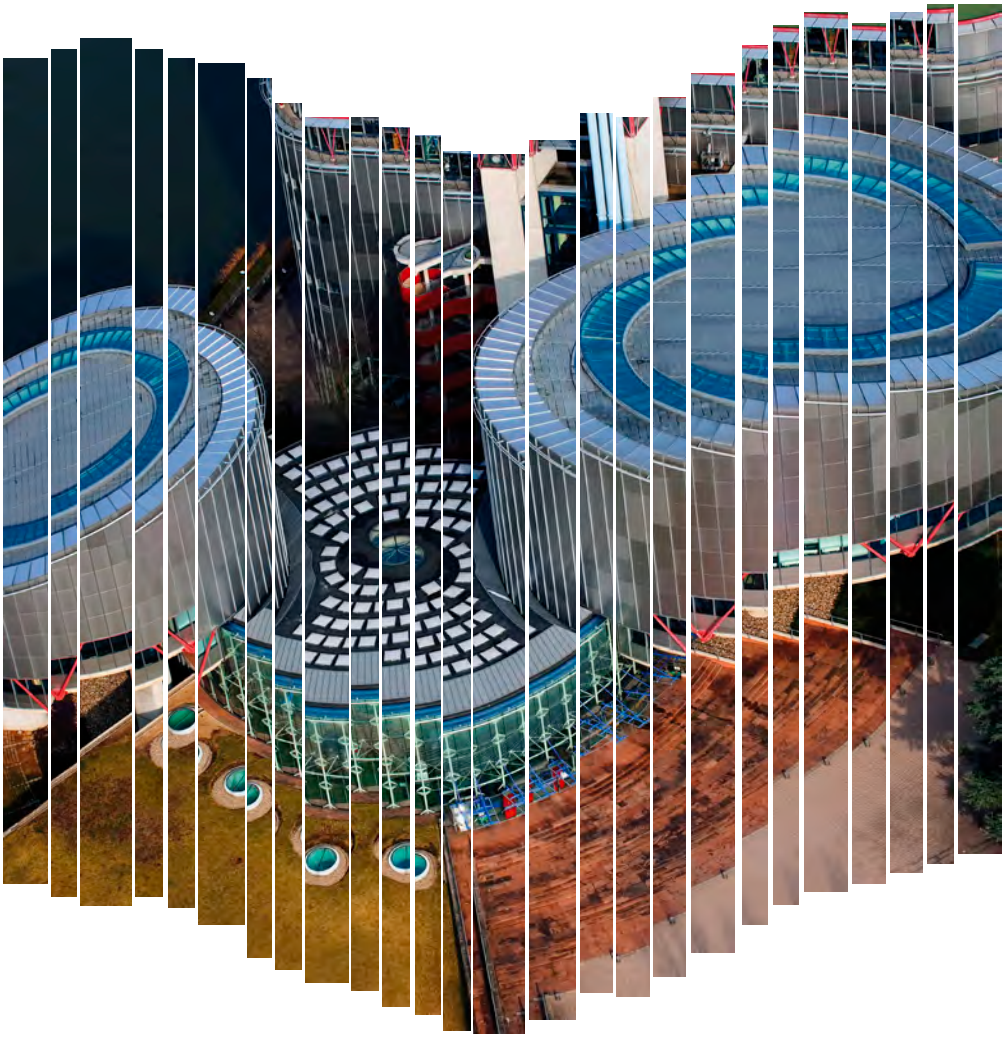
COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Annual Report 2010



Provisional version

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

Cover: the Human Rights Building (Architects: Richard Rogers Partnership and Atelier Claude Bucher) – Photograph: Frantisek Zvardon – Graphic design: Publications Unit of the Registry of the Court

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FOREWORD

The year 2010, which was the sixtieth anniversary of the European Convention on Human Rights, has been an important year for the European Court of Human Rights.

For several years the non-entry into force of Protocol No. 14 had blocked a process of reform that had become indispensable for the future of our Court. Strasbourg's judicial mechanism, which had been stretched to the limit as a result of the attraction it holds for European citizens and the trust placed in it by them, was in dire need of a new lease of life that only the entry into force of that Protocol could provide. At the end of 2009 encouraging signs from Moscow raised hopes that ratification by the Russian Federation would be forthcoming. Those hopes turned out to be founded because Protocol No. 14 was ratified on 18 February 2010 and accordingly came into force on 1 June 2010.

Ratification took place at the Interlaken Conference, which was held on 18 and 19 February 2010 and hosted by the Swiss authorities during their chairmanship of the Committee of Ministers of the Council of Europe. That conference was the other major event of the year for our Court. Switzerland's positive response to a call for the organisation of a major political conference on the Court's future, which I had voiced during the official opening ceremony of 2009, made it possible to carve out the path necessary for the survival of the European system for the protection of human rights. There will now be a "before" and an "after" Interlaken.

The idea of a conference had been mooted in a somewhat subdued climate, particularly for the reasons indicated above. However, Interlaken has kept its promises. Firstly, and this was its first objective, the conference gave the States an opportunity to reaffirm their commitment to human rights and the Court. This was demonstrated by the very high number of participants at ministerial level. Next, and above all, the efforts invested by everyone bore fruit and resulted in a political Declaration being adopted, to much acclaim, in which the States undertake to ensure the protection of human rights, and in an Action Plan which constitutes the basis of future reforms.

The Declaration and Action Plan are of course addressed to the States, but also to the Court, and at the end of the conference decisions were taken allowing the Court to fully play its part in implementation. The avenues mapped out are numerous: simplification of the procedure for amending the European Convention on Human Rights with the creation of a Statute for the Court approved and modified by resolution of the Committee of Ministers; strengthening of the subsidiarity principle which implies shared responsibility between the States and the Court; increasing the clarity and consistency of the case-law, which must be as clearly explained as possible.

One of the other results of the Interlaken Conference has been the creation of a Panel of Experts on the appointment of judges to the European Court of Human Rights. This Panel, which I had advocated and whose composition has been decided by the Committee of Ministers, will certainly contribute, through the opinions it will give to the States, to endowing the Court with judges having all the requisite expertise. This is especially important since the Court's authority depends to a large extent on the quality of the judges who are members of it. There are going to be a large number of new judges arriving in the next two years, in particular because the term of office, which is now nine years, is no longer renewable. The Panel will thus have a crucial role to play.

An important aspect of the Action Plan concerns the role of the Court in providing information to applicants about the Convention and the case-law. That information is indispensable for the implementation of the Convention at domestic level. The Court has therefore set about the task of improving the HUDOC database. This should be facilitated by voluntary contributions from a number of States. Factsheets have also been launched and are regularly updated and supplemented by other information sheets. These can be found on the Court's website. Initial reactions have been very favourable. Lastly, a guide to admissibility criteria is now available to all. It is mainly intended for professionals, such as NGOs and bar associations, and will give them guidance on the procedure before the Court.

Informing the public in this way is particularly important given the Court's ever-increasing caseload. Indeed, as all these changes are being implemented, the Court's judicial activity has not decreased. By the end of the year we had received 61,300 new applications, a 7% increase in comparison to 2009. In terms of production, the Court had finished processing over 41,000 applications, i.e. an increase of more than 16%. More than 2,600 applications ended in a judgment, which is a 9% increase. The number of communications to the Governments increased by 8% and reached almost 6,700. The major problem is that our backlog is also continuing to grow. By the end of the year it had reached approximately 140,000 applications, which is an increase of 17%. The deficit at the end of 2010 amounted to more than 1,600 applications per month.

One of the challenges in the coming years will be to see whether Protocol No. 14 enables us to increase the Court's "productivity" still further. Between its entry into force and the end of 2010, the Court delivered more than 19,000 decisions by single judges, and 149 applications ended with a judgment of a three-judge Committee under the new procedure. The number of decisions given by single judges is impressive, but a comprehensive analysis of the application of Protocol No. 14 will not be able to be done before the end of 2011. The conference to be organised in Izmir on 26 and 27 April 2011, during the Turkish chairmanship of the Committee of Ministers of the Council of Europe, will provide us with an opportunity to start evaluating the situation.

This overview of the situation would not be complete without mentioning the subject of the European Union's accession to the European Convention on Human Rights. The negotiations regarding accession, which progressed in 2010, are expected to end in June 2011. The Court, which is represented in the negotiations, is actively following them with the greatest interest. This is an important step for the protection of human rights throughout the European continent, for the benefit of all its citizens, and in a harmonised fashion.

Whether it be the follow-up to the Interlaken Conference or the European Union's accession to the European Convention on Human Rights, we are taking the measure of the challenges ahead of us in the coming years. These may appear insurmountable and it is true that the protection of human rights is an eternally recurring cause. The image of Sisyphus being compelled to repeatedly roll a boulder up a hill necessarily comes to mind. However, when we look back at our achievements to date we can see that these are impressive, as illustrated by the success of Interlaken. This is also what makes our task both arduous and exalting.

Jean-Paul Costa
President
of the European Court of Human Rights

I. HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

A. A system in continuous evolution

1. The Convention for the Protection of Human Rights and Fundamental Freedoms was drafted by the member States of the Council of Europe. It was opened for signature in Rome on 4 November 1950 and came into force in September 1953. Taking as their starting-point the 1948 Universal Declaration of Human Rights, the framers of the Convention sought to pursue the aims of the Council of Europe through the maintenance and further realisation of human rights and fundamental freedoms. The Convention represented the first step towards the collective enforcement of certain of the rights set out in the Universal Declaration.

2. In addition to laying down a catalogue of civil and political rights and freedoms, the Convention set up a mechanism for the enforcement of the obligations entered into by Contracting States. Three institutions were entrusted with this responsibility: the European Commission of Human Rights (set up in 1954), the European Court of Human Rights (set up in 1959) and the Committee of Ministers of the Council of Europe, the latter being composed of the Ministers for Foreign Affairs of the member States or their representatives.

3. There are two types of application under the Convention, inter-State and individual. Applications of the first type have been rare. Prominent examples are the case brought by Ireland against the United Kingdom in the 1970s relating to security measures in Northern Ireland, and several cases brought by Cyprus against Turkey over the situation in northern Cyprus. Two inter-State cases are currently pending before the Court, *Georgia v. Russia* (nos. 1 and 2).

4. The right of individual petition, which is one of the essential features of the system today, was originally an option that Contracting States could recognise at their discretion. When the Convention came into force, only three of the original ten Contracting States recognised this right. By 1990, all Contracting States (twenty-two at the time) had recognised the right, which was subsequently accepted by all the central and east European States that joined the Council of Europe and ratified the Convention after that date. When Protocol No. 11 took effect in 1998, the right of individual petition became compulsory. In the words of the Court, "individuals now enjoy at the international level a real right of action to assert the rights and freedoms to which they are directly entitled under the Convention"[1]. This right applies to natural and legal persons, groups of individuals and to non-governmental organisations.

5. The original procedure for handling complaints entailed a preliminary examination by the Commission, which determined their admissibility. Where an application was declared admissible, the Commission placed itself at the parties' disposal with a view to reaching a friendly settlement. If no settlement was forthcoming, it drew up a report establishing the facts and expressing an opinion on the merits of the case. The report was transmitted to the Committee of Ministers.

6. Where the respondent State had accepted the compulsory jurisdiction of the Court (this too having been optional until Protocol No. 11), the Commission and/or any Contracting State concerned by the application had a period of three months following the transmission of the report to the Committee of Ministers within which to bring the case before the Court for a final, binding adjudication including, where appropriate, an award of compensation. Individuals were not

1. See *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, § 122, ECHR 2005-I.

entitled to bring their cases before the Court until 1994, when Protocol No. 9 came into force and amended the Convention so as to enable applicants to submit their case to a screening panel composed of three judges, which decided whether the Court should take it up.

If a case was not referred to the Court, the Committee of Ministers decided whether there had been a violation of the Convention and, if appropriate, awarded "just satisfaction" (compensation) to the victim. The Committee of Ministers also had responsibility for supervising the execution of the Court's judgments. When it came into force on 1 November 1998, Protocol No. 11 made the Convention process wholly judicial, with the Commission's function of screening applications transferred to the Court itself, whose jurisdiction became compulsory. The Committee of Ministers' adjudicative function was abolished.

The Protocols to the Convention

7. Protocols Nos. 1, 4, 6, 7, 12 and 13 added further rights and liberties to those guaranteed by the Convention. Protocol No. 2 conferred on the Court the power to give advisory opinions, a little-used function that is now governed by Articles 47 to 49 of the Convention[2]. As noted above, Protocol No. 9 enabled individuals to seek referral of their case to the Court. Protocol No. 11 transformed the supervisory system, creating a single, full-time Court to which individuals have direct recourse. Further amendments to the system were introduced by Protocol No. 14 (see below). The other Protocols, which concerned the organisation of and procedure before the Convention institutions, are of no practical importance today.

B. Mounting pressure on the Convention system

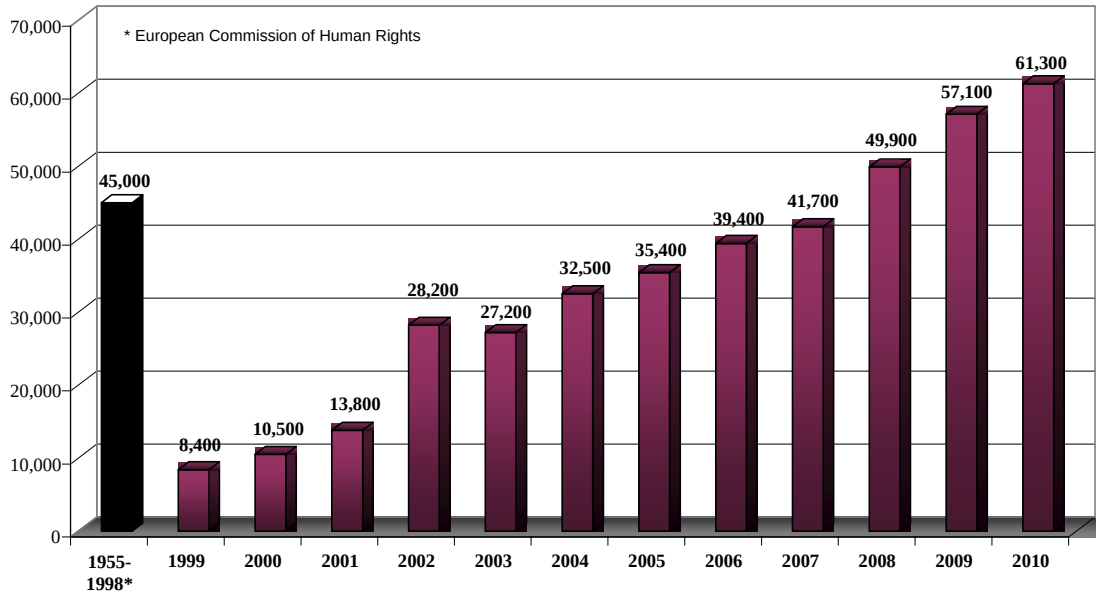
8. In the early years of the Convention, the number of applications lodged with the Commission was comparatively small, and the number of cases decided by the Court was much lower again. This changed in the 1980s, by which time the steady growth in the number of cases brought before the Convention institutions made it increasingly difficult to keep the length of proceedings within acceptable limits. The problem was compounded by the rapid increase in the number of Contracting States from 1990 onwards, rising from twenty-two to the current total of forty-seven. The number of applications registered annually with the Commission increased from 404 in 1981 to 4,750 in 1997, the last full year of operation of the original supervisory mechanism. By that same year, the number of unregistered or provisional files opened annually in the Commission had risen to over 12,000. Although on a much smaller scale, the Court's statistics reflected a similar story, with the number of cases referred annually rising from 7 in 1981 to 119 in 1997[3].

9. The graph below and the statistics in Chapter XII illustrate the current workload of the Court: at the end of 2010, nearly 140,000 allocated applications were pending before the Court. As in previous years, four States account for over half (55.9%) of its docket: 28.9% of the cases are directed against Russia, 10.9% of the cases concern Turkey, 8.6% against Romania and 7.5% against Ukraine. Adding Italy (7.3%) and Poland (4.6%), six States account for two-thirds of the case-load (67.8%).

2. There have been three requests by the Committee of Ministers for an advisory opinion. The first request was found to be inadmissible. An advisory opinion in respect of the second was delivered on 12 February 2008 (to be reported in ECHR 2008). The Committee of Ministers made a third request in July 2009, arising out of difficulties in the procedure for electing a judge in respect of Ukraine, and this opinion was delivered on 22 January 2010 (to be reported in ECHR 2010).

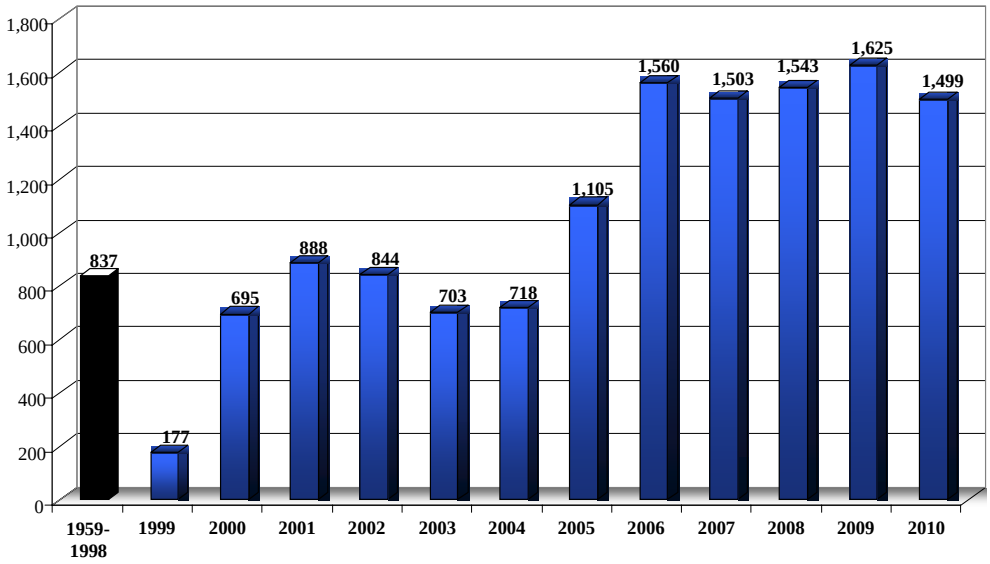
3. The Commission received more than 128,000 applications during its lifetime between 1955 and 1998. From 1 November 1998 it continued to operate for a further twelve months to deal with cases already declared admissible before Protocol No. 11 came into force.

Applications allocated to a judicial formation (1955-2010)



The following graph sets out the number of Court judgments prior to Protocol No. 11 and then the annual total for the period 1999-2010. The old Court delivered fewer than 1,000 judgments. The number of judgments delivered by the new Court exceeds 12,500.

Judgments (1959-2010)



In 2010, the highest number of judgments concerned Turkey (278), Russia (216), Romania (143) and Ukraine (109). These four States accounted for half (49.8%) of all judgments. Adding Poland (107) and Italy (98), almost two-thirds (63.4%) of the judgments delivered during the year were addressed to these six States. It should be noted however that the number of cases declared

inadmissible or struck out has continued to increase. In particular, the number of cases struck out following a friendly settlement or a unilateral declaration has almost doubled (see Chapter XII).

The Court received 3,680 requests for interim measures (Rule 39 of the Rules of Court), a 65% increase on the already exceptionally high number of requests received the year before (2,399). 1,440 requests (almost 40%) were granted in 2010. These requests represent an additional burden for the Court and its Registry.

10. On 1 June 2010 Protocol No. 14 entered into force, amending a series of Convention provisions. Two of its provisions (creating the Single-Judge formation and empowering three-judge Committees to give judgment in cases coming within well-established case-law) were already in operation for the Contracting States who agreed to provisional application of the Protocol, or who accepted Protocol No. 14 *bis*[4]. The principal aim was to increase the Court's capacity by introducing smaller judicial formations, thereby freeing up more judicial time to devote to cases of greater legal importance or urgency.

11. The statistics set out above and in Chapter XII make clear the strain on the Convention system. The situation has deteriorated continuously over the years. The Contracting States responded to this through the Interlaken Conference, which took place on 18-19 February 2010, where they adopted the Interlaken Declaration on the future of the European Court of Human Rights. This text reaffirms the commitment of States to the Convention and to the Court. It lays strong emphasis on the principle of subsidiarity under the Convention. Regarding the Convention mechanism, the Declaration envisages new arrangements in future for the filtering of inadmissible applications, and raises the question whether repetitive applications might be dealt with by the same body. Concerning the Court in particular, the Declaration calls for improvements in the procedure for selecting judges. To this end, the Committee of Ministers adopted a resolution creating an advisory panel that will examine the lists of candidates from each Contracting State before these are submitted to the Parliamentary Assembly[5]. The panel will begin to function in January 2011. Lastly, the Declaration envisages a simplified procedure for amending the organisational provisions of the Convention, whether via a Statute for the Court or through a new provision in the Convention itself allowing specified articles to be modified without having to resort to a new Protocol.

12. According to the timetable set by the Declaration, the preparatory work on future changes to the Convention is to be completed by June 2012, followed by a period of evaluation up to 2015. Any need for further, more fundamental changes to ensure the sustainability of the Convention system for the long term is to be assessed by the Committee of Ministers by the end of 2019.

C. Organisation of the Court

13. The provisions governing the structure and procedure of the Court are to be found in Section II of the Convention (Articles 19-51).The Court is composed of a number of judges equal to that of the Contracting States. Judges are elected by the Parliamentary Assembly of the Council of Europe, which votes on a shortlist of three candidates put forward by the States. Judges serve a

4. Protocol No. 14 *bis* to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 204). This treaty ceased to be in force on the day Protocol No. 14 took effect.
5. Resolution Res(2010)26, adopted on 10 November 2010. The members of the panel were appointed in December.

single term of office of nine years[6], with a mandatory retirement age of 70. However, they remain in office until replaced.

14. Judges sit on the Court in their individual capacity and do not represent any State. They cannot engage in any activity which is incompatible with their independence or impartiality, or with the demands of full-time office. These points are developed in the resolution on judicial ethics adopted by the Court in 2008[7].

15. The Plenary Court has a number of functions that are stipulated in the Convention. It elects the office holders of the Court, namely, the President, the two Vice-Presidents (who also preside over a Section) and the three other Section Presidents. In each case, the term of office is three years. The Plenary Court also elects the Registrar and Deputy Registrar for a term of office of five years. The Rules of Court are adopted and amended by the Plenary Court. It also determines the composition of the Sections.

16. Under the Rules of Court, every judge is assigned to one of the five Sections, whose composition is geographically and gender balanced and takes account of the different legal systems of the Contracting States. The composition of the Sections is changed every three years[8].

17. The great majority of the judgments of the Court are given by Chambers. These comprise seven judges and are constituted within each Section. The Section President and the judge elected in respect of the State concerned sit in each case. If the respondent State in a case is that of the Section President, the Vice-President of the Section will preside. In every case that is decided by a Chamber, the remaining members of the Section who are not full members of that Chamber sit as substitute members. The Convention now provides for the reduction of the size of Chambers to five judges. Such a change is at the request of the Plenary Court and by the unanimous decision of the Committee of Ministers for a fixed period.

18. Committees of three judges are set up within each Section for twelve-month periods. While they retain the function of disposing of applications that are clearly inadmissible, their principal function now is to give judgment in cases covered by well-established case-law.

19. It is the single-judge formation that is now mainly responsible for filtering clearly inadmissible or ill-founded applications, these accounting for some 90% of all applications decided by the Court. The President of the Court designated 20 judges to perform this task for a period of one year, beginning on 1 June 2010. They are assisted in their role by some 60 experienced Registry lawyers, designated by the President to act as non-judicial rapporteurs, and acting under his authority. These judges continue to carry out their usual work on Chamber and Grand Chamber cases[9].

20. The Grand Chamber of the Court is composed of seventeen judges, who include, as *ex officio* members, the President, Vice-Presidents and Section Presidents. The Grand Chamber deals with cases that raise a serious question of interpretation or application of the Convention, or a serious issue of general importance. A Chamber may relinquish jurisdiction in a case to the Grand Chamber at any stage in the procedure before judgment, as long as both parties consent. Where

6. As a transitional measure, the term of all judges in office on the date Protocol No. 14 entered into force was extended by three years in the case of those serving their first term, and two years for the others.
7. Available on the Court's website (see "The Court", "Judicial ethics").
8. This will take place on 1 February 2011.
9. A judge may not act as single judge in a case against the country in respect of which he or she has been elected to the Court.

judgment has been delivered in a case, either party may, within a period of three months, request referral of the case to the Grand Chamber. Such requests are considered by a panel of five judges, which includes the President of the Court. Where a request is granted, the whole case is reheard.

D. Procedure before the Court

1. General

21. Any Contracting State (State application) or individual claiming to be a victim of a violation of the Convention (individual application) may lodge directly with the Court in Strasbourg an application alleging a breach by a Contracting State of one or more of the Convention rights. A notice for the guidance of applicants and the official application form are available on the Court's website. They may also be obtained directly from the Registry.

22. The procedure before the Court is adversarial and public. It is largely a written procedure[10]. Hearings, which are held only in a very small minority of cases, are public, unless the Chamber/Grand Chamber decides otherwise on account of exceptional circumstances. Memorials and other documents filed with the Court's Registry by the parties are, in principle, accessible to the public.

23. Individual applicants may present their own case, but they should be legally represented once the application has been communicated to the respondent State. The Council of Europe has set up a legal aid scheme for applicants who do not have sufficient means.

24. The official languages of the Court are English and French, but applications may be submitted in one of the official languages of the Contracting States. Once the application has been formally communicated to the respondent State, one of the Court's official languages must be used, unless the President of the Chamber/Grand Chamber authorises the continued use of the language of the application.

2. The handling of applications

25. An individual application that clearly fails to meet one of the admissibility criteria is referred to a single judge, who decides on the basis of a note prepared by or under the responsibility of a non-judicial rapporteur. A decision of inadmissibility by a single judge is final. The single judge may decline to decide the case and refer it instead to a Committee or to a Chamber for examination.

26. In a case that can be dealt with by applying well-established case-law, the judgment may be delivered by a three-judge Committee, applying a simplified procedure. In contrast to the Chamber procedure, the presence of the national judge is not required, although the Committee may vote to replace one of its members by the judge elected in respect of the respondent State. Committee judgments require unanimity; where this is not achieved, the case will be referred to a Chamber. A Committee judgment is final and binding with immediate effect, there being no possibility of seeking referral to the Grand Chamber, as is possible with Chamber judgments.

27. Cases not assigned to either of the above formations will be dealt with by a Chamber, one of whose members will be designated as the Judge Rapporteur for the case. The procedure

10. The procedure before the Court is regulated in detail by the Rules of Court and the various practice directions. These texts are available on the Court's website: www.echr.coe.int (see "Basic Texts").

involves communicating the case to the Government to obtain its observations on the admissibility and merits of the application[11]. The Government is normally given a time-limit of 16 weeks to reply, with shorter time-limits applying to the later stages of the procedure. The Government's pleadings will be sent to the applicant for comment, and the applicant will also be requested to make his or her claim for just satisfaction at that stage. The applicant's comments and claims will be forwarded to the Government for its final observations, following which the Judge Rapporteur will present the case to the Chamber for decision. Where it finds a violation of one or more Convention rights, the Chamber will generally award compensation to the applicant in accordance with Article 41. It may also, in applying Article 46, provide guidance to the State regarding any structural problem giving rise to a finding of a violation and the steps that might be taken resolve it. Chamber judgments are not immediately final. It is only once the period for requesting referral has passed without such a request being made, or when the parties waive their right to make such a request, or a request has been rejected, that the judgment acquires final force.

28. At any stage of the proceedings the Court may, through its Registry, propose a friendly settlement of the case to the parties. Typically this involves some recognition on the part of the State of the merits of the applicant's complaints along with an undertaking to pay compensation. Where the parties reach an agreement that the Court deems acceptable, this will be recorded in a decision striking the application out. Where the parties fail to agree, the Government may then submit a unilateral declaration to the Court admitting that there has been a violation of the Convention and affording compensation to the applicant. This too, if accepted, will lead to the application being struck out by a Court decision. Both means of dealing with applications, the first being reflected in the text of the Convention, the second being based on practice, have become increasingly common in recent years.

29. All final judgments of the Court are binding on the respondent States concerned. Responsibility for supervising the execution of judgments, as well as of decisions relating to friendly settlements, lies with the Committee of Ministers of the Council of Europe. The Committee of Ministers verifies whether the State in respect of which a violation of the Convention is found has taken adequate remedial measures, which may be specific and/or general, to comply with the Court's judgment. Protocol No. 14 amended Article 46 to create two new procedures at the execution stage. The Committee of Ministers may ask the Court to clarify the meaning of a judgment. It may also request the Court to determine whether a State has adequately executed a judgment against it.

3. Other amendments introduced by Protocol No. 14

30. The Protocol introduced a new mode of designation for *ad hoc* judges. Where the judge elected in respect of the respondent State is unable to take part in the case, the presiding judge chooses an *ad hoc* judge from a list of 3-5 names submitted in advance by that State, which may include the names of other members of the Court.

31. A new ground of inadmissibility has been added to Article 35. An application may be rejected for the reason that the applicant has not suffered a significant disadvantage, as long as respect for human rights does not require an examination of the case, and provided that a domestic tribunal has considered the complaint. The Protocol provides that during the first two years (i.e. until 31 May 2012) only the Grand Chamber and Chambers of the Court may apply this criterion.

