European Court
of Human Rights

ANNUAL REPORT 2009

Registry of the European Court
of Human Rights
Strasbourg, 2010

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CONTENTS

FOREWORD

It would be impossible to look back at 2009 without mentioning that it was marked by the celebration of the Court's 50th anniversary. At the official opening of the Court's judicial year, which was honoured by the presence of two distinguished figures, Dame Rosalyn Higgins, then President of the International Court of Justice, and Ms Rachida Dati, in her capacity as Minister of Justice of the host State, I took stock of the past fifty years. This led me to observe that the development of the European Court of Human Rights was something of a miracle and that, fifty years after the Court was established, the application of the European Convention on Human Rights and its review by the Court have made an indisputable contribution to improving human rights in Europe, in particular by raising the standards of protection required and gradually harmonising legislation and practices.

However, while stressing with conviction the positive and important impact of the Court's activity since it began, I felt that it was necessary to consider the future of this European system of judicial protection, whose fragility is as undeniable as its success.

I thus expressed the hope that the States Parties to the Convention might engage in collective reflection on the rights and freedoms they wish to guarantee their citizens for the future, without of course reneging on the existing rights, and I called for the organisation of a major political conference, which would reflect a new commitment by States and would be the best way of giving the Court a reaffirmed legitimacy and a clarified mandate. This appeal was launched in a climate which, while not one of gloom, was unquestionably difficult, with statistics constantly on the rise and a bottleneck resulting from the non-entry into force of Protocol No. 14. In order for the Court to be able to overcome these difficulties, it needs to be given a clear roadmap by the States.

What, then, is the assessment as 2009 comes to an end?

It is true that the Court's caseload has continued to increase in 2009. By the end of the year, over 57,000 new applications had been allocated to a judicial formation, an increase of 15% on the 2008 figure. Although the Court has disposed of over 35,000 applications, 11% more than the previous year, the backlog has continued to grow, with almost 120,000 applications pending at the end of 2009, 22,000 more than at the start of the year. However, despite these alarming figures, 2009 has been a crucial and in many respects positive year for the Court. A number of factors have contributed to this.

First of all, at the end of 2008 I outlined a possible way of easing the bottleneck referred to above by envisaging that the Court might be able to apply the procedural provisions of Protocol No. 14 in respect of the States that had accepted it, in accordance with international law. I am pleased to note that this was precisely the course which the Committee of Ministers opted to take by concluding an agreement, at its 119th Ministerial Session in Madrid on 12 May 2009, making provision for the immediate application of the single-judge procedure and the new powers of three-judge Committees, as envisaged by Protocol No. 14. These procedures apply solely to the countries which have accepted them, either by ratifying Protocol No. 14 bis *(which was adopted in Madrid and came into force on 1 October 2009) or by declaring that they accept the provisional application of Protocol No. 14. They are clearly designed to assist the Court in tackling its considerable caseload.*

This approach has already had tangible effects. Protocol No. 14 is now being applied provisionally in respect of eighteen countries and the results of these new procedures are extremely promising. The Court has to date adopted over 2,200 decisions under the single-judge procedure and the first judgments of the three-judge Committees were adopted on 1 December.

The second factor is the decision by the Swiss authorities, which have held the Chairmanship of the Committee of Ministers since 18 November 2009, to host a ministerial-level conference in Interlaken on 18 and 19 February 2010, on the future of the European Court of Human Rights. This response by Switzerland to the proposal I put forward at the opening of the judicial year is a timely initiative to increase the Court's short-term and long-term efficiency. More than ever, the Court needs decisions on the indispensable statutory and structural reforms that are to be undertaken. This explains why all those involved in the system have placed so much hope in the Interlaken Conference. For my part, I sent a memorandum to the member States on 3 July setting out what the Court expects the conference to achieve in order to provide it with the clear roadmap it considers essential.

This overview would not be complete without mentioning the entry into force on 1 December of the Lisbon Treaty, which will bring the European Union institutions closer to the Court, finally making it possible to realise the long-standing aim of the Union's accession to the European Convention on Human Rights. The Union's integration into a system to which all its member States are already parties will in my view strengthen the cohesion of a human rights-based Europe to which we are all deeply attached and will highlight the coherence between the European Union and the "wider Europe" formed by the forty-seven member States of the Council of Europe.

Thus, with the advance application of certain procedural provisions of Protocol No. 14, the launching of plans for the Interlaken Conference and the entry into force of the Lisbon Treaty, 2009 has unquestionably been a pivotal year for the Court.

Whilst, at the end of 2009, Protocol No. 14 had still not been ratified, there were some encouraging signs that it would be ratified by the Russian Federation before long. And sure enough, our hopes have since proved well-founded, as Protocol No. 14 was ratified by Russia on 18 February 2010 and will come into force on 1 June 2010.

This augurs well for 2010, the year of the 60th anniversary of the European Convention on Human Rights.

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, recognition of 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.

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

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 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. Since the Convention's entry into force, fourteen Protocols have been adopted. Protocols Nos. 1, 4, 6, 7, 12[1] 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 are contained in 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

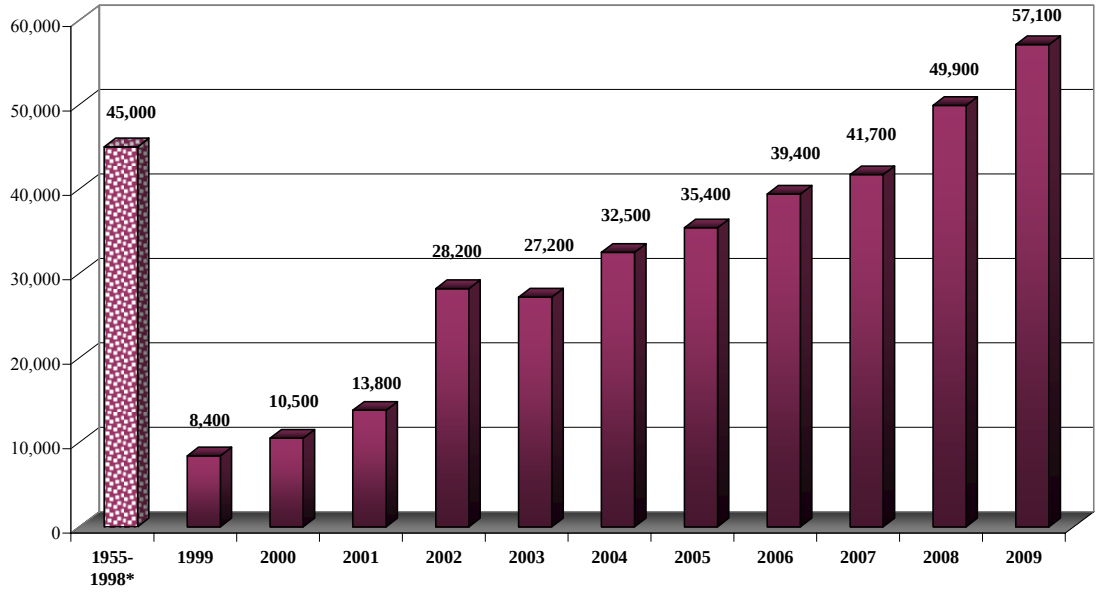
8. In the early years of the Convention, the number of applications lodged with the Commission was comparatively small, and the number of cases decided by the Court was much lower again. This changed in the 1980s, by which time the steady growth in the number of cases brought before the Convention institutions 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

1. This is the most recent to have come into force, having taken effect in 2005.
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.

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[1].

9. The graphs below and the statistics in Chapter XIII illustrate the current workload of the Court: at the end of 2009, 119,300 allocated applications were pending before the Court. Four States account for over half (55.7%) of its docket: 28.1% of the cases are directed against Russia, 11% of the cases concern Turkey, 8.4% Ukraine and 8.2% Romania.

Applications allocated to a judicial formation (1955-2009)

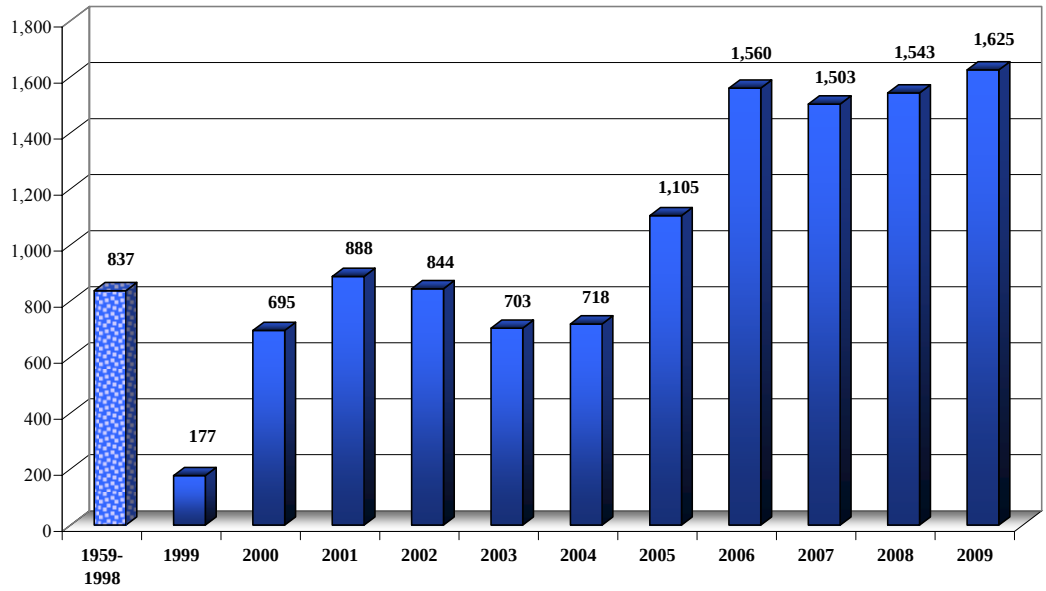


* European Commission of Human Rights

The following graph sets out the number of Court judgments prior to Protocol No. 11 and then the annual total for the period 1999-2009. The old Court delivered less than 1,000 judgments. The number now exceeds 12,000.

1. By 31 October 1998, the old Court had delivered a total of 837 judgments. 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.

Judgments (1959-2009)



In 2009, the highest number of judgments concerned Turkey (356), Russia (219), Romania (168) and Poland (133). These four States accounted for more than half (52%) of all judgments. On the other hand, half of the Contracting States had less than 10 judgments against them during the year.

The number of requests for interim measures (Rule 39 of the Rules of Court), though lower than in 2008, remained very high, with 2,399 requests received in 2009, of which 654 were granted.

10. It has long been evident that the number of applications to the Court is beyond the institution's capacity, leading to excessive delays for many applicants. It was for this reason that the Contracting States drafted Protocol No. 14, which was opened for signature in May 2004. The contents of this instrument are summarised below. Primarily it aims to augment the capacity of the Court by introducing smaller judicial formations, thereby freeing up more judicial time to devote to the cases of greater legal importance or urgency. It was estimated at the time that the effect of these changes would be an increase in the Court's output of approximately 20-25%. In the two years following the Protocol's opening for signature, it was ratified by all of the Contracting States but one, Russia. The matter remained pending within the Duma for several years and was resolved very recently, when the Duma gave its approval to the Protocol on 15 January 2010. The Protocol was ratified on 18 February 2010 and will come into force on 1 June 2010 in respect of Russia and the forty-six other States Parties to the Convention.

11. In fact, two of the reforms contained in Protocol No. 14 have been provisionally applied by the Court since the middle of 2009. At the ministerial session of the Committee of Ministers held in Madrid in May, the Contracting States reached a consensus (the Madrid Agreement) whereby they could consent to (i) the application of the single-judge procedure to

cases taken against them and (ii) the giving of judgments by three-judge Committees in cases that can be decided on the basis of well-established case-law. Simultaneously, Protocol No. 14 *bis* was adopted, containing the same two measures. By the end of 2009, eighteen Contracting States had accepted these procedures by one or the other means. Further details about their operation are given below.

12. The statistics set out above make clear the tremendous strain on the Convention system, and the critical situation of the Court at the present time. Unless there is rapid action to reform and strengthen the system, the situation will continue to deteriorate. Speaking at the ceremony to mark the 50th anniversary of the Court in January, the President of the Court proposed the convening of a high-level conference on the future of the European Convention on Human Rights. The proposal was taken up by the Swiss government as the principal event of its chairmanship of the Committee of Ministers (November 2009-May 2010), and the conference took place in Interlaken on 18-19 February 2010[1].

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), now to be read in the light of the Madrid Agreement or Protocol No. 14 *bis*. The Court is composed of a number of judges equal to that of the Contracting States[2]. 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. The term of office is six years, and judges may be re-elected. Their terms of office expire when they reach the age of 70. Judges remain in office until replaced.

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[3].

14. 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. The Rules of Court are adopted and amended by the Plenary Court. It also determines the composition of the Sections.

15. 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.

1. For more information on the conference, visit the Court's website: www.echr.coe.int (see "The Court", "Reform of the Court").
2. At the end of 2009, there were forty-six judges, there being no judge elected in respect of Ukraine. See Chapter II for the list of judges. Biographical details of judges can be found on the Court's website.
3. Available on the Court's website (see "The Court", "Judicial ethics").

16. 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.

17. Committees of three judges are set up within each Section for twelve-month periods. Their function is to dispose of applications that are clearly inadmissible. Also, as mentioned above, these Committees can now give judgment in cases that can be decided on the basis of well-established case-law, where the respondent State has accepted this procedure.

The single-judge formation was introduced on 1 July 2009, and, in relation to those States that have accepted it, has taken over the function previously exercised by Committees. The President of the Court decides on the number of judges to be appointed as single judges, the duration of the appointment and the Contracting State in relation to which they will operate[1]. As of 1 January 2010, seventeen members of the Court have been appointed to this function. They continue to carry out their normal duties within their Sections. Each single judge is assisted by a non-judicial rapporteur. These are appointed by the President of the Court from among experienced Registry lawyers and operate under his authority.

18. 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 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

19. 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 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.

20. The procedure before the Court is adversarial and public. It is largely a written procedure[2]. Hearings, which are held only in a very small minority of cases, are public, unless

1. A judge cannot act as single judge in a case against the country in respect of which he or she have been elected to the Court.
2. The procedure before the Court is regulated in detail by the Rules of Court and the various practice directions. The modalities of the single-judge and new Committee procedures are contained in the Addendum to the Rules of Court, dated 1 July 2009. These texts are available on the Court's website (see "Basic Texts").

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.

21. Individual applicants may present their own cases, 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.

22. 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

23. Each application is assigned to a Section, where it will be dealt with by the appropriate judicial formation: a Chamber, a Committee or a single judge.

An individual application that clearly fails to meet one of the admissibility criteria is referred to a single judge, if the State concerned has accepted the procedure, or else to a Committee. In both cases, the draft decision is prepared by or under the responsibility of a non-judicial rapporteur. It is then submitted to a Committee or a single judge as appropriate. In the former case, a unanimous vote is required to declare the case inadmissible or strike it out. A decision of inadmissibility by a Committee or a single judge is final.

Those applications not rejected at the first stage, that is, those that require further scrutiny, are referred to a larger judicial formation. For those States that remain under the procedures of Protocol No. 11, such cases are referred to a Chamber and examined in the usual way[1].

Where the respondent State has accepted the Protocol No. 14 procedures, the judgment in a case that can be dealt with by applying well-established case-law will be delivered by a three-judge Committee[2]. The procedure followed in such cases is simpler and lighter. 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, there being no possibility of seeking referral to the Grand Chamber, as is possible with Chamber judgments.

24. All final judgments of the Court are binding on the respondent States concerned. Responsibility for supervising the execution of judgments 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.

1. See Chapter I of the Court's Annual Report 2008 for a description of the Chamber procedure.
2. The first two Committee judgments were delivered on 22 December 2009.

3. Protocol No. 14

25. In addition to the two procedures already described, Protocol No. 14 contains several other amendments to the Convention. It will introduce a non-renewable term of office of nine years for judges. It will allow the Plenary Court to request the Committee of Ministers to reduce the size of Chambers from seven members to five for a fixed period of time. A new mode of designation will be introduced for *ad hoc* judges. A new ground of inadmissibility will be introduced ("no significant disadvantage"). The Council of Europe Commissioner for Human Rights will be entitled to submit written comments and take part in the hearing in any case before a Chamber or the Grand Chamber. The Committee of Ministers will be able to request interpretation of a judgment of the Court. It will also be able to take proceedings in cases where, in its view, the respondent State refuses to comply with a judgment of the Court. In such proceedings, the Court will be asked to determine whether the State has respected its obligation under Article 46 of the Convention to abide by a final judgment against it. Finally, the Protocol will allow the European Union to accede to the Convention.

With the Russian ratification having taken place in February 2010, the Protocol will come into force on 1 June 2010. The judges in office on that date will have their term of office increased to a total of nine years if they are serving their first term and by two years otherwise.

E. Role of the Registry

26. Article 25 of the Convention provides: "The Court shall have a registry, the functions and organisation of which shall be laid down in the rules of the Court. The Court shall be assisted by legal secretaries."[1]

27. The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is therefore composed of lawyers, administrative and technical staff and translators. At the end of 2009 the Registry comprised some 640 staff members. Registry staff members are staff members of the Council of Europe, the Court's parent organisation, and are 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 members of the Registry are required to adhere to strict conditions as to their independence and impartiality.

28. 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.

29. The principal function of the Registry is to process and prepare for adjudication applications lodged with the Court. The Registry's lawyers are divided into thirty-two case-processing divisions, each of which is assisted by an administrative team. The lawyers 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

1. The second sentence will be deleted by Protocol No. 14.

by the Registry for the Court are all drafted in one of its two official languages (English and French).

30. 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[1]; 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 are two language divisions, whose main work is translating the Court's judgments into the second official language and verifying the linguistic quality of draft judgments before publication.

F. Budget of the Court

31. 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, but its budget is part of the general budget of the Council of Europe. As such, it is subject to the approval of the Committee of Ministers of the Council of Europe in the course of their examination of the overall Council of Europe budget. 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.

32. The Court's budget for 2009 amounted to 56.62 million euros. This covered judges' remuneration, staff salaries and operational expenditure (information technology, official journeys, translation, interpretation, publications, representational expenditure, legal aid, fact-finding missions, etc.). It did not include expenditure on the building and infrastructure (telephone, cabling, etc.).

1. In 2009 the Library responded to more than 8,800 written and oral enquiries. The pages of the Library's website were consulted 168,000 times, and the online catalogue, containing references to the secondary literature on the case-law and Articles of the European Convention on Human Rights, was consulted 512,000 times.

II. COMPOSITION OF THE COURT

COMPOSITION OF THE COURT

At 31 December 2009 the Court was composed as follows (in order of precedence)[1]:

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
Giovanni Bonello	Malta
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
Vladimiro Zagrebelsky	Italy
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

1. The seat of the judge in respect of Ukraine is currently vacant.

Name	Elected in respect of
András Sajó	Hungary
Mirjana Lazarova Trajkovska	"The former Yugoslav Republic of Macedonia"
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

Erik Fribergh, Registrar
Michael O'Boyle, Deputy Registrar

III. COMPOSITION OF THE SECTIONS

COMPOSITION OF THE SECTIONS
(in order of precedence)

First Section

From 1 January 2009	
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

From 1 January 2009	
President	Françoise Tulkens
Vice-President	Ireneu Cabral Barreto
	Vladimiro Zagrebelsky
	Danutė Jočienė
	Dragoljub Popović
	András Sajó
	Nona Tsotsoria
	Işıl Karakaş
Section Registrar	Sally Dollé
Deputy Section Registrar	Françoise Elens-Passos

From 21 September 2009	
President	Françoise Tulkens
Vice-President	Ireneu Cabral Barreto
	Vladimiro Zagrebelsky
	Danutė Jočienė
	Dragoljub Popović
	András Sajó
	Nona Tsotsoria
	Işıl Karakaş
	Kristina Pardalos
Section Registrar	Sally Dollé
Deputy Section Registrar	Françoise Elens-Passos

Third Section

From 1 January 2009	
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	Stanley Naismith

Fourth Section

From 1 January 2009	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
	Ledi Bianku
	Mihai Poalelungi
	Nebojša Vučinić
Section Registrar	Lawrence Early
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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, 30 January 2009

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, 30 JANUARY 2009

Ladies and gentlemen,

This year the ceremony for the official opening of the judicial year of the European Court of Human Rights is rather special since it coincides with the beginning of the Court's 50th anniversary year.

Perhaps that explains why the number of people attending this year's event is exceptionally high.

In any case may I thank you all for coming. Your presence this evening is greatly appreciated as warm encouragement for us. I should like to greet in particular the many former judges of the Court and members of the Commission who have joined us this evening.

I should also like, on behalf of my fellow judges and the members of the Registry, to wish you an extremely happy and successful year in 2009.

I am delighted to see so many representatives of different authorities, members of governments, parliamentarians, the senior officials of the Council of Europe and the permanent representatives of the member States. I greatly welcome the presence of so many Presidents and high-ranking members of national and international courts. The national courts help us to ensure that States respect the rights guaranteed by the Convention, demonstrating the importance of domestic remedies and therefore the principle of subsidiarity; if the Convention is a "living instrument" it is also because you make it live. International courts show that the existence and expanded role of numerous international judicial bodies make possible a joint effort to uphold justice and fundamental rights.

I do, however, wish to greet more personally our two special guests and speakers.

Dame Rosalyn Higgins, who in a few days' time will be leaving the International Court of Justice, which she has served and presided over brilliantly, is honouring us with a few thoughts on the judicial cooperation between the Hague Court, whose vocation is universal and general, and the Strasbourg Court, whose jurisdiction is regional and specialised.

We are also honoured by the presence of Rachida Dati, *Garde des Sceaux*, Minister of Justice, representing the French Republic as the host State of the Court and the Council of Europe. She will close the ceremony by reminding us how much France and indeed Europe are attached to the protection of rights and freedoms.

I thank them both wholeheartedly.

We are going through a phase of anniversaries. Last December the 60th anniversary of the Universal Declaration of Human Rights was celebrated all over the world. On 5 May our parent institution, the Council of Europe, celebrates its 60th anniversary, and last October we organised a seminar to mark the 10th anniversary of the transformation of the existing Convention bodies into a single, full-time Court.

In view of all these different commemorations, I propose to take stock of the last fifty years and then reflect on the long-term future. This was the approach taken by the historian Fernand Braudel when he asserted that it was necessary to study history from the long-term perspective. The world, Europe and human rights are radically different in this first part of the 21st century from what they were after the Second World War. Moreover, when the Court was set up, no one, I think, could have imagined that it would one day fill the European judicial space to the extent that it does today. Its current influence in Europe, and even beyond, could hardly have been predicted. As an eminent observer said to me recently, seen retrospectively, the Court's development over the last fifty years is something of a miracle.

