights of a minority is essential to the Seneschal's independence. We therefore consider that this provision on its own is sufficient to constitute a violation of Article 6.

97. We therefore propose to grant the claimants a declaration that the decision of the Committee recommending approval of the provisions of the 2010 law amending the 2008 law was an unlawful decision, as in respect of the remuneration of the office of the Seneschal, the law was incompatible with Article 6 of the Convention.

98. We would conclude by observing that it is clear from the terms of this judgment that the incompatibility can be cured by an appropriate amendment to the law to restore to the Lieutenant Governor an effective power over remuneration."

(b) *Barclay (no. 2)*: the judgment of the United Kingdom Supreme Court ([2014] UKSC 54)

32. This part of the High Court's judgment was appealed to the United Kingdom Supreme Court, which, on 22 October 2014, allowed the appeal. The Supreme Court found that, although the High Court had jurisdiction to hear such a challenge, it should not have exercised its discretion to hear it. The appropriate avenue of challenge was under the islands' own human rights legislation (see, for instance, the Human Rights (Bailiwick of Guernsey) Law 2000, set out at paragraph 25 above). The courts of the Bailiwick of Guernsey were infinitely better placed to assess the issues involved in human rights cases and there was the ultimate safeguard of an appeal to the Judicial Committee of the Privy Council. Unlike the courts of England and Wales, the Judicial Committee had the inestimable benefit of the considered judgment of the courts of first instance and appeal in the island jurisdictions, and the island authorities would have every opportunity to take part in the case.

(c) Subsequent changes in the law

33. Notwithstanding the judgment of the Supreme Court, on 6 April 2016 the Chief Pleas approved the Reform (Sark) (Amendment) Law 2016. This law amends the provision in the Reform (Sark) (Amendment) Law 2010 (see paragraph 29 above) that was criticised by the High Court. It replaces it with a provision that the remuneration of the office of the Seneschal shall be determined by an appointed panel of three persons and that the Seneschal's salary shall be payable out of public funds after consultation with the Sark Finances and Resources Committee. The effect of the amendment is that the legislative and executive branches of

government are no longer involved in settling the Seneschal's level of remuneration. That law came into force in February 2017.

COMPLAINTS

34. The applicant complained under Article 6 of the Convention that the proceedings were unfair and that the Seneschal was not impartial or independent.

THE LAW

A. The parties' submissions

35. The Government argued that the applicant had not exhausted his domestic remedies. They underlined that he had had domestic remedies available to him which were effective, including the possibility to appeal against any decision of the Seneschal, and to seek a declaration of incompatibility. They also argued his complaints were manifestly ill-founded in any event.

36. The applicant argued that, having regard to the provisions concerning the Seneschal's remuneration, the Court of the Seneschal was not independent or impartial, as required by Article 6 § 1 of the Convention.

37. He also submitted that proceedings before the Seneschal and the higher courts had been unfair in his case because he had not been given sufficient time to present his complaints; he did not have access to all the documents in the case; and the judgments of the courts were not sufficiently reasoned in particular the judgment of the Royal Court of 4 September 2014, which amounted to excessive formalism depriving him of access to court.

38. Finally, he argued that further judicial remedies against all of the above violations would be ineffective because the Seneschal's lack of independence and impartiality was rooted in primary legislation and seeking a declaration of incompatibility in respect of that legislation under the Human Rights (Bailiwick of Guernsey) Law 2000 would not be an effective remedy.

B. The Court's assessment

39. At the outset, the Court considers that in light of the fact the applicant did not pursue his substantive human rights claim before the

domestic courts beyond the Court of Appeal for Guernsey, it is not clear that he has exhausted domestic remedies. However, there is no need to come to a conclusion on that point, for the reasons set out below.

1. Manifestly ill-founded

> "... 3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
>
> (a) the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application;
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> ...
>
> 4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings."