11. The Court's practice of examining admissibility and merits together is now the written rule of the Convention – Article 29. It does not apply to inter-State cases.

Thereafter, it may be applied by committees and, especially, by the single judge. The Court applied the new criterion in several cases in 2010[12].

32. The Council of Europe Commissioner for Human Rights has been granted the rights to submit written comments and take part in the hearing in any case before a Chamber or the Grand Chamber. He exercised this right for the first time at the Grand Chamber hearing in case no. 30696/09, *M.S.S. v. Belgium and Greece*[13]. Finally, the Protocol amended Article 59 of the Convention to make it possible for the European Union to accede to the Convention. With the entry into force of the Lisbon Treaty at the end of 2009 opening the way on the European Union side, the preparatory negotiations between the Council of Europe and the EU commenced in June 2010.

E. Role of the Registry

33. The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. At the end of 2010 the Registry comprised some 630 persons. Registry staff are officials of the Council of Europe and are thus subject to the Council of Europe's Staff Regulations. Approximately half the Registry staff are employed on contracts of unlimited duration and may be expected to pursue a career in the Registry or in other parts of the Council of Europe. They are recruited on the basis of open competitions. All officials of the Registry are required to observe strict conditions as to their independence and impartiality.

34. The head of the Registry (under the authority of the President of the Court) is the Registrar, who is elected by the Plenary Court (Article 26 (e) of the Convention). He/she is assisted by a Deputy Registrar, likewise elected by the Plenary Court. Each of the Court's five judicial Sections is assisted by a Section Registrar and a Deputy Section Registrar.

35. The principal function of the Registry is to process and prepare for adjudication applications lodged with the Court. The case-processing lawyers who are split up into some 35 divisions prepare files and analytical notes for the judges. They also correspond with the parties on procedural matters. They do not themselves decide cases. Cases are assigned to the different divisions on the basis of knowledge of the language and legal system concerned. The documents prepared by the Registry for the Court are all drafted in one of its two official languages (English and French).

36. In addition to its case-processing divisions, the Registry has divisions dealing with the following sectors of activity: case management and working methods; information technology; case-law information and publications; research and library; just satisfaction; press and public relations; and internal administration (including a budget and finance office). It also has a central office, which handles mail, files and archives. There is a Language Department, whose main work is translating the Court's judgments into the second official language and verifying the linguistic quality of draft judgments.

12. See, for instance, *Korolev v. Russia* (dec.), no. 25551/05, 1 July 2010 (to be reported in ECHR 2010).
13. The hearing took place on 1 September 2010 (a webcast of the proceedings can be viewed on the Court's website) and the judgment was delivered on 21 January 2011.

F. Budget of the Court

37. According to Article 50 of the Convention, the expenditure on the Court is to be borne by the Council of Europe. Under present arrangements, the Court does not have a separate budget, being financed out of the general budget of the Council of Europe which is approved each year by the Committee of Ministers. The Council of Europe is financed by the contributions of the forty-seven member States, which are fixed according to scales taking into account population and gross national product. The budget for the Court and its Registry amounted to 58.48 million euros in 2010.

II. COMPOSITION OF THE COURT

COMPOSITION OF THE COURT

At 31 December 2010 the Court was composed as follows (in order of precedence):

Name	Elected in respect of
Jean-Paul Costa, President	France
Christos Rozakis, Vice-President	Greece
Nicolas Bratza, Vice-President	United Kingdom
Peer Lorenzen, Section President	Denmark
Françoise Tulkens, Section President	Belgium
Josep Casadevall, Section President	Andorra
Ireneu Cabral Barreto	Portugal
Corneliu Bîrsan	Romania
Karel Jungwiert	Czech Republic
Boštjan M. Zupančič	Slovenia
Nina Vajić	Croatia
Rait Maruste	Estonia
Anatoly Kovler	Russian Federation
Elisabeth Steiner	Austria
Lech Garlicki	Poland
Elisabet Fura	Sweden
Alvina Gyulumyan	Armenia
Khanlar Hajiyev	Azerbaijan
Ljiljana Mijović	Bosnia and Herzegovina
Dean Spielmann	Luxembourg
Renate Jaeger	Germany
Egbert Myjer	Netherlands
Sverre Erik Jebens	Norway
Davíd Thór Björgvinsson	Iceland
Danutė Jočienė	Lithuania
Ján Šikuta	Slovak Republic
Dragoljub Popović	Serbia
Ineta Ziemele	Latvia
Mark Villiger	Liechtenstein
Isabelle Berro-Lefèvre	Monaco
Päivi Hirvelä	Finland
Giorgio Malinverni	Switzerland
George Nicolaou	Cyprus
Luis López Guerra	Spain
András Sajó	Hungary
Mirjana Lazarova Trajkovska	“The former Yugoslav Republic of Macedonia”

Name	Elected in respect of
Ledi Bianku	Albania
Nona Tsotsoria	Georgia
Ann Power	Ireland
Zdravka Kalaydjieva	Bulgaria
Işıl Karakaş	Turkey
Mihai Poalelungi	Moldova
Nebojša Vučinić	Montenegro
Kristina Pardalos	San Marino
Guido Raimondi	Italy
Ganna Yudkivska	Ukraine
Vincent A. De Gaetano	Malta

Erik Fribergh, Registrar
Michael O'Boyle, Deputy Registrar

NB: On 22 June 2010 Angelika Nussberger was elected judge in respect of Germany for a term of office starting on 1 January 2011. On 5 October 2010 Julia Laffranque was elected judge in respect of Estonia for a term of office starting on 1 January 2011. On 5 October 2010 Linos-Alexander Sicilianos was elected judge in respect of Greece for a term of office starting on 18 May 2011.

III. COMPOSITION OF THE SECTIONS

COMPOSITION OF THE SECTIONS

At 31 December 2010 the Sections were composed as follows (in order of precedence):

FIRST SECTION	
President	Christos Rozakis
Vice-President	Nina Vajić
	Anatoly Kovler
	Elisabeth Steiner
	Khanlar Hajiyev
	Dean Spielmann
	Sverre Erik Jebens
	Giorgio Malinverni
	George Nicolaou
Section Registrar	Søren Nielsen
Deputy Section Registrar	André Wampach

SECOND SECTION	
President	Françoise Tulkens
Vice-President	Ireneu Cabral Barreto
	Danutė Jočienė
	Dragoljub Popović
	András Sajó
	Nona Tsotsoria
	Işıl Karakaş
	Kristina Pardalos
	Guido Raimondi*
Section Registrar	Stanley Naismith**
Deputy Section Registrar	Françoise Elens-Passos

* Took up office on 5 May 2010, as replacement for Vladimiro Zagrebelsky.
** Took up office on 1 July 2010, as replacement for Sally Dollé.

THIRD SECTION	
President	Josep Casadevall
Vice-President	Elisabet Fura
	Corneliu Bîrsan
	Boštjan M. Zupančič
	Alvina Gyulumyan
	Egbert Myjer
	Ineta Ziemele
	Luis López Guerra
	Ann Power
Section Registrar	Santiago Quesada
Deputy Section Registrar	Marialena Tsirli*

* Took up office on 1 November 2010, as replacement for Stanley Naismith.

FOURTH SECTION	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
	Ledi Bianku
	Mihai Poalelungi
	Nebojša Vučinić
	Vincent A. De Gaetano*
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

* Took up office on 20 September 2010, as replacement for Giovanni Bonello.

FIFTH SECTION	
President	Peer Lorenzen
Vice-President	Renate Jaeger
	Jean-Paul Costa
	Karel Jungwiert
	Rait Maruste
	Mark Villiger
	Isabelle Berro-Lefèvre
	Mirjana Lazarova Trajkovska
	Zdravka Kalaydjieva
	Ganna Yudkivska*
Section Registrar	Claudia Westerdiek
Deputy Section Registrar	Stephen Phillips

* Took up office on 16 June 2010.

IV. Speech given by Mr Jean-Paul Costa, President of the European Court of Human Rights, on the occasion of the opening of the judicial year, 29 January 2010

SPEECH GIVEN BY MR JEAN-PAUL COSTA, PRESIDENT OF THE EUROPEAN COURT OF HUMAN RIGHTS, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 29 JANUARY 2010

Ladies and gentlemen,

It gives me and my colleagues great pleasure to welcome you to the official opening of the Court's judicial year. Your presence here today encourages us to pursue our work and build on our achievements. I should also like to take this opportunity to wish you all a very happy and successful year in 2010.

Last year several of you were present here in this same room for a special solemn hearing marking the Court's fiftieth anniversary.

2010 is also a special year as we will be commemorating the sixtieth anniversary of the European Convention on Human Rights.

We are delighted to see here, today, so many representatives of various authorities, members of government, parliamentarians, senior officials of the Council of Europe, Ambassadors, and permanent representatives to the Council. I am also pleased to welcome the heads of national and international courts with which the Court cooperates closely. One of them, my friend Jean-Marc Sauvé, Vice-President of the French Conseil d'Etat, has kindly accepted the invitation to be our guest of honour, for which I am most grateful to him, and I have no doubt that what he has to say to us later on will be of the greatest interest. The seminar this afternoon was entitled "The Convention is yours". This theme reflects the important role of domestic courts, which are the first to apply and interpret the Convention. Their essential share of the responsibility for protecting fundamental rights is constantly increasing.

I should like to extend a particularly personal welcome to Mr Thorbjørn Jagland, the new Secretary General of the Council of Europe. It is the first time that he has attended the opening of the Court's judicial year. He took office only a few months ago, after serving his own country at high levels of responsibility. Our first contacts have been excellent and most promising for our future cooperation. Since his arrival Thorbjørn Jagland has taken some initiatives that I find very positive, in terms of reforming the Council and strengthening the Court. Last week the Committee of Ministers of the Council of Europe gave him their backing. I would like to thank him for his endeavours and encourage him to bring them to fruition. I will certainly give him my support. The Council of Europe and the Court, whose destinies have always been closely connected, must move forward together.

I also extend a warm welcome to Mr Jean-Marie Bockel, State Secretary for Justice to the Minister for Justice and Liberties, the *Garde des Sceaux*, representing the Government of France, the Court's host State.

Mr Bockel, you are well-acquainted with the Council of Europe as you have sat in its Parliamentary Assembly and are a leading elected representative in Alsace. I greatly appreciated the fact that one of your first official visits was to the Court, last July. Your support for our work will help us succeed.

Celebrations are a time for looking back but they are also an opportunity to think about the long term. After fifty years our institution should be looking firmly to the future – its own future and that of human rights on our continent.

We had great expectations for 2009, but at the same time certain concerns. I believe that 2009 lived up to those expectations and we have been reassured and stimulated by a number of positive developments over the past year.

I. Positive developments

One year ago the situation was not very healthy: for ten years the various attempts to reform the system had proved unsuccessful. Protocol 14 was still to enter into force and this was blocking the reform process, including the implementation of the recommendations by the Group of Wise Persons; the situation of the judges, having no pension scheme or social protection, was anomalous.

Solutions have since been found.

For Protocol 14, the first hurdle was crossed in Madrid on 12 May 2009, when the High Contracting Parties to the European Convention on Human Rights decided, by consensus, to implement on a provisional basis, in respect of those States that gave their consent, the procedural provisions of Protocol 14: the new single-judge formation and the new powers of the three-judge committees. To date, nineteen States have already accepted these new procedures, and since their introduction in the early summer of 2009 they have proved very promising in terms of efficiency.

The Court has already adopted, for example, over 2,000 decisions using the single-judge procedure; the first judgments by three-judge committees were delivered on 1 December.

Even more important was the vote by the State Duma of the Russian Federation on 15 January, then by the Federation Council the day before yesterday, in favour of the ratification of Protocol 14, thus clearing the way for all its provisions to be implemented in respect of the 47 member States. That was a decision that we had been hoping for, even though it was still far from certain only a few months ago. It must be commended and it bodes well for the future of our system, which is shortly to be addressed by the Ministerial Conference at Interlaken, about which I will say a few words later.

As to the judges' social-security situation – a question which, since the beginning of the "new" Court, had been raised by my predecessor Luzius Wildhaber, who is present today and whom I delighted to greet, and then by myself – a Resolution was adopted by the Committee of Ministers on 23 September 2009 approving a retirement pension and appropriate social protection arrangements for our judges. I would like to thank the Secretariat and the Committee of Ministers, through the Ambassadors present here today, for at last putting an end to an anomaly: we were the only court which did not have an institutional social protection scheme. The new provisions will also contribute to the independence of the judges, this being indispensable for the independence of the Court itself.

Another major event – delayed by the vicissitudes of European construction – was the entry into force, on 1 December, of the Lisbon Treaty. The Treaty provides for the European Union's accession to the European Convention on Human Rights, which is made possible by Article 17 of Protocol 14. This accession will complete the foundations of a common European legal area of fundamental rights. The European Union Court of Justice in Luxembourg and our Court, in working together closely and faithfully, have largely contributed to this endeavour through their respective case-law. However, it is now time, as the drafters of the Lisbon Treaty and Protocol 14 intended, to ensure consolidation of the Europe of 27 and the Europe of 47 in matters of human rights, thus avoiding any discrepancy between the standards of protection and strengthening ties between the Council of Europe and the European Union. This clear expression of political will is certainly something to be welcomed and should allow us to finalise the arrangements for the accession without delay.

At the same time, the European Union's Charter of Fundamental Rights has become legally binding under the Lisbon Treaty. The Charter took the Convention as its basis, whilst complementing and modernising its guarantees; indeed, it cites the Convention as a specific source, in line with the original intention. Accession of the Union to the Convention, binding force of the Charter of Fundamental Rights: we are only just beginning to realise what these two innovations, which had for a long time been on the back burner, are going to bring for the "citizen's Europe" after half a century of European legal construction. For its part, the Court is prepared to take forward this new development and to play a full part in it from the outset. The European Union's accession to the Convention will also open up new horizons, not only for the Court but also for the Council of Europe as a whole.

2009 was also positive for the Court's judicial activity: the total number of applications decided by decision or judgment rose significantly, by about 11%; the increase was as high as 27% for those decided by judgment (some 2,400).

Whilst there is no room for complacency, it can be said that this increase in productivity has not been at the expense of the quality or authority of our judgments, which may sometimes be criticised – as is inevitable – but which are always regarded as important. The Court should not relax its efforts, however, because it is confronted with an ever-increasing number of complaints concerning a variety of issues, some of them in new or very sensitive fields. There is even a temptation to use "Strasbourg" as an ultimate adjudicator whenever actors in the political, social or international arenas find themselves in a predicament or are unable to settle a dispute. In my opinion, the Court was probably not created to solve all problems and I leave you to reflect on the excessive recognition that is shown to us; even if this respect may not always be a welcome gift, it is a gift we cannot refuse, otherwise we would be accused of shirking responsibility or denying justice... And admittedly, to paraphrase Racine's *Britannicus*, an excess of honour is preferable to an affront.

Some gifts are, however, more welcome and honour us unreservedly. The Court is proud to have received an international award, for the first time as an institution: the Four Freedoms Award, under the auspices of the Roosevelt Stichting. I will be going to Middelburg in the Netherlands in May to receive this prestigious award, on behalf of the Court, in the presence of Her Majesty Queen Beatrix[1].

Another good sign is the increasing number of visitors to the Court – over 17,000 in 2009: judges from courts at all levels, including supreme and constitutional courts, together with prosecutors, lawyers, academics and students. It is gratifying to receive them because it is important to be open to Europe and the rest of the world. I am delighted that we continue to develop close working relations with the other regional human rights courts: in America, in Africa – and the one now in gestation in Asia.

The fact of being regarded – as is increasingly the case – not as a model but as a source of inspiration, is something we can be proud of. Mr Roland Ries, Mayor of Strasbourg, who is present here today, also takes a particular interest, I believe, in the international outreach of the "Strasbourg Court" and he supports that cooperation. The City and the Court themselves enjoy close and cordial relations.

1. Editor's note: On 28 May 2010 President Jean-Paul Costa went to Middelburg, the Netherlands, where he received on the Court's behalf the Franklin D. Roosevelt International Four Freedoms Award in the presence of Her Majesty Queen Beatrix of the Netherlands and His Royal Highness Prince Willem-Alexander of the Netherlands. The award was presented by Prime Minister Jan Peter Balkenende.

Noting its remarkable record in establishing solid foundations for the rule of law in the field of human rights, the Roosevelt Institute (*Roosevelt Stichting*) expressed its appreciation for the Court's contribution to the protection of individual human rights in post-war Europe, offering, in particular, an accessible tool to strengthen an effective democracy.

The Freedom Medal was created to honour individuals and institutions whose work has given special meaning to the freedoms which President Roosevelt described in his memorable speech of 1941 in which he outlined four essential human freedoms: the freedom of speech and expression, the freedom of religion, the freedom from want and the freedom from fear.

This year, mainly for reasons of time, I will not give an overview of last year's case-law. I should like, however, to emphasise that some very important judgments and decisions have been given on highly varied subjects: from police custody to the conservation of DNA profiles, from nationality-dependent pension rights to special detention regimes, from the disappearance of individuals in conflicts to questions of parliamentary immunity and eligibility to stand for election – to mention but a few examples.

I would also point out the importance – admittedly not exclusive – of the Grand Chamber, which examines serious questions affecting the interpretation or application of the Convention or serious issues of general importance. The Grand Chamber delivered eighteen judgments in 2009. They represent less than 1% of the Court's judgments but have a particularly strong impact.

There were many positive developments in 2009. However, there are still some concerns and it would be disingenuous not to mention them as well.

II. Concerns

The first concern is the expanding gap between the number of applications arriving in the Registry and the number of decisions rendered. In 2009 over 57,000 new applications were registered. This considerable figure exceeds by about 22,000 the number – already unprecedented – of decisions and judgments delivered in the same year. In other words, every month the gap between what comes in and what goes out has increased by over 1,800 cases. As to the number of pending cases, the situation is no less alarming. At the end of 2009 almost 120,000 cases were pending. That figure had increased by 23% in one year and by 50% in two years. All the senior members of the judiciary here today will have a clear idea of what such a figure represents. To go into more detail, 55% of applications come from four countries, which represent – I should say only represent – 35% of the population of Council of Europe States. If the applications against those four States were in proportion to the number of their inhabitants, our case-load would be reduced by 25,000. This illustrates the point that specific efforts would significantly help to reduce our backlog.

The total number of cases pending is – I must repeat – substantial. Even if we were to consider a "moratorium" and stop registering new applications, it would take many years, at the current rate, to finish off all the existing cases. The waiting time for cases to be decided is often unreasonable, within the meaning of Article 6 of the Convention, and the Court is thus hardly able to comply with the relevant provision of that Article. This is a criticism we often hear, especially from domestic courts. We are well aware of the issue and our aim is obviously to ensure that this situation does not last.

The Court's extremely high case-load has already had certain negative consequences.

Firstly, as the number of judges is limited under the Convention to one for each High Contracting Party, the "output" as such cannot be increased indefinitely. In spite of the valuable assistance of the Registry's staff, my colleagues cannot reasonably handle many more cases than they do already.

Secondly, an increase in the number of cases adjudicated carries, in spite of all our precautions, a greater risk of inconsistent case-law.

Lastly, this increase also makes the prompt execution of judgments more difficult. The workload of the department which assists the Committee of Ministers in supervising execution grows in proportion to the number of judgments, in a difficult budgetary context. That department is also verging on saturation.

The Court now finds itself in a paradoxical situation. We have to deal with an extremely large number of applications that have no chance of succeeding – many of which (about 90 in every 100)

are rejected after a full examination, but on the basis of brief reasoning that applicants are not always willing to accept. It is true that no blame would appear to attach to the respondent States in respect of these numerous cases, as the applications are declared inadmissible.

However, this does raise a question: how is it possible that tens of thousands of cases come before the Court each year when they are bound to fail? There is certainly a lack of information about the Convention and the rights that it guarantees, about the rules of procedure, and about the few basic formal requirements for bringing a case. Should we not be informing applicants better? If so, how? We have often encouraged lawyers to give better advice to their clients. But what happens when there is no lawyer? What role can the State play without being suspected of impeding the exercise of the right of individual petition? Practical solutions that are easy to implement can be found at national level to help reduce the excessive number of applications coming our way. Civil society can, of course, also play a useful role in this connection.

Citizens – potential parties – need to know, if they have a complaint concerning the protection of their rights under the Convention – and those rights alone –, that they have six months to take their case to the Strasbourg Court after exhausting all domestic remedies, but that it is not a court of fourth instance and therefore cannot hold a retrial or quash a judgment.

Efforts have to be made by all, including NGOs, Bar Associations and academia, to point out continually that whilst everyone has a right of petition, it cannot meet all expectations or cover all activities and all aspects of life which we as human beings seek to secure. Such efforts should be organised in liaison with the Court itself.

We have to be creative because we are hampered by two major constraints: one is the need to preserve the right of individual petition, to which we are all attached and which remains the cornerstone of a collective protection mechanism applying to 800 million Europeans; the other is the difficulty of obtaining additional financial and human resources, at this time of economic crisis.

However, there is a second category of applications that should logically have been dealt with at national level. These are complaints that, by contrast, are bound to succeed, on the basis of well-established case-law that the Court has simply to apply, reiterating its previous findings.

The fact that repetitive cases have to be dealt with in Strasbourg shows that national systems are not well-adapted and that, quite often, judgments are not properly executed by States. It is for the States to uphold complaints by victims of manifest violations of the Convention. It is for the States to protect human rights and make reparation for the consequences of violations. The Court must ensure that States observe their engagements but cannot substitute itself for them. It cannot be a fourth-instance court, of course, but still less a court of first instance or a mere compensation board.

The commitment of States is precisely one of the key issues for the Interlaken Conference which will be taking place in just under three weeks – and this will be my last subject.

III. The future: Interlaken and its follow-up

A year ago I expressed the wish that the States Parties to the Convention should engage in a collective reflection on the rights and freedoms that they sought to guarantee to their citizens, without reneging on the existing rights. I called for a major political conference that would articulate a new commitment and would be the best way of giving the Court a reaffirmed legitimacy and a clarified mandate. I announced that in due course I would be sending a memorandum to States: this was done on 3 July.

I should like to pay tribute to the authorities of Switzerland, the country that has chaired the Committee of Ministers since 18 November 2009, for their decision to organise a high-level

conference on the future of the European Court of Human Rights in Interlaken on 18 and 19 February 2010. It is generous of them to do so and I feel that this reflects a clarity of political vision.

Switzerland's response to the appeal made last year is very timely for enhancing the Court's effectiveness in the short and long term. The Court clearly needs States to take decisions on the regulatory and structural reforms that have to be undertaken. All the stakeholders in the system thus have great hopes for the Interlaken Conference. The Court expects it to produce the clear roadmap that is essential.

Ladies and gentlemen, I have already spoken at some length. In any event, I am unable to go into the details of the conference and must certainly not prejudge the decisions that will be taken at Interlaken. However, a few guiding principles are worthy of mention.

We have to reaffirm the right of individual petition whilst attempting to regulate the increase in the number of new applications, which is seven times higher today than it was ten years ago and twice as high as it was six years ago. In addition to the beneficial effects of Protocol 14, filtering mechanisms will need to be set up in the Court to ensure efficient sorting and allow the Court to devote most of its energy to dealing with new problems and the most serious violations. We need to build on procedures that have already been introduced – pilot judgments, friendly settlements, unilateral declarations – so the Court can deal expediently and fairly with similar complaints from large numbers of applicants. We also need to forestall disputes and execute judgments more effectively. Perhaps we should also be developing the Court's advisory role. It is really important.

More fundamentally, Interlaken should help us go "back to basics", as they say in sport or political parlance. The Convention, to which a number of Protocols have been added, was conceived in the middle of last century as a multilateral treaty for the collective protection of rights. Its drafters never intended to shift responsibility, exclusively or even predominantly, to the Court. On the contrary, the Convention laid emphasis on the obligations of States: an obligation to secure Convention rights to everyone within their jurisdiction; a duty to provide effective remedies before domestic courts and in particular to set up judicial systems that are independent, impartial, transparent, fair and reasonably quick; an undertaking to comply with the Court's judgments, at least in those disputes to which the State in question is a party – and increasingly where judgments identify similar shortcomings in other States; and lastly, a need to respect the Court's institutional independence and contribute to its efficiency, especially by covering its operating costs. All these duties are implicitly – and even explicitly – assigned by the European Convention on Human Rights to the States Parties. It is only at that price, and under those conditions, that the Court – a creation of the States – can play the role that they themselves conferred on it: it must ensure the observance of their engagements, in other words monitor them and if necessary find against them, but not substitute itself for them.

Once again, ladies and gentlemen, the Convention is yours. But the rights and freedoms belong to everyone and it is primarily your task to ensure that all can enjoy them.

Basically, the Convention is more than just an ordinary treaty, it is a Covenant, and a particularly bold one when you think about it. It is a founding Covenant, because it created what the Court itself has had occasion to describe as a "constitutional public order for the protection of human rights". Interlaken must give us the opportunity for a solemn confirmation – not to say "rebuilding" – of this Covenant, sixty years on. *Pacta sunt servanda* – Covenants should not only be observed, they may sometimes have to be confirmed.

However, even though the conference in three weeks' time and the decisions taken there will be important, we will not achieve everything all at once. Interlaken will provide the venue and time for raising new awareness and for setting a process in motion. There will be an after-Interlaken. But first we must be able to seize this great opportunity. I would reiterate my call for a large number of political

leaders to represent their States at the conference. The issues at stake are important enough to merit – even to require – their attendance.

Ladies and gentlemen, before handing over to my colleague and friend, Jean-Marc Sauvé, allow me to finish as I began, on an optimistic note.

It is my belief that the European human rights protection system, as it was first set up and has been enhanced by fifty years of case-law, has all the necessary characteristics to guarantee it a promising future. As Saint-Exupéry said, “the future is always about putting the present in order”. Is it impossible to put things in order? I do not believe so. And if it is possible, it is also necessary. So it will be done if we all work together to that end.

Thank you for your attention.

V. SPEECH GIVEN BY MR JEAN-MARC SAUVÉ, VICE- PRESIDENT OF THE FRENCH *CONSEIL D'ETAT* ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 29 JANUARY 2010

SPEECH GIVEN BY MR JEAN-MARC SAUVÉ, VICE-PRESIDENT OF THE FRENCH *CONSEIL D'ETAT*, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 29 JANUARY 2010

President, members of the judiciary, Minister, Secretary General of the Council of Europe, ladies and gentlemen,

> "... Allow me to think aloud here about the innocent victims of wars and about the defenders of human rights, freedom and dignity. My thoughts also turn to all those silent judges who, with justice and civic courage, apply the rules for the protection of the rights of individuals in society.
>
> It is all these people, dead or alive, men of goodwill, those who have constructed a fairer human condition, the fervent 'catalysts' of rules that are old in substance, but now expressed in terms better suited to our modern world, who are – in the name of one of their number – the real laureates of the Nobel Peace Prize."

Thus did René Cassin, my illustrious predecessor at the *Conseil d'Etat* of France, who was at that time the President of your Court, express himself in December 1968 when receiving the Nobel Peace Prize for his work in promoting human rights.

René Cassin's thinking was rooted in the unshakeable conviction that there can be no lasting peace without "the practical ratification of essential human rights", as he had declared back in 1941 at the St. James's Palace Conference.

You – and we, the national judges – are the heirs and keepers of that promise and that statement of hope.

Sixty years after the signing of the European Convention on Human Rights, I, as President of a Supreme Court, wish to bear witness to the work done by your Court, which, last year, celebrated its 50th anniversary and whose role in protecting fundamental rights has recently been justly rewarded by the Roosevelt Institute.

Never before have human rights been better enshrined and protected in the European space. Democratic principles are the common reference of the forty-seven member States of the Council of Europe and a "pax europeana" is secured. A historic moment is upon us, with the entry into force on 1 December 2009 of the Treaty of Lisbon: the European Union is now in a position to accede to the European Convention on Human Rights, and the Charter of Fundamental Rights of the European Union has received the same value in law as the treaties. The European network of human rights safeguards is thus continually being tightened and reinforced.

It is, however, the very success of the European system for the protection of human rights that, beyond this remarkable achievement, raises questions about its future prospects. For what do we in fact observe?

Firstly, the serious bottleneck at your Court, which, being inundated as a result of the confidence it inspires, registers more than 50,000 new applications per year.

There are also questions – or even criticisms – at times concerning the role of the international courts and the scope of their case-law.

There is, lastly, a tendency to refer fundamental rights guarantees back to States: such a tendency is welcome if it is part of a healthy desire to promote the principle of subsidiarity, but will be more problematical if the protection of rights at national level conflicts with your Court's case-law.

The questions raised by the current situation call for answers. However, before envisaging solutions we need to take stock of the path travelled in Europe with a view to defining and protecting human rights. We also need to take the measure of the profound transformation in the protection of human rights within the States Parties introduced by the European Convention and your Court's case-law.

I. It must first be emphatically stated that the European system for the protection of human rights has proved itself to be the guarantor of a common heritage that is indissociable from our shared European humanism.

A. This system has emerged as a result of the unspeakable ordeals inflicted by our continent on itself and on the world during the twentieth century. It has much older origins, however: it is the fruit of thinking in respect of which, without claiming any monopoly, the European continent has been the melting-pot. It is not the prerogative of a particular State or population that is more deserving than another, but is intrinsically linked to a European identity that has been constructed over time and is now our common heritage.