When the Court began its work, only twelve States had ratified the Convention for the Protection of Human Rights and Fundamental Freedoms. The "iron curtain" denounced by Churchill in 1946 remained lowered. In the West some dictatorships survived, disqualifying those countries from entry to the Council of Europe, and decolonisation wars were still in progress. The state of fundamental freedoms was below the required standard of protection.

It is nevertheless striking that the first signatories of the Convention, clearly linking their initiative to the Universal Declaration, expressed their belief in common values and ideas: democracy, freedoms and the rule of law. There was a political commitment, and indeed a bold one since States recognised that individuals had rights and freedoms guaranteed under international law and created a judicial mechanism to ensure the observance of their own engagements. This was a gesture whose nobility and far-reaching significance we should not underestimate.

The last fifty years have been far from idyllic. International and civil peace, an indispensable, albeit not necessarily sufficient, condition for the development of human rights, has not prevailed everywhere. The democratisation of European States was not achieved without clashes. The reconciliation of the two halves of the continent did not produce a consistent and immediate improvement in the protection of freedoms.

However, if we compare 1959 with 2009, it is clear that the state of human rights is broadly speaking better – in Europe at least – than fifty years ago; and that application of the Convention at national level and its review by the Strasbourg Court have played a major role in achieving this.

Numerous reforms have been undertaken as a result of the judgments delivered here and executed under the supervision of the Committee of Ministers of the Council of Europe. Through its interpretation of the Convention, the Court has gradually raised the standards of protection required, which has led via a process of emulation to a harmonisation of standards at a higher level. It has been assisted in this task by the other organs and institutions of the Council of Europe, to which due credit should be given.

Admittedly, even where faulty national legislation has been remedied, it is not always correctly applied. Execution of the Court's judgments is frequently delayed or, in rare but deeply regrettable instances, refused. The Convention is not sufficiently well-known everywhere or sufficiently relied on or given effect to. There are many reasons for this, including the linguistic hurdle, but there are also, and perhaps this is even more common, certain nationalist reflexes. It does not necessarily come naturally to accept all the consequences of acceding to a binding international instrument, in particular where they relate to the execution of judgments which can be perceived as awkward or even offensive. For the States it takes a great amount of open-mindedness to assimilate this dimension; for the Court it takes a great deal of pedagogy and judicial diplomacy if it is to succeed in persuading national authorities that this mechanism of a collective guarantee requires compliance with common rules.

The States have on the whole made remarkable efforts to apply the Convention guarantees and to implement the Strasbourg judgments. We need to be pragmatic. There is no point in chanting the maxim "*pacta sunt servanda*" on which Grotius based international law. The Court could only have been influential and it can only avoid the danger of being misunderstood, or even rejected, so long as it observes a degree of restraint and explains again and again to judges and other national authorities the basis for its decisions. This is why we attach great importance to meetings with other courts. Rosalyn Higgins has herself always encouraged this approach.

In any event the stature the Strasbourg Court has acquired and the influence it exerts contribute to the development of human rights. It has given the Convention a dynamic interpretation. It has thus expanded the scope of the rights guaranteed, while adapting its reading of the founding text in the light of technological and societal evolutions which were unforeseeable in 1950. At the same time, the case-law has developed concepts like the margin of appreciation and that of the threshold of severity in relation to violations. These methods of interpretation and the solutions which derive from them are clearly not immune from criticism, and the Court is sometimes criticised. However, such reticence is certainly less strong than fifty years ago or even ten years ago.

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Let us look briefly at the statistics. The Court's activity has grown spectacularly. Over its first forty years, it delivered just over 800 judgments on the merits, in other words around 20 a year, even if this average masks what was in reality a gradual increase, with a steep rise in later years. At that time, from a quantitative perspective, the main burden of the system was borne by the European Commission of Human Rights, whose activity ceased ten years ago. Since then the Court has issued tens of thousands of inadmissibility decisions (or striking-out decisions), but also more than 9,000 judgments on the merits: that is an average of more than 1,000 per year and in fact well over that average in 2008.

The increase in the number of applications has the effect of generating a persistent deficit. There continues to be far too great a gap between the number of judgments rendered and decisions, on the one hand, and the volume of newly registered applications, on the other (for 2008 some 1,900 applications gave rise to judgments and there were 30,200 decisions, but there were also around 50,000 new applications). In these circumstances the number of cases

pending (97,000 at the end of 2008) continues to grow, leading to increasing delays in the processing of cases. Yet the Court should normally examine each case within a "reasonable time" within the meaning of Article 6 of the Convention.

It is true that the potential applicants to the Court number over 800 million and that proceedings are instituted almost exclusively through individual applications, even though at present there are two inter-State cases pending, both brought by Georgia against the Russian Federation. Currently 57% of the applications pending before the Court are directed against just four States (the Russian Federation, Turkey, Romania and Ukraine), whose combined population accounts for only about 35% of the total population of the Convention States. This shows that, if the problem of the Court's case overload is a general phenomenon, it is in reality particularly concentrated on a limited number of countries. Efforts have to be made as a matter of priority in relation to them.

Many judgments over the last half-century have had far-reaching implications and have influenced national law. This is not the place to draw up a list, even a short one, since it would inevitably be subjective and over-simplistic. Moreover the collections of leading judgments in different countries and in different languages provide sufficient information in this respect. I will therefore confine myself to the most recent period and indicate without analysing them in any detail some of the judgments delivered in 2008, which are of course accessible via the Court's website.

– *Saadi v. Italy*[1] dealt with the problem of the expulsion of a person suspected of terrorism to a State where he would be at risk of inhuman or degrading treatment.

– In *Korbely v. Hungary*[2], the Court found a violation of Article 7 on account of the conviction for crimes against humanity of a person prosecuted for a murder committed during the uprising in Budapest in 1956.

– In *S. and Marper v. the United Kingdom*[3], the Court was confronted with the issue of the retention for an indefinite period of fingerprints, biological samples and DNA profiles of persons suspected but not convicted of criminal offences.

– *E.B. v. France*[4] was a case concerning the prohibition of discrimination on grounds of sexual orientation with regard to adoption authorisation.

– *Kovačić and Others v. Slovenia*[5] concerned the freezing of bank deposits after the dissolution of the former Yugoslavia. The Court approved the position adopted by the Parliamentary Assembly of the Council of Europe and called upon the successor States to resolve through negotiation the problems encountered by the thousands of persons in the same situation as the applicants.

I should also mention the advisory opinion delivered at the request of the Committee of Ministers – and it was the first such opinion – on certain legal questions concerning the lists

1. [GC], no. 37201/06, to be reported in ECHR 2008.
2. [GC], no. 9174/02, to be reported in ECHR 2008.
3. [GC], nos. 30562/04 and 30566/04, to be reported in ECHR 2008.
4. [GC], no. 43546/02, to be reported in ECHR 2008.
5. [GC], nos. 44574/98, 45133/98 and 48316/99, to be reported in ECHR 2008.

of candidates submitted for the election of judges of the Court. The central issue was whether such lists could be rejected solely on the grounds of gender balance.

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Without allowing any room for complacency, I think we can say that the Court's activity since it began has had an important and positive impact. But what is the future of human rights in the 21st century and what is the future of the European system for the judicial protection of those rights?

It is difficult not to see how fragile human rights and their protection are.

The "resurrection" of human rights which occurred at the end of the 1940s was of course ideological, but this ideology was ultimately carried forward by an almost unanimous political wave of enthusiasm. At the United Nations, the Universal Declaration was adopted without a single vote against. It was a revolt ("never again") and an aspiration (for peace, justice and freedom).

More recently, new threats and a new context have emerged: terrorism, crime (whether organised or not), different types of trafficking. All this has created tension in public opinion and in our societies and a tendency to give precedence to order and security. The influx of illegal immigrants driven by poverty and despair has an impact on policies, but has also been accompanied by xenophobia, racism and intolerance, or contributed to their increase. In the same way the connection which is, sometimes over-hastily, made between certain types of religious belief and violence, or indeed terrorism, has exacerbated sensibilities, yet freedom of religion is also a fundamental human right. This requires dialogue and not insults.

In addition, the nature of protected rights has become more complicated. The development of science and technology in the fields of information technology and biology, while an instrument of progress, may generate new threats for private life and freedoms.

Moreover the texts for the protection of rights were designed to protect persons from abuses perpetrated by States, whereas such abuses frequently derive from groups or persons who fall outside State authority.

Likewise, conflicts are no longer necessarily between freedom and the defence of public order, but often between two competing human rights which are equally guaranteed and deserving of protection, for example freedom of expression versus the right to respect for private life. This gives rise to difficult balancing exercises for legislators and for judges, including ourselves.

Moreover, the ideology of the protection of rights can no longer rely on the groundswell of support that carried it forward in the 1950s. It has come up against the difficulties of establishing or maintaining peace, the return of materialism and of individualism, the extolling of national interests, and more recently the financial and economic crisis which could force freedoms into second place. Bismarck's old expression "*Realpolitik*" has reappeared and is regularly cited.

The protection of human rights has thus become more fragile, more complex. But does that mean that it must yield?

My answer is no. On the contrary, I would argue that it is necessary to consolidate and breathe new life into these rights, to bring about their *aggiornamento*.

We should reinforce what already exists. Reinforcing what exists means reaffirming what we call "classic" rights, what Jean Rivero called freedom-rights as opposed to claim-rights. It also means driving back areas of non-law and accepting that women, children, the elderly, the disabled, detained persons, all vulnerable people, and minorities, that they too must have the benefit, on the same basis as everyone else, of the freedoms guaranteed.

Moreover many European constitutions now stress the importance of economic and social rights and of what are known as third-generation rights. The same is true of the Charter of Fundamental Rights of the European Union, which under the Lisbon Treaty will acquire the same binding force as the Treaties. I accept that we should not extend the rights protected indefinitely. At the same time it makes sense to see human rights differently compared to fifty years ago. It is perhaps a paradox that in the present crisis human rights appear in a different light from how they were viewed in the years of post-war economic growth, if only because of greater understanding of the need for solidarity.

This analysis calls for a long-term perspective and a common political will.

It seems to me that the States Parties to the Convention should, fifty years on, engage in a collective reflection on the rights and freedoms which they wish to guarantee to their citizens for the future, without of course in any way reneging on the existing rights. I do not believe that any one is seriously considering going backwards after half a century of progress and development.

As part of the same process, the States should also reflect on how to protect such rights. The principle of collective guarantee is, I think, inviolable but the practical aspects of the protection of rights and their implementation can be rethought.

This reflection could be organised around a major formal conference in the first half of 2010. Such a conference would articulate a new commitment and it would be the best way of giving the Court, which exists only by the will of the States, a reaffirmed legitimacy and a clarified mandate. These revised objectives would also concern the national authorities, without forgetting the very important role in the field of fundamental rights played by a court with which we have excellent relations, the Court of Justice of the European Communities. The presence of its President this evening honours us.

To give a label to this special conference, which will need to be prepared with great care and which cannot have any real impact without the participation of senior political figures, I floated the expression "*Etats généraux des droits de l'homme en Europe*". In fact the title matters little, apart from its value for communication purposes, if the idea and objective of such an event are accepted. The Court envisages setting out the arguments for such a conference and explaining what the subject matter might be by submitting a "memorandum" to the member States on the subject.

The idea is for the States, the guarantors of human rights, to give human rights protection a second wind. This would help to express support for the Court, breathe new life into this 50-year-old and rejuvenate it.

The present situation is not satisfactory (the few figures that I mentioned demonstrate this). Over the last ten years, the different reform processes have not yet produced results. Protocol No. 14 has still not entered into force, and I regret this. The causes of this blockage are well known. As a consequence, the report of the Group of Wise Persons, which contained some good proposals, is also blocked. We should, of course, not give up on these reforms; indeed, I believe we must continue to work for their implementation, but they should be viewed from a broader perspective.

Despite the budgetary difficulties, the States have enhanced the Court's resources – for example the Registry staff has tripled in ten years; over the same period the number of decisions and judgments has been multiplied by eight. We have to thank the States for their support, even if we must say clearly to them that we will continue to need that support in the coming years.

But can we go on like this indefinitely? Can we proceed with an unlimited expansion of the Court and its Registry? Are we not running the risk of exhaustion with this headlong flight?

It is hard to see how the system can remain viable unless we slow down the influx of new applications, without of course blocking those which are new and well-founded. At the same time, the Court is reforming itself. It is developing new working methods, such as a more systematic sorting of cases with a view to giving priority to the more important and more serious ones, more frequent recourse to pilot judgments, in cooperation with the States and the Committee of Ministers, and encouragement for the conclusion of more friendly settlements. Following on from the seminars held in Bratislava and Stockholm under the chairmanships of Slovakia and Sweden, the Court will look to enhance the role of Government Agents, while of course preserving fully its own independence. It also expects much from measures to be taken at national level to prevent violations and to remedy them. It counts on Bar associations who in often difficult, and sometimes dangerous, conditions make a major contribution, as do non-governmental organisations, to assisting applicants, for which they should be given credit. They can also help the Court by preventing futile or hopeless applications.

Finally, part of the case overload is due to the large number of repetitive applications. In this context, the Court hopes to be able to rely on the cooperation of the Committee of Ministers in ensuring effective execution of its judgments.

The Court can in no way be accused of being passive. Yet, it will not surmount its difficulties if it is not given a clear indication of the commitment or reaffirmed commitment of the States. Fifty years after it began sitting, it needs an updated "roadmap", including directions as to the means of protection.

Claude Lefort wrote "rights cannot be disassociated from the awareness of rights". This is true of people too, and also of civil society which does so much to promote human rights – their contribution cannot be underestimated. But it is also true of the States themselves. The rule of law means that States are subject to the law and they must accept that with full

awareness of what it entails. I think the time has come for States to reassess their position, which will lead to a renewed momentum.

Ladies and gentlemen, it is time for me to give the floor to our two speakers. Let me finish by making a bet. In twenty years' time, in fifty years, there may even be a World Court of Human Rights, I do not know. But I do know that there will always be human beings who suffer from physical abuse, whose freedom is curtailed and whose dignity is undermined. We must ensure that at least we Europeans use the law to reduce that suffering and to prevent it recurring. We need to reflect upon how to give human rights an even more concrete character, a more effective and less illusory character. That was the will of the founding fathers, and much has been achieved. We need to consolidate and reinvigorate the system. Before you here today, I make the bet that this is possible, but only with your help.

Thank you for your attention.

V. SPEECH GIVEN BY DAME ROSALYN HIGGINS, PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 30 JANUARY 2009

SPEECH GIVEN BY DAME ROSALYN HIGGINS, PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 30 JANUARY 2009

President Costa, members of the Bench, Minister Dati, excellencies, ladies and gentlemen,

I greatly appreciate the invitation of President Costa to speak at this ceremony marking the opening of the judicial year as well as the 50th anniversary of the European Court of Human Rights. I take it as a mark of friendship between our Courts.

I am honoured to say some words as we commemorate fifty truly remarkable years, during which you have for ever changed for the better the judicial protection of human rights.

While the International Court of Justice and the European Court of Human Rights have different roles to play, there is a great deal of common ground between The Hague and Strasbourg. The International Court of Justice possesses general subject matter jurisdiction and its docket invariably contains a diverse range of cases. It has over the years always had occasional cases touching on human rights. Although its responses have been given in the context of contentious litigation or requests for advisory opinions, and have involved States or international organisations, they have still had an impact on the perception of what an *individual* may invoke as fundamental rights protected by international law. As for the European Court of Human Rights, while always mindful of the special character of the European Convention on Human Rights, it has long recognised that "the principles underlying the Convention cannot be interpreted and applied in a vacuum"; it must also take into account any relevant rules of international law[1]. Indeed, some provisions of the Convention refer explicitly to international law (Articles 7, 15 and 35). The European Court of Human Rights regularly looks to the jurisprudence of the International Court for statements on general international law, Charter interpretation and State responsibility, and the International Court looks to the European Court's development of the law on specific human rights; and allusion may be made to this. In this way, The Hague and Strasbourg can be perceived as partners for the protection of human rights.

While the European Court of Human Rights is today most strongly associated with its handling of cases brought by individuals, Article 33 of the European Convention provides for the possibility of inter-State cases. Such cases have been heard from time to time. In the 1970s, Ireland brought a case against the United Kingdom relating to security measures in Northern Ireland. The central issue of the case was the distinction between torture and inhuman or degrading treatment, and the minimum level of severity for acts to fall within the scope of Article 3 of the Convention. At the same time, the Court took the opportunity to state its position on two broader issues of policy that have since run like a thread through its

1. See *Loizidou v. Turkey* (merits), 18 December 1996, § 43, *Reports of Judgments and Decisions* 1996-VI.

jurisprudence. First, it found that the responsibilities assigned to the Court within the framework of the Convention system extended beyond the case before it:

> "The Court's judgments in fact serve not only to decide those cases brought before the Court 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 as Contracting Parties."[1]

Second, the Court stated that in interpreting the Convention regard should be had to its special character as a treaty for the *collective* enforcement of human rights and fundamental freedoms[2].

In 2001, in the inter-State case of *Cyprus v. Turkey*, the Court reiterated the special character of the Convention as "an instrument of European public order (*ordre public*) for the protection of individual human beings"[3].

In 2007 and 2008, Georgia lodged applications against the Russian Federation. The more recent of these applications has coincided with a case between the same two States before the ICJ – a situation that I will come back to.

While only a tiny percentage of the European Court of Human Rights' cases are inter-State, all contentious cases at the ICJ are of this nature. Article 34 of the Statute of the ICJ provides that only States can be parties to cases.

Despite viewing cases through the lens of inter-State relations, the ICJ, and its predecessor the Permanent Court of International Justice, have issued judgments that fundamentally concern the rights of individuals under international law. Just last week, the International Court issued a judgment in a case brought by Mexico against the United States of America concerning interpretation of its 2004 judgment in the *Avena* case. This case came before the International Court as a legal dispute between two States, but at its core were the rights of Mexican nationals on death row in the United States who had been arrested and sentenced without being informed of their rights under Article 36 of the Vienna Convention on Consular Relations, and the remedy the International Court had articulated.

The Permanent Court of International Justice – which operated between 1922 and 1946 – dealt with "big" rights, close conceptually to collective rights, such as the principle of non-discrimination. In the *Polish Upper Silesia* case[4], the Permanent Court showed a profound insight into what was necessary to make the protection of national minorities a reality. It held that what the minority was entitled to was equality in fact as well as in law; and that, while the claim to be a member of a national minority should be based on fact, self-identification was the only acceptable method of association. This principle has been of lasting importance in human rights law, particularly for the European Court, which has developed a rich jurisprudence relating to the rights of minorities.

1. *Ireland v. the United Kingdom*, 18 January 1978, § 154, Series A no. 25.
2. Ibid., § 239.
3. *Cyprus v. Turkey* [GC], no. 25781/94, § 78, ECHR 2001-IV.
4. *Certain German Interests in Polish Upper Silesia (Germany v. Poland)*, PCIJ, Series A no. 7.

In the 1935 *Minority Schools in Albania* case, the Permanent Court determined that special needs and equality in fact "are indeed closely interlocked, for there would be no true equality between a majority and a minority if the latter were deprived of its own institutions, and were consequently compelled to renounce that which constitutes the very essence of its being as a minority"[1]. Of equal importance was the finding that differentiation for objective reasons does *not* constitute discrimination.

In its early years the current International Court of Justice (the legal successor to the old Permanent Court of International Justice) played a major and critical role in the development of the concept of self-determination in the *South West Africa*, *Namibia* and *Western Sahara* cases. The European Court of Human Rights, for its part, has for the moment a different sense of what is meant by self-determination. It has developed the concept of self-determination in the sense of the family and the individual. Its case-law has emphasised that the principle of self-determination forms the basis of the guarantees in Article 8 of the European Convention (right to respect for private and family life)[2].

Of course, it is the European Convention on Human Rights, rather than international humanitarian law, which is at the core of your Court's work. But sometimes both Courts have been called upon to analyse the relationship between human rights law and international humanitarian law. It is rather routine for the International Court of Justice to have to deal with this issue. In the advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the International Court found it had to consider both branches of law, treating international humanitarian law as *lex specialis*[3]. I have the impression in reading your interesting case-law that what you view as the parameters of the proper role of the European Court of Human Rights in relation to international humanitarian law is still work in progress. And we have noticed that in the 2008 *Korbely v. Hungary* case, in determining whether an act of which the applicant was convicted amounted to a crime against humanity as that concept was understood in 1956, the European Court of Human Rights referred to the Fourth Geneva Convention, Additional Protocol I, and Additional Protocol II[4]. Some very direct analysis of international humanitarian law ensued.

Another contemporary legal issue for both Courts is the tension between the customary international law on immunity and the drive against impunity for human rights violations. In three Grand Chamber judgments in late 2001, the European Court of Human Rights held that the application of the doctrine of sovereign immunity, effectively preventing legal proceedings against foreign governments, did not violate the right to a fair trial under Article 6 of the European Convention on Human Rights[5]. The ICJ had been confronted in the 2002 *Arrest Warrant* case with the question of whether a human rights exception to immunity existed in customary international law[6]. After examining the practice of regional and national courts, the ICJ concluded that there did not yet exist any form of exception in general

1. *Minority Schools in Albania*, Advisory Opinion, PCIJ, Series A/B no. 64, p. 17.
2. See *Pretty v. the United Kingdom*, no. 2346/02, ECHR 2002-III, and *Van Kück v. Germany*, no. 35968/97, ECHR 2003-VII.
3. ICJ Reports 2004, § 106.
4. *Korbely v. Hungary* [GC], no. 9174/02, to be reported in ECHR 2008. See Section II on relevant international and domestic law.
5. See *McElhinney v. Ireland* [GC], no. 31253/96, ECHR 2001-XI; *Al-Adsani v. the United Kingdom* [GC], no. 35763/97, ECHR 2001-XI; and *Fogarty v. the United Kingdom* [GC], no. 37112/97, ECHR 2001-XI. See also M. Emberland, "International Decisions", *AJIL*, vol. 96, 2002, p. 699.
6. *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, ICJ Reports 2002.

international law to the rule according immunity from criminal jurisdiction to incumbent Ministers for Foreign Affairs, even where they were suspected of having committed war crimes or crimes against humanity. But this is a rapidly evolving area of law that both our Courts will no doubt continue to watch carefully.

A recurring question before the International Court and the European Court of Human Rights is the territorial scope of various human rights obligations. In your Court, this question usually arises in the context of whether the obligations of the European Convention on Human Rights are applicable to a government when acting abroad. Given the *Banković*, *Loizidou*, *Issa* and *Ilaşcu* cases[1], more may yet be said on this issue in the future.