40. The Court notes that the applicant's complaints under Article 6 that he did not have access to the full case file, nor sufficient time to present his case and that the domestic courts did not give reasons for their decisions, are not borne out on the facts.

41. The applicant has also criticised the judgment of the Royal Court of 5 September 2014 as amounting to excessive formalism which deprived him of access to court. The Court does not find this argument convincing. The Court has examined complaints about access to court where there has been a restriction on the procedural possibility to bring a case (see, for example, *Seal v. the United Kingdom*, no. 50330/07, § 82, 7 December 2010). In contrast, in the present case, the applicant has not been excluded from court by reason of any procedural restriction. Indeed, the judgment of the Royal Court was a decision on the merits of his case, and it was a judgment the applicant could and did appeal. Therefore the Court cannot see how this judgment in itself could amount to a limitation on the applicant's access to court. The Court also notes that the Court of Appeal for Guernsey decided in the applicant's favour to admit his complaints even though his submissions to those courts were lengthy and confused (see paragraphs 20 and 23 above).

42. Insofar as the applicant disagrees with the content of the judgment of the Royal Court, or finds it lacks reasoning, the Court considers that this criticism does not appear to be borne out on the facts either. In any event, a failure by a lower court to give adequate reasons would in itself constitute a ground of appeal.

43. For the reasons set out above, the Court considers that these parts of the application are manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be rejected.

2. *No significant disadvantage*

> "... 3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
>
> ...
>
> (b) the applicant has not suffered a significant disadvantage, unless respect for human rights as de-fined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.
>
> 4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings."

(a) General principles

44. As pointed out in the Court's case-law (see *C.P. v. the United Kingdom* (dec.), no. 300/11, § 41, 6 September 2016), the purpose of the admissibility rule in Article 35 §3 (b) is to enable more rapid disposal of unmeritorious cases and thus to allow the Court to concentrate on its central mission of providing legal protection of human rights at the European level (see the Explanatory Report to Protocol No. 14, CETS No. 194, §§ 39 and 77-79). The High Contracting Parties clearly wished the Court to devote more time to cases which warrant consideration on the merits, whether seen from the perspective of the legal interest of the individual applicant or considered from the broader perspective of the law of the Convention and the European public order to which it contributes (ibid., § 77).

45. The question whether the applicant has suffered any "significant disadvantage" represents the main element of the rule set forth in Article 35 § 3 (b) of the Convention (see *Adrian Mihai Ionescu v. Romania* (dec.), no. 36659/04, 1 June 2010; see also *Korolev v. Russia* (dec.), no. 25551/05, ECHR 2010-V). Inspired by the general principle *de minimis non curat praetor*, this first criterion of the rule rests on the premise that a violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court (see *Ladygin v. Russia* (dec.), no. 35365/05, 30 August 2011). The assessment of this minimum level is, in the nature of things, relative and depends on all the circumstances of the case (see *Gagliano Giorgi v. Italy*, no. 23563/07, § 55, ECHR 2012-II (extracts)). The severity of a violation should be assessed taking into account both the applicant's subjective perceptions and what is objectively at stake in a particular case (see *Korolev*, cited above; and *Eon v. France*, no. 26118/10, § 34, 14 March 2013). In other words, the absence of any "significant disadvantage" can be based on criteria such as the financial impact of the matter in dispute or the importance of the case for the applicant (see *Adrian Mihai Ionescu*, cited above). However, the applicant's subjective perception cannot alone suffice to conclude that he or she has suffered a significant disadvantage. The

subjective perception must be justified on objective grounds (see, inter alia, *C.P.*, cited above, § 42).

(b) application of the general principles to the present case

(i) Has the applicant suffered a "significant disadvantage"?