This remarkable and unprecedented legal construction, crowned by your Court, is the end result of a conception of mankind that has been slowly forged by thinkers in various countries who, through their research, their writings, their travels, their dialogues and also their intellectual conflicts, have constructed a common area of thought. In all European countries people have stood up who "pride themselves on being capable of thinking tomorrow otherwise than they do today"[1]. It is in this common area of thought, and on this fertile ground, that a philosophical and political vision of man, his rights and their necessary protection has emerged. A vision that has made it possible to regard people as beings who are an end in themselves and never simply a means: beyond empirical man has been unveiled the "humanity within men". In short, Europe has been "the cradle of the notions of the person and of freedom".

This vision, which has since been supplemented and renewed, but sometimes also denied, has resulted in a moral doctrine, a political system, a legal order.

B. The European system for the protection of human rights, as created from 1950 onwards, is the legal expression of this humanism. It is even one of its end results. This system enshrines, as you yourselves have said, a veritable "European public order" which "expresses the essential requirements of life in society. In referring thereto, [your] Court ... works on the premise that rules exist that are perceived as fundamental for European society and are binding on its members"[2].

From this derives the body of rights that have now been enshrined, be they individual or collective rights, some of which – such as the prohibition of torture and inhuman or degrading treatment or the prohibition of slavery – cannot be the subject of any derogation.

1. Marguerite Yourcenar, *L'Œuvre au noir*.
2. Frédéric Sudre et al., *Les grands arrêts de la Cour européenne des droits de l'homme*, 5th edition, Presse universitaire de France, 2009, Thémis droit, p. 10.

All these rights have been progressively enriched, developed and extended. The theory of implied rights, which has led, for example, to the recognition of the right to execution of a court decision[3], is an illustration of this. Similarly, the Convention can also have indirect and extraterritorial effect[4]. It can also give rise to positive obligations on States and not only obligations to refrain from a particular course of action: this principle, which was established in the case-law in 1979[5], makes it possible to rule against a State on grounds of wrongful failure to act and not only on grounds of active interference with a protected right. The Convention can also produce horizontal effects and apply to relations of individuals between themselves rather than exclusively those between citizens and public authorities[6].

This logical extension of scope has given rise to a system of rules for interpreting and applying the rights in question. Your Court examines particularly carefully whether interferences or restrictions in the exercise of rights, where these are permitted under the Convention, are prescribed by law, that is, by a law that is accessible, foreseeable and compatible with the rule of law. My country took the measure of this requirement in 1990, when it had not yet legislated on the use of telephone tapping[7]. Your Court also determines whether such interferences or restrictions, which must be "necessary in a democratic society", are justified on grounds of necessity and proportionality[8].

In the space of half a century, and in the tradition of European humanist thought that has been ratified by the people, you have thus constructed an impressive body of case-law designed to protect human rights. The density of this body of case-law, and its advance or its lead on many national sources, have led to a profound transformation of the protection of rights in all the States Parties to the Convention.

II. The European system for the protection of human rights, while respecting the differences that make us richer, has been the source of a profound change in the protection of rights in our States.

A. Whilst having regard for the diversity of our national legal traditions, the system of human rights protection that has derived from the Convention has become an essential source of development of the protection of these rights in the European States. This system is, I believe, well assimilated by those States and is a source of inspiration for the courts and national legislators.

1. Thus it is that in France, which has a monistic regime, the European Convention, which has been directly incorporated into the national legal system, has been one of the ferments in the development of the case-law, including that of the administrative courts for two decades. Not only does the *Conseil d'Etat* apply the case-law of the European Court of Human Rights, it does so with commitment and determination[9]. The right to a fair trial, which is a fundamental right *par excellence*, is, accordingly, one that has given rise to the most profound changes in our case-law. The courts draw all the consequences, both from the substantive scope attributed[10] to this provision and from the

3. *Hornsby v. Greece*, 19 March 1997, *Reports of Judgments and Decisions* 1997-II.
4. *Al-Saadoon and Mufdhi v. the United Kingdom*, no. 61498/08, 30 June 2009.
5. *Marckx v. Belgium*, 13 June 1979, Series A no. 31; *Airey v. Ireland*, 9 October 1979, Series A no. 32; see also *Siliadin v. France*, no. 73316/01, ECHR 2005-VII.
6. *López Ostra v. Spain*, 9 December 1994, Series A no. 303-C.
7. *Kruslin v. France*, 24 April 1990, Series A no. 176-A.
8. *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, Reports 1998-I.
9. See on this point, *inter alia*, Frédéric Sudre, "Du dialogue des juges à l'euro-compatibilité", *Le dialogue des juges. Mélanges en l'honneur du président B. Genevois*, Dalloz, 2008, pp. 1015-32.
10. The administrative courts thus apply the guarantees in this Article to the disciplinary tribunals (CE, Ass., *Maubleu*, 14 February 1996, Rec. 34), the audit offices (CE, *M. Beausoleil et Mme Richard*, 30 December 2003, Rec. 531), and also to the collegiate bodies imposing administrative penalties (CE, Ass., *Didier*, 3 December 1999, Rec. 399, and CE, Sect., *Parent*, 27 October 2006, Rec. 454).

guarantees it contains, particularly with regard to reviewing penalties[11]. The right to the peaceful enjoyment of possessions and the prohibition on discrimination have also given rise to major departures from precedent: it was under the direct influence of your case-law that the pensions of ex-servicemen originating from Africa that had been frozen over fifty years previously could be unfrozen in 2001[12]. Similar observations apply, *mutatis mutandis*, to the French Court of Cassation within its area of competence.

The regard had to the case-law of your Court has also substantially affected the protection of rights in the other States. President Corstens of the Supreme Court of the Netherlands has this afternoon given a striking illustration of the consequences drawn by the Netherlands courts from the Court's judgments, even those in respect of other States. I shall confine myself to two further examples. In Germany, a country with a regime of "moderate dualism", according to the expression used by the President of the German Constitutional Court, Mr Papier[13], the purely legislative value of the stipulations contained in its international commitments does not prevent your judgments from producing *erga omnes* effects or even having a constitutional-law dimension[14]. The Convention, as interpreted by your Court, has thus become a reference point for constitutional review.

There can be no question but that many national constitutional courts, albeit implicitly, apply similar methods of scrutiny, with the rights and freedoms guaranteed by the Constitutions of the States being interpreted in the light of your case-law.

In the United Kingdom, which is a State with a dualist tradition, even before the Human Rights Act of 1998, the influence of your case-law was no less strong for being more diffuse. As Sir Stephen Sedley, Lord Justice of Appeal, said here in 2006, the United Kingdom courts, which have to act consistently with the Convention, have regard to the case-law of your Court, which gives rise to "invisible changes in [the] modes of legal reasoning". We also know that, whilst common law is not directly touched by the Human Rights Act, it "slowly adopts the same shape as the Convention"[15]. Lady Justice Arden DBE[16], whilst pleading strongly in favour of compliance with the principle of subsidiarity, has reminded us today that the Convention is virtually self-executing in the United Kingdom.

2. More broadly, the strength of the European system for the protection of human rights lies in having been capable of imposing itself as a source of inspiration not only for the courts, but also for the legislators. Regarding the courts first, and confining myself to my experience of the court of which I am president, the profound influence exerted by the stipulations contained in our international commitments in the field of human rights has found expression in, among other things, very protective new case-law on the State's responsibility in cases where damage has occurred as a result of a law that is contrary to such a commitment[17]. In the same way, the scrutiny of the lawfulness of measures

11. They scrutinise respect for the rights of the defence, the adversarial nature of proceedings and the impartiality of decisions (CE, Ass., *Didier*, 3 December 1999, cited above, and CE, *Banque d'escompte et Wormser frères réunis*, 30 July 2003, Rec. 351), and also compliance with the requirements of paragraph 3 of Article 6 of the Convention (CE, Sect., *Parent*, 27 October 2006, cited above).
12. CE, Ass., *Ministre de la défense c. Diop*, 30 November 2001, Rec. 605, concl. Courtial, GAJA, 17th edition, pp. 827 et seq.
13. Hans-Jürgen Papier, President of the Federal Constitutional Court of Germany, "Execution and effects of the judgments of the European Court of Human Rights in the German judicial system", *Dialogue between judges*, European Court of Human Rights, Council of Europe, Strasbourg, 2006, p. 57.
14. Federal Constitutional Court, *Görgülü*, judgment of 14 October 2004, BVerfGE 111, p. 307, at p. 319.
15. Sir Stephen Sedley, Lord Justice of Appeal, England and Wales, "Personal reflections on the reception and application of the Court's case-law", *Dialogue between judges*, European Court of Human Rights, Council of Europe, Strasbourg, 2006, p. 84. He adds "the structured inquiry into proportionality which Strasbourg has developed is replacing simple yes-or-no decisions as to whether something is reasonable ..."
16. Judge of the Court of Appeal for England and Wales.
17. CE, Ass., *Gardedieu*, 8 February 2007, Rec. 78, concl. Derepas.

concerning aliens[18] or detainees[19] has been greatly extended and developed. Currently, nearly a quarter of the 3,000 most important decisions delivered each year by the *Conseil d'Etat* contain a ruling on whether or not rights protected by the European Convention on Human Rights have been violated. There can be no better illustration of the influence and impact of this instrument which now permeates the whole of French public law and guides the scrutiny of the administrative authorities. These developments have, moreover, given rise to a veritable dialectic in the protection of human rights. Thus, the national courts do not confine themselves to displaying "judicial discipline" towards your Court. For the sake of consistency with their own case-law, they do not hesitate to go beyond the standards fixed by you.

The rule-making authorities have also drawn consequences from the Convention as you have interpreted it: many States have thus adapted their legislation or their regulations as a preventive or curative measure, be it to reform their criminal, civil or administrative procedure with a view to applying the rules of a fair trial, to provide for compensation for damage caused by failure to comply with a reasonable time-limit, to take action against the excessive length of pre-trial detention or to regulate telephone interceptions. In France we have also had to repeal the Monitoring of the Foreign Press Act and revise the Opinion Polls Act.

B. At the root of this remarkable development of human rights protection in the Convention system is one of the important dynamics in the formation of European humanism, namely, the existence of a dialogue that respects the identity and richness of cultural traditions in Europe.

The general economy of the Convention is founded on respect for the diversity of cultures and legitimate legal traditions. Your Court has reiterated this by affirming at the outset that it "cannot assume the role of the competent national authorities, for it would thereby lose sight of the subsidiary nature of the international machinery of collective enforcement established by the Convention"[20]. This concept of subsidiarity is designed to guarantee that "pluralism", together with "tolerance" and "broadmindedness", will remain one of the foundations of "democratic society"[21].

In keeping with the heteronomy inherent in this system, each of its actors makes an essential contribution to an extensive dialogue that is one of the sources and one of the expressions of European humanism.

This dialogue is, firstly, at the very foundation of the working methods and of the spirit that reigns at your Court. Franz Matscher, referring to his own experience as a judge of your Court, emphasised this when he said that he very quickly realised, after arriving in Strasbourg, that the "cultural baggage",

18. In order to give full effect to the provisions of Article 8 of the Convention, the administrative courts now scrutinise the proportionality between interference by regulatory measures with an alien's family life and the public interests, linked if applicable to public policy (*ordre public*), which, according to the case, constitutes grounds for an order for deportation (CE, Ass., 19 April 1991, *Belgacem*, Rec. 152, concl. R. Abraham), removal (CE, 19 April 1991, *Mme Babas*, Rec. 162), refusing a residence permit (CE, Sect., 10 April 1992, *Marzini*, Rec. 154), or refusing a visa (CE, Sect., 10 April 1992, *Aykan*, Rec. 152).

19. CE, Ass., 14 December 2007 three decisions: *Planchenault*, *garde des Sceaux*, and *Min. de la Justice c. Boussouar et Payet*, Rec. 474, 495 and 498. CE, Ass., 17 February 1995, *Marie*, Rec. 85. CE, 30 July 2003, *Remli*, Rec. 366. CE, 14 November 2008, *El Shennawy*, Rec. 417, in line with the case-law of the Court, *Kudła v. Poland* [GC], no. 30210/96, ECHR 2000-XI, and *Iwanczuk v. Poland*, no. 25196/94, 15 November 2001. CE, 17 December 2008, *Sect. fr. de l'Observatoire int.l des prisons*, Rec. 463. CE, 17 December 2008, *Sect. fr. de l'Observatoire int.l des prisons*, Rec. 456, on the choice of bedding for detainees and protection against fire risks. CE, 30 November 2009, *garde des sceaux c . M. Kehli*, no. 318589, to be published in the Rec.

20. Case "*relating to certain aspects of the laws on the use of languages in education in Belgium*" (merits), 23 July 1968, Series A no. 6.

21. *Handyside v. the United Kingdom*, 7 December 1976, Series A no. 24.

"legal training" and "mentality" he had brought with him from his country of origin were not the only truths, but that there were "other solutions that were equally valid, if not better"[22].

This dialogue is also clearly expressed through the quest to achieve a consensus that your Court endeavours to establish by comparing and contrasting the various systems for the protection of human rights and their development. The existence of this consensus may sometimes be contested; attention has sometimes been drawn to the "ambiguity" of its role[23]. However, it is indeed the search for a consensus through a dialogue between cultures and legal systems which makes the Convention a "living instrument" that requires an evolutive interpretation in the light of "present-day conditions" and "commonly accepted standards"[24].

This dialogue also finds expression in the insertion of the Convention system into a denser and broader network of judges and norms: denser, because the system allows us to exchange and share our respective experiences beyond an institutional dialogue. Meetings such as today's seminar are an example, through the diversity of the persons present, of this "dialogue between judges" that your Court promotes. As we have seen this afternoon, there could and should be more of them. This dialogue is also broader for the increasing recourse, in interpreting the Convention, to sources of inspiration which go beyond the actual text itself. An illustration of this can be seen in one of your recent judgments, which was expressly based on the texts of the Council of Europe and on the law and practice of the member States, but also on the law of the European Union and the case-law of the Supreme Court of Canada[25]. Whilst this method of interpretation can only be used with care, it is nonetheless revealing of the Convention system's insertion into a veritable dialogue between cultures, which is a source of enrichment of our principles.

This European dialogue between legal systems and cultures would inevitably fade, however, if the Convention system were to evolve in such a way that the principles that inspired it became suffocated under the weight of their success or even started to dry up, for this would mean that we had not been capable of preserving them. If that were to happen, European humanism in its entirety would lose part of its essence.

III. The preservation of the European Convention system, which is our common responsibility, requires us to be faithful to the principles that inspired it and creates important duties for us.

A. The originality and strength of the Convention system are expressed, in its actual provisions, in two fundamental principles which underlie its mechanism: the right of individual petition and the principle of subsidiarity. The first has to be preserved and the second reaffirmed.

1. The right of individual petition is "a key component of the machinery for protecting the rights" set forth in the Convention, as you have stated[26]. Without this procedural guarantee, the "European public order" that you mean to construct would remain a frontispiece for our principles without ever being effectively translated into law. It is the right of individual petition which ensures the "practical ratification of man's essential rights" as advocated by René Cassin. Admittedly, the right of petition has not been immediately at the centre of the States' concerns. However, the development of the European system for the protection of human rights has shown to what extent this guarantee lies at the

22. Franz Matscher, "The European Court of Human Rights, yesterday, today and tomorrow, shortly after its fiftieth anniversary – Observations of a former judge at the Court", *Revue trimestrielle des droits de l'homme*, vol. 80/2009, p. 901.
23. John L. Murray, Chief Justice of Ireland, "Consensus: concordance or hegemony of the majority", *Dialogue between judges*, European Court of Human Rights, Council of Europe, 2008.
24. *Tyrer v. the United Kingdom*, 25 April 1978, Series A no. 26.
25. *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, to be published in ECHR 2008.
26. *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, ECHR 2005-I.

very heart of its existence. Thus did Protocol No. 9, subject to certain reservations[27], grant individuals the right to bring their case to the Court. Protocol No. 11, for its part, has radically transformed the control mechanism established by the Convention by creating a single judicial body – your Court – to which legal subjects can directly apply. Lastly, by giving binding force to interim measures pronounced under Rule 39 of your Rules of Court[28], you have completed this development and guaranteed the effectiveness of the right of individual petition by providing that mere non-compliance with an interim measure amounts to a breach of Article 34 of the Convention. History is not made up of progress alone; it stops and starts; and the right of individual petition may provide a helpful antidote to its flaws.

2. The evolution of the Convention system must also tend towards reaffirming its "subsidiary character to the national systems safeguarding human rights"[29]. This principle of subsidiarity, which is expressed in the form of an obligation to exhaust domestic remedies, is designed to allow the Court to ensure respect for human rights "without thereby erasing the special features of domestic laws"[30]. Reaffirmation of the subsidiary – that is, ultimate – character of the guarantee that an application to your Court represents is fully consistent with a reassertion of the principle that it is the domestic courts that are the ordinary tribunals for infringements of the rights guaranteed by the Convention. This would undeniably be of huge benefit to the European system for the protection of human rights: would not the greatest success of the Court be to deal with only the most essential questions, limited in number, raised by the protection of these rights in Europe, and leave to the national judges the task of ensuring their protection on a daily basis?

That is my conviction.

B. In this context the preservation of the European system for the protection of fundamental rights creates important duties for us.

1. It creates important ones for your Court of course. As national Supreme Courts, we are aware of the importance attached to clear and foreseeable case-law and are attentive to your Court's contribution to this objective. The profound changes over the past decade, not all of which perhaps have been integrated by the domestic courts, also put a particular price on the stability of this case-law. Where a departure from precedent is necessary, it is of course worth explaining the reasons for this, just as the national Supreme Courts have a duty – as you have stated very recently[31] – to give a substantial statement of reasons justifying the departure. It is essential for us that your Court give guidelines as to its interpretation of the Convention and indications regarding execution of its judgments. In that connection the practice of "pilot judgments"[32], which makes it possible to accompany the measures taken by the respondent State to put an end to structural deficiencies, are extremely useful[33]. Your Court could also give us better guidance regarding the circumstances in which it bases its decisions on the existence of a consensus between the States Parties; it could even endeavour to confine its use of that principle of interpretation to developments in the protection of rights which raise "no doubts in an informed mind"[34]. Accordingly, without in any way freezing the

27. In particular, the State had to have ratified the Protocol and a Committee of three judges could, unanimously, decide that the case would be examined by the Court.
28. *Mamatkulov and Askarov*, cited above. CE, ord. ref. 30 June 2009, *ministre de l'intérieur, de l'outre-mer et des collectivités territoriales c. Beghal*, no. 328879, to be published in the *Recueil Lebon*.
29. *Handyside*, cited above.
30. Frédéric Sudre, "Le pluralisme saisi par le juge européen", *Droit et pluralisme*, Bruylant, 2007, p. 281.
31. *Atanasovski v. "the former Yugoslav Republic of Macedonia"*, no. 36815/03, 14 January 2010.
32. Procedure applied for the first time in *Broniowski v. Poland* [GC], no. 31443/96, ECHR 2004-V.
33. As are the developments in which the Court describes the execution measures capable of remedying a finding of a violation: see, for example, *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, ECHR 2000-VIII, and *Maestri v. Italy* [GC], no. 39748/98, ECHR 2004-I.
34. To adopt President Braibant's definition of a manifest error of appreciation, given in his conclusions on CE, Sect., *Lambert*, 13 November 1970, Rec. 665.

scope of the Convention, a consensual interpretation would become a melting-pot to which the States Parties would acquiesce and would give the decision reached by the Court the best chance of effectiveness[35].

2. The preservation of the Convention system also creates important duties for the domestic courts and the States. They must pursue the efforts they have made towards achieving a speedy and full application not only of your judgments, but also more broadly of your case-law. They have a duty, in the first instance, to prevent, examine and remedy violations of the Convention. The way to do this is to bring into line domestic laws and regulations which are incompatible with your case-law and provide for effective remedies that give full scope to the rights guaranteed by the Convention. The national courts also have a duty of loyal cooperation with your Court, which must lead to providing for recognition of the interpretative authority of its judgments and thus their *erga omnes* effect, irrespective of any final decision between the parties.

3. The preservation of the Convention system is, lastly, a duty incumbent on the Council of Europe, which must pursue the efforts made to provide the Court with the instruments necessary, in the present conjuncture, to perform its essential mission. The imminent entry into force of Protocol No. 14[36], which will allow the Court to better adapt its examination to the difficulty of each case and which will also improve the process of execution of judgments, is very welcome. But it will certainly be necessary to go further. Should there not, for example, be more thorough "filtering" of applications that are unmeritorious, repetitive or where the applicant has not exhausted domestic remedies? Nor should the possibility be ruled out in the longer term of allowing the Court to select the cases it will examine or, possibly, the creation of a mechanism for referring cases to you for a preliminary ruling, provided that the right of individual petition is preserved. Would it not also be a solution to go further in affirming the authority and the judicial autonomy of your Court, for example by strengthening the status of judges and allowing your Court, by a simplified procedure, to propose rules for processing applications without it being necessary to revise the Convention each time? I think that these solutions should, at the very least, not be discarded outright.

* * *

The future of the European system for the protection of human rights is therefore our common responsibility. This system, spearheaded by your Court, is confronted with major challenges. It has the ability to face those challenges while remaining true to the founding principles which make it one of the guarantors of the humanism and moral conscience born on our continent. This system is heir to a vast project designed to achieve reason and peace through law. It pursues, in the service of justice, the dialogue built up over the centuries by European thinkers on the human condition. It continues to build, stone by stone, a common vision of man, his rights and his dignity. It undoubtedly represents, today, the best that Europe can provide to the rest of the world: a certain concept of human beings and a certain concept of national as well as international justice, for the protection of the fundamental rights of the person. That which the world has failed to do since the Universal Declaration of Human Rights in 1948, Europe has done. You are the determinative actors behind this achievement.

I wish to end by expressing my warm thanks to President Costa and to the members of your Court who have honoured me with an invitation to engage in this dialogue with you here today. I sincerely hope that the new judicial year will once again see your Court asserting its role and its authority in the service of our shared ideals.

35. Frédéric Sudre, "L'effectivité des arrêts de la Cour européenne des droits de l'homme", *Revue trimestrielle des droits de l'homme,* vol. 76/2008, pp. 917-47.
36. The State Duma of the Russian Federation voted in favour of the draft law ratifying Protocol No. 14 to the European Convention on Human Rights on 15 January 2010. This vote opens the way to the entry into force of the Protocol, already ratified by the forty-six other States Parties.

VI. VISITS

VISITS

18 January 2010	Mr Georgy Matyushkin, Representative of the Russian Federation at the Court
26 January 2010	Mr René van der Linden, President, and Mrs Hester Menninga, Deputy Secretary-General, Senate, the Netherlands Mr Georgios A. Papandreou, Prime Minister, Greece Mr Franco Frattini, Minister for Foreign Affairs, Italy
28 January 2010	Mr Farhad Abdullayev, President of the Constitutional Court, and Mr Ramiz Rzayev, President of the Supreme Court, Azerbaijan Mr Mevlüt Çavuşoğlu, President of the Parliamentary Assembly of the Council of Europe
29 January 2010	Mr Hasan Gerceker, President of the Court of Cassation, Mrs Serpil Cetinkol, President of the 8th Criminal Division, Mr Mahmut Acar, President of the 9th Criminal Division, and Mr Necdet Gurbuzturk, President of the 2nd Civil Division, Turkey Mr Gagik Harutyunyan, President of the Constitutional Court, Armenia
10 February 2010	Mr Ales Zalar, Minister of Justice, Mrs Katja Rejec Longar, Director General of the Directorate for International Cooperation, and Mr Peter Pavlin, Head of the Department for the Protection of Human Rights, Slovenia
25 March 2010	Mr Yves Repiquet, President of the National Advisory Committee on Human Rights, France
27 April 2010	Mr Viktor Yanukovych, President of Ukraine
29 April 2010	Mrs Eveline Widmer-Schlumpf, Minister of Justice, Switzerland
10 May 2010	Mr Xavier Espot Miro, Minister for Foreign Affairs, Andorra
12 May 2010	Mr Mahmud Mammadjulilev, Vice-Minister for Foreign Affairs, Azerbaijan
7 June 2010	Mr Yves Bur, Member of Parliament, and Mr Pierre Bosse, Administrator, Committee on European Affairs, National Assembly, France
15 June 2010	Mr López Aguilar, Chair, and Mrs Kinga Gál, Vice-Chair, Committee on Civil Liberties, Justice and Home Affairs (LIBE), European Parliament
21 June 2010	Mr Ivo Josipović, President of Croatia
22 June 2010	Mr Milo Đukanović, Prime Minister, Montenegro Mrs Fanny Ardant, Ambassador for the Council of Europe *Dosta* campaign for Roma rights Mr Luigi Vitali, Chair of the Italian Delegation to the Parliamentary Assembly of the Council of Europe

24 June 2010	Mr Gjorge Ivanov, President of "the former Yugoslav Republic of Macedonia"
25 June 2010	Mr Christophe Rosenau, President of the Regional Audit Chamber of Alsace, France
5 July 2010	Mr Gerhart Holzinger, President, and Mrs Brigitte Bierlein, Vice-President, Constitutional Court, Austria
6 July 2010	Mr Oleksandr Lavrynovych, Minister of Justice, Ukraine
8 July 2010	Mr Hasan Gerceker, President of the Court of Cassation, Turkey
9 September 2010	Delegation of the Supreme Court, Canada
20 September 2010	Mrs Michèle Alliot-Marie, *Garde des Sceaux*, Minister of Justice, France
21 September 2010	Mr Andreas Voßkuhle, President of the Constitutional Court, Germany
27 September 2010	Mr Mustafa Birden, President of the Supreme Administrative Court, Turkey
4 October 2010	Mr Guido Westerwelle, Minister for Foreign Affairs, Germany
7 October 2010	Mr Nikola Gruevski, Prime Minister, "the former Yugoslav Republic of Macedonia"
19 October 2010	Mr Ban Ki-Moon, Secretary-General of the United Nations
2 November 2010	Mrs Ilze Brands-Kehris, President, and Mr Morten Kjaerum, Director, European Union Agency for Fundamental Rights
9 November 2010	Mr Denis Badre, Senator, France
22 November 2010	Mr Alexander Konovalov, Minister of Justice, Russian Federation
23 November 2010	Mr John Larkin, Attorney General, Northern Ireland
25 November 2010	Mr Jean-Claude Mignon, Chair of the French Delegation to the Parliamentary Assembly of the Council of Europe Mr Yuri Chaika, Procurator-General of the Russian Federation
13 December 2010	Delegation from the Federal Court, Switzerland

In addition to the visits of the dignitaries listed above, the Court also organised 67 study visits (held over one or more days) for a total of 1,628 participants, and received 649 groups, totalling 17,750 visitors, mostly connected with the legal professions. The Court welcomed a total of 19,378 visitors from 140 countries (compared with 17,438 visitors in 2009).

VII. Activities of the Grand Chamber and Sections

ACTIVITIES OF THE GRAND CHAMBER AND SECTIONS

1. Grand Chamber

In 2010 24 new cases (concerning 31 applications) were referred to the Grand Chamber, 12 by relinquishment of jurisdiction by the respective Chambers pursuant to Article 30 of the Convention, and 12 by a decision of the Grand Chamber's panel to accept a request for re-examination under Article 43 of the Convention.

The Grand Chamber held 18 oral hearings. It delivered 18 judgments on the merits (5 in relinquishment cases, 13 in rehearing cases), 1 admissibility decision and 1 advisory opinion.

At the end of the year 26 cases (in respect of 31 applications) were pending before the Grand Chamber.

2. First Section

In 2010 the Section held 40 Chamber meetings. Two hearings were held. The Section delivered 328 Chamber judgments in respect of 526 applications. Of the other applications examined by a Chamber 73 were declared inadmissible and 358 were struck out of the list.

In addition, the Section held 12 Committee meetings. 4,003 applications were declared inadmissible or were struck out of the list, including 23 applications decided under the new powers given to Committees by Protocol No. 14. The Section also delivered 16 Committee judgments in respect of 42 applications.

Of the applications that were struck out of the list, 297 had resulted in a friendly settlement or unilateral declaration.

1,015 applications were communicated to the States concerned in 2010 and at the end of the year 6,456 applications were pending before the Section.

3. Second Section

In 2010 the Section held 40 Chamber meetings. Two hearings were held. The Section delivered 350 Chamber judgments in respect of 1,187 applications. Of the other applications examined by a Chamber 195 were declared inadmissible and 163 were struck out of the list.

In addition, the Section held 31 Committee meetings. 2,220 applications were declared inadmissible or were struck out of the list, including 229 applications decided under the new powers given to Committees by Protocol No. 14. The Section also delivered 11 Committee judgments.

Among the applications struck off, 285 were struck out following a friendly settlement or unilateral declaration.

1,855 applications were communicated to the States concerned in 2010 and at the end of the year 19,656 applications were pending before the Section.

4. Third Section

In 2010 the Section held 39 Chamber meetings. Two hearings were held (in respect of 3 applications). The Section delivered 198 Chamber judgments in respect of 209 applications. Of the other applications examined by a Chamber 78 were declared inadmissible and 78 were struck out of the list.

In addition, the Section held 33 Committee meetings. 1,774 applications were declared inadmissible or were struck out of the list, including 130 applications decided under the new powers given to Committees by Protocol No. 14. The Section also delivered 2 Committee judgments.

Of the applications that were struck out of the list, 28 had resulted in a friendly settlement or unilateral declaration.

868 applications were communicated to the States concerned in 2010 and at the end of the year 10,445 applications were pending before the Section.