At the ICJ, we have seen the question come before us in two ways. First, there is the general proposition that a government is responsible for acts committed under its authority abroad. In the *Congo v. Uganda* case, for example, it held that Uganda at all times had responsibility for all actions and omissions of its own military forces in the territory of the Democratic Republic of the Congo[2]. Second, the International Court occasionally has to look at whether, by reference to a treaty, a State is under those treaty obligations when acting abroad. The answer turns upon the reading in context of the treaty, in the light of its object and purpose. In the recent *Georgia v. Russia* case[3], the parties disagreed on the territorial scope of the application of the obligations of a State Party under the Convention on the Elimination of All Forms of Racial Discrimination: Georgia claimed that the convention did not include any limitation on its territorial application, while the Russian Federation claimed that the provisions of the convention could not govern a State's conduct outside its own borders. In its order of last October, the ICJ observed that there was no restriction of a general nature in the Convention on the Elimination of All Forms of Racial Discrimination relating to its territorial application and the provisions in question (Articles 2 and 5) generally appeared to apply to the actions of a State Party when it chose to act beyond its territory.

The *Georgia v. Russia* case is significant for another reason – it is an example of the contemporary phenomenon of the same or similar legal questions surfacing in diverse fora. This is a consequence of the dispersal of responsibility for interpreting international law – especially human rights law – among different judicial and quasi-judicial bodies. In addition to the International Court of Justice and the three major regional systems for the protection of human rights in Europe, the Americas and Africa, there are the treaty bodies responsible for monitoring implementation of the provisions of international human rights treaties dealing with the two Covenants, the elimination of racial discrimination, discrimination against women, torture, the rights of the child, and the rights of migrant workers. Moreover, in the last fifteen years, following the mass atrocities in the former Yugoslavia and Rwanda, we have seen the creation of *ad hoc* international tribunals with jurisdiction to try the individuals responsible for such crimes as well as the establishment of a permanent International Criminal Court.

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1. *Banković and Others v. Belgium and Others* (dec.) [GC], no. 52207/99, ECHR 2001-XII; *Loizidou v. Turkey* (preliminary objections), 23 March 1995, Series A no. 310; *Issa and Others v. Turkey*, no. 31821/96, 16 November 2004; and *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, ECHR 2004-VII.
2. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, ICJ Reports 2004, § 180.
3. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Order indicating provisional measures, 15 October 2008.

The dispute between Georgia and Russia over the events of August 2008 came before the ICJ as a contentious proceeding regarding the application of the Convention on the Elimination of All Forms of Racial Discrimination. In its order, the International Court noted that the matter might also properly be brought to the attention of the Committee on the Elimination of Racial Discrimination. Around the same time, Georgia lodged an inter-State application with the European Court of Human Rights alleging violations of Articles 2 (right to life) and 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights and Article 1 (protection of property) of Protocol No. 1 to the Convention. The European Court ordered provisional measures calling on both parties to comply with their engagements under the Convention, particularly Articles 2 and 3. In addition, the European Court has since received thousands of applications against Georgia concerning hostilities which broke out in South Ossetia in August 2008. Meanwhile, the Prosecutor of the International Criminal Court has stated that the situation in Georgia is under analysis by his Office.

We saw this same phenomenon of reformulated claims, on essentially the same subject matter, at the time of the 1999 air strikes by NATO against the Federal Republic of Yugoslavia. Here, too, the International Court of Justice and the European Court of Human Rights were both engaged.

The plethora of judicial and quasi-judicial bodies operating in the field of human rights does pose the risk of divergent jurisprudence.

Some perceived the case of *Loizidou v. Turkey*[1] as an example of the European Court of Human Rights taking a different position from the ICJ on the question of reservations to human rights treaties. My own view is that any perceived bifurcation depends on what one believes to have been the scope of the International Court's judgment in the 1951 advisory opinion on *Reservations to the Genocide Convention*[2], in particular whether it precluded a court from doing anything other than noting whether a particular State had objected to a reservation. In the 2006 *Congo v. Rwanda* judgment, five judges of the ICJ (including myself) referred expressly to the *Loizidou v. Turkey* case in a joint separate opinion[3], observing that the fact that courts such as the European Court of Human Rights had pronounced upon the compatibility of specific reservations to the European Convention on Human Rights, rather than treating the question as a simple matter of bilateral sets of obligations left to the individual assessment of the States Parties to the Convention concerned, did *not* create a "schism" in international law. Rather, the judges saw the jurisprudence of the human rights courts on this question "as developing the law to meet contemporary realities"[4].

It has long been my view that the best way to avoid fragmentation of international law is for us all to keep ourselves well informed of each other's decisions, to have open channels of communication, and to build on the cordial relationships that already exist among the courts in The Hague, Strasbourg, Luxembourg, Arusha and so on. I had the pleasure of hosting an inter-court seminar on legal topics of mutual interest in December 2007 which was attended

1. See note 1 on page 44.
2. ICJ Reports 1951, p. 15.
3. *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, ICJ Reports 2006, joint separate opinion by Judges Higgins, Kooijmans, Elaraby, Owada and Simma.
4. Ibid., § 23.

by judges from your Court, a team from the European Court of Justice led by President Skouris, along with members of the International Criminal Tribunal for the former Yugoslavia and the ICJ. President Costa and I hope that such meetings will take place on a regular basis, with different courts hosting each time. Today's judicial seminar has proved to be a further effective way of encouraging the fruitful exchange of ideas.

President Costa, members of the Bench, Minister Dati, excellencies, ladies and gentlemen,

The European Court of Human Rights is surely one of the busiest and most exemplary of international judicial bodies. It exerts a profound influence on the laws and social realities of its member States and has become the paradigm for other regional human rights courts, not to mention other international judicial bodies in general. It is a court that continually renews itself, adjusting its procedures to maximise efficiency and to address the considerable operational problems that face it. From our seat in The Hague, the judges of the International Court of Justice admire all that you have achieved, and we will continue to follow your work with the greatest interest, constantly looking for ways in which we can be partners in protecting human rights.

Thank you for this invitation and we warmly congratulate you on your 50th anniversary and all the remarkable work of your Court in this last half-century.

VI. SPEECH GIVEN BY MS RACHIDA DATI, *GARDE DES SCEAUX*, FRENCH MINISTER OF JUSTICE, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 30 JANUARY 2009

SPEECH GIVEN BY MS RACHIDA DATI,
GARDE DES SCEAUX, FRENCH MINISTER OF JUSTICE,
ON THE OCCASION OF THE OPENING
OF THE JUDICIAL YEAR,
30 JANUARY 2009

President of the Court, Madam President, members of the Court, excellencies, ladies and gentlemen,

It is a great honour for me to address your Court today as Minister of Justice of the host country. The presence of such a distinguished audience at this solemn hearing, marking the 50th anniversary of the European Court of Human Rights, attests to the status that your Court has acquired in the European legal area. I am particularly grateful to you, President Costa, for giving me the opportunity to emphasise this.

After the proclamation, on 10 December 1948, of the Universal Declaration of Human Rights by the General Assembly of the United Nations, the adoption in 1950 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the creation of your Court marked a turning point in the history of our continent.

The Council of Europe foresaw that relations between our various countries had to be consolidated by strengthening our democratic values, guaranteeing liberty and promoting the rule of law.

For the last fifty years your Court has shown its determination and will to make this "Europe of law" a reality. It has fulfilled that goal.

The establishment of the right of access to an impartial tribunal and the right to a fair trial guarantees, together with the implementation of an ambitious and coherent case-law in areas as varied as bioethics, immigration law or the protection of minorities, have made the European Court of Human Rights an unchallenged authority in respect of citizens' rights and guarantees.

This is the fruit of very intensive work which must be commended: the Court has handed down more than 10,000 judgments since it was first established.

With the now forty-seven member States of the Council of Europe, your judicial activity will continue to gather pace and your Court will need to ensure that it has the means to fulfil its mission in the best possible conditions.

I know, Mr President, that you are pursuing this goal with determination. It will require a commitment on the part of all States.

The Court has done much to bring our fellow Europeans closer together, rallying them around fundamental values. Your case-law has led the way on many sensitive issues of society and has broken down legal borders. Europeans are increasingly turning towards your Court – there is no better proof of the trust and faith that civil society has placed in you.

I would like to take this opportunity of your anniversary to look to the future with you.

The defence of democracy, the rule of law and the protection of fundamental freedoms are priorities that we must never cease to affirm. Europe has brought us peace – that is a heritage we must preserve. Human rights still have to be fought for – let us not forget all those who turn to your Court, and to the Council of Europe, seeking symbols, examples, guidance.

In this connection, may your Court continue to have a rewarding and fruitful dialogue not only with domestic courts but also with lawmakers.

I am particularly attached to this kind of dialogue and confrontation. Such exchanges help us to make progress and to strengthen our legal systems, to ensure that the adversarial principle and the conditions of a truly fair trial are guaranteed at all stages of our procedures.

Your Court sets requirements that occasionally impose changes to applicable domestic legislation or sometimes even call it into question. But that should not be a cause for concern: our legal systems are not set in stone and the case-law of the Court here in Strasbourg has enabled better adaptation to the evolution of our societies and their aspirations. That is how France perceives things and I am sure that this view is widespread.

The European Union's accession to the Convention for the Protection of Human Rights and Fundamental Freedoms – once the Lisbon Treaty has been ratified – will be a historic event.

It will be the sign of a rapprochement and enhanced complementarity between your Court and the Court of Justice of the European Communities. I look forward to that occasion. The presence here today of the President of the Court of Justice is certainly a testimony to the excellent relations that already exist between your two Courts.

Lastly, you have mentioned, Mr President, that you wish to convene in the near future "*Etats généraux*" on human rights in Europe. I would like to take this opportunity to express my interest in and support for this important initiative.

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* *

President of the Court, Madam President, members of the Court, excellencies, ladies and gentlemen,

At a time when Europe is asking questions about its contours, its borders, and is seeking to strengthen its common identity, your Court has been reminding us, for the last fifty years, of the importance of our values.

The protection of human rights and fundamental freedoms is our common achievement: this must never be forgotten or disregarded and, above all, never taken for granted.

We can all rely on your Court to remind us of our commitments and of our responsibilities.

Thank you.

VII. VISITS

VISITS

26 January 2009	Mr Ramiz Rzayev, President of the Supreme Court, Azerbaijan
27 January 2009	Mr Bruno Le Maire, State Secretary for European Affairs, France
28 January 2009	Mr Miguel Ángel Moratinos, Minister for Foreign Affairs, Spain
30 January 2009	Ms Rachida Dati, *Garde des Sceaux*, Minister of Justice, France Dame Rosalyn Higgins, President of the International Court of Justice Mr Vassilios Skouris, President of the Court of Justice of the European Communities[1] Mr Zurab Adeishvili, Minister of Justice, Mr Konstantin Kublashvili, President of the Supreme Court, and Mr George Papuashvili, President of the Constitutional Court, Georgia
18 February 2009	Mr Frank Schürman, Agent of the Swiss government, and Paul Seger, Head of the Public International Law Directorate, Federal Department for Foreign Affairs, Switzerland
11 March 2009	Mr Jacques Barrot, Vice-President of the European Commission
13 March 2009	Mr Ghislain Londers, Court of Cassation, and Mr Marc Bossuyt, Constitutional Court, Belgium
19 March 2009	Mr Jacek Czaja, Undersecretary of State, Ministry of Justice, Poland
27 April 2009	Mr Luigi Vitali, President of the Italian Delegation
28 April 2009	Mr Mykola Onischuk, Minister of Justice, Ukraine
7 May 2009	Mr Kestutis Lapinskas, President of the Constitutional Court, Lithuania Mr Alexander Konovalov, Minister of Justice, Russian Federation
14 May 2009	Mr Gagik Harutyunyan, President of the Constitutional Court, Armenia
19 May 2009	Mrs Daniela Kovářová, Minister of Justice, and Mr František Korbel, Vice-Minister of Justice, Czech Republic
2 June 2009	Mr Pierre-Etienne Bisch, Prefect, France
23 June 2009	Mrs Mary McAleese, President of Ireland
24 June 2009	Mr Hovik Abrahamyan, Speaker of Parliament, Armenia

1. From 1 December 2009, the Court of Justice of the European Union.

25 June 2009	Mr Borut Pahor, Prime Minister, Slovenia
2 July 2009	Mr Jean-Marie Bockel, State Secretary to the French Minister of Justice and Liberties, France
6 July 2009	Mr Danilo Türk, President of Slovenia
7 July 2009	Mr Stjepan Mesić, President of Croatia
11 September 2009	Mr Harold Koh, State Department Legal Adviser, United States of America
15 September 2009	Mr Pierre Lellouche, State Secretary for European Affairs, France
23 September 2009	H.R.H. Prince Guillaume, Hereditary Grand Duke of Luxembourg
29 September 2009	Mr Jan Kantorczyk, Head of Division, Federal Ministry for Foreign Affairs, Germany
6 October 2009	Mr Sadullah Ergin, Minister of Justice, Turkey Mr Gevorg Danielyan, Minister of Justice, Armenia
20 October 2009	Mr Egemen Bağiş, State Minister for European Affairs, Turkey Mr Antonio Milososki, Minister for Foreign Affairs, "the former Yugoslav Republic of Macedonia"
17 November 2009	Mrs Anastasia Crickley, Chairperson, European Union Fundamental Rights Agency Management Board, and Mr Morten Kjaerum, Director, European Union Fundamental Rights Agency
15 December 2009	Mr Maurice Manning, President of the Irish Human Rights Commission Mr Jovo Vangelovski, President of the Supreme Court, "the former Yugoslav Republic of Macedonia"
17 December 2009	Mr Armen Harutyunyan, Armenian Ombudsman

In addition to the visits of the dignatories listed above, the Court also organised 89 study visits (held over one or more days) for a total of 1,779 participants, and received 560 groups, totalling 15,659 visitors, mostly connected with the legal professions. In 2009 the Court welcomed no less than 17,438 visitors from 130 countries (compared with 16,650 visitors in 2008).

VIII. Activities of the Grand Chamber and Sections

ACTIVITIES OF THE GRAND CHAMBER AND SECTIONS

1. Grand Chamber

At the beginning of the year, there were 22 cases (concerning 23 applications) pending before the Grand Chamber. At the end of the year there were 22 cases (concerning 23 applications) and 1 request for an advisory opinion[1].

18 new cases (concerning 19 applications) were referred to the Grand Chamber, 7 by relinquishment of jurisdiction by the respective Chambers pursuant to Article 30 of the Convention, and 11 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.

The Grand Chamber delivered 17 judgments on the merits (concerning 26 applications), 6 in relinquishment cases, 11 in rehearing cases, as well as 1 striking-out judgment (concerning 1 application).

2. First Section

In 2009 the Section held 40 Chamber meetings. There were no oral hearings. The Section delivered 335 judgments for 690 applications.

Of the other applications examined by a Chamber
(a) 90 were declared inadmissible; and
(b) 165 were struck out of the list.

In addition, the Section held 60 Committee meetings. 8,457 applications were declared inadmissible or were struck out of the list. Within the framework of the single-judge procedure, 245 applications were also declared inadmissible or struck out of the list.

In 2009 1,318 applications were communicated to the States concerned and at the end of the year 37,782 applications were pending before the Section.

3. Second Section

In 2009 the Section held 40 Chamber meetings. There were no oral hearings. The Section delivered 444 judgments for 650 applications.

Of the other applications examined by a Chamber
(a) 82 were declared inadmissible; and
(b) 200 were struck out of the list.

1. The Court's second advisory opinion was delivered on 22 January 2010.

In addition, the Section held 55 Committee meetings. 3,419 applications were declared inadmissible or were struck out of the list. Within the framework of the single-judge procedure, 73 applications were also declared inadmissible or struck out of the list.

In 2009 2,258 applications were communicated to the States concerned and at the end of the year 24,606 applications were pending before the Section.

4. Third Section

In 2009 the Section held 40 Chamber meetings. An oral hearing was held in 1 case. The Section delivered 234 judgments for 278 applications.

Of the other applications examined by a Chamber
(a) 62 were declared inadmissible; and
(b) 390 were struck out of the list.

In addition, the Section held 59 Committee meetings. 5,581 applications were declared inadmissible or were struck out of the list. Within the framework of the single-judge procedure, 367 applications were also declared inadmissible or struck out of the list.

In 2009 1,026 applications were communicated to the States concerned and at the end of the year 15,151 applications were pending before the Section.

5. Fourth Section

In 2009 the Section held 43 Chamber meetings. Oral hearings were held in 6 cases. The Section delivered 313 judgments for 354 applications.

Of the other applications examined by a Chamber
(a) 120 were declared inadmissible; and
(b) 304 were struck out of the list.

In addition, the Section held 32 Committee meetings. 5,002 applications were declared inadmissible or were struck out of the list. Within the framework of the single-judge procedure, 437 applications were also declared inadmissible or struck out of the list.

In 2009 694 applications were communicated to the States concerned and at the end of the year 17,223 applications were pending before the Section.

6. Fifth Section

In 2009 the Section held 40 Chamber meetings. Oral hearings were held in 3 cases. The Section delivered 281 judgments – including 2 by a three-judge Committee – for 396 applications.

Of the other applications examined by a Chamber
(a) 243 were declared inadmissible; and
(b) 152 were struck out of the list.

In addition, the Section held 40 Committee meetings. 6,568 applications were declared inadmissible or were struck out of the list. Within the framework of the single-judge procedure, 1,108 applications were also declared inadmissible or struck out of the list.

In 2009 901 applications were communicated to the States concerned and at the end of the year 24,491 applications were pending before the Section.

IX. PUBLICATION OF THE COURT'S CASE-LAW

PUBLICATION OF THE COURT'S CASE-LAW

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

The Court's website and pages dedicated to its fifty years of activities

The Court's website (www.echr.coe.int) provides general information about the Court, including its composition, organisation and procedure, details of pending cases and oral hearings, as well as access to its press releases.

In 2009 the Court also launched a microsite dedicated to its activities over the past fifty years (www.echr.coe.int/50/en). Users will find an interactive map of the forty-seven member States with basic information on each State such as the date it ratified the Convention, the judge elected in respect of that State, some major cases brought against it and the main statistics. A virtual visit to the Court is also available and more interactive pages have been added in a multimedia section containing videos, photos and podcasts. Original historical documents have been scanned and can be consulted online, such as texts concerning the first case examined by the Court in 1960 (*Lawless v. Ireland*). Certain documents, such as the "Recommendation on the establishment of the Court" (1958), have been declassified.

In 2009 the Court's website had over 215 million hits (a 30% increase compared with 2008) in the course of more than 3.6 million user sessions (a 17% increase compared with 2008).

The Court's case-law database (HUDOC)

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 Court since 1986, or earlier in certain cases, except those adopted by three-judge 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.

Monthly Case-law Information Notes are accessible free of charge via the HUDOC search portal. These contain summaries of cases deemed to be of particular interest (judgments, applications declared admissible or inadmissible and cases which have been communicated to the respondent Government for observations). An annual hard-copy subscription is also available and includes eleven issues as well as an index[1].

1. For information on how to subscribe to the HUDOC DVD and the Information Notes, please visit the web page "ECHR Publications" (www.echr.coe.int/ECHRpublications/en).

The HUDOC interface now enables users to filter judgments based on whether they were adopted by a Grand Chamber, a Chamber or a Committee. In addition, the site has an FAQ section on how to perform searches in HUDOC. A list of key words by Convention provision has also been added to make searching easier.

In the near future the Court will be publishing new and more comprehensive case-law pages on its website, including, among other tools, a cumulative index of cases published in its official series (see part B below).

Translations into non-official languages

The HUDOC database now also provides access to translations of some of the Court's leading judgments in more than ten languages in addition to the official languages. It also offers links to case-law collections produced by third parties. These improvements reflect the Court's aim to make its case-law more easily accessible to those who are not well versed in French or English. Further translations will be added in 2010.

RSS news feeds

As a further improvement to the Court's online communication activities, Internet users can now subscribe to RSS news feeds for its most recent judgments and decisions by importance level or respondent State, in addition to the already existing feeds for general news, webcasts of public hearings and Case-law Information Notes. Feeds have also been added for judgments and decisions by a Grand Chamber, weekly lists of important communicated cases, as well as the facts, the complaints and the Court's questions in such cases[1]. Finally, news feeds now also exist for translations into non-official languages which are being added to HUDOC.

Joint project with the European Union Agency for Fundamental Rights

Following a preliminary agreement reached in 2009, the Court and the European Union Agency for Fundamental Rights will join forces to work on a year-long 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. This project will result in the publication of a case-law handbook in English, to be translated into Bulgarian, Czech, French, German, Greek, Hungarian, Italian, Polish, Romanian and Spanish. The handbook will analyse the key principles developed by the European Court of Human Rights and the Court of Justice of the European Communities. The handbook and related e-learning tools will be distributed in 2011 to judges, prosecutors, lawyers and law enforcement officials in a host of target countries. The material will also be made available online.

B. 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

1. The facts, the complaints and the Court's questions in significant communicated cases are also available in HUDOC.

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.

HUDOC notices now show which cases have recently been selected for publication in the official series. This information also appears on the HUDOC results page. As in the past, when a case has been published in the official series, HUDOC will continue to indicate, both on the results page and in the notice, the volume in which the case was published.

The following judgments and decisions delivered in 2009 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.