46. Turning to the applicant's remaining complaint about the lack of independence of the Seneschal under Article 6, the Court notes that the substance of this complaint was founded on a judgment of the High Court of England and Wales (see paragraph 29 above) which was overturned by the United Kingdom Supreme Court. However, it also notes that the government has taken steps to change the relevant law (see paragraph 33 above). Accordingly, it considers that this aspect of the complaint is not obviously, manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nonetheless, it does not need to come to a conclusion about whether the Seneschal's alleged lack of objective independence amounted to a violation of Article 6, as the applicant has not suffered any significant disadvantage in the circumstances for the reasons set out below.

47. First, there is no suggestion that the alleged lack of independence of the Seneschal impacted on the judgment given by him in the applicant's case. Moreover, the applicant did not provide evidence nor make any arguments on the facts when contesting service of the notice to quit and the lawfulness of his eviction (see paragraph 11 above). The Court observes that in those circumstances, it is difficult to see how the Seneschal could have come to a different conclusion in the applicant's case.

48. Second, the Court has previously concluded that a lack of objective independence in principle could render proceedings unfair, regardless of whether they impact on individual cases, where the law in question provided that judges could be removed at any time during their term of office and that there were no adequate guarantees protecting her against the arbitrary exercise of that power (see *Henryk Urban and Ryszard Urban v. Poland*, no. 23614/08, § 53, 30 November 2010). However, it considers that the present situation is different, given that the concern related only to the remuneration of the Seneschal, and not his term of office (see *Finogenov and Others v. Russia* (dec.), no. 18299/03, § 243, 18 March 2010, and paragraph 30 above). Moreover, the problem was remedied on appeal (see *a contrario, Henryk Urban and Ryszard Urban,* cited above, § 54). In this connection the Court notes that in the present case the judges in the Court of Appeal for Guernsey were experienced lawyers from England and Wales as well as Jersey. This use of judges from outside Guernsey addresses the concerns highlighted by the High Court in its judgment of 9 May 2013 of the potential threats to judicial independence in small communities (see paragraph 31).

49. Finally, even assuming that the alleged lack of objective independence of the Seneschal could have resulted in a violation of Article 6 in the applicant's case, that does not mean that the Seneschal's decision would be invalidated or prevented from becoming final, as the applicant has suggested.

50. As the Court has underlined in the context of criminal cases, there is no automatic correlation between the problem of a lack of objective independence and the validity of each and every ruling given previously in individual cases (see *Henryk Urban and Ryszard Urban* , cited above, § 67). In coming to its conclusion the Court made reference to the principle of legal certainty in the context of final judicial rulings. The Court considers that principle should have even greater weight in the context of civil proceedings such as the present ones, where it cannot be said that there are very serious negative consequences for the applicant from the domestic decision which could only be addressed through re-opening the proceedings, and where re-opening those proceedings could affect the rights of third parties acquired in good faith (see also Recommendation No. R (2000) 2 of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights). In addition, the Court considers that there would be even less justification for re-opening the proceedings before the Seneschal when the applicant failed to advance any arguments on the facts of the case (see paragraphs 11 and 47 above).

51 For those reasons and in light of the actions taken by the authorities to address the impugned legislative provision, a judgment of this Court could only amount to a technical and insignificant intervention and therefore the applicant's complaints have not attained the minimum level of severity to warrant consideration by an international court (see *Sylka v. Poland* (dec.), no. 19219/07, § 27, 3 June 2014).

52. In light of the above, the Court considers that the applicant has not suffered a significant disadvantage.

(ii) Does respect for human rights compel the Court to examine the case?

53. As set out above, the law concerning remuneration of the Seneschal has recently been changed (see paragraph 33 above). Therefore respect for human rights does not compel the Court to examine the case (see *C.P.,* cited above, § 50).

(iii) Has the case been "duly considered by a domestic tribunal"?

54. It has, the applicant having pursued proceedings at three levels of jurisdiction.

(iv) Conclusion

55. The three stated criteria for inadmissibility therefore being present on the facts of the present case, this part of the application must be declared inadmissible pursuant to Article 35 §§ 3 (b) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 8 February 2018.

Renata Degener	Kristina Pardalos
Deputy Registrar	President