5. Fourth Section

In 2010 the Section held 39 Chamber meetings. One hearing was held. The Section delivered 239 Chamber judgments in respect of 244 applications. Of the other applications examined by a Chamber 162 were declared inadmissible and 418 were struck out of the list.

In addition, the Section held 48 Committee meetings. 3,161 applications were declared inadmissible or were struck out of the list, including 129 applications decided under the new powers given to Committees by Protocol No. 14. The Section also delivered 35 Committee judgments in respect of 37 applications.

Of the applications that were struck out of the list, 275 had resulted in a friendly settlement or unilateral declaration.

912 applications were communicated to the States concerned in 2010 and at the end of the year 6,614 applications were pending before the Section.

6. Fifth Section

In 2010 the Section held 40 Chamber meetings. One hearing was held. The Section delivered 250 Chamber judgments in respect of 268 applications. Of the other applications examined by a Chamber 157 were declared inadmissible and 1,732 were struck out of the list.

In addition, the Section held 41 Committee meetings. 1,736 applications were declared inadmissible or were struck out of the list, including 299 applications decided under the new powers given to Committees by Protocol No. 14. The Section also delivered 52 Committee judgments in respect of 63 applications.

Of the applications that were struck out of the list, 338 had resulted in a friendly settlement or unilateral declaration.

2,025 applications were communicated to the States concerned in 2010 and at the end of the year 8,010 applications were pending before the Section.

7. Single-judge formation

The Single Judges either declared inadmissible or struck out of the list 22,260 applications in 2010.

At the end of the year, 88,407 applications were pending before that formation.

VIII. PUBLICATION OF THE COURT'S CASE-LAW

PUBLICATION OF THE COURT'S CASE-LAW

The Court's website, case-law database and related activities

A. Website

The Court's website (www.echr.coe.int) provides general information about the Court on such matters as its composition, organisation and procedure, details of pending cases and oral hearings, and access to the Court's press releases. Users will also find an interactive map showing the forty-seven member States with basic information on each State (date of ratification of the Convention, elected judge, notable cases and statistical data). A virtual visit of the Court is also available and more interactive materials have been added in a multimedia section containing videos, photographs and podcasts.

In 2010 the Court's website had over 251 million hits (a 17% increase compared with 2009). The Library's website was consulted over 160,000 times, and the online catalogue, containing references to the secondary literature on the Convention case-law and Articles, over 360,000 times.

B. Case-law database (HUDOC)

1. Overview

The Court's website gives access to the Court's case-law database (HUDOC), containing the full text of all judgments. It also contains admissibility decisions adopted by the former Commission and by the Court (except those adopted by Committees and single-judge formations). Resolutions of the Committee of Ministers in so far as they relate to its examination of cases under Article 46 of the Convention or under former Articles 32 and 54 also feature in the database. HUDOC is accessible via an advanced search screen, and a search engine enables the user to carry out searches in the text and/or in separate data fields. A user manual and a help function are provided. The Court's database is also available on DVD.

2. Translations into non-official languages

The HUDOC database now also provides access to translations of some of the Court's leading judgments in 20 languages in addition to the official English and/or French. It also offers links to some 80 online case-law collections maintained by third parties. Further translations and third-party links will be added in 2011.

3. RSS news feeds

Internet users can subscribe to RSS news feeds for the Court's most recent judgments and decisions classified by importance level or respondent State. Feeds also exist for Grand Chamber judgments and decisions, important communicated cases, Case-law Information Notes, general news, webcasts of public hearings and translations into non-official languages.

C. Publications

1. Case-Law Information Note

This monthly publication is accessible free of charge via the HUDOC search portal and contains summaries of judgments, admissibility decisions and communicated cases considered to be of particular jurisprudential interest. The Information Note is also available in hard-copy form for an annual subscription fee which covers all eleven issues and index.

2. Practical Guide on Admissibility Criteria

As a follow-up to the Interlaken conference in February 2010 a comprehensive guide on admissibility criteria was published on-line in English and French. It will later be available in Russian and Turkish with – it is hoped – other languages to follow. It explains the Convention admissibility criteria in detail and is intended to enable lawyers to advise their clients properly on their chances of bringing an admissible case to the Court while discouraging clearly inadmissible applications that use up valuable resources.

3. Thematic Fact Sheets

In the course of 2010 the Court also launched two sets of factsheets on its case-law dealing with various themes, such as children's rights, violence against women, the situation of the Roma, the rights of homosexuals, prison conditions and the environment. They include both decided cases and pending applications. The factsheets can be found on the Court's website and are revised to keep up with case-law developments.

4. Handbook on European Non-Discrimination Law

The Court and the European Union Agency for Fundamental Rights have almost completed their first joint project aimed at increasing awareness and the domestic implementation of European Union law, the Convention and other legal instruments in the field of non-discrimination. A case-law handbook analysing the key principles developed by the European Court of Human Rights and the Court of Justice of the European Union in this area will be launched in 2011 and distributed to judges, prosecutors, lawyers and law-enforcement officials in a host of target countries and languages (Bulgarian, Czech, English, French, German, Greek, Hungarian, Italian, Polish, Romanian and Spanish). It will also be published online free-of-charge. Further translations are under way.

5. Anniversary book

Work was completed on the book *The Conscience of Europe: 50 Years of the European Court of Human Rights* which the Court will be launching in English and French at the opening of its judicial year on 28 January 2011.

Designed to mark the Court's fiftieth anniversary in 2009 and the Convention's sixtieth in 2010, the book groups a variety of individual contributions, including articles on sample judgments, around a skeleton retracing the main events over the last half-century. Beyond the institutional and legal dimensions, the Court's history is also told through the personal recollections of those who were part of it for a time. The book also looks ahead to what the

future may hold for the Court. Some of the proposals made at various points in the past ten years are set out, up to and including the milestone conference at Interlaken in February 2010.

The richly illustrated book is published in large-format in co-operation with the London publishers Third Millennium Information Ltd. and contains additional material on an accompanying disk. Publication has been made possible by a generous contribution from the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg.

6. The Court's official series

The official collection of selected judgments and decisions of the Court, *Reports of Judgments and Decisions* (cited as ECHR), is published by Carl Heymanns Verlag, Luxemburger Straße 449, D-50939 Köln (www.heymanns.com). The publisher offers special terms to anyone purchasing a complete set of the judgments and decisions and also arranges for their distribution, in association with the following agents for certain countries:

Belgium: Etablissements Emile Bruylant, 67 rue de la Régence, B-1000 Bruxelles
Luxembourg: Librairie Promoculture, 14 rue Duscher (place de Paris), B.P. 1142, L-1011 Luxembourg-Gare
The Netherlands: B.V. Juridische Boekhandel & Antiquariaat A. Jongbloed & Zoon, Noordeinde 39, NL-2514 GC 's-Gravenhage

The published texts are accompanied by headnotes, keywords and key notions, as well as a summary. A separate volume containing indexes is issued for each year. A cumulative index of the cases published in the official series will be published online in the near future.

So far the following judgments, decisions and advisory opinion delivered in 2010 have been accepted for publication. Grand Chamber cases are indicated by "[GC]" and decisions by "(dec.)". Where a Chamber judgment is not final or a request for referral to the Grand Chamber is pending, the decision to publish the Chamber judgment is provisional. As a number of cases examined towards the end of 2010 have not yet been considered for possible publication, the complete list will be included in the final version of the Annual Report.

Austria
S.H. and Others v. Austria, no. 57813/00, 1 April 2010
Schalk and KOPF v. Austria, no. 30141/04, 24 June 2010

Croatia
A. v. Croatia, no. 55164/08, 14 October 2010
Oršuš and Others v. Croatia [GC], no. 15766/03, 16 March 2010

Cyprus
Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010 (extracts)

France
Dalea v. France (dec.), no. 964/07, 2 February 2010
Depalle v. France [GC], no. 34044/02, 29 March 2010
Medvedyev and Others v. France [GC], no. 3394/03, 29 March 2010

Germany
Gäfgen v. Germany [GC], no. 22978/05, 1 June 2010
Obst v. Germany, no. 425/03, 23 September 2010 (extracts)
Schuth v. Germany, no. 1620/03, 23 September 2010
Uzun v. Germany, no. 35623/05, 2 September 2010 (extracts)

Hungary
Alajos Kiss v. Hungary, no. 38832/06, 20 May 2010

Iceland
Vörður Ólafsson v. Iceland, no. 20161/06, 27 April 2010

Ireland
McFarlane v. Ireland [GC], no. 31333/06, 10 September 2010
Stapleton v. Ireland (dec.), no. 56588/07, 4 May 2010

Italy
Moretti and Benedetti v. Italy, no. 16318/07, 27 April 2010 (extracts)

Latvia
Kononov v. Latvia [GC], no. 36376/04, 17 May 2010

Lithuania
Cudak v. Lithuania [GC], no. 15869/02, 23 March 2010

Malta
Dadouch v. Malta, no. 38816/07, 20 July 2010 (extracts)
Gatt v. Malta, no. 28221/08, 27 July 2010

Moldova
Tănase v. Moldova [GC], no. 7/08, 27 April 2010

Netherlands
Kemevuako v. the Netherlands (dec.), no. 65938/09, 1 June 2010 (extracts)
Sanoma Uitgevers B.V. v. the Netherlands [GC], no. 38224/03, 14 September 2010
Van Anraat v. the Netherlands (dec.), no. 65389/09, 6 July 2010 (extracts)

Poland
Frasik v. Poland, no. 22933/02, 5 January 2010 (extracts)

Romania
Farcaş v. Romania (dec.), no. 32596/04, 14 September 2010 (extracts)
Grosaru v. Romania, no. 78039/01, 2 March 2010

Russia
Alekseyev v. Russia, nos. 4916/07, 25924/08 and 14599/09, 21 October 2010
Jehovah's Witnesses of Moscow v. Russia, no. 302/02, 10 June 2010 (extracts)
Konstantin Markin v. Russia, no. 30078/06, 7 October 2010
Korolev v. Russia (dec.), no. 25551/05, 1 July 2010

Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010 (extracts)
Sakhnovskiy v. Russia [GC], no. 21272/03, 2 November 2010
Slyusarev v. Russia, no. 60333/00, 20 April 2010

Spain
Mangouras v. Spain [GC], no. 12050/04, 28 September 2010
Prado Bugallo v. Spain (dec.), no. 43717/07, 30 March 2010
Vera Fernández-Huidobro v. Spain, no. 74181/01, 6 January 2010

Switzerland
Neulinger and Shuruk v. Switzerland [GC], no. 41615/07, 6 July 2010
Schwizgebel v. Switzerland, no. 25762/07, 10 June 2010 (extracts)

Turkey
Ahmet Arslan and Others v. Turkey, no. 41135/98, 23 February 2010
Demopoulos and Others v. Turkey (dec.) [GC], nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04 and 21819/04, 1 March 2010
Dink v. Turkey, nos. 2668/07, 6102/08 and 30079/08, 14 September 2010
Sarıca and Dilaver v. Turkey, no. 11765/05, 27 May 2010
Sinan Işık v. Turkey, no. 21924/05, 2 February 2010
Yigit v. Turkey [GC], no. 3976/05, 2 November 2010

United Kingdom
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, 2 March 2010
Carson and Others v. the United Kingdom [GC], no. 42184/05, 16 March 2010
Gillan and Quinton v. the United Kingdom, no. 4158/05, 12 January 2010 (extracts)
Kennedy v. the United Kingdom, no. 26839/05, 8 May 2010

Advisory opinion *on certain legal questions concerning the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights (no. 2)* [GC], 22 January 2010

For information on how to purchase the Court's official series, information notes, HUDOC DVD or anniversary book please visit the web page "ECHR Publications" (www.echr.coe.int/ECHRpublications/en).

IX. SHORT SURVEY
OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2010

SHORT SURVEY
OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2010[1]

Introduction

In 2010 the Court delivered a total of 1,499 judgments, slightly down on the 1,625 judgments delivered in 2009. There was a 9% increase in the number of applications that resulted in a judgment compared to the previous year. 18 judgments, 1 admissibility decision and 1 advisory opinion were delivered by the Court in its composition as a Grand Chamber.

Many of the judgments concerned so-called "repetitive" cases: the number of judgments classed as importance level 1 or 2 in the Court's case-law database (HUDOC) represents 32.5% of all the judgments delivered in 2010[2].

The Convention provision which gave rise to the greatest number of violations was Article 6, firstly with regard to the right to a hearing within a reasonable time, then with regard to the right to a fair trial. This was followed by Article 5 (right to liberty and security) and Article 3 (prohibition of torture and of inhuman or degrading treatment or punishment). The highest number of judgments finding at least one violation was delivered in respect of Turkey (228), followed by Russia (204), Romania (135), Ukraine (107) and Poland (87).

On 1 June 2010 Protocol No. 14 to the Convention entered into force with the aim of guaranteeing the Court's long-term effectiveness by optimising the screening and processing of applications. Among other matters covered, it established a new admissibility criterion (the existence of a "significant loss") and a new judicial formation – the single judge – to deal with inadmissible cases.

12,894 cases were declared inadmissible or struck out of the list by Committees of three judges and 22,260 by the single-judge formation. In Chamber and Grand Chamber compositions, 673 applications were declared inadmissible (compared with 597 in 2009) and 2,749 were struck out of the list (against 1,211 in 2009). In all, 38,576 cases were declared inadmissible or struck out of the list in 2010 (compared with 33,067 in 2009). The number of cases declared admissible was 2,474 (compared with 2,141 in 2009).

1. This is a selection of judgments and decisions which either raise new issues or important matters of general interest, establish new legal principles or develop or clarify the case-law.

Jurisdiction and admissibility

General jurisdiction of the Court (Article 1)

The judgment in *Medvedyev and Others v. France*[1] raises the question of territorial jurisdiction during the boarding of a foreign vessel on the high seas. In this case the Court considered that, in view of the full and exclusive control exercised by the French authorities over the vessel and its crew, at least *de facto*, in a continuous and uninterrupted manner from the time of its interception, the crew members had been within France's jurisdiction for the purposes of Article 1.

The judgment in the case of *Kuzmin v. Russia*[2] raises the question of the State's responsibility for comments made by a candidate for the post of regional governor shortly before his election. Unlike the respondent Government, the Court considered that the individual in question – who, in addition to his status as candidate for the post of governor, was at the relevant time a retired army general and an important public figure who had occupied various senior posts and was a well-known politician – had not expressed his views on television as a private individual. Given *the very particular circumstances* in which the impugned remarks had been made, the Court found that *they amounted to declarations by a public official*.

Victim status (Article 34)

In its judgment in the case of *Sakhnovskiy v. Russia*[3], the Grand Chamber ruled on the issue of whether or not victim status was lost in the event of the reopening of proceedings, and on the concept of appropriate and sufficient *redress*.

Hindrance of the exercise of the right of individual application (Article 34)

In its judgment in the case of *Al-Saadoon and Mufdhi v. the United Kingdom*[4], the Court found a violation of the right of individual application after prisoners were handed over to foreign authorities in breach of an interim measure the Court had indicated under Rule 39 of its Rules. The Government had argued, unsuccessfully, that an *objective impediment* had made it impossible to comply with the measure.

Jurisdiction ratione materiae *(Article 35 § 3)*

Where a Government are estopped from raising a preliminary objection on the ground that the application is inadmissible *ratione materiae*, the Court must nonetheless examine this question, which concerns its jurisdiction, the scope of which is determined by the Convention itself and not by the observations submitted by the parties (*Medvedyev and Others*, cited above).

Absence of significant disadvantage (Article 35 § 3 (b))

With the entry into force of Protocol No. 14 to the Convention on 1 June 2010, a new admissibility criterion is to be applied to all pending applications, with the exception of those that have already been declared admissible.

1. [GC], no. 3394/03, to be reported in ECHR 2010.
2. No. 58939/00, 18 March 2010.
3. [GC], no. 21272/03, to be reported in ECHR 2010.
4. No. 61498/08, to be reported in ECHR 2010.

Thus, in application of Article 35 § 3 (b) of the Convention as amended by this Protocol, an application is declared inadmissible where the applicant has not suffered a significant disadvantage, if respect for human rights as defined in the Convention and the Protocols thereto does not require an examination of the application on the merits and if the case has been duly considered by a domestic court. This new provision may be applied by the Court *proprio motu* even where the application under consideration is neither incompatible with the provisions of the Convention or its Protocols, nor manifestly ill-founded or an abuse of the right of application.

Noting for the first time that these three conditions of the new criterion had been met, the Court in its decision *Adrian Mihai Ionescu v. Romania*[5] dismissed this application, which concerned damage amounting to 90 euros (EUR). The second decision concerned the payment of a sum of less than one euro (*Korolev v. Russia*[6]). Nonetheless, a violation of the Convention may concern an important point of principle, and thus cause significant disadvantage without however having pecuniary implications. The decision in *Rinck v. France*[7] (alleged damage of EUR 172 and the deduction of one driving-licence point) subsequently developed further the case-law on the concept of *significant disadvantage*, the assessment of which must take account both of the applicant's subjective perception and of what was objectively at stake in the dispute. For the first time, the Court dismissed a preliminary objection raised by a respondent Government on the ground of Article 35 § 3 (b), in its judgment in *Gaglione and Others v. Italy*[8] (not final).

"Core" rights

Right to life (Article 2)

The interest of the *Al-Saadoon and Mufdhi* judgment (cited above) lies primarily in the fact that the Court reiterated and clarified its case-law with regard to capital punishment, particularly in the light of Protocol No. 13, and with regard to conflicts between international obligations (see also Article 3).

Persons in police custody are vulnerable and the authorities have a duty to protect them. The judgment in *Jasinskis v. Latvia*[9] (not final) spelled out the domestic authorities' obligations, including under international law, regarding the treatment in police custody of deaf and mute persons.

Prohibition of torture and inhuman and degrading treatment and punishment (Article 3)

The *Gäfgen v. Germany*[10] judgment, which dealt with the sensitive subject of a threat of police violence against a man suspected of having kidnapped a child, specified that the prohibition of ill-treatment applied irrespective of the victim's conduct or the motivation of the authorities, and admitted no exceptions, not even in the event of danger that threatens an individual's life.

The withdrawal of a pair of glasses from a short-sighted prisoner who could neither read nor write normally without them resulted, for the first time, in the finding of a violation. The long period during which the applicant was deprived of his spectacles, giving rise for several months to

5. (dec.), no. 36659/04, 1 June 2010.
6. (dec.), no. 25551/05, 1 July 2010, to be reported in ECHR 2010.
7. (dec.), no. 18774/09, 19 October 2010.
8. No. 45867/07, 21 December 2010.
9. No. 45744/08, 21 December 2010.
10. [GC], no. 22978/05, to be reported in ECHR 2010.

feelings of insecurity and helplessness that were largely imputable to the authorities, was described as degrading treatment in the case of *Slyusarev v. Russia*[11].

The *Al-Saadoon and Mufdhi* judgment (cited above) concerned the risk of being sentenced to death and executed in Iraq. The Court noted that the domestic authorities' actions and failure to act had imposed on the applicants – prisoners who were handed over to the Iraqi authorities, contrary to an interim measure – psychological suffering arising from the fear of execution, which amounted to inhuman treatment within the meaning of Article 3.

Prohibition of slavery and forced labour (Article 4)

In its judgment in the case of *Rantsev v. Cyprus and Russia*[12], the Court developed its case-law concerning Article 4. In particular, it decided that trafficking in human beings was prohibited by this Article. It set out the positive obligations on States to prevent trafficking in human beings, protect actual and potential victims, and prosecute and punish those responsible. In addition, noting that, in many cases, a particular feature of this form of trafficking was that it was not limited to the territory of a single State, the Court stressed the duty of States to cooperate effectively with each other.

The Court laid down the criteria defining the concept of *forced or compulsory labour* in its decision in the case of *Steindel v. Germany* (dec.)[13]. A doctor in private practice complained of the obligation to participate in the emergency medical service, entailing six days on duty over a three-month period. The Court concluded that there had not been *forced or compulsory labour*, given that the services in question, which were remunerated, did not differ from a doctor's ordinary professional duties, did not require the physician to be available outside consultation hours and to provide night-time and weekend consultation services, and left ample time to take care of patients in private practice.

Right to liberty and security of person (Article 5)

Deprivation of liberty and lawfulness

The judgment in *Medvedyev and Others* (cited above) concerned the international effort to combat drug trafficking on the high seas. The fact that servicemen had boarded a foreign cargo ship suspected of transporting drugs, obliged it to change course and confined the crew to their quarters had constituted in this case a deprivation of liberty, which could not have been considered foreseeable within the meaning of Article 5 § 1. The Grand Chamber considered that developments in public international law which embraced the principle that all States had jurisdiction whatever the flag State, in line with what already existed in respect of piracy, would be a significant step forward in the fight against this illegal activity, given the seriousness and international scale of the problem.

Detention for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law

In its judgment in *Gatt v. Malta*[14], the Court examined for the first time under Article 5 § 1 (b) a system that is widespread in Europe, namely detention for non-compliance with the lawful order

11. No. 60333/00, to be reported in ECHR 2010.
12. No. 25965/04, to be reported in ECHR 2010 (extracts).
13. (dec.), no. 29878/07, 14 September 2010.
14. No. 28221/08, to be reported in ECHR 2010.

of a court or in order to secure the fulfilment of any obligation prescribed by law. An individual facing drug-trafficking proceedings failed to comply with the curfew hours imposed on him; since he was unable to pay the sum (23,300 euros) in guarantee for his bail, this amount was converted into 2,000 days' imprisonment. The Court emphasised the importance of the proportionality of the measure. The authorities must take account of circumstances such as the purpose of the order, the practical possibility of complying with it, and the length of the detention.

"Educational supervision" of minors (Article 5 § 1 (d))

In the case of *Ichin and Others v. Ukraine*[15] (not final), the Court examined the lawfulness under Article 5 § 1 of the Convention of the detention of adolescents who had not yet reached the age of criminal responsibility.

Right to be brought promptly before a judge or other officer authorised by law to exercise judicial power

In its judgment in *Medvedyev and Others* (cited above), the Grand Chamber reiterated the importance of the guarantees provided by Article 5 § 3 for the arrested person. In addition, while the Court had already noted that terrorist offences presented the authorities with special problems, this did not give them *carte blanche*, under Article 5, to place suspects in police custody, free from effective control. The same applied to the fight against drug trafficking on the high seas.

Release during the proceedings – Guarantee to appear for trial

While release may be conditioned by guarantees to appear for trial, the authorities had to take as much care in fixing appropriate bail as in deciding whether or not the accused's continued detention was indispensable. In interpreting the requirements of Article 5 § 3 in the area of pre-trial detention, the *Mangouras v. Spain*[16] judgment added that it was appropriate to take into consideration the growing concern in relation to environmental offences. Thus, it was permissible to adjust the amount of bail required for the release on bail of the captain of a vessel carrying fuel oil which had caused an ecological disaster in line with the seriousness of the offences in question and the amount of loss imputed to the applicant. More generally, the Grand Chamber indicated that, although the amount of bail was to be assessed primarily in relation to the accused and his resources, it was not unreasonable, in certain circumstances, to take account also of the level of liability incurred.

Compensation

The judgment in *Danev v. Bulgaria*[17] concerned the refusal by an appeal court to award compensation to the victim of pre-trial detention that had been acknowledged to be unlawful, on the ground that he had not proved that he had suffered any non-pecuniary damage. The Court dismissed, under Article 5 § 5, the excessively formalistic approach adopted by the national courts with regard to the establishment of non-pecuniary damage, which "meant that the award of any compensation was unlikely in the large number of cases where an unlawful detention lasted a short time and did not result in an objectively perceptible deterioration in the detainee's physical or psychological condition". Furthermore, the Court emphasised that the adverse effects of unlawful detention on a person's psychological condition could persist even after release.

15. Nos. 28189/04 and 28192/04, 21 December 2010.
16. [GC], no. 12050/04, to be reported in ECHR 2010.
17. No. 9411/05, 2 September 2010.

Procedural Rights

Right to a fair hearing (Article 6)

Applicability

In its judgment in *Oršuš and Others v. Croatia*[18], the Grand Chamber reaffirmed that the right to education is a civil right.

The judgment in *Vera Fernández-Huidobro v. Spain*[19] concerned the applicability of Article 6 § 1 to investigation proceedings. In so far as the acts performed by the investigating judge had a direct and inescapable influence on the conduct and, as a result, the fairness of the subsequent proceedings, including the actual trial itself, the Court considered that, although some of the procedural guarantees envisaged by Article 6 § 1 could be inapplicable at the investigation stage, the requirements of the right to a fair hearing in the wider sense necessarily implied that the investigating judge be impartial.

In the area of execution of prison sentences, the case of *Boulois v. Luxembourg*[20] (not final) concerned the refusal to grant a prisoner's requests for one-day leave, based on a professional and social reinsertion plan. The Court found that the restriction in question concerned personal rights, having regard to the importance to the prisoner of re-establishing himself in the community. It added that re-socialisation was crucial in order to protect the prisoner's right to lead a *social private life* and to develop his social identity. It concluded that Article 6 § 1 was applicable under its civil head.

Fairness

The Court has established in its case-law that the use in a trial of physical evidence obtained through methods that are contrary to Article 3 raises serious issues concerning the fairness of the proceedings. In the *Gäfgen* judgment (cited above), the Grand Chamber decided that the effective protection of individuals against such methods and the fairness of a criminal trial were, however, only at stake if it was shown that the violation of Article 3 of the Convention had influenced the outcome of the proceedings against the accused, in other words, if it had had an impact on the guilty verdict or the sentence.

The *Taxquet v. Belgium*[21] judgment concerned those States which had a lay jury system. That system arose from the legitimate desire to involve citizens in the administration of justice, particularly in relation to the most serious offences. The Court noted that in assize courts with participation by a lay jury, the jurors were usually not required – or were unable – to give reasons for their verdict. In those circumstances, Article 6 made it necessary to ensure that the accused had benefited from sufficient safeguards to avoid any risk of arbitrariness and to enable him or her to understand the reasons for a conviction. Such procedural guarantees could include, for example, directions or guidance provided by the presiding judge to the jurors on the legal issues at stake or the evidence given, and precise, unequivocal questions put to the jury by the judge, forming a framework on which the verdict could be based or sufficiently offsetting the fact that no reasons were given for the jury's answers. In this case, which concerned more than one defendant,

18. [GC], no. 15766/03, to be reported in ECHR 2010.
19. No. 74181/01, to be reported in ECHR 2010.
20. No. 37575/04, 14 December 2010.
21. [GC], no. 926/05, 16 November 2010.

the Court noted that the questions should have been individualised in so far as possible. Finally, where it exists, the possibility for the accused to lodge an appeal was to be taken into account.

The case of *Aleksandr Zaichenko v. Russia*[22] is interesting in that it concerns the exercise of the privilege against self-incrimination and of the right to remain silent in a location other than premises for police custody – in this instance, by the side of a road.

Impartiality

The judgment in *Vera Fernández-Huidobro* (cited above) is also noteworthy in that the Court found that the shortcomings in the investigation, arising from the judge's lack of objective impartiality, could have been remedied by a fresh investigation conducted by another judge from a different court.

Tribunal established by law

The judgment in *DMD Group, a.s., v. Slovakia*[23] concerned a lack of transparency in the assignment of cases within a court. The president of a court had decided, acting in his administrative capacity, to assign to himself a case and to rule on it on the same day. In addition to the absence of adequate rules, the reassignment of the case resulted from an individual decision rather than a general measure; no appeal lay against the decision and it was impossible to apply for the judge's withdrawal. The Court stressed the importance of guaranteeing judicial independence and impartiality. Thus, where the functioning of a court implied the taking of decisions that had both administrative and judicial aspects, the rules governing such decisions ought to be particularly clear and safeguards were to be put in place to prevent abuse. In the instant case, there had been a violation of the right to have a hearing before a tribunal established by law.

Presumption of innocence

The judgment in *Kuzmin* (cited above) emphasised that it is particularly important, already at an early stage, and even before an indictment in the context of criminal proceedings, not to make public allegations that could be construed as confirming that certain senior officials consider the individual concerned to be guilty.

Rights of the defence

The importance attached to the rights of the defence is such that the right to effective legal assistance must be respected in all circumstances. In the *Sakhnovskiy* case (cited above), the defendant, imprisoned more than 3,000 km from the site of his trial, was able to communicate by video-conference with his new court-appointed lawyer for fifteen minutes, immediately before the opening of the hearing; he had been obliged either to accept the lawyer who had just been assigned to him or to continue the proceedings without legal assistance. The Court examined whether, given the geographical difficulties, the State had taken measures which had sufficiently offset the restrictions placed on the applicant's rights. It concluded that the measures put in place had not been sufficient and had not ensured that the applicant had had effective legal assistance. With regard to the issue of waiver of the right to legal assistance, the Grand Chamber observed that a lay-person with no legal training could not be expected to take procedural measures that normally required a certain amount of legal knowledge and skill.

22. No. 39660/02, 18 February 2010.
23. No. 19334/03, 5 October 2010.

Certain cases provided an opportunity to clarify the safeguards provided under Articles 6 § 3 (c) and (e) of the Convention with regard to the initial phases of criminal proceedings: in contrast to situations already examined by the Court, the case in *Aleksandr Zaichenko* (cited above) concerned the fact that statements made by the applicant during a roadside inspection, including a vehicle search, and before he had been formally arrested or questioned in police premises, had been taken into account by the courts.