Armenia

Bayatyan v. Armenia, no. 23459/03, 27 October 2009

Austria

Zehentner v. Austria, no. 20082/02, 16 July 2009

Azerbaijan

Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan, no. 37083/03, 8 October 2009

Belgium

Anakomba Yula v. Belgium, no. 45413/07, 10 March 2009 (extracts)
Féret v. Belgium, no. 15615/07, 16 July 2009
L'Erablière A.S.B.L. v. Belgium, no. 49230/07, 24 February 2009

Bosnia and Herzegovina

Sejdić and Finci v. Bosnia and Herzegovina, nos. 27996/06 and 34836/06, 22 December 2009

Bulgaria

Gochev v. Bulgaria, no. 34383/03, 26 November 2009 (extracts)
Petkov and Others v. Bulgaria, nos. 77568/01, 178/02 and 505/02, 11 June 2009

Croatia

Beganović v. Croatia, no. 46423/06, 25 June 2009 (extracts)
Branko Tomašić and Others v. Croatia, no. 46598/06, 15 January 2009 (extracts)
Sandra Janković v. Croatia, no. 38478/05, 5 March 2009 (extracts)

Czech Republic

Krejčíř v. the Czech Republic, nos. 39298/04 and 723/05, 26 March 2009

Denmark

Panjeheighalehei v. Denmark (dec.), no. 11230/07, 13 October 2009 (extracts)

Finland

Ruotsalainen v. Finland, no. 13079/03, 16 June 2009

France

Barraco v. France, no. 31684/05, 5 March 2009
Gardel v. France, no. 16428/05, 17 December 2009
Grifhorst v. France, no. 28336/02, 26 February 2009
Grosz v. France (dec.), no. 14717/06, 16 June 2009
Léger v. France [GC], no. 19324/02, 30 March 2009
Ould Dah v. France (dec.), no. 13113/03, 17 March 2009

Georgia

Giorgi Nikolaishvili v. Georgia, no. 37048/04, 13 January 2009 (extracts)

Germany

Appel-Irrgang and Others v. Germany (dec.), no. 45216/07, 6 October 2009
Brauer v. Germany, no. 3545/04, 28 May 2009
Ernewein and Others v. Germany (dec.), no. 14849/08, 12 May 2009
M. v. Germany, no. 19359/04, 17 December 2009
Mooren v. Germany [GC], no. 11364/03, 9 July 2009
Otto v. Germany, no. 21425/06, 10 November 2009
Zaunegger v. Germany, no. 22028/04, 3 December 2009

Greece

Gorou v. Greece (no. 2) [GC], no. 12686/03, 20 March 2009

Reklos and Davourlis v. Greece, no. 1234/05, 15 January 2009 (extracts)

Hungary

Karsai v. Hungary, no. 5380/07, 1 December 2009
Kenedi v. Hungary, no. 31475/05, 26 May 2009 (extracts)
Társaság a Szabadságjogokért v. Hungary, no. 37374/05, 14 April 2009

Italy

Ben Khemais v. Italy, no. 246/07, 24 February 2009 (extracts)
Enea v. Italy [GC], no. 74912/01, 17 September 2009
G.N. and Others v. Italy, no. 43134/05, 1 December 2009 (extracts)
Guiso-Gallisay v. Italy (just satisfaction) [GC], no. 58858/00, 22 December 2009 (extracts)
Lombardi Vallauri v. Italy, no. 39128/05, 20 October 2009 (extracts)
Maiorano and Others v. Italy, no. 28634/06, 15 December 2009 (extracts)
Scoppola v. Italy (no. 2) [GC], no. 10249/03, 17 September 2009
Simaldone v. Italy, no. 22644/03, 31 March 2009 (extracts)

Latvia

Andrejeva v. Latvia [GC], no. 55707/00, 18 February 2009

Malta

Micallef v. Malta [GC], no. 17056/06, 15 October 2009

Moldova

Manole and Others v. Moldova, no. 13936/02, 17 September 2009 (extracts)
Paladi v. Moldova [GC], no. 39806/05, 10 March 2009

Netherlands

"Blondje" v. the Netherlands (dec.), no. 7245/09, 15 September 2009
Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. the Netherlands (dec.), no. 13645/05, 20 January 2009

Norway

Procedo Capital Corporation v. Norway, no. 3338/05, 24 September 2009 (extracts)

Poland

Kulikowski v. Poland, no. 18353/03, 19 May 2009 (extracts)
Kuliś and Różycki v. Poland, no. 27209/03, 6 October 2009
Orchowski v. Poland, no. 17885/04, 22 October 2009 (extracts)
Sławomir Musiał v. Poland, no. 28300/06, 20 January 2009 (extracts)

Portugal

Women on Waves and Others v. Portugal, no. 31276/05, 3 February 2009 (extracts)

Romania

Brânduşe v. Romania, no. 6586/03, 7 April 2009 (extracts)
Tătar v. Romania, no. 67021/01, 27 January 2009 (extracts)
Velcea and Mazăre v. Romania, no. 64301/01, 1 December 2009 (extracts)

Russia

Batsanina v. Russia, no. 3932/02, 26 May 2009 (extracts)
Budina v. Russia (dec.), no. 45603/05, 18 June 2009
Burdov v. Russia (no. 2), no. 33509/04, 15 January 2009
Bykov v. Russia [GC], no. 4378/02, 10 March 2009
Danilenkov and Others v. Russia, no. 67336/01, 30 July 2009 (extracts)
Kimlya and Others v. Russia, no. 76836/01, 1 October 2009
Martynets v. Russia (dec.), no. 29612/09, 5 November 2009
Medova v. Russia, no. 25385/04, 15 January 2009 (extracts)
Sergey Zolotukhin v. Russia [GC], no. 14939/03, 10 February 2009

Slovakia

K.H. and Others v. Slovakia, no. 32881/04, 28 April 2009 (extracts)
Lawyer Partners, a.s., v. Slovakia, nos. 54252/07, 3274/08, 3377/08, 3505/08, 3526/08, 3741/08, 3786/08, 3807/08, 3824/08, 15055/08, 29548/08, 29551/08, 29552/08, 29555/08 and 29557/08, 16 June 2009

Spain

C.C. v. Spain, no. 1425/06, 6 October 2009
Gurguchiani v. Spain, no. 16012/06, 15 December 2009
Herri Batasuna and Batasuna v. Spain, nos. 25803/04 and 25817/04, 30 June 2009
Muñoz Díaz v. Spain, no. 49151/07, 8 December 2009

Switzerland

Glor v. Switzerland, no. 13444/04, 30 April 2009
Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2) [GC], no. 32772/02, 30 June 2009

"The former Yugoslav Republic of Macedonia"

Association of Citizens Radko and Paunkovski v. "the former Yugoslav Republic of Macedonia", no. 74651/01, 15 January 2009 (extracts)

Turkey

Abdolkhani and Karimnia v. Turkey, no. 30471/08, 22 September 2009 (extracts)
Dayanan v. Turkey, no. 7377/03, 13 October 2009
Güveç v. Turkey, no. 70337/01, 20 January 2009 (extracts)
İrfan Temel and Others v. Turkey, no. 36458/02, 3 March 2009 (extracts)
Kart v. Turkey [GC], no. 8917/05, 3 December 2009
Kozacıoğlu v. Turkey [GC], no. 2334/03, 19 February 2009
Opuz v. Turkey, no. 33401/02, 9 June 2009
Sorguç v. Turkey, no. 17089/03, 23 June 2009 (extracts)
Varnava and Others v. Turkey [GC], nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, 18 September 2009

Ukraine

Yuriy Nikolayevich Ivanov v. Ukraine, no. 40450/04, 15 October 2009 (extracts)

United Kingdom

A. and Others v. the United Kingdom [GC], no. 3455/05, 19 February 2009
Financial Times Ltd and Others v. the United Kingdom, no. 821/03, 15 December 2009 (extracts)
Rai and Evans v. the United Kingdom (dec.), nos. 26258/07 and 26255/07, 17 November 2009
Szuluk v. the United Kingdom, no. 36936/05, 2 June 2009
Times Newspapers Ltd. v. the United Kingdom (nos. 1 and 2), nos. 3002/03 and 23676/03, 10 March 2009

X. SHORT SURVEY
OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2009

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Introduction

In 2009 the Court delivered a total of 1,625 judgments, a figure that represents a slight increase compared with the 1,543 judgments delivered in 2008. 18 judgments 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 28% of all the judgments delivered in 2009*.

The number of cases declared admissible was 2,141 (compared with 1,671 in 2008). In Chamber and Grand Chamber compositions, 597 applications were declared inadmissible (compared with 693 in 2008) and 1,211 were struck out of the list (compared with 1,269).

Of the Chamber and Grand Chamber judgments and decisions adopted in 2009, a total of 90 judgments and decisions were accepted by the Court's Publications Committee with a view to publication in the *Reports of Judgments and Decisions* of the Court (ECHR) (figure on 10 March 2010, excluding the Chamber judgments subsequently referred to the Grand Chamber) compared with 78 for 2008.

The Convention provision which gave rise to the greatest number of violations was Article 6, firstly with regard to the right to a fair trial, then the right to a hearing within a reasonable time. This was followed by Article 1 of Protocol No. 1 (protection of property) and Article 5 of the Convention (right to liberty and security).

The highest number of judgments finding at least one violation was delivered in respect of Turkey (341), followed by Russia (210), Romania (153), Ukraine (126) and Poland (123).

* 1 = High importance – judgments which the Court considers make a significant contribution to the development, clarification or modification of its case-law, either generally or in relation to a particular State.
2 = Medium importance – judgments which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law.
3 = Low importance – judgments with little legal interest: those applying existing case-law, friendly settlements and striking-out judgments (unless these have a particular point of interest).

Jurisdiction and admissibility

General jurisdiction of the Court (Article 1)

The case of *Stephens v. Malta (no. 1)*[1] provides an unprecedented illustration of the possibilities regarding the Contracting States' extraterritorial jurisdiction. In its judgment, concerning the detention of a British national in Spain under an arrest warrant issued by a Maltese criminal court and subsequently rescinded by a civil court of the same State as having no legal basis, the Court held that the facts of the case engaged Malta's responsibility even though the applicant had been detained in Spain.

Victim status (Article 34)

In *Paladi v. Moldova*[2], the Court found a violation of Article 34 on account of the authorities' failure to comply with an interim measure indicated by the Court under Rule 39 of the Rules of Court, namely the continuation of the applicant's treatment in the Republican Neurology Centre of the Ministry of Health even though his transfer to a prison hospital had been ordered.

Six-month time-limit (Article 35 § 1)

The case of *Varnava and Others v. Turkey*[3] concerned the disappearance of nine Cypriot nationals during military operations conducted by the Turkish army in northern Cyprus in 1974. The Grand Chamber held that, in this exceptional situation of international conflict where no normal investigative procedures were available, it had been reasonable for the applicants to await the outcome of the initiatives taken by their government and the United Nations. Accordingly, although they had applied to the Court more than six months after the acceptance by the respondent State of the right of individual petition, the applicants, who were relatives of the disappeared persons, had acted with reasonable expedition.

Admissibility criteria (Article 35 § 2)

In the case of *Peraldi v. France*[4], the Court acknowledged for the first time that the United Nations Working Group on Arbitrary Detention, like the United Nations Human Rights Committee, was an "international investigation and settlement body", basing that finding on considerations such as the group's composition, the nature of its examinations and the procedure it followed. It therefore held that the application before it was "substantially the same" as the complaint brought by the applicant's brother before that institution. The Court further observed that the rule in Article 35 § 2 (b), aimed at avoiding a plurality of international proceedings relating to the same cases, applied notwithstanding the date on which the proceedings were brought, the criterion to be taken into consideration being the prior existence of a decision on the merits at the time when the Court examined the application.

1. No. 11956/07, 21 April 2009.
2. [GC], no. 39806/05, 10 March 2009, to be reported in ECHR 2009.
3. [GC], nos. 16064/90 et al., 18 September 2009, to be reported in ECHR 2009.
4. (dec.), no. 2096/05, 7 April 2009.

Furthermore, where the applicant's identity could not be established from any of the material in the case file, the Court found that the application was to be treated as anonymous. It declared the application in *"Blondje" v. the Netherlands*[1] inadmissible on that account.

Abuse of the right of application (Article 35 § 3)

In the case of *Miroļubovs and Others v. Latvia*[2], the Court for the first time gave a general definition of the concept of "abuse of the right of application" and defined the fundamental principles applicable in that regard. While stating that an intentional breach of the confidentiality rule amounted to an abuse of procedure, the Court nevertheless observed that the burden of proving that applicants were at fault for disclosing confidential information lay in principle with the Government, as a mere suspicion was not sufficient for an application to be declared an abuse of the right of petition.

Jurisdiction* ratione temporis *(Article 35 § 3)

In the case of *Šilih v. Slovenia*[3], the Grand Chamber clarified the Court's case-law concerning its temporal jurisdiction to examine complaints under the procedural aspect of Article 2 in cases where the death occurred before the entry into force of the Convention in respect of the respondent State. The procedural obligation to carry out an effective investigation has evolved into a separate and autonomous duty which, although triggered by acts concerning the substantive aspects of Article 2, can give rise to a finding of a separate and independent "interference". It may therefore be considered to be a detachable obligation capable of binding the State even when the death took place before the critical date. However, having regard to the principle of legal certainty, the Court stated that, where the death occurred before the critical date, only procedural acts and/or omissions occurring after that date could fall within its temporal jurisdiction. Furthermore, in order for the procedural obligations to take effect, there must be a genuine connection between the death and the entry into force of the Convention in respect of the respondent State.

The case of *Varnava and Others* (cited above) supplements this case-law by highlighting the importance of making a distinction between the obligation to investigate a suspicious death and the obligation to investigate a suspicious disappearance. The Grand Chamber found that where disappearances in life-threatening circumstances were concerned, the procedural obligation to investigate could hardly come to an end on discovery of the body or the presumption of death, since there generally remained an obligation to account for the disappearance and death and to identify and prosecute any perpetrator of unlawful acts in that regard. Accordingly, even though a lapse of over thirty-four years without any news of the missing persons could constitute strong evidence that they had died in the meantime, that did not remove the procedural obligation to investigate. The Grand Chamber pointed out that, in the case of suspicious disappearances, the procedural obligation under Article 2 could potentially persist as long as the person's fate was unaccounted for, even where the victim could be presumed dead. The approach adopted in *Šilih* (cited above), concerning the requirement of proximity of the death and investigative steps to the date of the Convention's entry into force, therefore applied only in the context of killings or suspicious deaths.

1. (dec.), no. 7245/09, 15 September 2009.
2. No. 798/05, 15 September 2009.
3. [GC], no. 71463/01, 9 April 2009.

Jurisdiction ratione personae *(Article 35 § 3)*

The Court extended to international tribunals the case-law developed in *Behrami v. France*[1] and *Berić and Others v. Bosnia and Herzegovina*[2] which hitherto had been applicable to armed forces and administrative authorities. In the cases of *Galić v. the Netherlands*[3] and *Blagojević v. the Netherlands*[4], it thus declared that it lacked jurisdiction *ratione personae* to deal with acts of the International Criminal Tribunal for the former Yugoslavia, notably on the grounds that it could not hinder the Security Council's effective fulfilment of its mission to ensure peace and security and that the provisions governing the ICTY's organisation and procedure were designed precisely to provide those indicted before it with all appropriate guarantees.

"Core" rights

Right to life (Article 2)

In the case of *Opuz v. Turkey*[5], the applicant's husband had committed a series of assaults on his wife and mother-in-law over several years culminating in the murder of the mother-in-law, despite several complaints by the victims and the institution of various sets of proceedings by the prosecuting authorities. The judgment is particularly noteworthy because the Court held that the violence endured by the applicant and her mother could be regarded as gender-based, constituting a form of discrimination against women, and for the first time found a violation of Article 14, in conjunction with Articles 2 and 3, in a case concerning domestic violence.

In its judgment in *G.N. and Others v. Italy*[6], the Court likewise held for the first time that there had been a violation of Article 14, in conjunction with Article 2 under its procedural head, on account of a difference in treatment based on a medical condition. The case concerned the fact that thalassaemics infected with HIV or hepatitis C following the transfusion or administration of infected blood or blood products supplied by public health facilities (or their heirs) were not entitled to the out-of-court settlements offered by the Ministry of Health to contaminated haemophiliacs who had brought compensation proceedings.

The judgment in *Branko Tomašić and Others v. Croatia*[7], meanwhile, supplemented the case-law concerning the preventive measures to be taken by the State to protect the lives of those at risk from the acts of private individuals. In this case, a man killed his former partner and their child and then committed suicide, having previously been sentenced to five months' imprisonment and ordered to follow a course of psychiatric treatment for threatening to kill them and having been released shortly before the killings. The Court found that the competent authorities had not taken adequate steps to protect the victims' lives and concluded that there had been a violation of the Convention.

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1. (dec.) [GC], no. 71412/01, 2 May 2007.
2. (dec.), no. 36357/04, 16 October 2007.
3. (dec.), no. 22617/07, 9 June 2009.
4. (dec.), no. 49032/07, 9 June 2009.
5. No. 33401/02, 9 June 2009, to be reported in ECHR 2009.
6. No. 43134/05, 1 December 2009, to be reported in ECHR 2009 (extracts).
7. No. 46598/06, 15 January 2009, to be reported in ECHR 2009 (extracts).

The Court also reached the innovative finding in *Maiorano and Others v. Italy*[1] that, in some cases, the procedural aspect of Article 2 required judges and prosecutors to be punished for their mistakes. The case concerned the semi-custodial regime granted to a life prisoner who took advantage of the regime to murder the wife and daughter of one of his former fellow inmates.

Lastly, in *Šilih* (cited above), the Court found that the State had breached its positive obligations on account of significant delays and frequent changes of judges in criminal and civil proceedings concerning a death allegedly resulting from medical negligence.

Prohibition of torture (Article 3)

The Court has had occasion to clarify its case-law concerning Article 3, and in particular the scope of that Article, in dealing with unprecedented cases relating especially to the situation of prisoners.

In its examination of the case of *Güveç v. Turkey*[2], the Court found for the first time that the imprisonment of a minor in an adult prison amounted to inhuman and degrading treatment. The detention of the 15-year-old adolescent, in breach of domestic law, had lasted more than five years and had caused him severe physical and psychological problems resulting in three suicide attempts, without appropriate medical care being provided by the authorities.

The case of *S.D. v. Greece*[3] provided an opportunity for the Court's first ruling on the living conditions in a holding centre for aliens. Referring to the findings of international institutions and non-governmental organisations, the Court concluded that the conditions of the applicant's detention were unacceptable and amounted to degrading treatment. The applicant, an asylum-seeker who had fled from Turkey after being imprisoned and tortured there, had been detained in a prefabricated hut for two months without the possibility of going out or making telephone calls and without any blankets, clean sheets or adequate toiletries.

In *Khider v. France*[4], the Court likewise dealt for the first time with the issue of multiple transfers of a remand prisoner, in this case on fourteen occasions over a seven-year period. The Court held that the conditions of detention endured by the applicant, who was classified as a high-risk prisoner from the start of his detention and was subjected to repeated prison transfers, long-term solitary confinement and regular full-body searches, amounted to inhuman and degrading treatment within the meaning of Article 3 on account of their combined and repetitive effect.

In *Ramishvili and Kokhreidze v. Georgia*[5], the severe and humiliating measures imposed on defendants in a courtroom were for the first time found to constitute treatment in breach of Article 3. During the hearings relating to their applications for release, which were broadcast live on television, the two applicants were confined in a kind of metal cage and surrounded by large numbers of masked and heavily armed guards, even though there was no indication of the slightest risk that they might abscond or resort to violence.

1. No. 28634/06, 15 December 2009, to be reported in ECHR 2009 (extracts).
2. No. 70337/01, 20 January 2009, to be reported in ECHR 2009 (extracts).
3. No. 53541/07, 11 June 2009.
4. No. 39364/05, 9 July 2009.
5. No. 1704/06, 27 January 2009.

Lastly, the Court dealt for the first time with the conduct to be adopted by the police when arresting demonstrators who did not offer any violent or physical resistance in the case of *Samüt Karabulut v. Turkey*[1]. It found a violation of Article 3 on account of the beating of a demonstrator by the police during his arrest after the dispersal of an unauthorised but peaceful demonstration in a public place.

Right to liberty and security (Article 5)

The case of *Giorgi Nikolaishvili v. Georgia*[2] is an interesting development of the case-law concerning the notion of "security". Without excluding the possibility of recourse by the authorities to certain stratagems in order to fight crime more effectively, the Court stated that not every ruse – in this case, the arrest of a witness with a view to exerting pressure on his brother, who was sought by the judicial authorities – could be justified, especially one which was implemented in such a way that the principles of legal certainty were undermined.

In *M. v. Germany*[3], the Court dealt with the sensitive issue of preventive detention in relation to the indefinite extension of that measure for a prisoner who had served his sentence and had already been subjected to the measure for ten years but was still considered dangerous. It found that the extension of preventive detention was not justified by any of the paragraphs of Article 5 § 1.

Procedural rights

Right to a fair hearing (Article 6)

Applicability

In *Micallef v. Malta*[4], the Court departed from its previous case-law in finding that it was no longer justified for injunction proceedings to be automatically characterised as not involving the determination of civil rights and obligations. After noting that not all interim measures determined such rights and obligations, the Court set out the conditions which had to be satisfied for Article 6 to be applicable. Thus, the right at stake in both the main and the injunction proceedings had to be "civil", and the interim measure had to determine the "civil" right in question. The Court accepted, however, that in exceptional cases it might not be possible to comply with all the requirements of Article 6.

The Court also held that Article 6 was applicable in *L'Erablière A.S.B.L. v. Belgium*[5], which concerned the inadmissibility of an application by a local environmental-protection association for judicial review of planning permission. It found that the association's application was in the general interest and could therefore not be regarded as an *actio popularis*, particularly in view of the nature of the impugned measure, the status of the association and its founders, and the limited substantive and geographical aim it pursued. The

1. No. 16999/04, 27 January 2009.
2. No. 37048/04, 13 January 2009, to be reported in ECHR 2009 (extracts).
3. No. 19359/04, 17 December 2009, to be reported in ECHR 2009.
4. [GC], no. 17056/06, 15 October 2009, to be reported in ECHR 2009.
5. No. 49230/07, 24 February 2009, to be reported in ECHR 2009.

Court further held that there was a sufficient connection between the dispute ("*contestation*") raised by the association and a "right" that it could claim as a legal entity.

In *Gorou v. Greece (no. 2)*[1], the applicant, on the basis of an established judicial practice, asked the public prosecutor at the Court of Cassation to appeal on points of law against a judgment. The Court held that Article 6 § 1 was applicable because the proceedings in issue, concerning charges of perjury and defamation, had involved the right to a "good reputation" and had an economic aspect, however symbolic (a sum equivalent to about three euros). It found that the applicant's request to the public prosecutor had arisen from a real "dispute", since the request had formed an integral part of the whole of the proceedings.

The case of *Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. the Netherlands*[2] concerned the refusal by the Court of Justice of the European Communities to authorise a third party to respond to the opinion of the Advocate General. The Court, presuming Article 6 § 1 to be applicable to the preliminary ruling procedure before the ECJ, found that that procedure offered equivalent protection to that afforded by Article 6 § 1, and that the protection thus afforded to the applicant association was not manifestly deficient, seeing that the ECJ could reopen the oral proceedings after hearing the Advocate General's opinion, either on its own initiative or at the request of one of the parties.

Access to a court

In *Kart v. Turkey*[3], the applicant, a member of parliament, challenged the decision to stay criminal proceedings against him until the end of his term of parliamentary office. The Court considered that, in standing for election, the applicant had been aware that his special status would delay the outcome of the criminal proceedings against him. He had also known that because of his status he would not be able to waive his inviolability or have it lifted merely at his request. Thus, while the delay inherent in the parliamentary procedure had been capable of affecting the applicant's right to have his case heard by a court by delaying the exercise of that right, it had not impaired the very essence of that right in his case.

The case of *K.H. and Others v. Slovakia*[4] concerned the inability of eight women of Roma origin to obtain photocopies of their medical records from hospitals where they suspected that they might have been sterilised without their knowledge after giving birth. The Court found that, although the applicants had not been entirely barred from bringing a civil action, the strict application of national legislation had imposed a disproportionate limitation on their ability to present their cases effectively to a court.

In *Kulikowski v. Poland*[5], the Court held that Article 6 did not confer on the State an obligation to ensure assistance by successive lawyers for the purposes of pursuing legal remedies that had already been found not to offer reasonable prospects of success. However, it found a violation in that the courts' failure to inform the defendant that he had a new time-limit for lodging a cassation appeal had denied him the right of access to the Supreme Court.

1. [GC], no. 12686/03, 20 March 2009, to be reported in ECHR 2009.
2. (dec.), no. 13645/05, 20 January 2009, to be reported in ECHR 2009.
3. [GC], no. 8917/05, 3 December 2009, to be reported in ECHR 2009.
4. No. 32881/04, 28 April 2009, to be reported in ECHR 2009 (extracts).
5. No. 18353/03, 19 May 2009, to be reported in ECHR 2009 (extracts).

Lastly, the Court broke new ground in dealing with a "technical" impediment to access to a court in *Lawyer Partners, a.s., v. Slovakia*[1], which concerned the refusal by a number of courts to register civil actions on the ground that they had been submitted in the form of a DVD and the courts did not have the necessary equipment. The Court found, however, that the procedure used by the claimants was entirely appropriate to the volume of cases, since 70,000 actions for recovery of debt were concerned and the data saved on DVD corresponded to 43,800,000 pages.

Length of proceedings

In *Simaldone v. Italy*[2], the Court ruled on the issue of delayed payment of compensation awarded by a court for the excessive length of proceedings. The finding of a violation of the right to the execution of judicial decisions in Italy is nevertheless of interest for all Contracting States which have introduced compensatory remedies in respect of the excessive length of proceedings.

Defence rights

In *Dayanan v. Turkey*[3], the Court held that systematically depriving a person in police custody of the assistance of a lawyer on the basis of the relevant legal provisions was a sufficient basis for finding a breach of the requirements of Article 6, notwithstanding the fact that the applicant had remained silent throughout his time in police custody. It further held that for proceedings to be fair, the accused had to be able to obtain the whole range of services specifically associated with legal assistance and that, to that end, discussion of the case, organisation of the defence, collection of evidence in the accused's favour, preparation for questioning, support to an accused in distress, and inspection of detention conditions were fundamental aspects of the defence which the lawyer must be free to conduct.

No punishment without law (Article 7)

The Court held for the first time in *Gurguchiani v. Spain*[4] that deportation of an alien constituted a "penalty" where it replaced a custodial sentence imposed on the accused. Observing that the applicant had been given a heavier sentence than the one carried by the offence of which he had been found guilty, it found a violation of Article 7.

In *M. v. Germany* (cited above), the Court found a violation of Article 7, holding that the extension of preventive detention constituted an additional "penalty" imposed retroactively under a law that had come into force after the offence had been committed. The judgment is not final.

The Court reached the opposite finding in *Gardel v. France*[5], which concerned the registration of a convicted person in a national judicial database of sex offenders, for a maximum period of thirty years from the expiry of the prison sentence, in accordance with a

1. Nos. 54252/07, 3274/08, 3377/08, 3505/08, 3526/08, 3741/08, 3786/08, 3807/08, 3824/08, 15055/08, 29548/08, 29551/08, 29552/08, 29555/08 and 29557/08, 16 June 2009, to be reported in ECHR 2009.
2. No. 22644/03, 31 March 2009, to be reported in ECHR 2009 (extracts).
3. No. 7377/03, 13 October 2009.
4. No. 16012/06, 15 December 2009, to be reported in ECHR 2009.
5. No. 16428/05, 17 December 2009, to be reported in ECHR 2009.

law that had come into force after the accused had been convicted with final effect. In the Court's view, such registration and the resulting obligations pursued a purely preventive and deterrent aim, that of preventing reoffending and facilitating police investigations, so that the principle that laws should not be retroactive did not apply.

In *Sud Fondi S.r.l. and Others v. Italy*[1], the Court accepted the idea that for a punishment to be justified, and therefore lawful, there must be "an intellectual link revealing an element of responsibility in the conduct of the person who actually committed the offence". Land on which the applicant companies had illegally built housing estates had been confiscated from them despite the fact that the courts had not convicted them of a criminal offence and had acknowledged that the companies had committed an unavoidable and excusable error in their interpretation of the provisions that had been breached.

Furthermore, the Court dealt with the question of universal jurisdiction in the case of *Ould Dah v. France*[2], concerning the prosecution and conviction in France of a Mauritanian army officer for acts of torture and barbarity committed in his own country against fellow Mauritanian servicemen. The Court found, as did the United Nations Human Rights Committee and the International Criminal Tribunal for the former Yugoslavia, that an amnesty was generally incompatible with the duty on States to investigate acts of torture. It also noted that international law did not preclude the trial by another State of a person who had been granted an amnesty before being tried in his country of origin.

Right to an effective remedy (Article 13)

The issue dealt with by the Court in *Petkov and Others v. Bulgaria*[3] was the failure by the electoral authorities to restore to the lists of candidates in a general election the names of three persons who had been struck off at the request of their party, despite final judgments in which the Supreme Administrative Court had set aside the decisions striking them off. The Court held that only remedies whereby aggrieved persons could challenge decisions or, in certain circumstances, election results could qualify as effective within the meaning of the Convention. It also laid down the requirement of direct access for aggrieved persons to the body responsible for reviewing the lawfulness of elections.

Right not to be tried or punished twice (Article 4 of Protocol No. 7)

The case of *Sergey Zolotukhin v. Russia*[4] provided an opportunity for the Court to clarify its case-law, in particular as regards the Convention meaning of the term "same offence". The Court held that Article 4 of Protocol No. 7 must be understood as prohibiting the prosecution or trial of a second offence in so far as it arose from identical facts or facts which were "substantially" the same as those which had given rise to the first offence. That guarantee became relevant on commencement of a new prosecution, where a prior acquittal or conviction had already become *res judicata*.

1. No. 75909/01, 20 January 2009.
2. (dec.), no. 13113/03, 17 March 2009, to be reported in ECHR 2009.
3. Nos. 77568/01, 178/02 and 505/02, 11 June 2009, to be reported in ECHR 2009.
4. [GC], no. 14939/03, 10 February 2009, to be reported in ECHR 2009.

Civil and political rights

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

Private life

The Court clarified the relationship between the notions of "private life" and "reputation" in *Karakó v. Hungary*[1], concerning the refusal of the public prosecutor and a court to act on complaints lodged by a member of parliament against a political opponent who had allegedly defamed him in a leaflet distributed between two rounds of an election. It held that the personal integrity rights falling within the ambit of Article 8 were unrelated to the "external" evaluation of the individual, whereas in matters of reputation that evaluation was decisive because one could lose the esteem of society but not one's integrity, which remained inalienable.

In *Bykov v. Russia*[2], the Court observed that the use of a remote radio-transmitting device to record a conversation was similar to telephone tapping in terms of the nature and degree of the invasion of privacy. It found, however, that in the absence of specific and detailed regulations, the use of that surveillance technique as part of an "operative experiment" was not accompanied by adequate safeguards against various possible abuses. Accordingly, its use was open to arbitrariness and was inconsistent with the requirement of lawfulness.

Correspondence

The Court dealt for the first time with medical confidentiality in prison in *Szuluk v. the United Kingdom*[3], concerning the monitoring by a prison medical officer of "medical" correspondence between a convicted prisoner, who had undergone brain surgery twice, and a neuroradiology specialist, who was supervising his hospital treatment. The judgment is important in that the Court refused, in substance, to make a distinction in this connection between patients who were in prison and those who were at liberty. It also accepted that a prisoner with a life-threatening medical condition might wish to seek confirmation outside the prison that he was receiving adequate medical treatment.

Positive obligations

The Court has also developed its case-law concerning the positive obligations arising from Article 8.

In *K.H. and Others v. Slovakia* (cited above), it found that the State's positive obligation to allow individuals access to information concerning them personally, in this case medical records, included the obligation to let them have copies of such information.

The case of *Sandra Janković v. Croatia*[4] involved the positive obligations on the State to protect physical integrity. In this case, which concerned the passive attitude of the authorities in dealing with a complaint concerning an alleged physical and verbal assault by individuals,

1. No. 39311/05, 28 April 2009.
2. [GC], no. 4378/02, 10 March 2009, to be reported in ECHR 2009.
3. No. 36936/05, 2 June 2009, to be reported in ECHR 2009.
4. No. 38478/05, 5 March 2009, to be reported in ECHR 2009 (extracts).

the Court accepted that in this sphere the Convention did not always require a State-assisted prosecution and that the possibility of the injured party acting as a subsidiary prosecutor could be sufficient.

Freedom of religion (Article 9)

The Court added to its case-law concerning the recognition or registration of religious bodies in *Kimlya and Others v. Russia*[1]. It ruled for the first time on a lengthy waiting period imposed by the legislation itself on "emerging" religious groups wishing to acquire legal personality, as opposed to religious groups that formed part of a hierarchical church structure.

The case of *Miroļubovs and Others* (cited above) concerned the intervention by a body attached to the Ministry of Justice in a conflict between two groups of members of an Old Orthodox community, resulting in withdrawal of the recognition formerly granted to the authorities of a parish and registration of a rival group from the same parish. The judgment is innovative in that the Court applied the standard case-law on conflicts within a religious community to a religion with no internal hierarchical organisation which operated in the form of completely independent entities. It observed that it was impossible to adopt a uniform approach to all religious denominations and stressed the obligation for authorities to give particularly sound reasons for decisions settling internal disputes within a religious community.

In *Bayatyan v. Armenia*[2], the Court ruled that Article 9, interpreted in the light of Article 4 § 3 (b), did not guarantee the right to refuse to perform military service on conscientious grounds. It held that there had been no violation of Article 9 on account of the two-and-a-half-year prison sentence received by a conscientious objector who was a Jehovah's Witness for refusing to perform military service. The judgment is not final.

Lastly, the Court dealt for the first time in *Lautsi v. Italy*[3] with the display of a religious symbol in a public place, namely a crucifix in the classrooms of a State school. The Court found that the symbol in question had a multitude of different meanings, among which the religious meaning was predominant, and that it was reasonable to associate it with Catholicism. After holding that the State had an obligation to refrain from imposing particular beliefs, even indirectly, in premises where individuals were dependent on it or were particularly vulnerable, it concluded that the compulsory display of a symbol of a particular faith in the exercise of public authority in specific situations subject to government control, especially in classrooms, restricted the right of schoolchildren to believe or not to believe. The case was referred to the Grand Chamber on 1 March 2010.

Freedom of expression (Article 10)

This year the Court has dealt with the question of freedom of expression through various media.

1. Nos. 76836/01 and 32788/03, 1 October 2009.
2. No. 23459/03, 27 October 2009.
3. No. 30814/06, 3 November 2009.

In *Manole and Others v. Moldova*[1], which concerned the censorship and political pressure to which journalists working for the State broadcasting company were subjected, it held that the State was under an obligation to ensure that the public had access to a balanced, informative and pluralistic broadcasting service. It further observed that if the State decided to set up or maintain a public broadcasting service, especially if the service enjoyed a *de facto* monopoly, it was essential for it to be structurally independent and not politically biased.

The Court also addressed various problems raised by the Internet as a new medium of communication in connection with the publication of a daily newspaper's archives on its website, exposing it indefinitely to libel actions. Although the Court, examining these issues for the first time in *Times Newspapers Ltd v. the United Kingdom (nos. 1 and 2)*[2], found that there had been no violation in that case, it nevertheless held that libel proceedings brought after a significant lapse of time might well, in the absence of exceptional circumstances, give rise to a disproportionate interference with freedom of the press under Article 10.

Without dealing with a particular medium of communication as such, the Court acknowledged in *Társaság a Szabadságjogokért v. Hungary*[3] that non-governmental organisations had an essential "watchdog" role and that their activities should be protected by the Convention in the same way as those of the press. It further held that it would be fatal for freedom of expression if political figures could censor the press and public debate by contending that their opinions on matters of public interest constituted personal data which could not be disclosed without their consent.

In *Kenedi v. Hungary*[4], the Court clarified the scope of the exercise of freedom of expression by finding in substance that access to original documentary sources for legitimate historical research, in this case documents concerning the Hungarian State Security Service during the communist era, was an essential element of the exercise of that right.

The Court has also had occasion to develop its case-law concerning both the procedural aspect of Article 10 and the ensuing positive obligations.

For example, the case of *Lombardi Vallauri v. Italy*[5] raised the issue of freedom of academic expression at a denominational university in connection with a faculty's refusal to consider a job application by a non-tenured lecturer, on the ground that an authority of the Holy See had not given its approval and had noted that certain statements by the applicant were "in clear opposition to Catholic doctrine". After examining the conduct of the proceedings within the faculty and the effectiveness of judicial review of the administrative procedure, the Court concluded that the university's interest in providing an education based on Catholic doctrine could not extend so far as to impair the very essence of the procedural safeguards inherent in Article 10.

In *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)*[6], the Court held that the Swiss authorities had failed to comply with their positive obligation under Article 10 on

1. No. 13936/02, 17 September 2009, to be reported in ECHR 2009 (extracts).
2. Nos. 3002/03 and 23676/03, 10 March 2009, to be reported in ECHR 2009.
3. No. 37374/05, 14 April 2009, to be reported in ECHR 2009.
4. No. 31475/05, 26 May 2009, to be reported in ECHR 2009 (extracts).
5. No. 39128/05, 20 October 2009, to be reported in ECHR 2009 (extracts).
6. [GC], no. 32772/02, 30 June 2009, to be reported in ECHR 2009.

account of the continued prohibition on broadcasting a television commercial despite the Court's previous finding of a breach of freedom of expression.

Freedom of assembly and association (Article 11)

A number of cases before the Court this year have concerned the dissolution of associations or political parties.

The case of *Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan*[1] concerned a court's dissolution of an environmental-protection association for failure to observe its own charter. While also noting that alternative sanctions less radical than dissolution were available, the Court considered that, in the absence of complaints or disputes between members of the same association, the authorities should not intervene in its internal functioning in such a way as to ensure its observance of every single formality provided by its charter. The judgment is not final.

The case of *Herri Batasuna and Batasuna v. Spain*[2] concerned the dissolution of political parties linked to a terrorist organisation. The Court endorsed the position of the domestic courts in finding that a refusal to condemn violence amounted to an attitude of tacit support for terrorism, in the context of terrorism that had existed for more than thirty years and that was condemned by all the other political parties. With regard to the foreseeability of the impugned dissolution, the Court found that no Convention provision ruled out the possibility of basing a decision on facts occurring prior to the enactment of a law.

The Court has also devoted attention to the question of the exercise of the rights guaranteed by Article 11 of the Convention.

Thus, in *Barraco v. France*[3], the Court applied its case-law concerning freedom to demonstrate in a public place to the obstruction of traffic by lorries.

Similarly, the Court considered the exercise of the right of civil servants to strike in *Enerji Yapı-Yol Sen v. Turkey*[4], observing that strike action provided a trade union with an opportunity to make its voice heard and was an important aspect of the protection of its members' interests. It acknowledged that the principle of trade-union freedom could be compatible with denying the right to strike to civil servants exercising authority on the State's behalf, provided that the statutory restrictions on that right defined as clearly and as narrowly as possible the categories of civil servants concerned.

Lastly, in *Danilenkov and Others v. Russia*[5], the Court ruled that the State had a positive obligation to establish a judicial system that provided effective and clear protection against any discrimination based on membership of a trade union; the case concerned an employer's use of various means to compel its employees to relinquish their trade-union membership.

1. No. 37083/03, 8 October 2009, to be reported in ECHR 2009.
2. Nos. 25803/04 and 25817/04, 30 June 2009, to be reported in ECHR 2009.
3. No. 31684/05, 5 March 2009, to be reported in ECHR 2009.
4. No. 68959/01, 21 April 2009.
5. No. 67336/01, 30 July 2009, to be reported in ECHR 2009 (extracts).

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

The Court clarified the principles governing the State's duty of neutrality as regards school teaching in *Appel-Irrgang and Others v. Germany*[1]. It declared inadmissible an application concerning the introduction of compulsory ethics classes for all pupils in State secondary schools in the *Land* of Berlin, with no possibility of an exemption for those attending optional religious-education classes taught at their school by representatives of religious or philosophical communities and groups.

In *İrfan Temel and Others v. Turkey*[2], the Court found a violation of Article 2 of Protocol No. 1 on account of a disciplinary measure, namely the suspension from university of students who had requested the introduction of optional Kurdish language classes.

The Court also held in *Lautsi* (cited above) that the compulsory display of a religious symbol such as a crucifix in classrooms restricted the right of parents to educate their children in accordance with their beliefs. The case was referred to the Grand Chamber on 1 March 2010.

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

The case of *Sejdić and Finci v. Bosnia and Herzegovina*[3] concerned the ineligibility of the applicants, who identified themselves as being of Roma and Jewish origin respectively, to stand for election to the House of Peoples and the State Presidency because they had not declared affiliation to any of the "constituent peoples" (Bosniacs, Croats and Serbs) as required by a provision of the Constitution. The Court concluded that the applicants' continued ineligibility to stand for election to the House of Peoples, after ratification by Bosnia and Herzegovina of the Convention and of Protocol No. 1, had no objective and reasonable justification and therefore breached Article 14 of the Convention in conjunction with Article 3 of Protocol No. 1.

The Court also reaffirmed the need for legal certainty in electoral matters in the case of *Petkov and Others* (cited above), emphasising the necessity to avoid last-minute changes to electoral legislation.

In *Seyidzade v. Azerbaijan*[4], it dealt for the first time with a constitutional and legislative restriction of the right of members of the clergy to stand for election and be elected to Parliament. It found that the legal definition of the category of persons affected by the restriction in question was not only too broad or imprecise but could be regarded as entirely non-existent.

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

This Article of Protocol No. 1 has provided the Court with an opportunity to examine a wide range of areas.

1. (dec.), no. 45216/07, 6 October 2009.
2. No. 36458/02, 3 March 2009, to be reported in ECHR 2009 (extracts).
3. [GC], nos. 27996/06 and 34836/06, 22 December 2009, to be reported in ECHR 2009.
4. No. 37700/05, 3 December 2009.

For example, it ruled for the first time in *Faccio v. Italy*[1] on the nature of the television licence fee in a Contracting State, finding that it was a tax intended to fund the public radio and television broadcasting service. It further accepted that the mere possession of a television set entailed the obligation to pay the licence fee, which was not the price paid in consideration for reception of a particular channel.

In *Andrejeva v. Latvia*[2], the Court found a violation of Article 14 in conjunction with Article 1 of Protocol No. 1 on account of the domestic courts' refusal to take into account the applicant's periods of employment in the former Soviet Union in calculating her retirement pension, on the ground that she did not have Latvian citizenship.

The case of *Kozacıoğlu v. Turkey*[3], meanwhile, gave the Court an opportunity to clarify that, in order to satisfy the requirements of proportionality between deprivation of property and the public interest pursued, it was appropriate, in the event of expropriation of a listed building, to take account, to a reasonable degree, of the property's specific features, such as its rarity or architectural and historical aspects, in determining the compensation due to the owner.

Lastly, the Court ruled for the first time on the effects of Roma marriage, more specifically as regards survivors' pensions, in the case of *Muñoz Díaz v. Spain*[4]. It found that it was disproportionate for the Spanish State, which had issued the applicant and her Roma family with a family record book, granted them large-family status, afforded health-care assistance to her and her six children and collected social-security contributions from her Roma husband for over nineteen years, now to refuse to recognise the effects of Roma marriage in relation to a survivor's pension. The Court further held that "the prohibition of discrimination enshrined in Article 14 of the Convention is meaningful only if, in each particular case, the applicant's personal situation in relation to the criteria listed in that provision is taken into account exactly as it stands"; it thus dismissed the Government's argument that it would have been sufficient for the applicant to enter into a civil marriage in order to obtain the pension claimed.

Protocol No. 12

Article 14 of the Convention, which prohibits discrimination, complements the other substantive provisions of the Convention and the Protocols thereto. It has no independent existence since it has effect solely in relation to "the enjoyment of the rights and freedoms" safeguarded by those provisions. Article 1 of Protocol No. 12, however, extends the scope of protection to "any right set forth by law". It thus introduces a general prohibition of discrimination.

The Court found a violation of this provision for the first time this year in *Sejdić and Finci* (cited above). It held that the constitutional provisions which rendered the applicants ineligible for election to the State Presidency should also be considered discriminatory, finding that there was no pertinent distinction to be drawn in this regard between the House of Peoples and the Presidency of Bosnia and Herzegovina.

1. (dec.), no. 33/04, 31 March 2009.
2. [GC], no. 55707/00, 18 February 2009, to be reported in ECHR 2009.
3. [GC], no. 2334/03, 19 February 2009, to be reported in ECHR 2009.
4. No. 49151/07, 8 December 2009, to be reported in ECHR 2009.

Derogation (Article 15)

The Court was also called upon to consider the validity of a derogation from the obligations arising under Article 5 § 1 in the case of *A. and Others v. the United Kingdom*[1]. Following the attacks of 11 September 2001 on the United States of America, the British government created an extended power to detain foreign nationals who were suspected of being "international terrorists" but could not be deported because there was a risk that they would be ill-treated in their country of origin. Since the government considered that this detention scheme might not be consistent with Article 5 § 1, they issued a notice of derogation under Article 15. The Court observed that States could not be required to wait for disaster to strike before taking measures to deal with it and that they had a wide margin of appreciation in assessing the threat on the basis of the information at their disposal. It further considered that the approach under Article 15 was necessarily focused on the general situation in the country concerned. The Court concluded in this case that the derogating measures were disproportionate in that they discriminated unjustifiably between nationals and non-nationals.

Execution of judgments (Article 46)

In *Manole and Others* (cited above), which concerned the censorship and political pressure to which journalists working for the State broadcasting company were subjected, the Court for the first time called upon a State to take general measures as soon as possible, including legislative reform, to remedy the situation that had given rise to a violation of Article 10. It added that the legal framework to be instituted must be in conformity with the recommendations of the Committee of Ministers of the Council of Europe and those of an expert appointed following an agreement between the Moldovan authorities and the Secretary General of the Council of Europe.

The Court has also had to deal with cases disclosing systemic problems in relation to medical care in prison.

For example, in *Poghosyan v. Georgia*[2], the Court noted the systemic nature of the lack of medical care in Georgian prisons, particularly with regard to the treatment of hepatitis C, and urged Georgia to take legislative and administrative measures "rapidly" in order to prevent the transmission of the disease in prisons, to introduce a testing programme and to guarantee the provision of care for those suffering from the disease.

The case of *Sławomir Musiał v. Poland*[3], meanwhile, concerned the inadequate medical care provided to an accused person suffering from epilepsy and various mental disorders who was detained in a succession of ordinary prisons. The Court considered that, in view of the seriousness and the systemic nature of the problem of overcrowding and the poor living and sanitary conditions in Polish detention facilities, the necessary legislative and administrative measures should be taken rapidly to ensure appropriate conditions of detention, particularly for prisoners who needed special care owing to their state of health.

1. [GC], no. 3455/05, 19 February 2009, to be reported in ECHR 2009.
2. No. 9870/07, 24 February 2009.
3. No. 28300/06, 20 January 2009, to be reported in ECHR 2009 (extracts).