The decision in *Diallo v. Sweden*[24] concerned the conviction of a foreigner without her having benefited from the assistance of a registered interpreter during her first interview. The Court indicated that the investigation phase was of crucial importance for the preparation of the criminal proceedings, as the evidence obtained during this stage determines the framework in which the offence charged will be considered. The Court applied to interpreters the principle which it had identified with regard to lawyers in the *Salduz v. Turkey*[25] judgment (assistance to be provided to the person placed in police custody from the first interview): the assistance of an interpreter should be provided during the investigating stage unless it is demonstrated that there are compelling reasons to restrict this right.

Civil and political rights

Right to respect for private and family life and the home (Article 8)

Applicability

With regard to the scope of the concept of *private life*, the Court commented on police measures which affect the individual in his or her public movements.

In its judgment *Gillan and Quinton v. the United Kingdom*[26], the Court raised the sensitive subject of the power conferred on the police to stop and search individuals in public without plausible reasons for suspecting them of having committed an offence. To authorise the stopping of any individual anywhere and at any time, without prior warning and without leaving him or her the choice of whether or not to submit to a detailed search, amounted to an interference with the right to respect for private life. The public nature of the search, with the discomfort of having personal information exposed to public view, might even in certain cases compound the seriousness of the interference because of an element of humiliation and embarrassment.

In the *Uzun v. Germany*[27] judgment, the question of the existence of interference in private life on account of surveillance of movements in public places via a global positioning system (GPS), installed in a vehicle by police, was examined for the first time.

In addition, the decision *Köpke v. Germany*[28] concluded that Article 8 was applicable to surveillance at an employer's request by private detectives of a supermarket check-out assistant at her place of work and without her knowledge in an area that was open to the public; the video had then been used in public proceedings.

24. (dec.), no. 13205/07, 5 January 2010.
25. [GC], no. 36391/02, to be reported in ECHR 2008.
26. No. 4158/05, to be reported in ECHR 2010 (extracts).
27. No. 35623/05, to be reported in ECHR 2010 (extracts).
28. (dec.), no. 420/07, 5 October 2010.

The Court has already laid down the principle that the existence or otherwise of a *family life* is primarily a question of fact, which depends on the existence of close personal ties.

The decision in *Gas and Dubois v. France*[29] took the above-mentioned principle as its basis and drew consequences with regard to the applicability of Article 8 to a homosexual couple raising a child conceived by artificial insemination with sperm from an anonymous donor.

In its *Moretti and Benedetti v. Italy*[30] judgment, the Court recognised for the first time the existence of a *family life* between a host family and a foster child. The determination of the familial nature of relationships had to take account of a number of factors, such as the length of time the persons in question had been living together, the quality of the relationship and the adult's role in respect of the child.

Noting that over the past decade society's attitude with regard to same-sex couples had changed rapidly in many member States, a considerable number of which had granted them legal recognition, the Court concluded that a homosexual couple in a stable relationship qualified as *family life* in the same way as the relationship between a couple of the opposite sex in the same situation (judgment in *Schalk and Kopf v. Austria*[31]).

Private life

For the first time, the *Dalea v. France* decision[32] developed this concept with regard to inclusion in the Schengen information system register and its consequences for private and professional life. Such inclusion prohibits entry not only to the territory of a single State, but to all of the countries which apply the provisions of the Schengen Agreement. The applicant had been unable to challenge the precise ground for his inclusion on the register, which was classed as a matter of national security. In the area of entry to a territory, the Court allows the States a wide margin of appreciation with regard to the measures adopted to safeguard against arbitrariness, and thus differentiated this case from previous cases, which had concerned deportations.

For the first time, the Court examined, on the one hand, police surveillance of suspects via satellite and, on the other, video surveillance of an employee in the workplace.

With regard to surveillance by GPS, the Court considered that the use of this form of surveillance in the context of a criminal investigation differed, by its very nature, from other methods of surveillance by visual or acoustic means, and interfered less in private life. Thus, it held that it was not necessary to apply the same strict safeguards against abuse that it had established in the area of monitoring of telecommunications (*Uzun*, cited above).

The new issue of video surveillance of an employee at the request of her employers, who suspected her of theft, was examined in the *Köpke* case (cited above). Reiterating the State's positive obligations in the area of respect for private life, the Court identified safeguards, namely the prior existence of serious suspicions that the employee had committed an offence and the proportionality of the surveillance in relation to the investigation of that offence. This had been the case here: the surveillance had been limited in time and space, and had provided data that was handled by a restricted number of people.

29. (dec.), no. 25951/07, 31 August 2010.
30. No. 16318/07, to be reported in ECHR 2010 (extracts).
31. No. 30141/04, to be reported in ECHR 2010.
32. (dec.), no. 964/07, to be reported in ECHR 2010.

The judgment in *Özpınar v. Turkey*[33] (not final) dealt, for the first time, with the private life of a judge. It concerned a decision to dismiss a judge at the end of a disciplinary investigation for conduct that had occurred partly in the workplace and partly in her private life. The Court accepted that the ethical duties of judges might encroach upon their private life when their conduct, even in private, tarnished the image or reputation of the judiciary. Nonetheless, Article 8 required that any judge who faced dismissal on grounds related to private or family life must have guarantees against arbitrariness.

The judgment in *Hajduová v. Slovakia*[34] (not final) is an important one with regard to domestic violence. For the first time, the Court found a failure by the State to fulfil a positive obligation under Article 8 in the absence of concrete physical violence. Given a convicted ex-husband's history of violence and threatening behaviour, his new threats against his ex-wife had sufficed to affect the latter's psychological integrity and well-being. The lack of sufficient measures by the authorities in response to the ex-wife's well-founded fears that these threats might be carried out had breached her right to respect for private life.

In a case concerning the criteria for access to abortion, the Court examined the legitimate aim of protecting public morals (judgment in *A, B and C v. Ireland*[35]). It considered whether the evidence submitted by the applicants was sufficiently indicative of a change in the views of the Irish population in this area as to displace the opinion submitted by the State on the content of the requirements of public morals in the country.

With regard to a fundamental choice made by a State on a sensitive moral or ethical issue, based on the profound moral values of its people, the Grand Chamber clarified the case-law on the role of a European consensus in the interpretation of the Convention and the State's margin of appreciation.

Family life

In the *Mustafa and Armağan Akın v. Turkey*[36] judgment, the Court addressed a new question, namely that of the separation of children following their parents' divorce. The case concerned the access arrangements decided by the national courts, which prevented a brother and sister from seeing each other and thus spending time together and also deprived their father of the simultaneous company of both of his children. The Court stressed the obligation on the authorities to act with a view to maintaining and developing family life. It added that maintaining the ties between the children was too important to be left to the parents' discretion.

Home and private life

In the *Deés v. Hungary*[37] judgment (not final), the Court examined for the first time the nuisance caused by road traffic. It recognised the complexity of the task facing the national authorities in handling infrastructure issues. Nonetheless, in spite of the efforts made by the Hungarian authorities, the measures had proved to be insufficient, resulting in the applicant having been exposed to a direct and serious nuisance over a substantial period of time. The State had thus failed in its duty to guarantee respect for the right to respect for the home and private life.

33. No. 20999/04, 19 October 2010.
34. No. 2660/03, 30 November 2010.
35. [GC], no. 25579/05, 16 December 2010.
36. No. 4694/03, 6 April 2010.
37. No. 2345/06, 9 November 2010.

Freedom of conscience and religion (Article 9)

The judgment in *Sinan Işık v. Turkey*[38] concerned the negative aspect of freedom of religion and conscience, namely an individual's right not to be obliged to disclose his or her religion. The applicant complained, in particular, of the reference to religion on his identity card, a public document that was frequently used in daily life. The judgment makes an important contribution to the concept of *beliefs*. In the Court's view, where identity cards have a space reserved for indicating the person's religion, the fact of leaving the space blank was bound to have a particular connotation. Persons with identity cards not containing information concerning their religion would be distinguished, against their wishes and on the basis of interference by the public authorities, from persons with identity cards on which their religious beliefs were indicated. A request for such information not to be included on the identity card was closely bound up with the individual's most deeply held convictions. Accordingly, the issue invariably concerned the disclosure of one of the most intimate areas of a person's life.

The manifestation by a citizen of his or her beliefs in a public place, through the wearing of a specific dress code, lay at the heart of the *Ahmet Arslan and Others v. Turkey*[39] case. It differed from previous cases examined by the Court concerning the regulation of the wearing of religious symbols in public institutions, in which respect for neutrality with regard to beliefs could take precedence over the free exercise of the right to manifest one's religion.

The judgment in *Jakóbski v. Poland*[40] (not final) developed the case-law on special diets in prison on the ground of religious beliefs. The case concerned the refusal by prison authorities to provide a vegetarian diet to a Buddhist, in spite of the dietary rules laid down by his religion.

Freedom of expression (Article 10)

In the case of *Sanoma Uitgevers B.V. v. the Netherlands*[41], the Court clarified the procedural safeguards that are required in the event of an injunction requiring journalists to hand over material containing information likely to allow identification of their sources. How is the protection of journalistic sources to be reconciled with the necessities of a criminal investigation? It was necessary to ensure an independent assessment of whether the interest of an ongoing criminal investigation ought to override the public interest in the protection of journalists' sources. Thus, such a review could only be made by a judge or other independent and impartial decision-making body; the latter had to be empowered to refuse to issue a disclosure order or to make a more limited or qualified order. The Grand Chamber also listed the requirements in situations of urgency, and indicated those situations of judicial intervention that were incompatible with the rule of law.

The judgment in *Akdaş v. Turkey*[42] developed the case-law concerning the compromise between freedom of expression and the protection of morals. The Court enshrined the concept of a *European literary heritage* and set out in this regard various criteria: the author's international reputation; the date of the first publication; a large number of countries and languages in which publication had taken place; publication in book form and on the Internet; publication in a prestigious collection in the author's home country. It considered that members of the public

38. No. 21924/05, to be reported in ECHR 2010.
39. No. 41135/98, to be reported in ECHR 2010.
40. No. 18429/06, 7 December 2010.
41. [GC], no. 38224/03, to be reported in ECHR 2010.
42. No. 41056/04, 16 February 2010.

speaking a given language could not be prevented from having access to a work that was part of such a heritage.

Freedom of assembly and association (Article 11)

The case of *Vörður Ólafsson v. Iceland*[43] concerned the statutory obligation on a building industry entrepreneur to pay a contribution to the national federation of industries, a private association, although he (like the association for his industry) was not a member and was not obliged to join, and despite the fact that he considered the policies advocated by the federation to be contrary to his own political views and interests. This case differs from previous ones in that there was no obligation to join the federation. The Court dealt for the first time with the negative aspect of the right to freedom of association in relation to employers and recognised such a right. It examined whether a proper balance had been struck between the employer's right not to join an association on the one hand and the general interest sought by the impugned legislation in promoting and developing national industry on the other.

Right to marry (Article 12)

The Court found that, although the State could regulate civil marriage in accordance with Article 12, it could not however oblige persons within its jurisdiction to marry in a civil ceremony (judgment in *Şerife Yiğit v. Turkey*[44]).

The Grand Chamber noted that States enjoyed a certain margin of appreciation in providing for differing treatment depending on whether or not a couple was married, particularly in the areas affected by social and fiscal policy, such as liability for tax, pensions and social security benefits (*Şerife Yiğit*, cited above).

In the *Schalk and Kopf* judgment (cited above), the Court ruled for the first time on the issue of same-sex marriages, and concluded that Article 12 did not impose an obligation on the State to allow such persons to marry.

The Court delivered its first judgment on State measures intended to prevent the practice of sham marriages, used to circumvent immigration regulations (judgment in *O'Donoghue and Others v. the United Kingdom*[45], not final). The Court ruled that there was no justification for imposing a blanket prohibition on marriage that would affect all members of a particular category of the population and/or which was not based on an assessment of the genuineness of the marriage.

Prohibition of discrimination (Article 14)

The Court clarified the expression "*other status*", used in Article 14: in its judgment in *Carson and Others v. the United Kingdom*[46], it held that a person's place of residence was to be seen as an aspect of personal status and therefore represented a ground for discrimination that was prohibited by this Article. According to the *Şerife Yiğit* judgment (cited above), the absence of marital ties between two parents was an aspect of personal *status* that was likely to result in discrimination prohibited by Article 14. In this case, the applicant, who had been married in a

43. No. 20161/06, to be reported in ECHR 2010.
44. [GC], no. 3976/05, to be reported in ECHR 2010.
45. No. 34848/07, 14 December 2010.
46. [GC], no. 42184/05, to be reported in ECHR 2010.

religious but not a civil ceremony, complained that she had been discriminated against in comparison to women who had married according to the provisions of the Civil Code.

Right to education (Article 2 of Protocol No. 1)

The judgment in *Oršuš and Others* (cited above) concerned the placement of Roma children in school classes made up uniquely of Roma, on account of their allegedly insufficient grasp of the national language. When such a measure disproportionately or even, as in the present case, exclusively, affects members of a specific ethnic group, then appropriate safeguards have to be put in place. These safeguards must ensure that, in exercising its margin of appreciation in the education field, the State takes sufficient account of the children's special needs as members of a disadvantaged group.

Right to free elections (Article 3 of Protocol No. 1)

The Court underlined the essential role played by members of parliament in ensuring pluralism and the proper functioning of democracy. In particular, the role of members of the opposition was to represent the electors by ensuring the accountability of the government in power and evaluating the latter's policies. The *Tănase v. Moldova*[47] judgment added that the loyalty towards the State required of members of parliament could not be used to undermine their ability to represent the views of their constituents, in particular minority groups. The Court paid particular attention to restrictions on the right to vote or to stand as a candidate that were imposed shortly before an election was due to be held.

Unlike the great majority of judgments delivered on the right of free elections to date, which examined the criteria for eligibility, the *Grosaru v. Romania*[48] judgment dealt with the specific question of the attribution of a seat as a member of parliament, a crucial issue in post-electoral law. The case concerned a State which did not have a system allowing for post-electoral review by the courts. For the first time, the Court found that there had been a violation of Article 13 of the Convention taken together with Article 3 of Protocol No. 1. More generally, the judgment examined the subject of the political representation of national minorities.

For the first time, the Court examined under the right to vote the situation of individuals suffering from a mental disability that required a legal protection measure.

The automatic disenfranchisement of an individual on the sole ground that he had been placed under guardianship was at the origin of the judgment in *Alajos Kiss v. Hungary*[49]. The Court held that treating persons with mental or intellectual disabilities as a single group was a questionable classification. Any curtailments on the rights of those individuals had to be subject to strict scrutiny. In short, the automatic loss of the right to vote, in the absence of an individualised judicial assessment of the person's situation and on the sole basis of a mental disability requiring guardianship, could not be considered as a measure to restrict the right to vote that was founded on legitimate reasons. More generally, States had to provide weighty reasons when applying a restriction on fundamental rights to a particularly vulnerable group in society, such as the mentally disabled, who had suffered considerable discrimination and social exclusion in the past. The Court took into consideration the situation of such groups which had historically been subject to unfavourable treatment with lasting consequences, resulting in their social exclusion.

47. [GC], no. 7/08, to be reported in ECHR 2010.
48. No. 78039/01, to be reported in ECHR 2010.
49. No. 38832/06, to be reported in ECHR 2010.

Protection of property (Article 1 of Protocol No. 1)

Applicability

The judgment in *Depalle v. France*[50] concerned a demolition order in respect of a house built on maritime public property that could not be appropriated for private ends. Authorisation to occupy the house had been regularly renewed over very many years. Although a State's domestic laws did not recognise a particular interest as a *right* or even as a *property right*, the Court could find that there existed a proprietary interest that was of a sufficient nature and sufficiently recognised to constitute a *possession* within the meaning of the Convention. In this case, the time that had elapsed had had the effect of vesting in the applicant a proprietary interest in the peaceful enjoyment of his house.

The Grand Chamber reaffirmed that the obligation to pay court costs, and the regulations governing them, came under the second paragraph of Article 1 of Protocol No. 1, such costs being *contributions* (*Perdigão v. Portugal*[51] judgment).

Right to the peaceful enjoyment of possessions

The *Depalle* judgment (cited above) examined the issue of the protection of coastal areas. Having regard to the appeal of the coast and the degree to which it is coveted, the Court indicated that the need for planning control and unrestricted public access to the coast made it necessary to adopt a firmer policy of management of this part of the country, an observation that it extended to all European coastal areas.

Environmental protection was at stake in the case of *Consorts Richet and Le Ber v. France*[52] (not final). The Court examined the extent to which a State which sought to protect the environment and to preserve an island had nonetheless failed to strike a fair balance between the protection of property and the demands of the general interest. It found that States could not be exonerated from their contractual obligations on the sole ground that the rules adopted by them had changed.

The *Carson and Others* judgment (cited above) commented, in particular, on the conclusion of bilateral social security treaties, the technique most commonly used by the member States of the Council of Europe to ensure reciprocity in social security benefits.

In the case of *Perdigão* (cited above), the expropriation compensation awarded to the former owners had been completely absorbed by court costs, the amount of which had been higher. In the end, not only did the dispossessed owners receive nothing, they had had to pay a sum of money to the State. The Court underlined the importance of the result sought by Article 1 of Protocol No. 1 in terms of the *fair balance* between the means employed and the aim sought to be achieved, which had not been the case here. It might seem paradoxical that the State took back with one hand – through court costs – more than it had given with the other. In such a situation, the Court found that the difference in legal character between the obligation on the State to pay compensation for expropriation and the obligation on a litigant to pay court costs did not prevent an overall examination of the proportionality of the interference complained of under Article 1 of Protocol No. 1.

50. [GC], no. 34044/02, to be reported in ECHR 2010.
51. [GC], no. 24768/06, 16 November 2010.
52. Nos. 18990/07 and 23905/07, 18 November 2010.

The Court developed its case-law concerning the limitations placed on the rights of tenants to terminate a property lease (*Almeida Ferreira and Melo Ferreira v. Portugal*[53] judgment, not final). The case concerned a State's decision to grant wider protection to the interests of a certain category of tenants, such as those who had longer and more secure residential leases.

Compensation for wrongful conviction (Article 3 of Protocol No. 7)

Called on to examine a new issue in the case of *Bachowski v. Poland*[54], the Court clarified the scope of Article 3 of the above Protocol. The application concerned compensation proceedings for detention that had taken place prior to the fall of communism, the applicant's criminal conviction having been declared null and void on the ground that it was politically motivated. The Court found Article 3 of Protocol No. 7 to be inapplicable to the proceedings in question; relying on the Explanatory Report on the Protocol, it decided to interpret this provision literally. In other words, a change in political system could not be considered a *new or newly discovered fact.*

General prohibition of discrimination (Article 1 of Protocol No. 12)

The Court clarified the scope of Article 1 of Protocol No. 12 in the judgment *Savez crkava "Riječ života" and Others v. Croatia*[55] (not final). It ruled that this Article was applicable, even in the absence of a *right set forth by law*. The Explanatory Report on Protocol No. 12 and paragraph 2 of its Article 1 ruled out a narrow interpretation of the Article in question.

Execution of judgments (Article 46)

The judgment in *Sinan Işık* (cited above) is the first case in which Article 46 has been applied with regard to freedom of thought, conscience and religion.

In the case of *Al-Saadoon and Mufdhi* (cited above), the Court found that, in order to comply with its obligations, the United Kingdom, which had been found to have breached Article 3 of the Convention, was to seek to put an end to the applicants' suffering as rapidly as possible, by taking all possible steps to obtain an assurance from the Iraqi authorities that they would not be subjected to the death penalty.

The *Yetiş and Others v. Turkey*[56] judgment found that there was a *systemic problem* that had already given rise to more than two hundred applications and could result in numerous subsequent applications, and indicated that this was an aggravating factor with regard to the State's responsibility under the Convention. The adoption of general measures at national level was thus necessary in order to execute the judgment.

In its pilot judgment in *Maria Atanasiu and Others v. Romania*[57], which concerned a large-scale systemic problem with regard to the nationalisation of property during the communist period, the Court decided to adjourn for a specified period examination of all the applications resulting from the same general problem, pending the adoption of general measures at national level. In view of the large number of shortcomings in the system for compensation and restitution, which had persisted after the adoption of judgments by it, the Court held that it was essential for the State to take general measures as a matter of urgency. It suggested, as guidance, the type of

53. No. 41696/07, 21 December 2010.
54. (dec.), no. 32463/06, 2 November 2010.
55. No. 7798/08, 9 December 2010.
56. No. 40349/05, 6 July 2010.
57. Nos. 30767/05 and 33800/06, 12 October 2010.

measures that the State concerned could take in order to put an end to the structural problem, and drew attention to possible sources of inspiration provided by other States Parties to the Convention.

The failure of a State to execute a judgment finding a violation of the Convention on account of legislation had resulted in an influx of similar cases. In such a context, the *Greens and M.T. v. the United Kingdom*[58] judgment (not final) marked a new approach by the Court. It pointed out that this situation represented a threat to the future effectiveness of the Convention machinery. Applying its pilot-judgment procedure, it held that there was nothing to be gained, nor would justice be best served, by the repetition of its findings in a lengthy series of similar cases, which would be a significant drain on its resources and add to its already considerable caseload. In particular, such an exercise would not contribute usefully or in any meaningful way to the strengthening of human rights protection under the Convention. For the first time, the Court proposed to strike out all similar pending cases once the required legislative changes had been introduced by the State in question, without prejudice to any decision to recommence the treatment of these cases in the event of any non-compliance by the respondent State. For the first time, the Court also considered it appropriate to suspend the treatment of any applications not yet registered at the date of delivery of this judgment, as well as future applications.

Striking out (Article 37)

In the *Rantsev* judgment (cited above), the Court reiterated that its judgments served not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them. It set out the grounds on which respect for human rights required it to continue its examination of the case, in spite of the Cypriot authorities' request that it be struck out, based especially on the content of their unilateral declaration.

A unilateral declaration was rejected in order to facilitate the adoption of national measures in the applicant's favour in the *Hakimi v. Belgium*[59] judgment. This case raised a general issue in terms of the Convention, namely the impact of a government's unilateral declaration on the possibility of requesting the reopening of proceedings at national level. The legislation of several Contracting States allowed for the option of reopening proceedings if the Court had delivered a judgment finding a violation. In this case, it was unclear if it would be possible to accede to such a request following a unilateral declaration by the government. The Court held that it was not appropriate to strike out the case on the sole basis of the unilateral declaration: in particular, it held that, in order to be able to request reopening of the disputed proceedings, the applicant might require a judgment by the Court explicitly finding that there had been a violation of the Convention.

58. Nos. 60041/08 and 60054/08, 23 November 2010.
59. No. 665/08, 29 June 2010.

X. SELECTION OF JUDGMENTS, DECISIONS AND COMMUNICATED CASES

SELECTION[1] OF JUDGMENTS, DECISIONS AND COMMUNICATED CASES

JUDGMENTS

ARTICLE 1

Responsibility of States
Jurisdiction of States

Extent of Court's competence in cases involving international trafficking in human beings
Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010, no. 126

Territorial jurisdiction in respect of arrest of foreign vessel on high seas
Medvedyev and Others v. France [GC], no. 3394/03, 29 March 2010, no. 128

ARTICLE 2

Positive obligations
Life

Suicide of soldier with known psychological disorders during military service: *violation*
Lütfi Demirci and Others v. Turkey, no. 28809/05, 2 March 2010, no. 128

Failure to provide a patient, infected with HIV virus by blood transfusions at birth, with full and free medical cover for life: *violation*
Oyal v. Turkey, no. 4864/05, 23 March 2010, no. 128

Suicide of prisoner through overdose of psychotropic drugs prescribed for mental disorders: *violation*
Jasińska v. Poland, no. 28326/05, 1 June 2010, no. 131

Failure of authorities to protect life of a journalist following death threats: *violation*
Dink v. Turkey, nos. 2668/07 et al., 14 September 2010, no. 133

Positive obligations
Effective investigation

Failure by Cypriot authorities to conduct effective homicide investigation, in particular, as regards securing relevant evidence abroad under international convention for mutual assistance: *violation*
Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010, no. 126

1. The cases (including non-final judgments, see Article 43 of the Convention) are listed with their name and application number. The three-digit number at the end of each reference line indicates the issue of the Case-law Information Note where the case was summarised. Depending on the Court's findings, a case may appear under several keywords. The Information Notes and annual indexes are available in the Court's case-law database (HUDOC) at www.echr.coe.int/infonote/en. A hard-copy subscription is available for 30 euros or 45 United States dollars per year, including the index, by contacting the ECHR Publications service via the online form at www.echr.coe.int/echr/contact/en (select "Contact the ECHR Publications service"). All judgments and decisions are available in full text in HUDOC (except for decisions taken by a Committee or a single judge). The facts, complaints and the Court's questions in significant communicated cases are likewise available in HUDOC.

Inadequacy of rules on forensic medical reports: *violation*
Eugenia Lazăr v. Romania, no. 32146/05, 16 February 2010, no. 127

Alleged suicide of a Roma suspect while in police custody and lack of independent and effective investigation: *violations*
Mižigárová v. Slovakia, no. 74832/01, 14 December 2010, no. 136

Inadequate medical treatment of a deaf and mute man in police custody: *violations*
Jasinskis v. Latvia, no. 45744/08, 21 December 2010, no. 136

ARTICLE 3

Inhuman or degrading treatment

Requirement for detainee to wear a balaclava when not in his cell: *violation*
Petyo Petkov v. Bulgaria, no. 32130/03, 7 January 2010, no. 126

Administrative detention of infant asylum-seekers: *violation*
Muskhadzhiyeva and Others v. Belgium, no. 41442/07, 19 January 2010, no. 126

Refusal to provide dentures to toothless and impecunious detainee: *violation*
V.D. v. Romania, no. 7078/02, 16 February 2010, no. 127

Failure to provide detainee with defective eyesight with glasses: *violation*
Slyusarev v. Russia, no. 60333/00, 20 April 2010, no. 129

Continuing situation linked to poor conditions of detention in police cells and remand prison: *violation*
Ogică v. Romania, no. 24708/03, 27 May 2010, no. 130

Threats of physical harm by police to establish whereabouts of missing child: *violation*
Gäfgen v. Germany [GC], no. 22978/05, 1 June 2010, no. 131

Inadequate medical care in detention facility and use of metal cage during appeal hearing: *violations*
Ashot Harutyunyan v. Armenia, no. 34334/04, 15 June 2010, no. 131

Lack of adequate medical treatment in prison for a period of less than fourteen days: *no violation*
Gavriliță v. Romania, no. 10921/03, 22 June 2010, no. 131

Domestic compensation considerably lower than minimum awarded by Court in cases concerning inhuman treatment: *violation*
Ciorap v. Moldova (no. 2), no. 7481/06, 20 July 2010, no. 132

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Iorgov v. Bulgaria (no. 2), no. 36295/02, 2 September 2010, no. 133

Failure of domestic courts to give sufficient weight to medical advice that prisoner should be admitted to a specialist clinic: *violation*
Xiros v. Greece, no. 1033/07, 9 September 2010, no. 133

Passive smoking in prison: *violation*
Florea v. Romania, no. 37186/03, 14 September 2010, no. 133

Religiously motivated attacks by private individuals on a Hare Krishna member: *violation*
Milanović v. Serbia, no. 44614/07, 14 December 2010, no. 136

Positive obligations

Transfer of detainees to Iraqi authorities despite risk of capital punishment: *violation*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, 2 March 2010, no. 128

Failure to ensure appropriate medical treatment for person injured in police custody: *violation*
Umar Karatepe v. Turkey, no. 20502/05, 12 October 2010, no. 134

Failure to test detainee for tuberculosis on arrival in prison: *violation*
Dobri v. Romania, no. 25153/04, 14 December 2010, no. 136

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Proposed deportation to Iran of a person who had been ill-treated in detention for criticising the Iranian Government: *deportation would constitute violation*
R.C. v. Sweden, no. 41827/07, 9 March 2010, no. 128

Proposed extradition of convicted mercenary to Colombia: *extradition would constitute violation*
Klein v. Russia, no. 24268/08, 1 April 2010, no. 129

Risk of ill-treatment in case of deportation to Afghanistan of a woman separated from her husband: *deportation would constitute violation*
N. v. Sweden, no. 23505/09, 20 July 2010, no. 132

Unlawful removal of a Tajik opposition leader to Tajikistan without assessing risks of ill-treatment: *violation*
Iskandarov v. Russia, no. 17185/05, 23 September 2010, no. 133

ARTICLE 4

Applicability

Trafficking in human beings: *Article 4 applicable*
Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010, no. 126

Positive obligations

Failure by Cyprus to establish suitable framework to combat trafficking in human beings or to take operational measures to protect victims: *violation*
Failure by Russia to conduct effective investigation into recruitment of a young woman on its territory by traffickers: *violation*
Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010, no. 126

ARTICLE 5

Article 5 § 1

Liberty of person

Unacknowledged detention and unlawful removal designed to circumvent extradition procedures: *violation*
Iskandarov v. Russia, no. 17185/05, 23 September 2010, no. 133

Deprivation of liberty
Procedure prescribed by law

Confinement to ship of crew of foreign vessel arrested on high seas: *violation*
Medvedyev and Others v. France [GC], no. 3394/03, 29 March 2010, no. 128

Failure to adhere strictly to domestic-law rules governing detention with a view to deportation: *violation*
Jusic v. Switzerland, no. 4691/06, 2 December 2010, no. 136

Lawful arrest or detention

Applicant's continued detention for two days without legal basis following final decision requiring his release: *violation*
Ogică v. Romania, no. 24708/03, 27 May 2010, no. 130

Arbitrary detention of minors in a juvenile holding facility: *violation*
Ichin and Others v. Ukraine, nos. 28189/04 and 28192/04, 21 December 2010, no. 136

Article 5 § 1 (b)

Non-compliance with court order
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Disproportionate detention for failure to pay amount due for breach of bail conditions: *violation*
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Article 5 § 1 (e)

Persons of unsound mind

Fourteen days' confinement in psychiatric hospital to enable psychiatric reports to be prepared in connection with malicious-prosecution charge: *violation*
C.B. v. Romania, no. 21207/03, 20 April 2010, no. 129

Article 5 § 3

Brought promptly before judge or other officer

First appearance before a judge thirteen days after initial detention following arrest of vessel on high seas: *no violation*
Medvedyev and Others v. France [GC], no. 3394/03, 29 March 2010, no. 128

Detainee brought before public prosecutor who was under authority of executive and parties: *violation*
Moulin v. France, no. 37104/06, 23 November 2010, no. 135

Release pending trial
Guarantees to appear for trial

Level of recognizance required to secure release on bail of a ship's master in maritime pollution case: *no violation*
Mangouras v. Spain [GC], no. 12050/04, 28 September 2010, no. 133

Article 5 § 4

Procedural guarantees of review

Refusal of judge to allow legally-represented defendant to attend hearing of prosecution appeal against an order for her release on bail: *violation*
Allen v. the United Kingdom, no. 18837/06, 30 March 2010, no. 128

Article 5 § 5

Compensation

Refusal to grant reparation for unlawful detention on grounds that applicant had not proved any non-pecuniary damage: *violation*
Danev v. Bulgaria, no. 9411/05, 2 September 2010, no. 133

ARTICLE 6

Article 6 § 1 (civil)

Applicability

Proceedings for unfair dismissal by Embassy employee: *Article 6 applicable*
Cudak v. Lithuania [GC], no. 15869/02, 23 March 2010, no. 128

Proceedings challenging the recording of the applicant's name in a secret police file and the withdrawal of firearms licence: *Article 6 applicable*
Užukauskas v. Lithuania, no. 16965/04, 6 July 2010, no. 132

Right to a court

Obligation to submit to arbitration as a result of clause agreed by third parties: *violation*
Suda v. the Czech Republic, no. 1643/06, 28 October 2010, no. 134

Access to a court

Restriction on a Church's access to court in a dispute with another Church: *violation*
Sâmbata Bihor Greek Catholic Parish v. Romania, no. 48107/99, 12 January 2010, no. 126

Grant of State immunity from jurisdiction in respect of claim for unfair dismissal by Embassy employee: *violation*
Cudak v. Lithuania [GC], no. 15869/02, 23 March 2010, no. 128

Fixing of court fees payable by creditor of insolvent company by reference to total value of claim: *no violation*
Urbanek v. Austria, no. 35123/05, 9 December 2010, no. 136

Prison board's repeated refusal, with no right of appeal to the administrative courts, to grant prisoner temporary leave: *violation*
Boulois v. Luxembourg, no. 37575/04, 14 December 2010, no. 136

Fair hearing

Failure to give reasons for holding newspaper photographer and publishing company jointly liable in damages: *violation*
Antică and "R" company v. Romania, no. 26732/03, 2 March 2010, no. 128

Lack of uniform interpretation of law by county courts sitting as courts of final instance in collective dismissal cases: *violation*
Ştefănică and Others v. Romania, no. 38155/02, 2 November 2010, no. 135

Tribunal established by law

Decision by district court president acting in his administrative capacity to reassign case to himself for judicial decision: *violation*
DMD Group, a.s., v. Slovakia, no. 19334/03, 5 October 2010, no. 134

Article 6 § 1 (criminal)

Applicability

Allegation of a lack of impartiality by an investigating judge: *Article 6 applicable*
Vera Fernández-Huidobro v. Spain, no. 74181/01, 6 January 2010, no. 126

Admissions made by suspect during roadside spot check: *Article 6 § 1 applicable*
Aleksandr Zaichenko v. Russia, no. 39660/02, 18 February 2010, no. 127

Transfer of a sentenced foreigner to his native country, under the Convention on the Transfer of Sentenced Persons, following assurances by the public prosecutor: *Article 6 applicable*
Buijen v. Germany, no. 27804/05, 1 April 2010, no. 129

Access to a court

Inability to challenge decision to transfer a sentenced foreigner to his native country in so far as it related to an assurance given by the public prosecutor: *violation*
Buijen v. Germany, no. 27804/05, 1 April 2010, no. 129

Fair hearing

Conviction on basis of admissions made to police prior to the administration of a caution: *violation*
Aleksandr Zaichenko v. Russia, no. 39660/02, 18 February 2010, no. 127

Voluntary and unequivocal waiver of right to assistance of a lawyer while in police custody: *no violation*
Yoldaş v. Turkey, no. 27503/04, 23 February 2010, no. 127

Conviction based to decisive degree on witness statements that had since been retracted: *violation*
Orhan Çaçan v. Turkey, no. 26437/04, 23 March 2010, no. 128

Conviction on basis of unfairly conducted identification parade: *violation*
Laska and Lika v. Albania, nos. 12315/04 and 17605/04, 20 April 2010, no. 129

Use in trial of evidence obtained under duress: *no violation*
Gäfgen v. Germany, no. 22978/05 [GC], 1 June 2010, no. 131

Police officer responsible for operating video equipment permitted to remain alone with jury while it viewed important video evidence: *no violation*
Szypusz v. the United Kingdom, no. 8400/07, 21 September 2010, no. 133

Criminal conviction based on statement made by defendant in police custody after swearing oath normally reserved for witnesses: *violation*
Brusco v. France, no. 1466/07, 14 October 2010, no. 134

Undercover police operation resulting in conviction for drug-trafficking offences: *no violation*
Bannikova v. Russia, no. 18757/06, 4 November 2010, no. 135

Lack of public hearing before appeal court deciding issues of fact: *violation*
García Hernández v. Spain, no. 15256/07, 16 November 2010, no. 135

Lack of adequate procedural safeguards to enable accused to understand reasons for jury's guilty verdict in assize court: *violation*
Taxquet v. Belgium [GC], no. 926/05, 16 November 2010, no. 135

Equality of arms

Examination of appeal on points of law by Supreme Court at preliminary hearing held in presence of public prosecutor but in absence of accused: *violation*
Zhuk v. Ukraine, no. 45783/05, 21 October 2010, no. 134

Independent and impartial tribunal

Lack of impartiality during investigation remedied by new investigation by judge from different court: *no violation*
Vera Fernández-Huidobro v. Spain, no. 74181/01, 6 January 2010, no. 126

Successive performance by the same judge of investigative and judicial duties in respect of the same minor: *violation*
Adamkiewicz v. Poland, no. 54729/00, 2 March 2010, no. 128

Order for continued pre-trial detention based on preconceived idea of defendant's guilt: *violation*
Chesne v. France, no. 29808/06, 22 April 2010, no. 129

Criminal trial in defamation case presided over by same judge as had sat in prior civil proceedings: *violation*
Fatullayev v. Azerbaijan, no. 40984/07, 22 April 2010, no. 129

Assessment of question of pure fact evidence by an almost identically composed bench of the Court of Cassation in two successive appeals: *violation*
Mancel and Branquart v. France, no. 22349/06, 24 June 2010, no. 131

Doubts as to impartiality where two out of three members of bench who had ordered applicant's detention pending trial subsequently sat on bench that convicted him: *violation*
Cardona Serrat v. Spain, no. 38715/06, 26 October 2010, no. 134

Lack of guarantees of independence of assessors (assistant judges) sitting in district courts: *violation*
Henryk Urban and Ryszard Urban v. Poland, no. 23614/08, 30 November 2010, no. 135

Article 6 § 2

Presumption of innocence

Virulent remarks made on television by candidate for election as governor about a district prosecutor accused of rape: *violation*

Kouzmin v. Russia, no. 58939/00, 18 March 2010, no. 128

Prosecution of senior civil servant on basis of reports compiled during an administrative inquiry that was biased against him: *violation*

Poncelet v. Belgium, no. 44418/07, 30 March 2010, no. 128

Statement by Prosecutor General prior to formal charges being brought indicating that a material element of suspected offence had been made out: *violation*

Fatullayev v. Azerbaijan, no. 40984/07, 22 April 2010, no. 129

Permanent use of metal cage as a security measure during appeal hearings: *no violation*

Ashot Harutyunyan v. Armenia, no. 34334/04, 15 June 2010, no. 131

Refusal to award compensation for pre-trial detention because applicant acquitted for lack of evidence: *violation*

Tendam v. Spain, no. 25720/05, 13 July 2010, no. 132

Article 6 § 3

Rights of defence

Failure to inform person in police custody before questioning of right not to incriminate himself and to remain silent: *violation*

Brusco v. France, no. 1466/07, 14 October 2010, no. 134

Article 6 § 3 (c)

Defence through legal assistance

Absence of legal assistance during police spot check at roadside: *no violation*

Aleksandr Zaichenko v. Russia, no. 39660/02, 18 February 2010, no. 127

Voluntary and unequivocal waiver of right to assistance of a lawyer while in police custody: *no violation*

Yoldaş v. Turkey, no. 27503/04, 23 February 2010, no. 127

Use in evidence of confession to police of a minor who had been denied access to a lawyer: *violation*

Adamkiewicz v. Poland, no. 54729/00, 2 March 2010, no. 128

Lack of personal contact prior to appeal hearing with legal-aid counsel who had to plead the applicant's case on the basis of submissions of another lawyer: *violation*

Sakhnovskiy v. Russia [GC], no. 21272/03, 2 November 2010, no. 135

Article 6 § 3 (d)

Examination of witnesses

Inability of defendant in criminal proceedings to cross-examine main prosecution witness or challenge her evidence: *violation*
V.D. v. Romania, no. 7078/02, 16 February 2010, no. 127

Conviction based to decisive degree on witness statements that had since been retracted: *violation*
Orhan Çaçan v. Turkey, no. 26437/04, 23 March 2010, no. 128

ARTICLE 7

Nullum crimen sine lege

Conviction under legislation introduced in 1993 for war crimes committed in Second World War: *no violation*
Kononov v. Latvia [GC], no. 36376/04, 17 May 2010, no. 130

ARTICLE 8

Applicability

Cohabiting same-sex couple living in a stable relationship constitute "family life": *Article 8 applicable*
Schalk and Kopf v. Austria, no. 30141/04, 24 June 2010, no. 131

Private life

Power to stop and search individuals without reasonable suspicion of wrongdoing: *violation*
Gillan and Quinton v. the United Kingdom, no. 4158/05, 12 January 2010, no. 126

Requirement for first names in official documents to be spelt only with letters from official Turkish alphabet: *no violation*
Kemal Taşkın and Others v. Turkey, nos. 30206/04 et al., 2 February 2010, no. 127

GPS surveillance of suspected terrorist: *no violation*
Uzun v. Germany, no. 35623/05, 2 September 2010, no. 133

Press article accusing wife of senior judge on basis of remarks by former accountant of involvement in improper dealings with a company: *no violation*
Polanco Torres and Movilla Polanco v. Spain, no. 34147/06, 21 September 2010, no. 133

Failure of authorities to implement court orders intended to afford applicant protection from violent husband: *violation*
A. v. Croatia, no. 55164/08, 14 October 2010, no. 134

Removal of judge from office for reasons partly related to her private life: *violation*
Özpınar v. Turkey, no. 20999/04, 19 October 2010, no. 134

Conviction of university professor for refusing to comply with court order requiring him to grant access to research materials: *no violation*
Gillberg v. Sweden, no. 41723/06, 2 November 2010, no. 135

Liability of health professionals to prosecution effectively depriving expectant mothers of right to medical assistance for home births: *violation*
Ternovszky v. Hungary, no. 67545/09, 14 December 2010, no. 136

Restrictions on obtaining an abortion in Ireland: *violation/no violation*
A, B and C v. Ireland [GC], no. 25579/05, 16 December 2010, no. 136

Private and family life

Medical examination of suspected child-abuse victim without parental consent or court order; delays in referring suspected child-abuse victim to specialist to determine cause of her injuries: *violations*
M.A.K. and R.K. v. the United Kingdom, nos. 45901/05 and 40146/06, 23 March 2010, no. 128

Failure to regulate residence of persons who had been "erased" from the permanent residents register following Slovenian independence: *violation*
Kurić and Others v. Slovenia, no. 26828/06, 13 July 2010, no. 132

Prolonged failure to register marriage concluded abroad: *violation*
Dadouch v. Malta, no. 38816/07, 20 July 2010, no. 132

Dismissal of church employees for adultery: *no violation/violation*
Obst v. Germany, no. 425/03, 23 September 2010, no. 133
Schüth v. Germany, no. 1620/03, 23 September 2010, no. 133

Family life

Failings of local authority in conducting risk assessment of child with brittle bone disease: *violation*
A.D. and O.D. v. the United Kingdom, no. 28680/06, 16 March 2010, no. 128

Custody order effectively preventing siblings spending time together: *violation*
Mustafa and Armağan Akın v. Turkey, no. 4694/03, 6 April 2010, no. 129

Failure to ensure father's right of contact during proceedings for return of son who had been taken abroad by the mother: *violation*
Macready v. the Czech Republic, nos. 4824/06 and 15512/08, 22 April 2010, no. 129

Failure to examine request for adoption by foster parents before declaring child free for adoption: *violation*
Moretti and Benedetti v. Italy, no. 16318/07, 27 April 2010, no. 129

Order annulling adoption following the divorce of the adoptive parents: *violation*
Kurochkin v. Ukraine, no. 42276/08, 20 May 2010, no. 130

Order for return of child with mother to father's country of residence from which it had been wrongly removed: *forced return would constitute violation*
Neulinger and Shuruk v. Switzerland [GC], no. 41615/07, 6 July 2010, no. 132

Authorities' refusal, for five years, to assign asylum-seekers to the same canton as their spouses, so they could live together: *violation*
Mengesha Kimfe v. Switzerland, no. 24404/05, 29 July 2010, no. 132
Agraw v. Switzerland, no. 3295/06, 29 July 2010, no. 132

Decision to deprive applicant of parental responsibilities and to authorise the adoption of her son by his foster parents: *no violation*
Aune v. Norway, no. 52502/07, 28 October 2010, no. 134

Revocation, on account of unsatisfactory conduct by both parents, of order for return of applicant's daughter following her abduction by mother: *no violation*
Serghides v. Poland, no. 31515/04, 2 November 2010, no. 135

Inability of biological father to establish in law his paternity of children born to a married woman with whom he had been cohabiting: *no violation*
Chavdarov v. Bulgaria, no. 3465/03, 21 December 2010, no. 136

Expulsion

Deportation of long-term immigrant for particularly serious and violent offences: *no violation*
Mutlag v. Germany, no. 40601/05, 25 March 2010, no. 128

Deportation order against long-term illegal immigrant: *deportation would not constitute a violation*
Gezginci v. Switzerland, no. 16327/05, 9 December 2010, no. 136

Home

Inadequacy of measures taken by State to curb road-traffic noise: *violation*
Deés v. Hungary, no. 2345/06, 9 November 2010, no. 135

Correspondence

Proportionality and safeguards of legislation on interception of internal communications: *no violation*
Kennedy v. the United Kingdom, no. 26839/05, 18 May 2010, no. 130

Positive obligations

Inability to change registration of ethnic origin in official records: *violation*
Ciubotaru v. Moldova, no. 27138/04, 27 April 2010, no. 129

Failure to prevent unlawful operation of computer club causing noise and nuisance in block of flats: *violation*
Mileva and Others v. Bulgaria, nos. 43449/02 and 21475/04, 25 November 2010, no. 135

Failure to sufficiently protect wife from violent husband: *violation*
Hajduová v. Slovakia, no. 2660/03, 30 November 2010, no. 135

Inability of biological father to establish in law his paternity of children born to a married woman with whom he had been cohabiting: *no violation*
Chavdarov v. Bulgaria, no. 3465/03, 21 December 2010, no. 136

ARTICLE 9

Freedom of religion

Indication of religion on identity cards: *violation*
Sinan Işık v. Turkey, no. 21924/05, 2 February 2010, no. 127

Obligation to disclose religious convictions to avoid having to take religious oath in criminal proceedings: *violation*
Dimitras and Others v. Greece, nos. 42837/06 et al., 3 June 2010, no. 131

Dissolution of religious community without relevant and sufficient reasons: *violation*
Jehovah's Witnesses of Moscow v. Russia, no. 302/02, 10 June 2010, no. 131

Manifest religion or belief

Criminal conviction for wearing religious attire in public: *violation*
Ahmet Arslan and Others v. Turkey, no. 41135/98, 23 February 2010, no. 127

Refusal to provide Buddhist prisoner with meat-free diet: *violation*
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Freedom of expression

Seizure of translation of erotic literary work and conviction of publisher: *violation*
Akdaş v. Turkey, no. 41056/04, 16 February 2010, no. 127

Newspaper publisher held jointly liable in damages with its photo-journalist employee for damage to reputation of third party implicated in high profile case: *violation*
Antică and "R" company v. Romania, no. 26732/03, 2 March 2010, no. 128

Conviction of magazine editors for publishing information on female friend of a public official: *violation*
Flinkkilä and Others v. Finland, no. 25576/04, 6 April 2010, no. 129

Criminal convictions of newspaper editor for articles calling into question official version of events and government policy: *violations*
Fatullayev v. Azerbaijan, no. 40984/07, 22 April 2010, no. 129

Conviction of elected representative for her response to remarks made by public servant at demonstration on a particularly sensitive national issue: *violation*
Haguenauer v. France, no. 34050/05, 22 April 2010, no. 129

Conviction for publication of allegations insinuating that a Muslim professor had taken part in terrorist activities: *violation*
Brunet Lecomte and Lyon Mag' v. France, no. 17265/05, 6 May 2010, no. 130

Re-entry ban on American academic for controversial statements on Kurdish and Armenian issues: *violation*
Cox v. Turkey, no. 2933/03, 20 May 2010, no. 130

Conviction of non-violent demonstrators for shouting slogans in support of an illegal organisation: *violation*
Gül and Others v. Turkey, no. 4870/02, 8 June 2010, no. 131

Seizure of book for almost two years and eight months on basis of unreasoned judicial decisions: *violation*
Sapan v. Turkey, no. 44102/04, 8 June 2010, no. 131

Conviction for defamation following publication of a book in which a former defendant described his own trial: *violation*
Roland Dumas v. France, no. 34875/07, 15 July 2010, no. 132

Conviction of university professor for refusing to comply with court order requiring him to grant access to research materials: *no violation*
Gillberg v. Sweden, no. 41723/06, 2 November 2010, no. 135

Award of damages against public servant for comments made to press concerning confidential report on conduct of Court of Cassation judge: *no violation*
Poyraz v. Turkey, no. 15966/06, 7 December 2010, no. 136

Freedom to receive and impart information

Police seizure of material that could have led to identification of journalistic sources: *violation*
Sanoma Uitgevers B.V. v. the Netherlands [GC], no. 38224/03, 14 September 2010, no. 133

Freedom to impart information

Virtually automatic conviction of media professionals for publishing written material of banned organisations: *violation*
Gözel and Özer v. Turkey, nos. 43453/04 and 31098/05, 6 July 2010, no. 132

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Saliyev v. Russia, no. 35016/03, 21 October 2010, no. 134

Positive obligations

Failure of authorities to protect freedom of expression of a journalist who had commented on identity of Turkish citizens of Armenian extraction: *violation*
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Freedom of peaceful assembly and of association

Liability of non-member to pay contribution to private industrial federation: *violation*
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Refusal to re-register community as religious organisation without lawful basis: *violation*
Jehovah's Witnesses of Moscow v. Russia, no. 302/02, 10 June 2010, no. 131

Repeated refusals to authorise gay-pride parades: *violation*
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ARTICLE 12

Right to marry

Refusal to allow a prisoner to marry in prison: *violation*
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Inability of same-sex couple to marry: *no violation*
Schalk and Kopf v. Austria, no. 30141/04, 24 June 2010, no. 131

Requirement of certificate of approval for immigrants wishing to marry other than in the Church of England: *violation*
O'Donaghue and Others v. the United Kingdom, no. 34848/07, 14 December 2010, no. 136

ARTICLE 13

Effective remedy

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Post-election dispute concerning parliamentary representation of a national minority: *violation*
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Lack of effective remedy to claim damages for delays in criminal proceedings: *violation*
McFarlane v. Ireland [GC], no. 31333/06, 10 September 2010, no. 133

Judge denied an effective remedy in respect of Article 8 complaint: *violation*
Özpınar v. Turkey, no. 20999/04, 19 October 2010, no. 134

ARTICLE 14

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Religiously motivated attacks by private individuals on a Hare Krishna member: *violation*
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Sâmbata Bihor Greek Catholic Parish v. Romania, no. 48107/99, 12 January 2010, no. 126

Refusal, as a result of applicant's ethnic origin, to suspend sentence: *violation*
Paraskeva Todorova v. Bulgaria, no. 37193/07, 25 March 2010, no. 128

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Kozak v. Poland, no. 13102/02, 2 March 2010, no. 128

Prohibition under domestic law on the use of ova and sperm from donors for *in vitro* fertilisation: *violation (case referred to the Grand Chamber)*
S.H. and Others v. Austria, no. 57813/00, 1 April 2010, nos. 129 and 134

Unmarried middle-aged woman debarred from adopting a second child: *no violation*
Schwizgebel v. Switzerland, no. 25762/07, 10 June 2010, no. 131

Inability of same-sex couple to marry: *no violation*
Schalk and Kopf v. Austria, no. 30141/04, 24 June 2010, no. 131

Publications allegedly insulting to the Roma community: *no violation (case referred to the Grand Chamber)*
Aksu v. Turkey, nos. 4149/04 and 41029/04, 27 July 2010, nos. 132 and 135

Difference in treatment between male and female military personnel regarding rights to parental leave: *violation*
Konstantin Markin v. Russia, no. 30078/06, 7 October 2010, no. 134

Refusal to grant welfare benefits to foreign nationals: *violation*
Fawsie v. Greece, no. 40080/07, 28 October 2010, no. 134
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Discrimination with regard to binational couple's choice of surname: *violation*
Losonci Rose and Rose v. Switzerland, no. 664/06, 9 November 2010, no. 135

Restriction on transsexual's access to her child: *no violation*
P.V. v. Spain, no. 35159/09, 30 November 2010, no. 135

Discrimination (Article 9)

Failure to provide a pupil excused from religious instruction with ethics classes and associated marks: *violation*
Grzelak v. Poland, no. 7710/02, 15 June 2010, no. 131

Inability of Reformist churches to provide religious education in schools and to conclude officially recognised religious marriages: *violation*
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Requirement of certificate of approval for immigrants wishing to marry other than in the Church of England: *violation*
O'Donaghue and Others v. the United Kingdom, no. 34848/07, 14 December 2010, no. 136

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Absence of right to index-linking for pensioners resident in overseas countries which had no reciprocal arrangements with the United Kingdom: *no violation*
Carson and Others v. the United Kingdom [GC], no. 42184/05, 16 March 2010, no. 128

Difference in treatment on grounds of sexual orientation in relation to child-support regulations: *violation*
J.M. v. the United Kingdom, no. 37060/06, 28 September 2010, no. 133

Refusal to recognise applicant as heir of man she had married in purely religious ceremony: *no violation*
Şerife Yiğit v. Turkey [GC], no. 3976/05, 2 November 2010, no. 135

Refusal, under terms of bilateral agreement, of Estonian pension to servicemen in receipt of Russian military pension: *no violation*
Tarkoev and Others v. Estonia, nos. 14480/08 and 47916/08, 4 November 2010, no. 135

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ARTICLE 22

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Withdrawal of list of candidates after expiration of deadline for submitting list to Parliamentary Assembly: *withdrawal not possible*
Advisory Opinion (no. 2) on certain legal questions concerning the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights - [GC], 22 January 2010, no. 126

ARTICLE 34

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Domestic court judgment acknowledging and affording appropriate and sufficient redress for Convention violation: *loss of victim status*
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Düzdemir and Güner v. Turkey, nos. 25952/03 and 25966/03, 27 May 2010, no. 130

Acknowledgment by national authorities of inhuman treatment but without compensation or adequate punishment of offenders: *victim status upheld*
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Domestic compensation considerably lower than minimum awarded by Court in cases concerning inhuman treatment: *victim status upheld*
Ciorap v. Moldova (no. 2), no. 7481/06, 20 July 2010, no. 132

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Hinder the exercise of the right of petition

Transfer of detainees to Iraqi authorities in contravention of interim measure, allegedly because of "objective impediment" making compliance impossible: *violation*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, 2 March 2010, no. 128

Failure of the authorities to comply with an interim measure indicated by the Court under Rule 39: *violation*
Kamaliyevy v. Russia, no. 52812/07, 3 June 2010, no. 131

Inability of an asylum-seeker in a detention centre to hold meetings with a lawyer despite the indication of an interim measure by the European Court: *violation*
D.B. v. Turkey, no. 33526/08, 13 July 2010, no. 132

Intimidation and pressurising of applicant by authorities in connection with case before the European Court: *violation*

Lopata v. Russia, no. 72250/01, 13 July 2010, no. 132

Authorities' refusal to provide imprisoned applicant with copies of documents required for his application to the Court: *violation*

Naydyon v. Ukraine, no. 16474/03, 14 October 2010, no. 134

ARTICLE 35

Article 35 § 1

Effective domestic remedy – Czech Republic

Purely compensatory remedy for violation of the "speediness" requirement under Article 5 § 4: *effective remedy*

Knebl v. the Czech Republic, no. 20157/05, 28 October 2010, no. 134

Six-month period

Six-month period to be calculated by reference to criteria specific to the Convention: *inadmissible*

Büyükdere and Others v. Turkey, nos. 6162/04 et al., 8 June 2010, no. 131

Article 35 § 3

Competence *ratione personae*

Application lodged on behalf of minor child by foster parents: *inadmissible*

Moretti and Benedetti v. Italy, no. 16318/07, 27 April 2010, no. 129

Article 35 § 3 (b)

No significant disadvantage

Complaints concerning substantial delays in recovering judgment debts exceeding 200 euros: *preliminary objection dismissed*

Gaglione and Others v. Italy, nos. 45867/07 et al., 21 December 2010, no. 136

ARTICLE 37

Article 37 § 1

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Tehrani and Others v. Turkey, nos. 32940/08, 41626/08 and 43616/08, 13 April 2010, no. 129

Unilateral declaration by Government denying applicant opportunity to obtain finding of violation of Article 6 § 1 needed to seek review of domestic decision: *strike out refused*
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Respondent State required to take action to afford applicants opportunity to have domestic proceedings reopened or their cases re-examined
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Respondent State required to enact appropriate legislation regulating residence of persons who had been “erased” from the permanent residents register following Slovenian independence
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Respondent State required to amend legislation on religious denominations
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Respondent State required to introduce legislation to end discrimination between male and female military personnel regarding rights to parental leave
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Respondent State required to take legislative and administrative measures to guarantee property rights in cases where immovable property has been nationalised
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Jehovah's Witnesses of Moscow v. Russia, no. 302/02, 10 June 2010, no. 131

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Aizpurua Ortiz and Others v. Spain, no. 42430/05, 2 February 2010, no. 127

Legislative gap preventing victims of Soviet political repression from effectively asserting their rights to compensation: *violation*
Klaus and Iouri Kiladze v. Georgia, no. 7975/06, 2 February 2010, no. 127

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Đokić c. Bosnie-Herzégovine, no. 6518/04, 27 May 2010, no. 130

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Saghinadze and Others v. Georgia, no. 18768/05, 27 May 2010, no. 130

Refusal to award compensation for loss or deterioration of property seized in criminal proceedings: *violation*
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Unlawful distribution of assets of private bank by liquidator: *violation (case referred to the Grand Chamber)*
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Tax liability arising out of delays by authorities in complying with court order to pay compensation for expropriation: *violation*
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Disproportionate burden on applicants resulting from depreciation of compensation for expropriation between date of assessment and date of settlement, with no default interest: *violation*
Yetiş and Others v. Turkey, no. 40349/05, 6 July 2010, no. 132

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Statutory ban on landlord terminating a long lease: *no violation*
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ARTICLE 3 OF PROTOCOL No. 1

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Alajos Kiss v. Hungary, no. 38832/06, 20 May 2010, no. 130

Failure for more than thirty years to introduce legislation giving practical effect to expatriates' constitutional right to vote in parliamentary elections from overseas: *violation (case referred to the Grand Chamber)*
Sitaropoulos and Giakoumopoulos v. Greece, no. 42202/07, 8 July 2010, nos. 132 and 135

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Kerimova v. Azerbaijan, no. 20799/06, 30 September 2010, no. 133

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Exclusion of certain categories of convicted prisoners from voting in elections: *violation*
Frodl v. Austria, no. 20201/04, 8 April 2010, no. 129

Failure by domestic authorities to adequately investigate complaints of electoral irregularities: *violation*
Namat Aliyev v. Azerbaijan, no. 18705/06, 8 April 2010, no. 129

Inability of persons with multiple nationality to stand as candidates in parliamentary elections: *violation*
Tănase v. Moldova [GC], no. 7/08, 27 April 2010, no. 129

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Alleged inequality of rights of male and female military personnel to parental leave: *inadmissible*
Konstantin Markin v. Russia, no. 30078/06, 7 October 2010, no. 134