XI. SELECTION OF JUDGMENTS, DECISIONS AND COMMUNICATED CASES

SELECTION[1] OF JUDGMENTS, DECISIONS AND COMMUNICATED CASES

JUDGMENTS

Article 1

Responsibility of States

Detention in third-party State pursuant to defective arrest warrant issued by respondent State: *respondent State's responsibility engaged*

Stephens v. Malta (no. 1), no. 11956/07, no. 118

Article 2

Article 2 § 1

Life

Obligation of the State to provide plausible explanation for death of corporal on military premises: *violation*

Beker v. Turkey, no. 27866/03, no. 117

Death by asphyxia of a person immobilised with belts and left alone without medical supervision in a sobering-up centre; lack of effective investigation: *violations*

Mojsiejew v. Poland, no. 11818/02, no. 117

Death of a prisoner following lengthy hunger strike: *no violation*

Horoz v. Turkey, no. 1639/03, no. 117

Fatal injuries sustained by applicant's mother in domestic violence case in which authorities had been aware of the perpetrator's history of violence: *violation*

Opuz v. Turkey, no. 33401/02, no. 120

Death of a demonstrator during public-order operations at a G8 summit: *no violation (case referred to the Grand Chamber)*

Giuliani and Gaggio v. Italy, no. 23458/02, no. 122

Inability to prosecute, and supervision of the investigation by, a chief public prosecutor suspected by the family of masterminding the victim's murder: *violation*

Kolevi v. Bulgaria, no. 1108/02, no. 124

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.

State's obligations in respect of deaths arising out of rail accident; lack of effective investigation: *violations*

Kalender v. Turkey, no. 4314/02, no. 125

Effectiveness of investigation into murders in which a police officer was implicated: *violation*

Velcea and Mazăre v. Romania, no. 64301/01, no. 125

Responsibility of judiciary and prosecutors for a double murder committed by a dangerous offender on day release: *violations*

Maiorano and Others v. Italy, no. 28634/06, no. 125

Positive obligations
Effective investigation

Failure to take all reasonable steps to protect lives of applicants' relatives from a person who had previously been convicted of threatening to kill them: *violation*

Branko Tomašić and Others v. Croatia, no. 46598/06, no. 115

Disappearance of applicant's husband following Interior-department decision to release him into the hands of his abductors in life-threatening circumstances: *violation*

Medova v. Russia, no. 25385/04, no. 115

Lengthy delays and frequent changes of judge in criminal and civil proceedings concerning death allegedly caused by medical negligence: *violation*

Šilih v. Slovenia, no. 71463/01, no. 118

Fatal injuries sustained by applicant's mother in domestic violence case in which authorities had been aware of the perpetrator's history of violence: *violation*

Opuz v. Turkey, no. 33401/02, no. 120

Failure to conduct effective investigation into fate of Greek Cypriots missing since Turkish military operations in northern Cyprus in 1974: *violation*

Varnava and Others v. Turkey, nos. 16064/90 et al., no. 122

Failings of investigation into fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *violation (case referred to the Grand Chamber)*

Giuliani and Gaggio v. Italy, no. 23458/02, no. 122

Inadequate investigation into the death of an officer killed in anti-communist demonstrations in 1989: *violation*

Agache and Others v. Romania, no. 2712/02, no. 123

Inability to prosecute, and supervision of the investigation by, a chief public prosecutor suspected by the family of masterminding the victim's murder: *violation*

Kolevi v. Bulgaria, no. 1108/02, no. 124

State's obligations in respect of deaths arising out of rail accident; lack of effective investigation: *violations*

Kalender v. Turkey, no. 4314/02, no. 125

Suicide during eviction from home by the authorities: *no violation*
Inadequate investigation into suicide committed during eviction from home by the authorities: *violation*

Mikayil Mammadov v. Azerbaijan, no. 4762/05, no. 125

Effectiveness of investigation into murders in which a police officer was implicated: *violation*
Velcea and Mazăre v. Romania, no. 64301/01, no. 125

Responsibility of judiciary and prosecutors for a double murder committed by a dangerous offender on day release: *violations*
Maiorano and Others v. Italy, no. 28634/06, no. 125

Delays in investigation into violent crackdown on anti-communist demonstrators prior to the fall of the Romanian regime in December 1989: *violation*
Şandru and Others v. Romania, no. 22465/03, no. 125

Article 2 § 2

Use of force

Fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *no violation (case referred to the Grand Chamber)*
Giuliani and Gaggio v. Italy, no. 23458/02, no. 122

Article 3

Inhuman or degrading treatment or punishment

Applicant taken handcuffed for gynaecological exam in a consultation room where three male security officers were present: *violation*
Filiz Uyan v. Turkey, no. 7496/03, no. 115

Pre-trial detention of minor in adult prison: *violation*
Güveç v. Turkey, no. 70337/01, no. 115

Inadequate medical care and conditions of detention of remand prisoner suffering from serious mental disorders: *violation*
Sławomir Musiał v. Poland, no. 28300/06, no. 115

Pre-trial detention in humiliating and unfair conditions: *violation*
Ramishvili and Kokhreidze v. Georgia, no. 1704/06, no. 115

Use of excessive force by police to break up a peaceful demonstration: *violation*
Samüt Karabulut v. Turkey, no. 16999/04, no. 115

Inadequate medical care of a prisoner suffering from severe epilepsy who was forced to rely for assistance and emergency medical care on his cellmates: *violation*
Kaprykowski v. Poland, no. 23052/05, no. 116

Police brutality and lack of an effective investigation into allegations: *violations*
Toma v. Romania, no. 42716/02, no. 116

Indefinite detention of foreign nationals suspected of involvement in terrorism: *no violation*
A. and Others v. the United Kingdom, no. 3455/05, no. 116

Female applicant stripped naked in a sobering-up centre by male staff members and immobilised with belts for ten hours; lack of effective investigation: *violation*

Inactivity of domestic authorities leading to criminal proceedings against applicant's attackers becoming time-barred: *violation*

Beganović v. Croatia, no. 46423/06, no. 120

Failure to provide adequate protection against domestic violence: *violation*

E.S. and Others v. Slovakia, no. 8227/04, no. 122

Ill-treatment in police custody and lack of effective response by authorities: *violation*

Yusuf Gezer v. Turkey, no. 21790/04, no. 125

Failure by police officers and hospital to provide adequate assistance to the unconscious victim of an assault; lack of effective investigation: *violations*

Denis Vasilyev v. Russia, no. 32704/04, no. 125

Expulsion

Risk of ill-treatment owing to deportation to Tunisia of a terrorist convicted in his absence: *violation*

Ben Khemais v. Italy, no. 246/07, no. 116

Risk of ill-treatment in event of deportation to Iran or Iraq: *deportation would constitute violation*

Abdolkhani and Karimnia v. Turkey, no. 30471/08, no. 122

Deportation to Algeria of a person convicted in France of terrorist offences: *deportation would constitute violation*

Daoudi v. France, no. 19576/08, no. 125

Article 5

Article 5 § 1

Liberty of person

Failure to conduct effective investigation into arguable claim that missing Greek Cypriots may have been detained during Turkish military operations in northern Cyprus in 1974: *violation*

Varnava and Others v. Turkey, nos. 16064/90 et al., no. 122

Deprivation of liberty

Applicant's continued placement in preventive detention beyond the maximum period authorised at the time of his placement: *violation*

M. v. Germany, no. 19359/04, no. 125

Lawful arrest or detention

Arrest of witness in order to put pressure on his fugitive brother and lack or inadequacy of reasons for pre-trial detention: *violations*

Giorgi Nikolaishvili v. Georgia, no. 37048/04, no. 115

Failure to take into account applicant's status as asylum-seeker when detaining him with a view to his expulsion: *violation*

S.D. v. Greece, no. 53541/07, no. 120

Decision by court of appeal not to set defective detention order aside, but to remit case to trial court: *no violation*

Mooren v. Germany, no. 11364/03, no. 121

Detention based on principles of international law derived from treaties not yet in force in respondent State: *violation*

Grori v. Albania, no. 25336/04, no. 121

Preventive detention of paedophile on social-protection grounds: *no violation*

De Schepper v. Belgium, no. 27428/07, no. 123

Detention of a high-ranking official enjoying immunity from prosecution: *violation*

Kolevi v. Bulgaria, no. 1108/02, no. 124

Applicant's continued placement in preventive detention beyond the maximum period authorised at the time of his placement: *violation*

M. v. Germany, no. 19359/04, no. 125

Article 5 § 1 (f)

Extradition or expulsion

Indefinite detention of foreign nationals suspected of involvement in terrorism: *violation*

A. and Others v. the United Kingdom, no. 3455/05, no. 116

Lengthy detention (almost four years) of an alien for refusing to comply with an expulsion order: *violation*

Mikolenko v. Estonia, no. 10664/05, no. 123

Article 5 § 3

Brought "promptly" before a judge or other officer

Minors detained for three days and nine hours before being brought before a judge: *violation*

İpek and Others v. Turkey, nos. 17019/02 and 30070/02, no. 116

Failure to bring applicant before a court until twenty days after his arrest: *violation*

Toma v. Romania, no. 42716/02, no. 116

Length of pre-trial detention

Pre-trial detention of minor in adult prison for four and a half years: *violation*

Güveç v. Turkey, no. 70337/01, no. 115

Failure of domestic law to specify conditions in which time-limit on pre-trial detention could be excluded: *violation*

Krejčíř v. the Czech Republic, nos. 39298/04 and 8723/05, no. 117

Lack of relevant reasons for continued pre-trial detention: *violation*

Prencipe v. Monaco, no. 43376/06, no. 121

Release pending trial
Guarantees to appear for trial

Level of recognisance required to secure release on bail of a ship's captain in maritime pollution case: *no violation (case referred to the Grand Chamber)*
Mangouras v. Spain, no. 12050/04, nos. 115 and 120

Article 5 § 4

Take proceedings

Withholding on national security grounds of material relevant to lawfulness of detention: *violations/no violations*
A. and Others v. the United Kingdom, no. 3455/05, no. 116

No means by which asylum-seeker could obtain judicial decision on the lawfulness of his detention pending expulsion: *violation*
S.D. v. Greece, no. 53541/07, no. 120

Refusal of access to documents in case-file relevant to issue of lawfulness of detention: *violation*
Mooren v. Germany, no. 11364/03, no. 121

Speediness of review

Unexplained and excessive delay in examination of lawfulness of pre-trial detention: *violation*
Toma v. Romania, no. 42716/02, no. 116

Delays caused by court of appeal's decision to remit case to trial court rather than to set aside defective detention order itself: *violation*
Mooren v. Germany, no. 11364/03, no. 121

Procedural guarantees of review

Review of lawfulness of pre-trial detention in humiliating and unfair conditions: *violation*
Ramishvili and Kokhreidze v. Georgia, no. 1704/06, no. 115

Failure by Supreme Court to hold a hearing when examining a deprivation of liberty that did not satisfy the Convention requirement for it to be ordered by a court: *violation*
Krejčíř v. the Czech Republic, nos. 39298/04 and 8723/05, no. 117

Article 6

Article 6 § 1 (civil)

Applicability

Disciplinary proceedings against a judge fulfilling the *Vilho Eskelinen* test: *Article 6 applicable*
Olujić v. Croatia, no. 22330/05, no. 116

Appeal by local environmental-protection association not an *actio popularis*: *Article 6 applicable*
L'Erablière A.S.B.L. v. Belgium, no. 49230/07, no. 116

Request to public prosecutor at Court of Cassation to lodge appeal on points of law attesting to genuine "dispute" over civil right: *Article 6 applicable*

Gorou v. Greece (no. 2), no. 12686/03, no. 117

Access to "court" to challenge an administrative decision cancelling the applicant's participation in a programme for the unemployed: *Article 6 applicable*

Mendel v. Sweden, no. 28426/06, no. 118

Internal institutions of national parliament vested with judicial powers in respect of members of parliamentary staff: *Article 6 applicable*

Savino and Others v. Italy, nos. 17214/05, 20329/05 and 42113/04, no. 118

Injunction proceedings: *Article 6 applicable*

Micallef v. Malta, no. 17056/06, no. 123

Access to a court

Grant of immunity to a member of parliament concerning statements made to press unconnected with his parliamentary activity proper: *violation*

C.G.I.L. and Cofferati v. Italy, no. 46967/07, no. 116

Ruling that appeal was inadmissible because it referred to the impugned decision for a statement of the facts: *violation*

L'Erablière A.S.B.L. v. Belgium, no. 49230/07, no. 116

Access to "court" to challenge an administrative decision cancelling the applicant's participation in a programme for the unemployed: *violation*

Mendel v. Sweden, no. 28426/06, no. 118

Applicants' inability to present effectively their case due to authorities' refusal to grant them access to decisive evidence: *violation*

K.H. and Others v. Slovakia, no. 32881/04, no. 118

Refusal of courts to process applicant company's civil actions submitted electronically: *violation*

Lawyer Partners, a.s., v. Slovakia, nos. 54252/07 et al., no. 120

Operation of time bar as a result of the running of the limitation period while the claimants were minors: *violation*

Stagno v. Belgium, no. 1062/07, no. 121

Right of access to a court of prisoner held in high-security wing of a prison to assert rights of a civil nature: *violation*

Enea v. Italy, no. 74912/01, no. 122

Inability of minority shareholders to challenge winding-up resolution in courts once recorded in commercial register: *violation*

Kohlhofer and Minarik v. the Czech Republic, nos. 32921/03, 28464/04 and 5344/05, no. 123

Inadequate judicial scrutiny of decision to refuse an application for a teaching post in a denominational university because of applicant's alleged heterodox views: *violation*

Lombardi Vallauri v. Italy, no. 39128/05, no. 123

Fair hearing

Refusal to hear expert evidence in case concerning liability for medical costs incurred in connection with sex-change operation: *violation*

Lack of statutory right to challenge a judge on the basis of his/her family ties with a party's advocate: *violation*

Micallef v. Malta, no. 17056/06, no. 123

Impartiality of a court whose president had previously filed a criminal complaint against the applicant: *no violation*

Parlov-Tkalčić v. Croatia, no. 24810/06, no. 125

Article 6 § 1 (criminal)

Applicability

Inability of a parliamentarian to have his parliamentary immunity lifted to enable him to defend himself in criminal proceedings: *Article 6 applicable*

Kart v. Turkey, no. 8917/05, no. 125

Right to a court

Quashing of final judgment by way of supervisory review for serious deficiencies in criminal proceedings: *no violation*

Lenskaya v. Russia, no. 28730/03, no. 115

Inability of a parliamentarian to have his parliamentary immunity lifted to enable him to defend himself in criminal proceedings: *no violation*

Kart v. Turkey, no. 8917/05, no. 125

Access to a court

Obligation on foreign association without a head office in France to make a declaration to the prefecture in order to be able to take part in court proceedings: *violation*

Ligue du monde islamique and Organisation islamique mondiale du secours islamique v. France, no. 36497/05, no. 115

Court's failure to inform the accused that they had a new time-limit for lodging a cassation appeal after their legal-aid lawyers had refused to assist them: *violation*

Kulikowski v. Poland, no. 18353/03, no. 119
Antonicelli v. Poland, no. 2815/05, no. 119

Access to Court of Cassation hindered by failure to serve judgment on a prisoner awaiting trial in separate proceedings: *violation*

Davran v. Turkey, no. 18342/03, no. 124

Fair hearing

Lack of reasoning in assize court judgment convicting defendant: *violation (case referred to the Grand Chamber)*

Taxquet v. Belgium, no. 926/05, nos. 115 and 120

Inability of minor defendant to participate effectively in his criminal trial and lack of adequate legal representation: *violation*

Güveç v. Turkey, no. 70337/01, no. 115

Use at trial of evidence obtained through a covert operation: *no violation*

Bykov v. Russia, no. 4378/02, no. 117

Lack of public hearing before court of appeal hearing an appeal on both factual and legal aspects of case: *violation*

Igual Coll v. Spain, no. 37496/04, no. 117

Conviction based on evidence obtained during unlawful police operation: *no violation*

Lee Davies v. Belgium, no. 18704/05, no. 121

Statutory change depriving applicant of an advantage that had been instrumental in his choice of summary proceedings: *violation*

Scoppola v. Italy (no. 2), no. 10249/03, no. 122

Discontinuance of legally represented applicant's criminal appeal due to one day's absence from hearing: *violation*

Kari-Pekka Pietiläinen v. Finland, no. 13566/06, no. 122

Use of confession obtained under duress: *violation*

Yusuf Gezer v. Turkey, no. 21790/04, no. 125

Reasonable time

Length of proceedings to determine questions of liability and quantum in police brutality case: *violation*

Iribarren Pinillos v. Spain, no. 36777/03, no. 115

Independent and impartial tribunal

Lack of clear distinction between prosecutory, investigative and judicial functions of bank supervisory authority: *violation*

Dubus S.A. v. France, no. 5242/04, no. 120

Tribunal established by law

Inclusion without sufficient legal basis of lay judges on bench of criminal court: *violation*

Pandjikidze and Others v. Georgia, no. 30323/02, no. 123

Article 6 § 3

Rights of defence

Failure duly to notify the applicant of a fresh appeal hearing in his criminal case: *violation*

Sibgatullin v. Russia, no. 32165/02, no. 118

Article 6 § 3 (c)

Defence in person

Refusal to grant accused leave to appear at appellate hearing concerning questions of fact relevant to the issue of guilt: *violation*

Sobolewski v. Poland (no. 2), no. 19847/07, no. 120

Defence through legal assistance

Discontinuance of legally represented applicant's criminal appeal due to one day's absence from hearing: *violation*

Kari-Pekka Pietiläinen v. Finland, no. 13566/06, no. 122

Use in evidence of confession made in police custody in absence of a lawyer: *violation*

Pishchalnikov v. Russia, no. 7025/04, no. 122

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 (case referred to the Grand Chamber)*

Sakhnovskiy v. Russia, no. 21272/03, no. 122

Denial of access to a lawyer to a person in police custody who exercised his right to remain silent: *violation*

Dayanan v. Turkey, no. 7377/03, no. 123

Article 6 § 3 (d)

Examination of witnesses

Inability of defendant in criminal proceedings to question an anonymous witness and failure by investigating judge to assess reliability of the witness's evidence: *violation (case referred to the Grand Chamber)*

Taxquet v. Belgium, no. 926/05, nos. 115 and 120

Article 7

Article 7 § 1

Nullum crimen sine lege

Penalty adjudged arbitrary as based on provision that did not have "quality of law": *violation*

Sud Fondi S.r.l. and Others v. Italy, no. 75909/01, no. 115

Nulla poena sine lege

Implicit recognition by Article 7 of retroactivity of the more lenient criminal law: *violation*

Scoppola v. Italy (no. 2), no. 10249/03, no. 122

Registration on national sex-offenders register for a period of thirty years running from date of completion of prison sentence: *inadmissible*

Gardel v. France, no. 16428/05, no. 125

Heavier penalty

Replacement of an alien's prison sentence with deportation and exclusion orders: *violation*

Gurguchiani v. Spain, no. 16012/06, no. 125

Retroactivity

Retrospective extension of preventive detention from a maximum of ten years to an unlimited period of time: *violation*

M. v. Germany, no. 19359/04, no. 125

Article 8

Applicability

Prison cell which had been prisoner's sole "living space" for many years: *Article 8 applicable*
Brânduşe v. Romania, no. 6586/03, no. 118

Obligation on person found unfit for military service to pay exemption tax: *Article 8 applicable*
Glor v. Switzerland, no. 13444/04, no. 118

Private life

Photographing of a newborn baby without prior agreement of parents and retention of the negatives: *violation*
Reklos and Davourlis v. Greece, no. 1234/05, no. 115

Status of potential victims; lack of clarity or adequate safeguards in legislation on interception of communications: *violation*
Iordachi and Others v. Moldova, no. 25198/02, no. 116

Journalists contacted by police and allowed to film applicant in police custody with a view to broadcasting the images: *violation*
Toma v. Romania, no. 42716/02, no. 116

Interception and recording of conversation by a radio-transmitting device during a covert police operation without procedural safeguards: *violation*
Bykov v. Russia, no. 4378/02, no. 117

Offensive smells emanating from waste tip in vicinity of prisoner's cell and affecting his quality of life and well-being: *violation*
Brânduşe v. Romania, no. 6586/03, no. 118

Publication in newspaper articles of information in which applicant could be identified and perceived as prime suspect in murder case: *violation*
A v. Norway, no. 28070/06, no. 118

Dismissal of criminal libel proceedings against a political opponent on ground that allegedly defamatory remarks constituted a value judgment: *no violation*
Karakó v. Hungary, no. 39311/05, no. 118

Imposition of nationality requirement on aspirant lawyer at final stage of admission procedure after completion of compulsory training: *violation*
Bigaeva v. Greece, no. 26713/05, no. 119

Absence of means of ensuring reparation for bodily injuries caused by medical error in State hospital: *violation*
Codarcea v. Romania, no. 31675/04, no. 120

Ineffectiveness of procedure for gaining access to personal files held by secret services during communist period: *violation*
Haralambie v. Romania, no. 21737/03, no. 123

Registration on national sex-offenders register for a period of thirty years running from date of completion of prison sentence: *no violation*

Gardel v. France, no. 16428/05, no. 125

Private and family life

Balancing of competing interests of applicant and her insurers in case concerning liability for medical costs incurred in connection with a sex-change operation: *violation*
Schlumpf v. Switzerland, no. 29002/06, no. 115

Breach by State of its obligations to assess risks and consequences of hazardous industrial process and to keep the public informed: *violation*
Tătar v. Romania, no. 67021/01, no. 115

Former patients prevented from photocopying their medical records: *violation*
K.H. and Others v. Slovakia, no. 32881/04, no. 118

Order for child whom mother had abducted with a view to settling in Switzerland to be returned to Israel: *no violation (case referred to the Grand Chamber)*
Neulinger and Shuruk v. Switzerland, no. 41615/07, no. 120

Publication of the applicant's identity in a judgment delivered in relation to his HIV-positive status: *violation*
C.C. v. Spain, no. 1425/06, no. 123

Father's inability to consult conclusions of welfare report in proceedings concerning the custody of his son: *violation*
Tsourlakis v. Greece, no. 50796/07, no. 123

Family life

Refusal of courts to grant a woman married in a religious ceremony benefit of the social security and pension rights of her deceased husband, the father of her children: *no violation (case referred to the Grand Chamber)*
Şerife Yiğit v. Turkey, no. 3976/05, nos. 115 and 122

Refusal without valid reason or advance notice to allow single parent to return to country of residence with consequence that he was unable to rejoin his infant child: *violation*
Nolan and K. v. Russia, no. 2512/04, no. 116

Breaking off of relations between child and father with full parental rights following grandparents' refusal to return child after school holidays: *violation*
Amanalachioai v. Romania, no. 4023/04, no. 119

Insufficient action by authorities to secure the return of a child abducted by her mother: *violation*
Stochlak v. Poland, no. 38273/02, no. 122

Exercise of father's right of access in context of lengthy repeated absences abroad of mother and child: *no violation*
R.R. v. Romania, no. 1188/05, no. 124