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Inability of Reformist churches to provide religious education in schools and to conclude officially recognised religious marriages: *Article 1 of Protocol No. 12 applicable*
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Life

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Use of potentially lethal gas in an operation to rescue over 900 hostages: *admissible*
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Extradition orders entailing risk of effective detention for life and virtual solitary confinement for lengthy periods in US "supermax" facilities: *admissible*
Babar Ahmad and Others v. the United Kingdom (dec.), nos. 24027/07, 11949/08 and 36742/08, 6 July 2010, no. 132

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Alleged failure by police to take all reasonably available measures to protect schoolchildren and their parents from sectarian violence: *inadmissible*
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Receipt of benefits conditioned by obligation to take up "generally accepted" employment: *inadmissible*
Schuitemaker v. the Netherlands (dec.), no. 15906/08, 4 May 2010, no. 130

Obligation on medical practitioner to participate in emergency-service scheme: *inadmissible*
Steindel v. Germany (dec.), no. 29878/07, 14 September 2010, no. 133

ARTICLE 5

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Refusal to allow a convicted prisoner to be assisted by lawyer of his own choosing in order to appeal against preventive detention: *inadmissible*
Prehn v. Germany (dec.), no. 40451/06, 24 August 2010, no. 133

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Article 6 § 1 (civil)

Applicability

Inability to access or secure rectification of personal data in Schengen database: *Article 6 § 1 inapplicable; inadmissible*
Dalea v. France (dec.), no. 964/07, 2 February 2010, no. 127

Inability of victim to join criminal proceedings as civil party where accused enters into plea bargain with prosecution during preliminary investigation: *Article 6 inapplicable; inadmissible*
Mihova v. Italy (dec.), no. 25000/07, 30 March 2010, no. 128

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Alleged lack of access to court for a physically disabled person: *inadmissible*
Farcaş v. Romania (dec.), no. 32596/04, 14 September 2010, no. 133

Imposition of small fines by courts for vexatious applications for rectification of judgments: *inadmissible*
Toyaksi and Others v. Turkey (dec.), nos. 43569/08 et al., 20 October 2010, no. 134

Article 6 § 1 (criminal)

Applicability
Determination of a criminal charge

Investigations by authorities not resulting in a charge: *Article 6 § 1 inapplicable; inadmissible*
Sommer v. Italy (dec.), no. 36586/08, 23 March 2010, no. 128

Assize court refusal to hold new trial following re-examination of case-file pursuant to judgment of European Court: *inadmissible*
Öcalan v. Turkey (dec.), no. 5980/07, 6 July 2010, no. 132

Fair hearing

Criticism by members of national legal service of draft legislation applicable to pending proceedings: *inadmissible*
Previti v. Italy (dec.), no. 45291/06, 8 December 2009, no. 126

Surrender of suspect to fellow member State despite alleged risk of unfair trial: *inadmissible*
Stapleton v. Ireland (dec.), no. 56588/07, 4 May 2010, no. 130

Order of examination of grounds of appeal: *inadmissible*
Cortina de Alcocer and de Alcocer Torra v. Spain (dec.), no. 33912/08, 25 May 2010, no. 130

Article 6 § 3 (d)

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Inability of person accused of crimes against humanity to find evidence in defence owing to passage of time between alleged offence and start of investigation: *inadmissible*
Sommer v. Italy (dec.), no. 36586/08, 23 March 2010, no. 128

Article 6 § 3 (e)

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Absence of an authorised interpreter at the applicant's initial questioning by a customs officer, who had a command of the foreign language concerned: *inadmissible*
Diallo v. Sweden (dec.), no. 13205/07, 5 January 2010, no. 126

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Nullum crimen sine lege

Conviction for supplying Iraqi authorities with chemical substance used to produce poisonous gas: *inadmissible*
Van Anraat v. the Netherlands (dec.), no. 65389/09, 6 July 2010, no. 132

ARTICLE 8

Applicability

Claim for damages against a third party arising out of the death of the applicant's fiancée: *Article 8 inapplicable; inadmissible*
Hofmann v. Germany (dec.), no. 1289/09, 2 February 2010, no. 127

Private life

Refusal to make medication available to assist suicide of a mental patient: *admissible*
Haas v. Switzerland (dec.), no. 31322/07, 20 May 2010, no. 130

Video surveillance of supermarket cashier suspected of theft: *inadmissible*
Köpke v. Germany (dec.), no. 420/07, 5 October 2010, no. 134

Private and family life

Criminal conviction for destroying fields of genetically modified crops: *inadmissible*
Hubert Caron and Others v. France (dec.), no. 48629/08, 29 June 2010, no. 132

Refusal of domestic courts to order mother and child to undergo DNA tests to establish scientific evidence of paternity where that issue had already been judicially determined: *inadmissible*
I.L.V. v. Romania (dec.), no. 4901/04, 24 August 2010, no. 133

Family life

Refusal to grant adoptive parent order revoking adoption: *inadmissible*
Goția v. Romania (dec.), no. 24315/06, 5 October 2010, no. 134

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Status of a laundry room belonging to the owners of a building in multiple occupation: *inadmissible*
Chelu v. Romania (dec.), no. 40274/04, 12 January 2010, no. 126

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Refusal to grant association of Jehovah's Witnesses tax exemption available to liturgical associations: *admissible*
Association Les Témoins de Jéhovah v. France (dec.), no. 8916/05, 21 September 2010, no. 133

ARTICLE 10

Freedom of expression

Measures taken by prison service to prevent serial killer publishing autobiographical work: *inadmissible*
Nilsen v. the United Kingdom (dec.), no. 36882/05, 9 March 2010, no. 128

Freedom to impart information

Fine imposed on defence counsel for disclosing to the press, before the jury's verdict, evidence the trial court had ruled inadmissible: *inadmissible*
Furuholmen v. Norway (dec.), no. 53349/08, 18 March 2010, no. 128

ARTICLE 14

Discrimination (Article 5 § 1 (a))

Refusal to release a convicted prisoner on licence: *inadmissible*
Celikkaya v. Turkey, no. 34026/03 (dec.), 1 June 2010, no. 131

Discrimination (Article 7)

Restriction on grounds of nationality on right to benefit from amnesty: *inadmissible*
Sommer v. Italy (dec.), no. 36586/08, 23 March 2010, no. 128

Discrimination (Article 8)

Refusal of request for adoption made by mother's civil partner: *admissible*
Gas and Dubois v. France (dec.), no. 25951/07, 31 August 2010, no. 133

Refusal of reversionary pension to survivor of civil partnership between two people of the same sex: *admissible*
Manenc v. France (dec.), no. 66686/09, 21 September 2010, no. 133

Discrimination (Article 1 of Protocol No. 1)

Alleged discrimination in amount of pension payable to married persons: *inadmissible*
Zubczewski v. Sweden (dec.), no. 16149/08, 12 January 2010, no. 126

Statutory obligation on car insurers to pay percentage of premiums to bodies responsible for road safety: *inadmissible*
Allianz – Slovenská poisťovňa, a.s., and Others v. Slovakia (dec.), no. 19276/05, 9 November 2010, no. 135

ARTICLE 34

Victim

Attribution of right relied on to municipality, a governmental organisation, not its members: *inadmissible*
Demirbaş and Others v. Turkey (dec.), nos. 1093/08 et al., 9 November 2010, no. 135

Locus standi

Application lodged by a municipality, a public organisation: *inadmissible*
Döşemealtı Belediyesi v. Turkey (dec.), no. 50108/06, 23 March 2010, no. 128

Hinder the exercise of the right of petition

Destruction of tape recordings from a court hearing before the expiry of the six-month time-limit for lodging an application with the Court: *inadmissible*
Holland v. Sweden (dec.), no. 27700/08, 9 February 2010, no. 127

Alleged inability of physically disabled applicant to exhaust domestic remedies, owing to lack of special facilities providing access to public services: *inadmissible*
Farcaş v. Romania (dec.), no. 32596/04, 14 September 2010, no. 133

ARTICLE 35

Article 35 § 1

Effective domestic remedy – Finland

Complaint under Compensation for Excessive Duration of Judicial Proceedings Act: *effective remedy*
Ahlskog v. Finland (dec.), no. 5238/07, 9 November 2010, no. 135

Effective domestic remedy – Poland

Claim for compensation for infringement of personal rights under Articles 24 and 448 of the Civil Code on account of prison overcrowding: *effective remedy*
Łatak v. Poland (dec.), no. 52070/08, 12 October 2010, no. 134
Łomiński v. Poland (dec.), no. 33502/09, 12 October 2010, no. 134

Effective domestic remedy – Russia

Claim for compensation under Federal Law no. 68-*ФЗ* for the non-enforcement of judgments or procedural delays: *effective remedy*
Fakhretdinov and Others v. Russia (dec.), nos. 26716/09 et al., 23 September 2010, no. 133
Nagovitsyn and Nalgiyev v. Russia (dec.), nos. 27451/09 and 60650/09, 23 September 2010, no. 133

Effective domestic remedy – Turkey

Failure to seek redress from Immovable Property Commission under Law no. 67/2005 in respect of deprivation of property in northern Cyprus in 1974: *inadmissible*
Demopoulos and Others v. Turkey (dec.) [GC], nos. 46113/99 et al., 1 March 2010, no. 128

Six-month period

Original of the application form submitted outside the eight-week time-limit set in the Practice Direction on the Institution of Proceedings: *inadmissible*
Kemevuako v. the Netherlands, no. 65938/09 (dec.), 1 June 2010, no. 131

Article 35 § 3

Competence *ratione matériae*

Refusal to reopen civil proceedings following finding of Article 6 violation not based on relevant new grounds capable of giving rise to a fresh violation: *inadmissible*
Steck-Risch and Others c. Liechtenstein (dec.), no. 29061/08, 11 May 2010, no. 130

Prohibition on members' use of Tahitian during French Polynesian Assembly debates: *inadmissible*
Birk-Levy v. France (dec.), no. 39426/06, 21 September 2010, no. 133

Abuse of the right of petition

Length of proceedings complaint concerning a token sum of money: *inadmissible*
Bock v. Germany (dec.), no. 22051/07, 19 January 2010, no. 126

Length-of-proceedings complaints in small-claims cases by litigious applicant: *inadmissible*
Dudek v. Germany (dec.), nos. 12977/09 et al., 23 November 2010, no. 135

Article 35 § 3 (b)

No significant disadvantage

Fulfilment of new three-part inadmissibility test under Protocol No. 14 – no significant disadvantage to applicant: *inadmissible*
Ionescu v. Romania (dec.), no. 36659/04, 1 June 2010, no. 131

Complaint concerning inability to recover a judgment debt worth less than one euro: *inadmissible*
Korolev v. Russia (dec.), no. 25551/05, 1 July 2010, no. 132

Complaint concerning EUR 150 fine and deduction of one point from driving licence: *inadmissible*
Rinck v. France (dec.), no. 18774/09, 19 October 2010, no. 134

ARTICLE 37

Article 37 § 1

Continued examination not justified

Unilateral declaration affording adequate redress and announcing introduction of general remedial measures for length-of-proceedings complaints: *struck out*
Facondis v. Cyprus (dec.), no. 9095/08, 27 May 2010, no. 130

ARTICLE 46

Execution of a judgment

Assize court refusal to hold new trial following re-examination of case-file pursuant to judgment of European Court: *inadmissible*
Öcalan v. Turkey (dec.), no. 5980/07, 6 July 2010, no. 132

ARTICLE 57

Reservation

Latvia's reservation under Article 1 of Protocol No. 1 in respect of unlawfully expropriated property and privatisation: *reservation not applicable*
Liepājnieks v. Latvia (dec.), no. 37586/06, 2 November 2010, no. 135

ARTICLE 1 OF PROTOCOL No. 1

Peaceful enjoyment of possessions

Statutory obligation on car insurers to pay percentage of premiums to road-safety bodies: *inadmissible*
Allianz – Slovenská poisťovňa, a.s., and Others v. Slovakia (dec.), no. 19276/05, 9 November 2010, no. 135

ARTICLE 2 OF PROTOCOL No. 1

Right to education

Measures taken by authorities of "Moldavian Republic of Transdniestria" against schools refusing to use Cyrillic script: *admissible (case relinquished to the Grand Chamber)*
Catan and Others v. Moldova and Russia, nos. 43370/04, 8252/05 and 18454/06 (dec.), 15 June 2010, nos. 131 and 136

ARTICLE 3 OF PROTOCOL No. 7

New or newly discovered facts

Compensation following reversal of a criminal conviction in the light of a change in political regime: *inadmissible*

Bachowski v. Poland (dec.), no. 32463/06, 2 November 2010, no. 135

OTHER MATTERS

European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights

Request for waiver in domestic proceedings of Government Agent's immunity under the European Agreement: *request rejected*

Albertsson v. Sweden (dec.), no. 41102/07, 6 July 2010, no. 132

COMMUNICATED CASES

ARTICLE 2

Positive obligations
Life

Suicide of conscripts during military service
Akıncı and 15 other applications v. Turkey, nos. 39125/04 et al., no. 126

Lack of police intervention to prevent fatal shooting of a prosecution witness by defendant in criminal proceedings
Van Colle v. the United Kingdom, no. 7678/09, no. 127

Accidental death of civilian through explosion of anti-personnel mine
Avcı v. Turkey and Greece, no. 45067/05, no. 129

Fatal shooting of handcuffed prisoner by soldier during attempted escape
Ülüfer v. Turkey, no. 23038/07, no. 136

Positive obligations
Effective investigation

Alleged failure to conduct effective investigation into fatal shooting of person mistakenly identified as suspected terrorist
Armani Da Silva v. the United Kingdom, no. 5878/08, no. 134

ARTICLE 3

Inhuman or degrading treatment

Conditions of detention
Segheti v. Moldova, no. 39584/07, no. 126

Removal of tissue from deceased without knowledge or consent of family
Elberte v. Latvia, no. 61243/08, no. 130

Expulsion

Alleged risk of female genital mutilation if returned to Nigeria
Omeredo v. Austria, no. 8969/10, no. 133

ARTICLE 4

Forced labour

Alleged kidnapping of a Bulgarian Roma girl in Italy
Milanova and Others v. Italy and Bulgaria, no. 40020/03, no. 127

ARTICLE 5

Article 5 § 1

Deprivation of liberty

Containment of peaceful demonstrators within a police cordon for over seven hours
Austin and Others v. the United Kingdom, nos. 39692/09, 40713/09 and 41008/09, no. 134

Take proceedings

Refusal to reopen criminal proceedings
Hulki Güneş v. Turkey, no. 17210/09, no. 127

ARTICLE 6

Article 6 § 1 (criminal)

Fair hearing

Lack of public hearing in summary administrative-offences proceedings
Marguč and Others v. Slovenia, nos. 14889/08 et al., no. 130

ARTICLE 8

Private and family life

Removal of tissue from deceased without knowledge or consent of family
Elberte v. Latvia, no. 61243/08, no. 130

Family life

Refusal to grant custody of child to father because he was member of a religious sect
Cosac v. Romania, no. 28129/05, no. 126

ARTICLE 9

Manifest religion or belief

Constitutional amendment prohibiting the building of minarets
Ouardiri v. Switzerland, no. 65840/09, no. 130
Association "Ligue des musulmans de Suisse" and Others v. Switzerland, no. 66274/09, no. 130

ARTICLE 10

Freedom to receive and impart information

Denial of Internet access to prisoner
Jankovskis v. Lithuania, no. 21575/08, no. 134

ARTICLE 1 OF PROTOCOL No. 1

Peaceful enjoyment of possessions

Inability to recover "old" foreign-currency savings following dissolution of SFRY
Ališić and Others v. Bosnia and Herzegovina, Croatia, "the former Yugoslav Republic of Macedonia", Serbia and Slovenia, no. 60642/08, no. 128

XI. CASES ACCEPTED FOR REFERRAL TO THE GRAND CHAMBER AND CASES IN WHICH JURISDICTION WAS RELINQUISHED BY A CHAMBER IN FAVOUR OF THE GRAND CHAMBER

CASES ACCEPTED FOR REFERRAL TO THE GRAND CHAMBER AND CASES IN WHICH JURISDICTION WAS RELINQUISHED BY A CHAMBER IN FAVOUR OF THE GRAND CHAMBER

A. Cases accepted for referral to the Grand Chamber

In 2010 the five-member panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 5 meetings (on 1 March, 10 May, 28 June, 4 October and 22 November) to examine requests by the parties for cases to be referred to the Grand Chamber under Article 43 of the Convention. It considered requests concerning a total of 264 cases, 129 of which were submitted by the respective Governments (in 7 cases both the Government and the applicant submitted requests).

In 2010 the panel accepted requests in the following 12 cases (concerning 16 applications):
Aksu v. Turkey, nos. 4149/04 and 41029/04
Al-Khawaja v. the United Kingdom, no. 26766/05
Bayatyan v. Armenia, no. 23459/03
Creangă v. Romania, no. 29226/03
Giuliani and Gaggio v. Italy, no. 23458/02
Kotov v. Russia, no. 54522/00
Lautsi v. Italy, no. 30814/06
Nejdet Şahin and Perihan Şahin v. Turkey, no. 13279/05
Palomo Sánchez and Others v. Spain[1], nos. 28955/06, 28957/06, 28959/06 and 28964/06
S.H. and Others v. Austria, no. 57813/00
Sitaropoulos and Others v. Greece, no. 42202/07
Tahery v. the United Kingdom, no. 22228/06

B. Cases in which jurisdiction was relinquished by a Chamber in favour of the Grand Chamber

First Section – *Sargsyan v. Azerbaijan*, no. 40167/06; *Nada v. Switzerland*, no. 10593/08; *Stummer v. Austria*, no. 37452/02

Second Section – *M.S.S. v. Belgium and Greece*, no. 30696/09; *Centro Europa 7 S.r.l. v. Italy*, no. 38433/09

Third Section – *Chiragov and Others v. Armenia*, no. 13216/05; *Van der Heijden v. the Netherlands*, no. 42857/05

Fourth Section – *Al-Jedda v. the United Kingdom*, no. 27021/08; *Al-Skeini and Others v. the United Kingdom*, no. 55721/07; *Catan and Others v. Moldova and Russia*, nos. 43370/04, 8252/05 and 18454/06

Fifth Section – *Von Hannover and Axel Springer AG v. Germany*, nos. 39954/08, 40660/08 and 60641/08; *Stanev v. Bulgaria*, no. 36760/06

1. Formerly *Aguilera Jiménez and Others v. Spain*.

XII. STATISTICAL INFORMATION

STATISTICAL INFORMATION[1]

Events in total (2009-2010)

1. Applications allocated to a judicial formation (round figures [50])	**2010**	**2009**	**+/-**
Applications allocated	**61,300**	57,100	7%

2. Interim procedural events	**2010**	**2009**	**+/-**
Applications communicated to respondent Government	**6,675**	6,203	8 %

3. Applications decided	**2010**	**2009**	**+/-**
By decision or judgment*	**41,183**	35,459	16%
– by judgment delivered	**2,607**	2,393	9%
– by decision (inadmissible/struck out)	**38,576**	33,067	17%

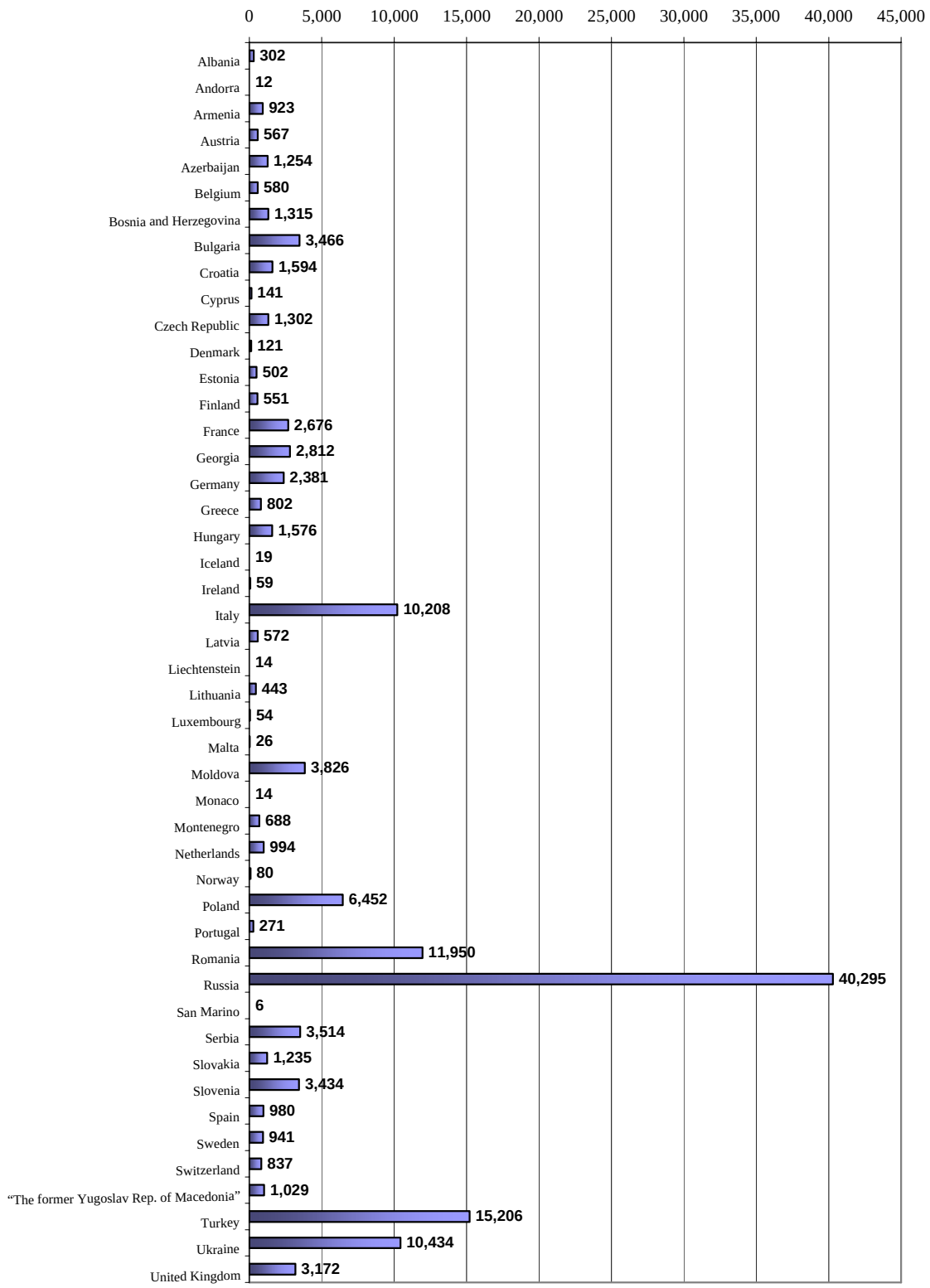
4. Pending applications (round figures [50])	**31/12/2010**	**1/1/2010**	**+/-**
Applications pending before a judicial formation	**139,650**	119,300	17%
– Chamber (7 judges)	**47,150**	44,400	6%
– Committee (3 judges)	**4,100**	74,900	23%
– Single-judge formation	**88,400**		

5. Pre-judicial applications (round figures [50])	**31/12/2010**	**1/1/2010**	**+/-**
Applications at pre-judicial stage	**21,950**	20,000	10%
	2010	**2009**	**+/-**
Applications disposed of administratively (applications not pursued)	**11,800**	11,650	1%

* A judgment or decision may concern more than one application.

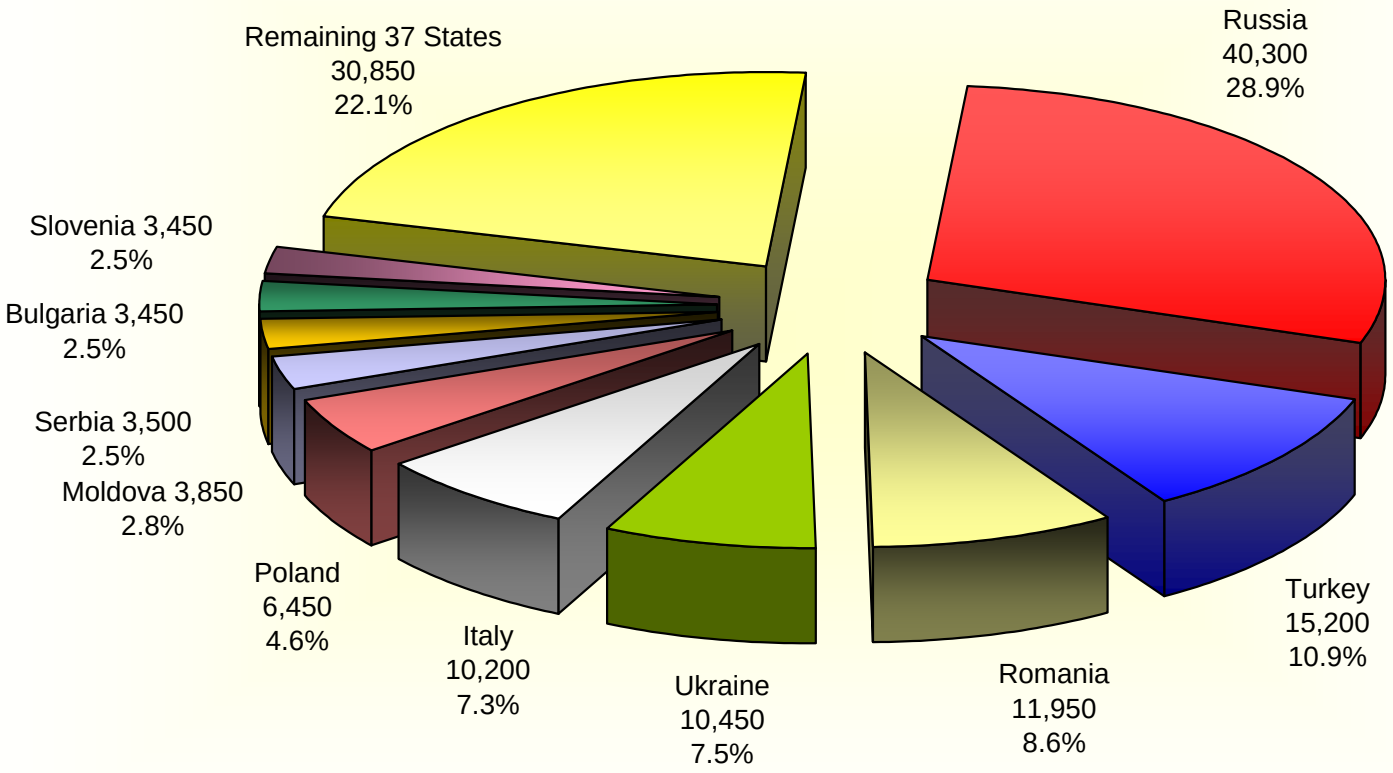
1. For a detailed presentation of the procedure before the Court, see Chapter I (part D "Procedure before the Court") of this Annual Report.
A glossary of statistical terms is available on the Court's website (under "Reports"): www.echr.coe.int.

Pending cases allocated to a judicial formation at 31 December 2010, by respondent State



Total: 139,650 applications pending before a judicial formation

Applications pending before a judicial formation on 31 December 2010
(main respondent States)



Total number of pending applications: 139,650
(round figures [50])

Events in total, by respondent State (2010)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments (overall figure)	Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration
Albania	96	20	17	6	7	
Andorra	8	3	1			
Armenia	197	81	15	5	5	2
Austria	439	510	23	15	19	3
Azerbaijan	337	167	49	33	16	10
Belgium	304	69	30	2	4	1
Bosnia and Herzegovina	658	1,393	142	1	1	5
Bulgaria	1,348	525	92	72	81	46
Croatia	992	357	55	22	21	6
Cyprus	118	57	9	2	3	12
Czech Republic	606	1,367	59	10	11	2
Denmark	96	36	26	5		
Estonia	265	183	11	3	2	3
Finland	377	214	29	15	17	20
France	1,619	1,367	90	41	42	4
Georgia	375	1,608	44	4	4	
Germany	1,683	1,544	45	59	36	6
Greece	585	383	128	61	56	9
Hungary	436	240	79	25	21	32
Iceland	15	8	2		1	
Ireland	62	76	2	2	2	
Italy	3,852	687	220	626	98	3
Latvia	271	273	45	5	4	6
Liechtenstein	15	15		1	1	
Lithuania	242	153	15	11	8	1

Events in total, by respondent State (2010) (continued)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments (overall figure)	Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration
Luxembourg	44	39	4	7	7	
Malta	23	14	12	3	4	
Moldova	945	434	135	21	28	51
Monaco	13	7				
Montenegro	305	45	28	2	2	
Netherlands	727	299	31	2	4	5
Norway	86	76	9	1	1	
Poland	5,777	3,924	315	96	107	140
Portugal	186	116	61	53	19	23
Romania	5,992	3,650	422	121	143	9
Russia	14,309	6,911	721	415	217	256
San Marino	4	5	5			2
Serbia	1,566	1,195	132	38	9	28
Slovakia	568	664	129	44	40	56
Slovenia	837	581	328	8	6	5
Spain	689	454	11	11	13	
Sweden	901	283	13	4	6	1
Switzerland	368	305	30	12	11	1
“The former Yugoslav Republic of Macedonia”	422	456	95	12	15	49
Turkey	5,821	3,296	1,311	442	278	195
Ukraine	3,962	3,311	1,587	129	109	228
United Kingdom	2,766	1,175	68	27	21	3
Total	**61,307**	**38,576**	**6,675**	**2,474**	**1,499***	**1,223**

* Including one judgment which concerns two respondent States: Cyprus and Russia.