Failure to enforce adequately a father's right of access to his minor child: *violation*
Eberhard and M. v. Slovenia, nos. 8673/05 and 9733/05, no. 125

Refusal of courts to disinherit a murderer after his own death prevented a final conviction: *violation*
Velcea and Mazăre v. Romania, no. 64301/01, no. 125

Expulsion

Deportation to Nigeria despite strong family ties and long residence in the United Kingdom: *violation*

Omojudi v. the United Kingdom, no. 1820/08, no. 124

Home

Lack of procedural safeguards in proceedings for eviction of the applicant: *violation*

Ćosić v. Croatia, no. 28261/06, no. 115

Inability of a cohabitant providing daily care to inherit tenancy: *inadmissible*

Korelc v. Slovenia, no. 28456/03, no. 119

Lack of procedural safeguards in enforcement proceedings for debtor lacking legal capacity: *violation*

Zehentner v. Austria, no. 20082/02, no. 121

Correspondence

Status of potential victims; lack of clarity or adequate safeguards in legislation on interception of communications: *violation*

Iordachi and Others v. Moldova, no. 25198/02, no. 116

Failure to provide prisoner with stamps for correspondence with Court: *violation*

Gagiu v. Romania, no. 63258/00, no. 116

Monitoring of prisoner's correspondence with his medical specialist: *violation*

Szuluk v. the United Kingdom, no. 36936/05, no. 120

Positive obligations

Flawed implementation of domestic criminal-law mechanisms in respect of applicant's allegations of physical violence by private individuals: *violation*

Sandra Janković v. Croatia, no. 38478/05, no. 117

Ineffectiveness of procedure for gaining access to personal files held by secret services during communist period: *violation*

Haralambie v. Romania, no. 21737/03, no. 123

Article 9

Freedom of religion

Unjustified State interference in the internal leadership dispute of a divided religious community by assisting one of the opposing groups to gain full control: *violation*

Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria, nos. 412/03 and 35677/04, no. 115

Exclusion of foreign Unification Church activist from country on national security grounds: *violation*

Nolan and K. v. Russia, no. 2512/04, no. 116

Refusal to register religious groups for failure to demonstrate at least fifteen years' existence or affiliation to a centralised religious organisation: *violation*
Kimlya and Others v. Russia, nos. 76836/01 and 32782/03, no. 123

Conviction of conscientious objector for refusing to perform military service: *no violation*
Bayatyan v. Armenia, no. 23459/03, no. 123

Display of crucifixes in State-school classrooms: *violation (case referred to the Grand Chamber)*
Lautsi v. Italy, no. 30814/06, no. 124

Manifest religion or belief

Imposition of a fine on a Muslim for practising a religion not recognised by the State by praying with a group of other Muslims in a rented house: *violation*
Masaev v. Moldova, no. 6303/05, no. 119

State intervention in a conflict between members of a religious community: *violation*
Miroļubovs and Others v. Latvia, no. 798/05, no. 122

Display of crucifixes in State-school classrooms: *violation (case referred to the Grand Chamber)*
Lautsi v. Italy, no. 30814/06, no. 124

Article 10

Freedom of expression

Excessively broad scope of interlocutory injunction prohibiting a journalist from reporting on an accident involving a judge and on the court proceedings in connection therewith: *violation*
Obukhova v. Russia, no. 34736/03, no. 115

Conviction of book publishers on charge of condoning war crimes: *violation*
Orban and Others v. France, no. 20985/05, no. 115

Refusal of courts to allow the respondent in a libel case to prove the veracity of his statements because of the manner in which they had been made: *violation*
Csánics v. Hungary, no. 12188/06, no. 115

Refusal to allow into territorial waters vessel chartered for use in support of campaign for decriminalisation of the voluntary termination of pregnancy: *violation*
Women On Waves and Others v. Portugal, no. 31276/05, no. 116

Conviction for defamation arising out of particularly virulent remarks and serious allegations of criminal conduct that had not been proved beforehand in a criminal court: *no violation*
Brunet-Lecomte and Others v. France, no. 42117/04, no. 116

Insufficiency of grounds given by Supreme Court for awarding damages against magazine for identifying criminal defendant: *violation*
Eerikäinen and Others v. Finland, no. 3514/02, no. 116

Public servant sentenced to a suspended prison term for publicly accusing his superior of misappropriation and requesting an official investigation: *violation*
Marchenko v. Ukraine, no. 4063/04, no. 116

Removal from judicial office for making critical statements about the Russian judiciary: *violation*
Kudeshkina v. Russia, no. 29492/05, no. 116

Conviction of magazines for illegal advertising of tobacco: *no violation*

Hachette Filipacchi Presse Automobile and Dupuy v. France, no. 13353/05, no. 117
Société de conception de presse et d'édition and Ponson v. France, no. 26935/05, no. 117

Rule that new cause of action accrues every time defamatory material on the Internet is accessed: *no violation*

Times Newspapers Ltd v. the United Kingdom (nos. 1 and 2), nos. 3002/03 and 23676/03, no. 117

Police seizure of material that could have led to identification of journalistic sources: *no violation (case referred to the Grand Chamber)*

Sanoma Uitgevers B.V. v. the Netherlands, no. 38224/03, nos. 117 and 122

Convictions of newspaper editors for publishing photographs of a person who was about to be arrested to serve a lengthy sentence she had just received for her part in a triple murder: *no violation*

Egeland and Hanseid v. Norway, no. 34438/04, no. 118

Persistent attempts by authorities to avoid compliance with court order requiring them to give unrestricted access to documents on former State Security Service: *violation*

Kenedi v. Hungary, no. 31475/05, no. 119

Continued prohibition of the broadcasting of a commercial on television despite European Court's finding of an infringement of freedom of expression: *violation*

Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2), no. 32772/02, no. 120

Conviction for defamation arising out of newspaper report on rumours about the then Austrian President's marriage: *no violation*

Standard Verlags GmbH v. Austria (no. 2), no. 21277/05, no. 120

Criminal conviction of journalist for calling a prominent historian "an idiot" and "a fascist": *violation*

Bodrožić v. Serbia, no. 32550/05, no. 120

Criminal conviction of journalists for comparing a prominent local lawyer to a blonde woman: *violation*

Bodrožić and Vujin v. Serbia, no. 38435/05, no. 120

Award of damages against university lecturer for having criticised procedures for recruiting and promoting assistant lecturers: *violation*

Sorguç v. Turkey, no. 17089/03, no. 120

Conviction of president of extreme right-wing party for inciting the public to discrimination or racial hatred in leaflets distributed in electoral campaign: *no violation*

Féret v. Belgium, no. 15615/07, no. 121

Criminal conviction of mayor for announcing intention to boycott Israeli products in the municipality: *no violation*

Willem v. France, no. 10883/05, no. 121

Disciplinary penalty imposed on public-television journalist for criticising the company's programming policy: *violation*

Wojtas-Kaleta v. Poland, no. 20436/02, no. 121

Award of damages against magazine for publishing information that had been freely divulged and made public by a singer: *violation*

*Hachette Filipacchi Associés (*Ici Paris*) v. France*, no. 12268/03, no. 121

Insufficient statutory guarantees of independence of public broadcaster: *violation*

Manole and Others v. Moldova, no. 13936/02, no. 122

Civil award against publishers of satirical article on food manufacturer's advertising methods: *violation*

Kuliś and Różycki v. Poland, no. 27209/03, no. 123

Journalist's inability, owing to general police ban, to gain access to Davos during World Economic Forum: *violation*

Gsell v. Switzerland, no. 12675/05, no. 123

Refusal of a teaching post in a denominational university because of alleged heterodox views: *violation*

Lombardi Vallauri v. Italy, no. 39128/05, no. 123

Orders suspending publication of newspapers under anti-terrorist legislation: *violation*

Ürper and Others v. Turkey, nos. 14526/07 et al., no. 123

Award of damages against magazine in libel action by government minister: *no violation*

Europapress Holding d.o.o. v. Croatia, no. 25333/06, no. 123

Finding by a civil court that article criticising author's role on a question of the utmost public interest was defamatory: *violation*

Karsai v. Hungary, no. 5380/07, no. 125

Order requiring news media to disclose a leaked document liable to lead to the identification of their source: *violation*

Financial Times Ltd and Others v. the United Kingdom, no. 821/03, no. 125

Freedom to impart information

NGO denied access to information on a pending constitutional case: *violation*

Társaság a Szabadságjogokért v. Hungary, no. 37374/05, no. 118

Article 11

Freedom of peaceful assembly

Police intervention to break up a peaceful demonstration that had not been notified to the authorities: *violation*

Samüt Karabulut v. Turkey, no. 16999/04, no. 115

Complete blockade of motorway by heavy-goods vehicles in "go-slow" operation: *no violation*

Barraco v. France, no. 31684/05, no. 117

Disciplinary penalties imposed on public servants for taking part in a strike: *violation*

Enerji Yapı-Yol Sen v. Turkey, no. 68959/01, no. 118

Freedom of association

Dissolution of a public association for negating the ethnic identity of the Macedonian people: *violation*

Association of Citizens Radko and Paunkovski v. "the former Yugoslav Republic of Macedonia", no. 74651/01, no. 115

Dissolution of political parties with links to a terrorist organisation: *no violation*

Herri Batasuna and Batasuna v. Spain, nos. 25803/04 and 25817/04, no. 120

Dissolution of association for alleged breaches of the law and its own charter: *violation*

Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan, no. 37083/03, no. 123

Article 13

Effective remedy

Lack of effective remedies for length-of-proceedings complaints: *violation*

Abramiuc v. Romania, no. 37411/02, no. 116

Significant delays in payment of compensation under "Pinto" law not indicative of structural problem in procedure: *no violation*

Simaldone v. Italy, no. 22644/03, no. 117

Remedy available in context of elections which provided solely monetary compensation: *violation*

Petkov and Others v. Bulgaria, nos. 77568/01, 178/02 and 505/02, no. 120

Absence of statutory remedy for non-pecuniary damage resulting from death in accident caused by private individual: *no violation*

Zavoloka v. Latvia, no. 58447/00, no. 121

Lack of effective remedy in respect of repeated transfers and frequent body searches of high-security prisoner: *violation*

Khider v. France, no. 39364/05, no. 121

Lack of effective remedy against deportation: *violation*

Abdolkhani and Karimnia v. Turkey, no. 30471/08, no. 122

Article 14

Discrimination (Article 2)

Difference, based on pathology type, in compensation arrangements between persons contaminated with HIV during blood transfusions: *violation*

G.N. and Others v. Italy, no. 43134/05, no. 125

Discrimination (Articles 2 and 3)

Failure of judicial system to provide adequate response to serious domestic violence: *violation*

Opuz v. Turkey, no. 33401/02, no. 120

Discrimination (Article 3)

Failure by authorities to investigate whether there had been a racist motive for police brutality in the course of an arrest: *violation*

Cakir v. Belgium, no. 44256/06, no. 117

Discrimination (Article 6 § 1)

Unlawfully resident alien refused legal aid for contesting paternity of her child: *violation*

Anakomba Yula v. Belgium, no. 45413/07, no. 117

Discrimination (Article 8)

Refusal to pay a benefit on account of parental status and nationality: *violation*

Weller v. Hungary, no. 44399/05, no. 117

Obligation on person found unfit for military service to pay exemption tax: *violation*

Glor v. Switzerland, no. 13444/04, no. 118

Exception causing inequality of treatment on ground of birth outside marriage in the context of Germany's specific historical background: *violation*

Brauer v. Germany, no. 3545/04, no. 119

Inability of a cohabitant providing daily care to inherit tenancy: *inadmissible*

Korelc v. Slovenia, no. 28456/03, no. 119

Inability of father of a child born out of wedlock to obtain joint custody without the mother's consent: *violation*

Zaunegger v. Germany, no. 22028/04, no. 125

Discrimination (Article 11)

State's failure to afford effective judicial protection against discrimination on the ground of trade-union membership: *violation*

Danilenkov and Others v. Russia, no. 67336/01, no. 121

Discrimination (Article 1 of Protocol No. 1)

Refusal to take applicant's years of employment in former Soviet Union into account when calculating her entitlement to a retirement pension because she did not have Latvian citizenship: *violation*

Andrejeva v. Latvia, no. 55707/00, no. 116

Consequences of family's loss of nationality on applicant's status as the mother of a large family and her related pension entitlement: *violation*

Zeïbek v. Greece, no. 46368/06, no. 121

Residence requirement for entitlement to supplementary pension for employee who worked for a French company in Algeria prior to independence: *no violation*

Si Amer v. France, no. 29137/06, no. 123

Refusal to recognise validity of Roma marriage for purposes of establishing entitlement to widow's pension: *violation*

Muñoz Díaz v. Spain, no. 49151/07, no. 125

Discrimination (Article 3 of Protocol No. 1)

Inability of a Roma and a Jew to stand for parliamentary elections: *violation*
Sejdić and Finci v. Bosnia and Herzegovina, nos. 27996/06 and 34836/06, no. 125

Article 15

Derogation in time of emergency

Validity of derogation from Article 5 § 1 obligations in respect of powers to detain foreign nationals suspected of terrorism who could not be deported for fear of ill-treatment: *not valid*
A. and Others v. the United Kingdom, no. 3455/05, no. 116

Article 17

Prohibition of abuse of rights

Publication of book describing torture and summary executions in the Algerian War: *Article 17 did not come into play*
Orban and Others v. France, no. 20985/05, no. 115

Article 34

Victim

Application introduced on behalf of applicant's sister, who had died while her constitutional claim concerning the alleged breach of her right to a fair trial was pending: *victim status upheld*
Micallef v. Malta, no. 17056/06, no. 123

Locus standi

Applicant lacking legal capacity under domestic law permitted to present own case before the Court despite guardian's disapproval: *admissible*
Zehentner v. Austria, no. 20082/02, no. 121

Hinder exercise of the right of petition

Pressure by the authorities on a witness in a conditions-of-detention case before the Court: *failure to comply with Article 34*
Novinskiy v. Russia, no. 11982/02, no. 116

Deportation despite interim measure ordered by the Court: *failure to comply with Article 34*
Ben Khemais v. Italy, no. 246/07, no. 116

Dissuasive remarks by prison authorities and unexplained delays in supplying materials for correspondence and documents needed for application to the Court: *failure to comply with Article 34*
Gagiu v. Romania, no. 63258/00, no. 116

Non-compliance with interim measure indicated by the Court under Rule 39: *failure to comply with Article 34*
Paladi v. Moldova, no. 39805/05, no. 117
Grori v. Albania, no. 25336/04, no. 121

Article 35

Article 35 § 1

Effective domestic remedy (Monaco)

Automatic fine in the event of appeal on point of law being dismissed: *preliminary objection dismissed*

Prencipe v. Monaco, no. 43376/06, no. 121

Effective domestic remedy (Slovenia)

Ineffectiveness of remedies in respect of length of proceedings: *violation of Article 13*

Robert Lesjak v. Slovenia, no. 33946/03, no. 121

Six-month period

Effect of intervening extraordinary remedy on six-month time-limit: *running of time interrupted only in relation to Convention issues examined by review body*

Sapeyan v. Armenia, no. 35738/03, no. 115

Application in disappearance case lodged more than six months after the respondent State's ratification of the right of individual petition: *preliminary objection dismissed*

Varnava and Others v. Turkey, nos. 16064/90 et al., no. 122

Article 35 § 2 (b)

Substantially the same application

Court's jurisdiction where it had already examined case concerning substantially the same facts in an inter-State case: *preliminary objection dismissed*

Varnava and Others v. Turkey, nos. 16064/90 et al., no. 122

Article 35 § 3

Competence *ratione temporis*

Court's temporal jurisdiction in respect of procedural limb of Article 2 where death occurred prior to entry into force of Convention in respect of respondent State: *preliminary objection dismissed*

Šilih v. Slovenia, no. 71463/01, no. 118

Court's temporal jurisdiction in respect of disappearances that had occurred some thirteen years before the respondent State recognised the right of individual petition: *preliminary objection dismissed*

Varnava and Others v. Turkey, nos. 16064/90 et al., no. 122

Competence *ratione personae*

Montenegrin authorities' failure to enforce an order given by a court in Montenegro several years before declaration of independence by Montenegro: *admissible in respect of Montenegro and inadmissible in respect of Serbia*

Bijelić v. Montenegro and Serbia, no. 11890/05, no. 118

Manifestly ill-founded

Court not called upon to seek inspiration in amendment contained in Protocol No. 14 relating to absence of "significant disadvantage": *preliminary objection dismissed*

Ferreira Alves v. Portugal (no. 4), no. 41870/05, no. 118

Abuse of the right of application

Burden on Government to prove intentional breach of confidentiality amounting to abuse of right: *preliminary objection dismissed*

Miroļubovs and Others v. Latvia, no. 798/05, no. 122

Article 37

Article 37 § 1

Respect for human rights

Unilateral declaration by respondent State without any acknowledgment of allegation of a violation of the Convention: *not struck out*

Prencipe v. Monaco, no. 43376/06, no. 121

Special circumstances requiring further examination

Continued examination of application despite applicant's death and lack of any request from a relative

Gagiu v. Romania, no. 63258/00, no. 116

Matter resolved

Prisoner's request for dentures to be provided free of charge granted by prison authorities after some delay: *struck out*

Stojanović v. Serbia, no. 34425/04, no. 119

Continued examination not justified

Request for pursuit of proceedings by a person who had not established that he was an heir or a close relative or that he had a legitimate interest: *struck out*

Léger v. France, no. 19324/02, no. 117

Article 38

Furnish all necessary facilities

Refusal to communicate classified report to Court regarding reasons for denying entry to a resident foreign national: *failure to comply with Article 38*

Nolan and K. v. Russia, no. 2512/04, no. 116

Article 41

Just satisfaction

Authorities' persistent failure to enforce domestic judgments in the applicant's favour without delay despite previous finding of violation by the Court in his case – practice incompatible with the Convention: *non-pecuniary damage award increased*

Burdov v. Russia (no. 2), no. 33509/04, no. 115

Entitlement where unlawful detention was result of public emergency and State's inability to deport applicants to their country of origin for fear of ill-treatment: *reduced award*

A. and Others v. the United Kingdom, no. 3455/05, no. 116

Entitlement following unlawful deprivation of applicant company's hotel: *restitution or compensation in lieu based on current market value plus, in either case, any additional losses*

Dacia S.R.L. v. Moldova, no. 3052/04, no. 116

Obligation to execute final judicial order quashing administrative decisions

Nițescu v. Romania, no. 26004/03, no. 117

National authorities required to take initiative and to coordinate with a view to gradually rebuilding the relationship between applicant and his daughter

Amanalachioai v. Romania, no. 4023/04, no. 119

Awards in respect of non-pecuniary damage: *no additional award in respect of applicants whose victim status derives from legal connection with the original party to the impugned domestic proceedings*

Selahattin Çetinkaya and Others v. Turkey, no. 31504/02, no. 123

Request for reimbursement of lawyer's fees as percentage (20%) of sums awarded by Court: *no award in respect of costs and expenses*

Adam v. Romania, no. 45890/05, no. 124

Assessment of pecuniary damage for *de facto* expropriation

Guiso-Gallisay v. Italy, no. 58858/00, no. 125

Article 46

Execution of judgments – General measures

Respondent State required to introduce an effective remedy securing redress for non-enforcement or delayed enforcement of judgments and to grant redress to all victims in pending cases of this kind

Burdov v. Russia (no. 2), no. 33509/04, no. 115

Indication of measures to remedy systemic defects in legislation on the restitution of land and in the application of that legislation

Faimblat v. Romania, no. 23066/02, no. 115
Katz v. Romania, no. 29739/03, no. 115

Respondent State required to adopt further measures to eliminate structural problem of length of pre-trial detention

Kauczor v. Poland, no. 45219/06, no. 116

Respondent State required to take legislative and other measures to remedy structural inadequacy of medical care in prisons, in particular as regards the treatment of hepatitis C

Poghosyan v. Georgia, no. 9870/07, no. 116
Ghavtadze v. Georgia, no. 23204/07, no. 117

Respondent State required to adopt general measures to eliminate structural problems of length of pre-trial detention

Cahıt Demırel v. Turkey, no. 18623/03, no. 121

Obligation to introduce effective remedy for non-enforcement or delayed enforcement of judgments in social-housing cases and to grant redress to victims in pending cases

Olaru and Others v. Moldova, nos. 476/07 et al., no. 121

Respondent State required to take general measures, including legislative reform, to ensure that the legal framework complied with the requirements of Article 10

Manole and Others v. Moldova, no. 13936/02, no. 122

Respondent State required to introduce an effective remedy securing redress for non-enforcement or delayed enforcement of judgments and to grant redress to all victims in pending cases of this kind

Yuriy Nikolayevich Ivanov v. Ukraine, no. 40450/04, no. 123

Overcrowding recognised as a structural problem in detention facilities; respondent State required to introduce non-judicial complaints procedure affording expedited relief

Orchowski v. Poland, no. 17885/04, no. 123

Delays in implementation of Bosnia and Herzegovina's repayment scheme for foreign currency deposited before the dissolution of the Socialist Federal Republic of Yugoslavia; specific remedial measures required

Suljagić v. Bosnia and Herzegovina, no. 27912/02, no. 124

Execution of judgments – Individual measures

Respondent State required to secure applicant's transfer to a specialised institution and, generally, to secure appropriate conditions of detention for prisoners in need of special care

Sławomir Musiał v. Poland, no. 28300/06, no. 115

Article 1 of Protocol No. 1

Possessions

Refusal to enter Greek Orthodox Church foundation in land register as owner of property it had held without interruption for more than twenty years: *violation*

Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey (no. 2), nos. 37639/03 et al., no. 117

Failure to pay compensation for loss caused by unlawful administrative act on ground that applicants had sued the wrong authority: *violation*

Plechanow v. Poland, no. 22279/04, no. 121

Revocation of a welfare benefit which had been granted by mistake several months before and which constituted the applicant's sole source of income: *violation*

Moskal v. Poland, no. 10373/05, no. 122

Total automatic loss of pension rights and welfare benefits as a result of a criminal conviction: *violation*

Apostolakis v. Greece, no. 39574/07, no. 123

Peaceful enjoyment of possessions

Confiscation order adjudged arbitrary as based on provision that did not have "quality of law": *violation*

Sud Fondi S.r.l. and Others v. Italy, no. 75909/01, no. 115

Refusal to enter Greek Orthodox Church foundation in land register as owner of property it had held without interruption for more than twenty years: *violation*

Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey (no. 2), nos. 37639/03 et al., no. 117

Late payment of inadequate reparation awarded in length-of-proceedings case under the "Pinto" law: *violation*

Simaldone v. Italy, no. 22644/03, no. 117

Application of different limitation period and starting-points for default interest between State and private parties in labour dispute: *violation*

Zouboulidis v. Greece (no. 2), no. 36963/06, no. 120

Form of execution of judgment in the applicant's favour which resulted in reduction in compensation actually awarded: *violation*