Violations by Article and by respondent State (2010)

2010	Number of judgments one violation	Judgments finding at least one violation	Friendly settlements / Striking out judgments	Other judgments*	Right to life - deprivation of life	Lack of effective investigation	Prohibition of torture	Inhuman or degrading treatment	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Length of proceedings	Right to a fair trial	No punishment without law	Non enforcement	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	*Total*	*Total*	*Total*	*Total*	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**7**	5			2								3	1	1							2		2				
Andorra	**0**																											
Armenia	**5**	5							2			1	1											2				
Austria	**19**	16	3										6	9								2	4			1		
Azerbaijan	**16**	16							1			8	4		9				2			1		9		2		
Belgium	**4**	4							1			1	3															
Bosnia and Herzegovina	**1**	1																						1				
Bulgaria	**81**	69	10	1	1	5	7	1	5	3		14	6	31	3		8					27	1	18			1	2
Croatia	**21**	21										5	6	8	1		2					3	2	2				
Cyprus	**3**	3					1		1	1	1	1					2					1						
Czech Republic	**11**	9	1		1							6	3	1			1					1		2				
Denmark	**0**																											
Estonia	**2**	1	1									1																
Finland	**17**	16	1										2	9			2		8									
France	**42**	28	13		1				3			5	10	1	1		2		4					5				
Georgia	**4**	4					1					2	1				1							3				
Germany	**36**	29	6		1				1				2	29			2					8						
Greece	**56**	53			3				5	2		4	8	33	6		2	1	1			17	2	1		1		
Hungary	**21**	21							1			1	1	14			3							1		1		
Iceland	**1**	1																		1								
Ireland	**2**	2												1			1					1						
Italy	**98**	61	3		34				1				9	44	5		3							6				2
Latvia	**4**	3	1			1	1		1				1									1						
Liechtenstein	**1**	1												1														
Lithuania	**8**	7	1									1	3	3								1						

* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

Violations by Article and by respondent State (2010) (continued)

2010	Number of judgments	Judgments finding at least one violation	Judgments finding no violation	Friendly settlements / Striking out judgments	Other judgments*	Right to life - deprivation of life	Lack of effective investigation	Inhuman or degrading treatment	Prohibition of torture	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Length of proceedings	Right to a fair trial	No punishment without law	Non enforcement	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	Total	Total	Total	Total	Total	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Luxembourg	**7**	5	2											2	3													
Malta	**4**	3			1								3					1										
Moldova	**28**	20			8		3	1	7	4			2	2		1		2		1	5		3		1		1		
Monaco	**0**																											
Montenegro	**2**	2												1				1										
Netherlands	**4**	2	1	1						1										1								
Norway	**1**		1																									
Poland	**107**	87	15		5	2	2		2	1			14	20	37	2		12	1	2		2	2	2	2				
Portugal	**19**	15	2		2									2	6					3			5		6			
Romania	**143**	135	3		5	1	2	1	22	3			17	30	16	30		2		5			5	1	58		1		1
Russia	**217**	204	11		2	34	37	7	102	26	1		89	55	29	20		4	1	6	2		55	2	44				8
San Marino	**0**																											
Serbia	**9**	9							1				1	2	2	1		2						1	1				
Slovakia	**40**	40				1	1						10	2	29			2					7						
Slovenia	**6**	3	3												2			1					3						
Spain	**13**	6	7							1				4						1					1				
Sweden	**6**	4	2						2					1	1														
Switzerland	**11**	8	3										2	2				3						1					
"The former Yugoslav Republic of Macedonia"	**15**	14		1									3	5	7	2													
Turkey	**278**	228	9		41	10	7	3	32	24			80	42	83	6		5	2	19	10		22		30		1		1
Ukraine	**109**	107	1		1		2		24	9			43	15	60	1		6		2			14		4				7
United Kingdom	**21**	14	7						2				1		1			5				1	4	4			1		1
Sub-Total		**1,282**	**107**	**3**	**108**	**54**	**64**	**13**	**217**	**74**	**2**		**315**	**254**	**461**	**89**	**0**	**75**	**5**	**55**	**18**	**3**	**185**	**20**	**199**	**0**	**9**	**1**	**22**
Total		**1,499****																											

* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

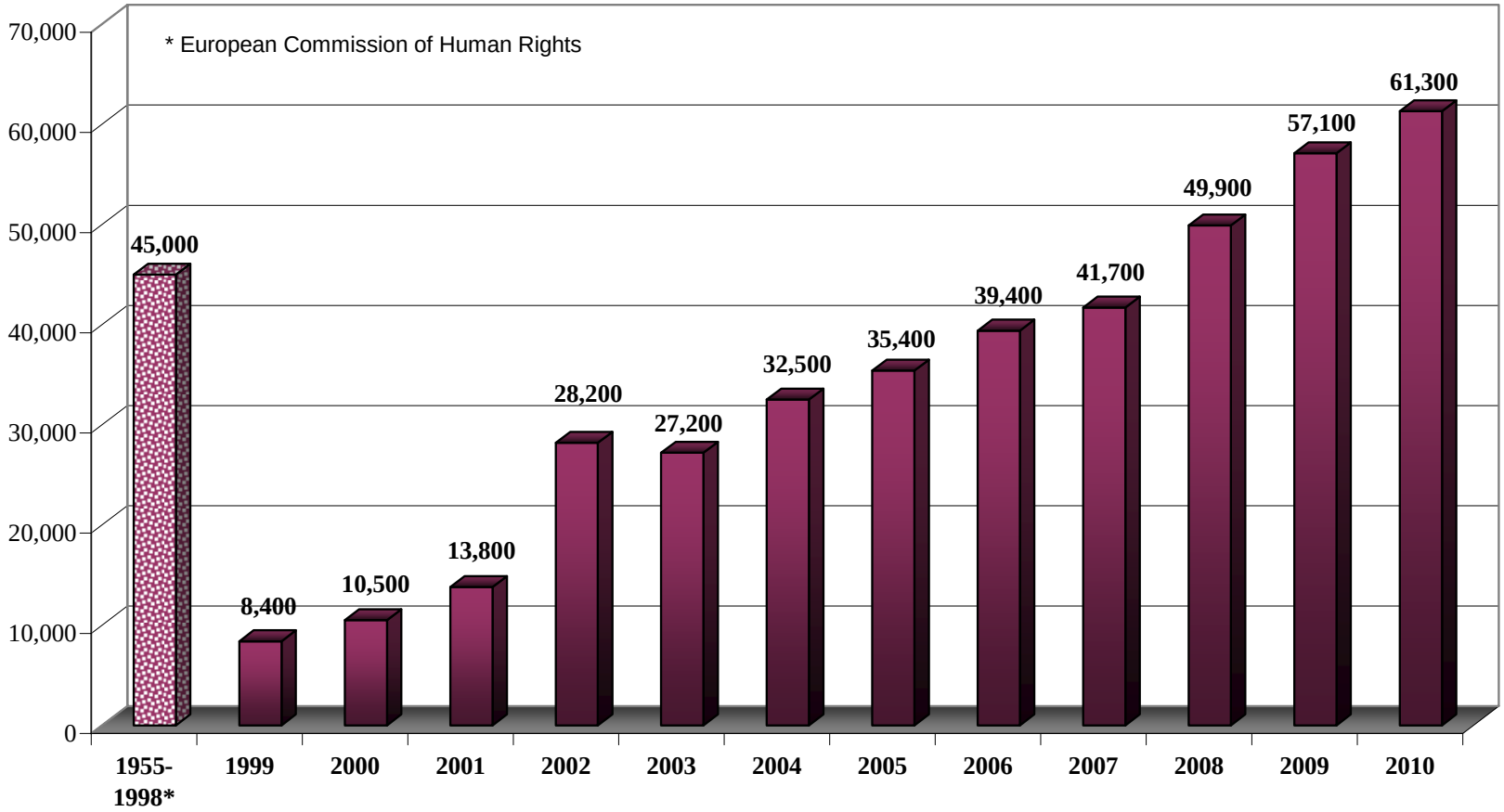
** Including one judgment which concerns two respondent States: Cyprus and Russia.

Applications processed in 2010

Applications processed in 2010	Single-judge formation	Section I	Section II	Section III	Section IV	Section V	Grand Chamber	Total
Applications in which judgments delivered		568	1,198	211	281	331	18	**2 607**
Applications declared inadmissible (Chamber/Grand Chamber)		73	195	78	162	157	8	**673**
Applications struck off (Chamber/Grand Chamber)		358	163	78	418	1732		**2 749**
Applications declared inadmissible or struck off (Committee)*		4,003	2,220	1,774	3,161	1,736		**12,894**
Applications declared inadmissible or struck off (Single judge)	22,260							**22,260**
Total	**22,260**	**5,002**	**3,776**	**2,141**	**4,022**	**3,956**	**26**	**41,183**
Applications communicated**		1,015	1,855	868	912	2,025		**6,675**
Judgments delivered***		344	361	200	274	302	18	**1,499**
Interim measures (Rule 39) granted		95	144	823	215	163		**1,440**
Interim measures (Rule 39) refused		134	137	391	886	275		**1,823**
Interim measures (Rule 39) refused – falling outside the scope		54	55	43	174	91		**417**

* Including applications decided under the new, Protocol No. 14, powers.
** Including applications solely communicated for information purposes without requesting observations.
*** One judgment may concern several applications; the total figure includes 116 judgments delivered by Committees of three judges.

Applications allocated to a judicial formation (1955-2010)



Events in total, by respondent State (1 November 1998-31 December 2010)

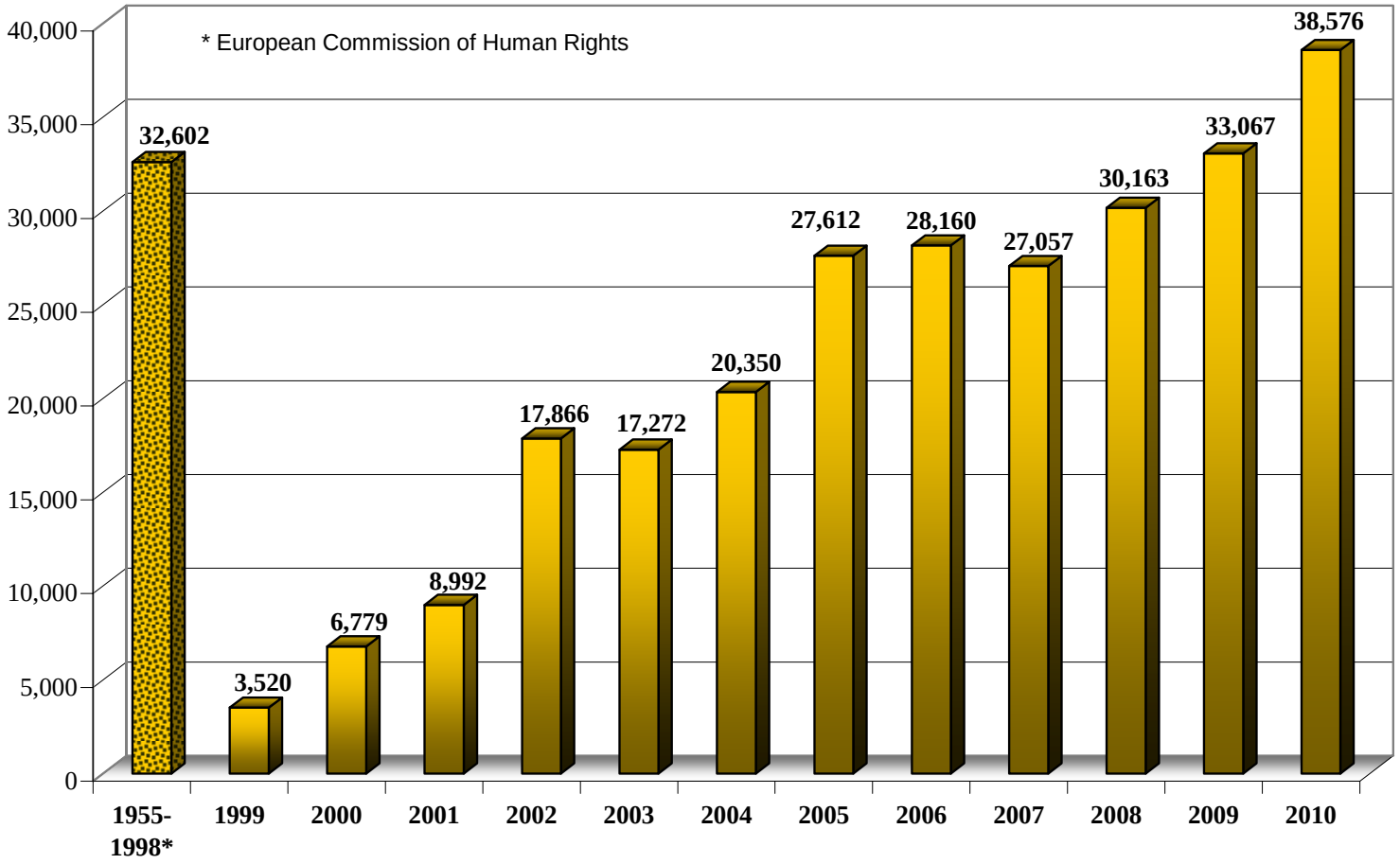
State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration
Albania	476	159	98	26	27	
Andorra	41	29	5	3	4	2
Armenia	1,420	474	96	26	25	2
Austria	3,849	3,426	444	212	212	55
Azerbaijan	2,523	1,230	173	58	42	11
Belgium	1,846	1,191	233	121	111	24
Bosnia and Herzegovina	3,606	2,254	220	34	14	6
Bulgaria	8,447	4,689	897	429	373	94
Croatia	6,447	4,689	502	189	191	142
Cyprus	613	432	141	52	57	46
Czech Republic	9,353	7,987	552	158	158	81
Denmark	837	731	97	32	27	13
Estonia	1,665	1,144	59	25	23	8
Finland	2,990	2,488	305	143	145	74
France	19,048	15,049	1,347	736	698	125
Georgia	4,749	1,901	220	40	39	3
Germany	14,924	12,661	421	173	155	50
Greece	4,045	2,750	911	570	571	54
Hungary	4,382	2,693	421	216	211	82
Iceland	92	73	15	9	9	2
Ireland	468	416	25	14	14	2
Italy	19,207	8,067	3,700	2,431	1,964	362
Latvia	2,350	1,740	219	47	45	33
Liechtenstein	63	47	4	4	5	
Lithuania	3,222	2,749	160	79	65	8

Events in total, by respondent State (1 November 1998-31 December 2010) (continued)

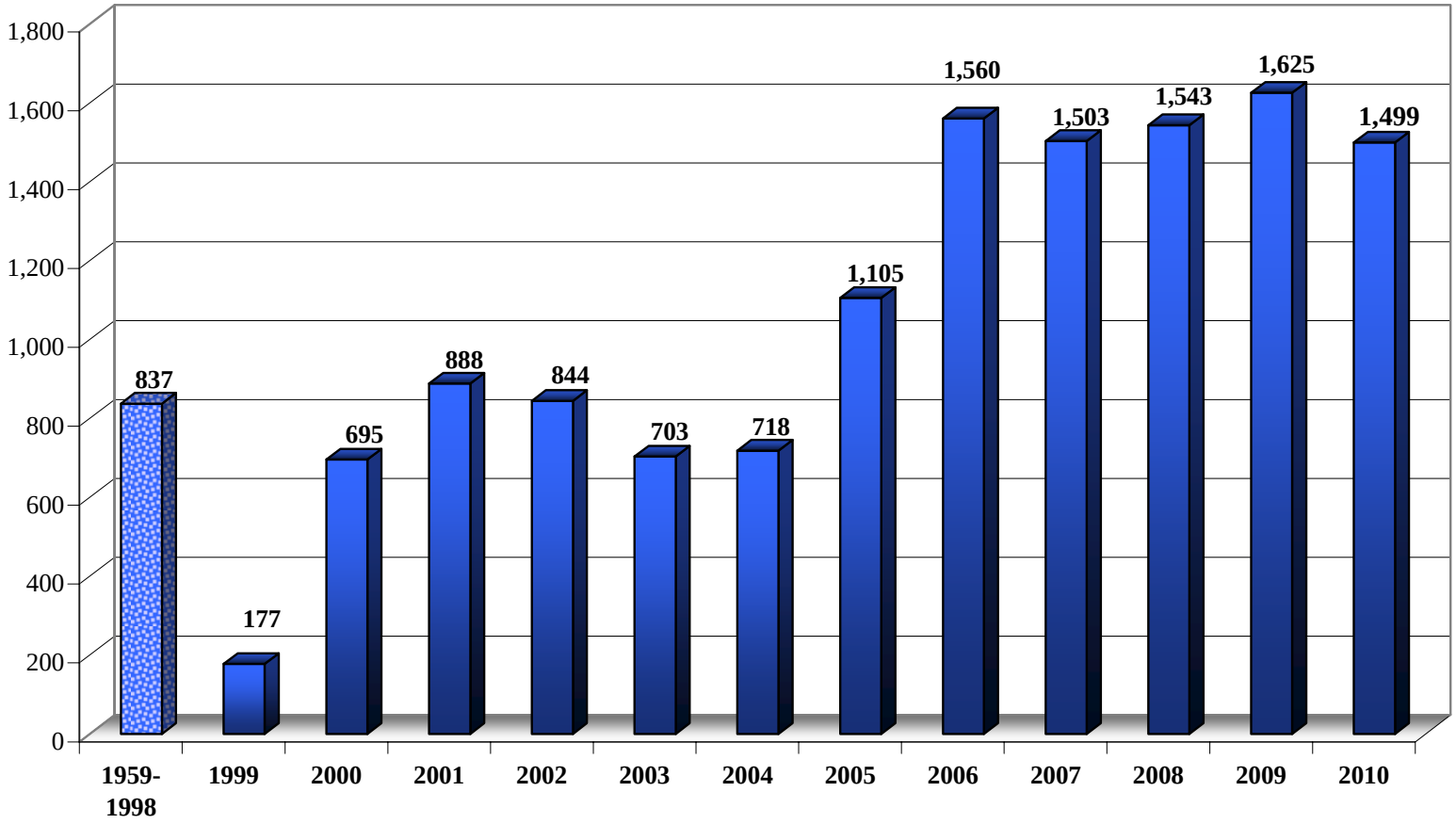
State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration
Luxembourg	303	239	58	35	35	5
Malta	124	185	46	24	30	
Moldova	6,381	2,694	828	242	196	143
Monaco	44	335	2	1	1	1
Montenegro	878	286	33	3	3	
Netherlands	4,329	3,474	302	67	79	26
Norway	717	1,247	49	27	24	
Poland	43,106	37,220	2,094	849	870	569
Portugal	1,819	1,427	492	331	189	98
Romania	34,875	23,067	2,579	808	789	219
Russia	84,775	43,025	4,338	1,717	1,079	368
San Marino	32	202	17	8	11	7
Serbia	6,922	3,650	353	119	49	64
Slovakia	4,857	4,993	596	262	245	149
Slovenia	6,627	3,095	1,227	237	233	81
Spain	5,901	6,700	555	85	70	11
Sweden	4,406	3,873	208	52	53	49
Switzerland	2,958	2,413	152	57	63	4
"The former Yugoslav Republic of Macedonia"	2,658	1,575	311	78	78	119
Turkey	35,152	18,921	7,413	3,113	2,539	874
Ukraine	30,738	20,117	3,357	982	717	277
United Kingdom	11,881	9,305	1,146	393	331	261
Total	**406,146**	**267,112**	**37,421**	**15,317**	**12,860***	**4,604**

* Including several judgments which concern two Respondent States.

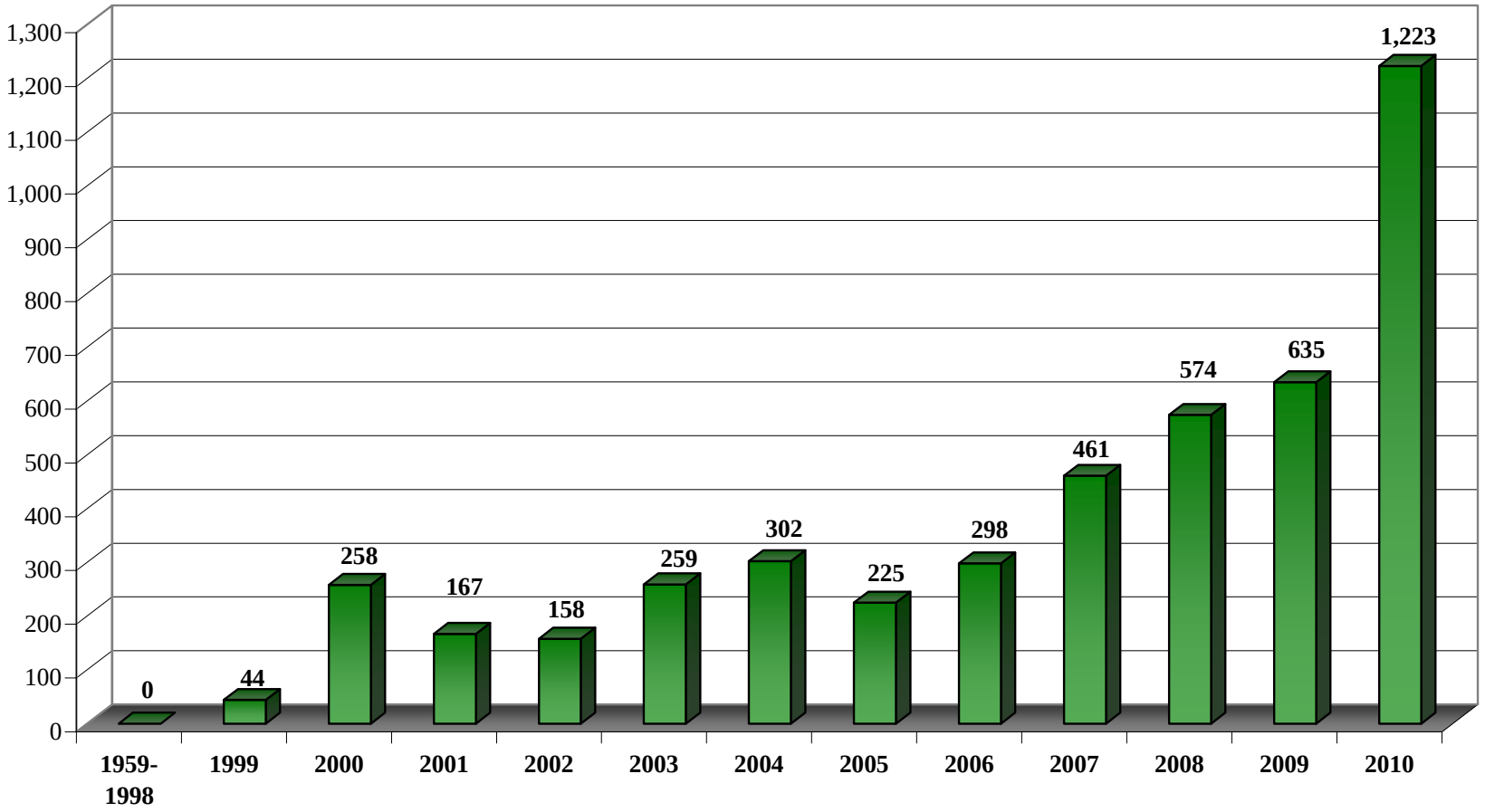
Applications declared inadmissible or struck out (1955-2010)



Judgments (1959-2010)



Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration (1959-2010)



NB: Figures until 2002 may be incomplete.

Allocated applications by State and by population (2007-2010)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2007	2008	2009	2010	1/1/07	1/1/08	1/1/09	1/1/10	2007	2008	2009	2010*
Albania	55	75	99	96	3,153	3,170	3,169	3,185	0.17	0.24	0.31	0.30
Andorra	4	1	6	8	80	83	87	85	0.50	0.12	0.69	0.94
Armenia	614	106	125	197	3,226	3,230	3,238	3,249	1.90	0.33	0.39	0.61
Austria	329	373	410	439	8,299	8,332	8,357	8,373	0.40	0.45	0.49	0.52
Azerbaijan	708	334	361	337	8,533	8,630	8,934	8,997	0.83	0.39	0.40	0.37
Belgium	122	166	256	304	10,585	10,670	10,741	10,827	0.12	0.16	0.24	0.28
Bosnia and Herzegovina	705	971	621	658	3,884	3843	3,760	3,844	1.82	2.53	1.65	1.71
Bulgaria	818	890	1,194	1,348	7,679	7,640	7,602	7,577	1.07	1.16	1.57	1.78
Croatia	558	608	755	992	4,441	4435	4,432	4,426	1.26	1.37	1.70	2.24
Cyprus	63	66	59	118	779	795	802	802	0.81	0.83	0.74	1.47
Czech Republic	806	721	726	606	10,287	10,381	10,475	10,512	0.78	0.69	0.69	0.58
Denmark	45	73	63	96	5,447	5476	5,519	5,547	0.08	0.13	0.11	0.17
Estonia	153	169	204	265	1,342	1341	1,340	1,340	1.14	1.26	1.52	1.98
Finland	268	276	489	377	5,277	5,301	5,325	5,351	0.51	0.52	0.92	0.70
France	1,553	2,724	1,589	1,619	63,392	63,753	64,105	64,710	0.24	0.43	0.25	0.25
Georgia	162	1771	2122	375	4,400	4382	4,219	4,386	0.37	4.04	5.03	0.85
Germany	1,483	1,572	1,515	1,683	82,315	82,222	82,062	81,758	0.18	0.19	0.18	0.21
Greece	384	416	518	585	11,172	11,215	11,263	11,306	0.34	0.37	0.46	0.52
Hungary	529	425	449	436	10,066	10,045	10,030	10,014	0.53	0.42	0.45	0.44
Iceland	9	7	10	15	308	314	321	319	0.29	0.22	0.31	0.47
Ireland	45	48	62	62	4,315	4420	4,450	4,451	0.10	0.11	0.14	0.14
Italy	1,353	1,824	3,624	3,852	59,131	59,618	60,090	60,397	0.23	0.31	0.60	0.64
Latvia	232	248	326	271	2,281	2,271	2,261	2,249	1.02	1.09	1.44	1.20
Liechtenstein	5	8	14	15	35	35	36	36	1.42	2.26	3.92	4.17
Lithuania	226	255	261	242	3,385	3,366	3,350	3,329	0.67	0.76	0.78	0.73

Allocated applications by State and by population (2007-2010) (continued)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2007	2008	2009	2010	1/1/07	1/1/08	1/1/09	1/1/10	2007	2008	2009	2010*
Luxembourg	34	35	29	44	476	484	492	502	0.71	0.72	0.59	0.88
Malta	18	12	14	23	408	411	413	416	0.44	0.29	0.34	0.55
Moldova	889	1,147	1,322	945	3,581	3,573	3,576	3,564	2.48	3.21	3.70	2.65
Monaco	10	5	9	13	32	32	33	33	3.13	1.56	2.73	3.94
Montenegro	95	156	269	305	6,51	628	626	633	–	2.49	4.30	4.82
Netherlands	366	385	500	727	16,358	16,404	16,481	16,577	0.22	0.23	0.30	0.44
Norway	63	79	79	86	4,681	4,737	4801	4,855	0.13	0.17	0.16	0.18
Poland	4,202	4,369	4,986	5,777	38,126	38,116	38,130	38,164	1.10	1.15	1.31	1.51
Portugal	134	151	152	186	10,599	10,618	10,632	10,637	0.13	0.14	0.14	0.17
Romania	3,168	5,242	5,260	5,992	21,565	21,529	21,497	21,466	1.47	2.43	2.45	2.79
Russia	9,493	10,146	13,666	14,309	142,221	142,009	141,904	141,915	0.67	0.71	0.96	1.01
San Marino	1	4	2	4	32	31	32	31	0.32	1.30	0.63	1.29
Serbia	1,056	1,067	1,576	1,566	7,398	7,374	7,335	7,307	1.56	1.45	2.15	2.14
Slovakia	349	488	569	568	5,394	5,401	5,411	5,424	0.65	0.90	1.05	1.05
Slovenia	1,012	1,353	598	837	2,010	2,026	2,053	2,054	5.03	6.68	2.91	4.07
Spain	310	393	641	689	44,475	45,283	45,853	46,087	0.07	0.09	0.14	0.15
Sweden	361	317	367	901	9,113	9,183	9,259	9,348	0.40	0.35	0.40	0.96
Switzerland	237	261	471	368	7,509	7,591	7,668	7,761	0.32	0.34	0.61	0.47
"The former Yugoslav Republic of Macedonia"	453	395	489	422	2,042	2,045	2,049	2,053	2.22	1.93	2.39	2.06
Turkey	2,828	3,706	4,474	5,821	69,689	70,586	71,517	72,561	0.41	0.53	0.63	0.80
Ukraine	4,499	4,770	4,693	3,962	46,466	46,373	45,964	45,783	0.97	1.03	1.02	0.87
United Kingdom	860	1,253	1,133	2,766	60,853	61,186	61,612	62,042	0.14	0.20	0.18	0.45

* The Council of Europe member States had a combined population of approximately 816 million inhabitants on 1 January 2010. The average number of applications allocated per 10,000 inhabitants was 0.75 in 2010.

Sources 2010: Websites of the Eurostat service ("Population and social conditions") or the United Nations Statistics Division.