Zaharievi v. Bulgaria, no. 22627/03, no. 121

Consequences of family's loss of nationality on applicant's status as the mother of a large family and her related pension entitlement: *violation*

Zeïbek v. Greece, no. 46368/06, no. 121

Total automatic loss of pension rights and welfare benefits as a result of a criminal conviction: *violation*

Apostolakis v. Greece, no. 39574/07, no. 123

Revocation of disability pension on the ground that the applicant was no longer unfit for work: *no violation*

Wieczorek v. Poland, no. 18176/05, no. 125

Deprivation of property

Failure to take special characteristics of listed building into account when assessing compensation for its expropriation: *violation*

Kozacıoğlu v. Turkey, no. 2334/03, no. 116

Legislation disposing retrospectively and finally, without justification on general-interest grounds, of tax litigation: *violation*

Joubert v. France, no. 30345/05, no. 121

Revocation of a welfare benefit which had been granted by mistake several months before and which constituted the applicant's sole source of income: *violation*

Moskal v. Poland, no. 10373/05, no. 122

Compensation for expropriation wholly absorbed by legal costs: *violation (case referred to the Grand Chamber)*

Perdigão v. Portugal, no. 24768/06, no. 122

Control of the use of property

Disproportionate customs penalty consisting of automatic confiscation plus a fine: *violation*

Grifhorst v. France, no. 28336/02, no. 116

Lack of procedural safeguards in enforcement proceedings for debtor lacking legal capacity: *violation*

Zehentner v. Austria, no. 20082/02, no. 121

Confiscation by customs with no recourse for bona fide owner whose goods were used to conceal fraud by third parties: *violation*

Bowler International Unit v. France, no. 1946/06, no. 121

Delays in implementation of Bosnia and Herzegovina's repayment scheme for foreign currency deposited before the dissolution of the Socialist Federal Republic of Yugoslavia: *violation*

Suljagić v. Bosnia and Herzegovina, no. 27912/02, no. 124

Positive obligations

Failure to pay compensation for loss caused by unlawful administrative act on ground that applicants had sued the wrong authority: *violation*

Plechanow v. Poland, no. 22279/04, no. 121

Article 2 of Protocol No. 1

Right to education

Temporary suspension of students for having petitioned university authorities to provide optional Kurdish language courses: *violation*

İrfan Temel and Others v. Turkey, no. 36458/02, no. 117

Respect for parents' religious and philosophical convictions

Display of crucifixes in State-school classrooms: *violation (case referred to the Grand Chamber)*

Lautsi v. Italy, no. 30814/06, no. 124

Article 3 of Protocol No. 1

Free expression of opinion of the people

Cancellation of candidacy of electoral groups to territorial elections on ground that they were carrying on activities of parties that had been declared illegal owing to their links with a terrorist organisation: *no violation*

Etxeberria and Others v. Spain, nos. 35579/03 et al., no. 120

Cancellation of candidacy of electoral group to European Parliament on ground that the group was carrying on activities of parties that had been declared illegal owing to their links with a terrorist organisation: *no violation*

Herritaren Zerrenda v. Spain, no. 43518/04, no. 120

Stand for election

Failure of the electoral authorities to abide by final court judgments and reinstate the applicants on list of candidates for parliamentary elections: *violation*

Petkov and Others v. Bulgaria, nos. 77568/01, 178/02 and 505/02, no. 120

Cancellation of candidacy of electoral groups to territorial elections on ground that they were carrying on activities of parties that had been declared illegal owing to their links with a terrorist organisation: *no violation*

Etxeberria and Others v. Spain, nos. 35579/03 et al., no. 120

Cancellation of candidacy of electoral group to European Parliament on ground that the group was carrying on activities of parties that had been declared illegal owing to their links with a terrorist organisation: *no violation*

Herritarren Zerrenda v. Spain, no. 43518/04, no. 120

Refusal to register a former clergyman as a candidate for parliamentary elections: *violation*

Seyidzade v. Azerbaijan, no. 37700/05, no. 125

Article 2 of Protocol No. 4

Freedom of movement

Automatic, unlimited ban preventing a debtor from leaving the country: *violation*

Gochev v. Bulgaria, no. 34383/03, no. 124

Article 1 of Protocol No. 7

Expulsion of aliens

Lack of procedural guarantees to contest decision to refuse entry to lawfully resident foreign national: *violation*

Nolan and K. v. Russia, no. 2512/04, no. 116

Article 4 of Protocol No. 7

Non bis in idem

Administrative conviction for "minor disorderly acts" and subsequent criminal prosecution for "disorderly acts" concerning the same facts: *violation*

Sergey Zolotukhin v. Russia, no. 14939/03, no. 116

Conviction for petty tax fraud and subsequent fuel-fee debit based on substantially the same facts: *violation*

Ruotsalainen v. Finland, no. 13079/03, no. 120

Article 1 of Protocol No. 12

General prohibition of discrimination

Inability of a Roma and a Jew to stand for election to highest political office in the country: *violation*

Sejdić and Finci v. Bosnia and Herzegovina, nos. 27996/06 and 34836/06, no. 125

Rule 39 of the Rules of Court

Interim measures

Deportation despite interim measure ordered by the Court: *failure to comply with Article 34*
Ben Khemais v. Italy, no. 246/07, no. 116

Non-compliance with interim measure indicated by the Court under Rule 39: *failure to comply with Article 34*
Paladi v. Moldova, no. 39805/05, no. 117
Grori v. Albania, no. 25336/04, no. 121

DECISIONS

Article 1

Responsibility of States

Territorial jurisdiction in relation to detention of Iraqi nationals by British armed forces in Iraq: *admissible*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, no. 120

Complaints of procedural unfairness in an international criminal tribunal established by United Nations Security Council Resolution: *inadmissible*
Galić v. the Netherlands, no. 22617/07, no. 120
Blagojević v. the Netherlands, no. 49032/07, no. 120

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible*
Beygo v. 46 member States of the Council of Europe, no. 36099/06, no. 120

Article 2

Article 2 § 1

Life
Death penalty

Transfer of suspects under control of British armed forces in Iraq into custody of Iraqi authorities on charges carrying death penalty: *admissible*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, no. 120

Article 3

Inhuman or degrading treatment or punishment

Sterilisation of Roma woman allegedly without her informed consent: *admissible*
V.C. v. Slovakia, no. 18968/07, no. 120

Alleged insufficiency of old-age pension to maintain adequate standard of living: *inadmissible*
Budina v. Russia, no. 45603/05, no. 120

Positive obligations

Alleged failure to prosecute government ministers following death of detainees in fire: *inadmissible*
Van Melle and Others v. the Netherlands, no. 19221/08, no. 122

Expulsion

Refusal of asylum request on ground that applicants had not sought protection of authorities in home State from acts of private individuals: *inadmissible*
A.M. and Others v. Sweden, no. 38813/08, no. 120

Article 5

Article 5 § 1

Lawful arrest or detention

Alleged political motives for detaining a well-known business executive supporting opposition parties: *admissible*

Khodorkovskiy v. Russia, no. 5829/04, no. 119

Article 6

Article 6 § 1 (civil)

Applicability

Refusal to grant a parliamentary-election observer access to documents of an election committee: *Article 6 inapplicable*

Geraguyn Khorhurd Patgamavorakan Akumb v. Armenia, no. 11721/04, no. 118

Action in damages by asylum-seeker for refusal to grant him asylum: *Article 6 inapplicable*

Panjeheighalehei v. Denmark, no. 11230/07, no. 123

Access to a court

Grant of immunity of jurisdiction to Germany in proceedings for compensation for forced labour performed during Second World War: *inadmissible*

Grosz v. France, no. 14717/06, no. 120

Fair hearing

Conformity with fair-hearing requirements of NATO's internal labour-dispute resolution machinery: *inadmissible*

Gasparini v. Italy and Belgium, no. 10750/03, no. 119

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible*

Rambus Inc. v. Germany, no. 40382/04, no. 120

Quashing of binding and enforceable decisions by Supreme Commercial Court under new supervisory-review procedure: *inadmissible*

OOO Link Oil SPB v. Russia, no. 42600/05, no. 120

Adversarial trial

Refusal by the Court of Justice of the European Communities to authorise a third party to respond to the Advocate General's opinion: *inadmissible*

Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. the Netherlands, no. 13645/05, no. 115

Equality of arms

Rule exempting judges, on account of their office, from legal costs when they are parties to proceedings: *inadmissible*

Gouveia Gomes Fernandes and Freitas e Costa v. Portugal, no. 1529/08, no. 119

Reasonable time

Effectiveness of "Pinto" remedy for length of administrative proceedings where no application for expedited hearing was made: *inadmissible*

Daddi v. Italy, no. 15476/09, no. 120

Article 6 § 1 (criminal)

Access to a court

Condition requiring payment before fixed fine could be appealed against: *inadmissible*

Schneider v. France, no. 49852/06, no. 121

Fair hearing

Alleged procedural defects in proceedings concerning tax penalties: *admissible*

OAO Neftyanaya kompaniya YUKOS v. Russia, no. 14902/04, no. 115

Reasonable time

Length of criminal proceedings against an accused serving a prison sentence abroad: *inadmissible*

Passaris v. Greece, no. 53344/07, no. 123

Article 6 § 3 (d)

Examination of witnesses

Inability of the accused to question a rape victim who had committed suicide after making a statement to the police: *inadmissible*

Mika v. Sweden, no. 31243/06, no. 115

Article 7

Article 7 § 1

Nullum crimen sine lege

Universal jurisdiction of Contracting State to prosecute torture and barbaric acts despite amnesty law in State where such acts had been committed: *inadmissible*

Ould Dah v. France, no. 13113/03, no. 117

Article 8

Private life

Television set put under seal for non-payment of licence fee: *inadmissible*

Faccio v. Italy, no. 33/04, no. 118

Refusal of request by applicant to have her deceased father recognised as the son of a man she alleged was her deceased grandfather: *inadmissible*

Menéndez Garcia v. Spain, no. 21046/07, no. 119

Press article and television programme calling into question businessman's reputation: *inadmissible*
Pipi v. Turkey, no. 4020/03, no. 119

Alleged nuisance caused by opening of dental surgery in a residential block of flats: *inadmissible*
Galev and Others v. Bulgaria, no. 18324/04, no. 122

Statutory bans on hunting wild mammals with dogs: *inadmissible*
Friend and Others v. the United Kingdom, nos. 16072/06 and 27809/08, no. 124

Private and family life

Authorities' refusal to take specific measures requested by the applicants relating to environmental issues: *inadmissible*
Greenpeace e.V. and Others v. Germany, no. 18215/06, no. 119

Sterilisation of Roma woman allegedly without her informed consent: *admissible*
V.C. v. Slovakia, no. 18968/07, no. 120

Expulsion

Refusal of asylum request in case in which applicant family had spent four years adapting to life in host State: *inadmissible*
A.M. and Others v. Sweden, no. 38813/08, no. 120

Home

Alleged nuisance caused by opening of dental surgery in a residential block of flats: *inadmissible*
Galev and Others v. Bulgaria, no. 18324/04, no. 122

Statutory bans on hunting wild mammals with dogs: *inadmissible*
Friend and Others v. the United Kingdom, nos. 16072/06 and 27809/08, no. 124

Identity check by police in orchestra conductor's dressing room: *inadmissible*
Hartung v. France, no. 10231/07, no. 124

Article 9

Freedom of religion

Assignment of a tax identification number which the applicants opposed on religious grounds: *inadmissible*
Skugar and Others v. Russia, no. 40010/04, no. 125

Manifest religion or belief

Expulsion of pupils from school for refusing to remove conspicuous symbols of religious affiliation during lessons: *inadmissible*
Aktas v. France, no. 43563/08, no. 121
Bayrak v. France, no. 14308/08, no. 121
Gamaleddyn v. France, no. 18527/08, no. 121
Ghazal v. France, no. 29134/08, no. 121
Jasvir Singh v. France, no. 25463/08, no. 121
Ranjit Singh v. France, no. 27561/08, no. 121

Article 10

Freedom to receive information

Television set put under seal for non-payment of licence fee: *inadmissible*
Faccio v. Italy, no. 33/04, no. 118

Freedom to impart information

Ten-year prison sentence for communicating non-classified information to a foreign intelligence service: *inadmissible*
Bojolyan v. Armenia, no. 23693/03, no. 124

Article 11

Freedom of peaceful assembly

Imposition of a fine for presiding over a peaceful meeting without giving prior notice to the authorities: *inadmissible*
Skiba v. Poland, no. 10659/03, no. 121

Conviction for holding an unauthorised demonstration in a security-sensitive area designated by law: *inadmissible*
Rai and Evans v. the United Kingdom, nos. 26258/07 and 26255/07, no. 124

Statutory bans on hunting wild mammals with dogs: *inadmissible*
Friend and Others v. the United Kingdom, nos. 16072/06 and 27809/08, no. 124

Freedom of association

Ban on distributing meals mainly composed of pork to the underprivileged: *inadmissible*
Association Solidarité des Français v. France, no. 26787/07, no. 120

Article 13

Effective remedy

Effectiveness of "Pinto" remedy for length of administrative proceedings where no application for expedited hearing was made: *inadmissible*
Daddi v. Italy, no. 15476/09, no. 120

Article 14

Discrimination (Article 6 § 1)

Rule exempting judges, on account of their office, from legal costs when they are parties to proceedings: *inadmissible*
Gouveia Gomes Fernandes and Freitas e Costa v. Portugal, no. 1529/08, no. 119

Discrimination (Article 9)

Expulsion of pupils from school for refusing to remove conspicuous symbols of religious affiliation during lessons: *inadmissible*

Aktas v. France, no. 43563/08, no. 121
Bayrak v. France, no. 14308/08, no. 121
Gamaleddyn v. France, no. 18527/08, no. 121
Ghazal v. France, no. 29134/08, no. 121
Jasvir Singh v. France, no. 25463/08, no. 121
Ranjit Singh v. France, no. 27561/08, no. 121

Discrimination (Article 1 of Protocol No. 1)

Granting of financial assistance to a single category of Second World War orphans: *inadmissible*
Association nationale des pupilles de la Nation v. France, no. 22718/08, no. 123

Article 33

Inter-State cases

Alleged pattern of official conduct by Russian authorities resulting in multiple breaches of Georgian nationals' Convention rights: *admissible (relinquishment in favour of the Grand Chamber)*
Georgia v. Russia (no. 1), no. 13255/07, nos. 120 and 125

Article 34

Hinder exercise of the right of petition

Alleged failure to comply with indication by the Court not to transfer applicants to authorities of another State where they faced the death penalty: *admissible*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, no. 120

Article 35

Article 35 § 1

Effective domestic remedy (Italy)

Effectiveness of "Pinto" remedy for length of administrative proceedings where no application for expedited hearing was made: *inadmissible*
Daddi v. Italy, no. 15476/09, no. 120

Effective domestic remedy (Russia)

Supervisory review by Supreme Commercial Court under new Code of Commercial Procedure: *effective remedy*
Kovaleva and Others v. Russia, no. 6025/09, no. 120

Supervisory review under the Code of Civil Procedure as amended by Law no. 330-ФЗ of 4 December 2007: *not effective remedy*
Martynets v. Russia, no. 29612/09, no. 124

Six-month period

Six-month period to be calculated by reference to criteria specific to the Convention: *inadmissible*
Otto v. Germany, no. 21425/06, no. 124

Article 35 § 2 (a)

Anonymous application

Failure to disclose identity in application to European Court: *inadmissible*
"Blondje" v. the Netherlands, no. 7245/09, no. 122

Article 35 § 2 (b)

Substantially the same application

Complaints previously examined by United Nations Working Party on Arbitrary Detention: *inadmissible*
Peraldi v. France, no. 2096/05, no. 118

Article 35 § 3

Competence *ratione personae*

Failure of representative to submit a form of authority signed by the applicant: *inadmissible*
Post v. the Netherlands, no. 21727/08, no. 115

Complaints of procedural unfairness in an international criminal tribunal established by United Nations Security Council Resolution: *inadmissible*
Galić v. the Netherlands, no. 22617/07, no. 120
Blagojević v. the Netherlands, no. 49032/07, no. 120

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible*
Beygo v. 46 member States of the Council of Europe, no. 36099/06, no. 120

Wife wishing to pursue application filed on behalf of her late husband months after his death: *inadmissible*
Dupin v. Croatia, no. 36868/03, no. 121

Application directed against State by virtue of fact that the international organisation concerned had its seat there: *inadmissible*
Lopez Cifuentes v. Spain, no. 18754/06, no. 121

Article 37

Article 37 § 1

Continued examination not justified

Friendly settlement compliant with human rights even though most appropriate remedy in principle would have been new trial or resumption of proceedings at applicant's request: *struck out*
Kavak v. Turkey, nos. 34719/04 and 37472/05, no. 119

Article 37 § 2

Restoration to the list of cases

Failure to comply with terms of friendly settlement: *case restored to the list*
Katić v. Serbia, no. 13920/04, no. 121

Article 1 of Protocol No. 1

Peaceful enjoyment of possessions

Television set put under seal for non-payment of licence fee: *inadmissible*
Faccio v. Italy, no. 33/04, no. 118

Control of the use of property

Confiscation of premises used in connection with offence linked to human trafficking and exploiting vulnerable aliens: *inadmissible*
Tas v. Belgium, no. 44614/06, no. 119

Statutory bans on hunting wild mammals with dogs: *inadmissible*
Friend and Others v. the United Kingdom, nos. 16072/06 and 27809/08, no. 124

Article 2 of Protocol No. 1

Respect for parents' religious and philosophical convictions

Compulsory secular ethics classes, with no possibility of exemption for pupils in State secondary schools: *inadmissible*
Appel-Irrgang and Others v. Germany, no. 45216/07, no. 123

Article 2 of Protocol No. 4

Freedom of movement

Removal and retention by a mother of her daughter declared unlawful: *inadmissible*
D.J. and A.-K.R. v. Romania, no. 34175/05, no. 123

Article 1 of Protocol No. 13

Abolition of the death penalty

Transfer of suspects under control of British armed forces in Iraq into custody of Iraqi authorities on charges carrying death penalty: *admissible*
Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, no. 120

COMMUNICATED CASES

Article 1

Responsibility of States

Territorial jurisdiction in relation to detention of Iraqi national by British armed forces in Iraq
Al-Jedda v. the United Kingdom, no. 27021/08, no. 116

Article 2

Article 2 § 1

Life
Positive obligations
Effective investigation

Alleged failure of authorities to act to prevent the murder of a journalist who had been convicted of insulting "Turkish identity"
Dink v. Turkey, nos. 2668/07 et al., no. 119

Article 3

Inhuman or degrading treatment or punishment

Applications relating to the August 2008 conflict between Georgia and Russia
Abayeva v. Georgia, no. 52196/08, no. 115
Bekoyeva v. Georgia, no. 48347/08, no. 115
Bogiyev v. Georgia, no. 52200/08, no. 115
Bagushvili v. Georgia, no. 49671/08, no. 115
Tekhova v. Georgia, no. 50669/08, no. 115
Tedeyev v. Georgia, no. 46657/08, no. 115
Konovalov v. Georgia, no. 53894/08, no. 115

Expulsion

Proposed removal of Iraqi asylum-seeker to Greece under the Dublin Regulation
Awdesh v. Belgium, no. 12922/09, no. 119

Removal of Afghani asylum-seeker to Greece under the Dublin Regulation
M.S.S. v. Belgium and Greece, no. 30696/09, no. 124

Proposed removal of Somali asylum-seeker to Greece under the Dublin Regulation
Ahmed Ali v. the Netherlands and Greece, no. 26494/09, no. 124

Article 5

Article 5 § 1

Deprivation of liberty

Refusal, on basis of United Nations Security Council Resolutions, of leave to enter and to travel through Switzerland
Nada v. Switzerland, no. 10593/08, no. 117

Family life

Refusal on grounds of public policy to recognise a monk's adoption of his nephew
Negrepontis-Giannisis v. Greece, no. 56759/08, no. 124

Home

Failure of waste disposal services to collect, treat and dispose of rubbish
Di Sarno and Others v. Italy, no. 30765/08, no. 120

Article 9

Freedom of religion

Refusal to permit prisoner to keep religious objects in his cell
Gubenko v. Latvia, no. 6674/06, no. 124

Article 10

Freedom of expression

Alleged failure of authorities to act to prevent the murder of a journalist who had been convicted of insulting "Turkish identity"
Dink v. Turkey, nos. 2668/07 et al., no. 119

Failure to allocate a radio frequency to a State-licensed broadcaster
Centro Europa 7 S.r.l. v. Italy, no. 38433/09, no. 124

Conviction of journalist on a satirical political magazine for insulting the Pope
Urban v. Poland, no. 29690/06, no. 125

Freedom to impart information

Dissolution of municipal council for disseminating documents in non-official languages
Demirbaş v. Turkey, no. 1093/08, no. 119

Article 14

Discrimination (Article 8)

Refusal of request by mother's homosexual partner to adopt child
Gas and Dubois v. France, no. 25951/07, no. 119

Non-renewal of contract of married priest in teaching post
Fernández Martínez v. Spain, no. 56030/07, no. 123

Refusal to grant a divorce to an elderly person who had been found at fault for the breakdown of the marriage *(partial decision on admissibility)*
Ostrowski v. Poland, no. 27224/09, no. 125

Discrimination (Article 1 of Protocol No. 1)

Allegedly discriminatory rule prohibiting concurrent drawing of Russian military and Estonian old-age pensions

Tarkoev and Others v. Estonia, no. 14480/08, no. 120
Minin and Others v. Estonia, no. 47916/08, no. 120

Article 1 of Protocol No. 1

Peaceful enjoyment of possessions

Delay in execution of decisions taken in "Pinto" proceedings

Gaglione and Others v. Italy, nos. 45867/07 et al., no. 117

Depreciation of compensation for expropriation paid after delivery of final judgment

Yetiş and Others v. Turkey, no. 40349/05, no. 119

Allegedly discriminatory rule prohibiting concurrent drawing of Russian military and Estonian old-age pensions

Tarkoev and Others v. Estonia, no. 14480/08, no. 120
Minin and Others v. Estonia, no. 47916/08, no. 120

Article 3 of Protocol No. 1

Free expression of opinion of the people
Choice of the legislature

Statutory provisions on elections establishing "blocked lists" and "majority weighting"

Saccomanno and Others v. Italy, nos. 11583/08 et al., no. 125

XII. 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 2009 the five-member panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 8 meetings (on 26 January, 6 April, 4 May, 5 June, 6 July, 14 September, 6 November and 10 December) 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 359 cases, 176 of which were submitted by the respective Governments (in 5 cases both the Government and the applicant submitted requests).

In 2009 the panel accepted requests in the following 11 cases (concerning 11 applications):

Guiso-Gallisay v. Italy, no. 58858/00
Kononov v. Latvia, no. 36376/04
Carson and Others v. the United Kingdom, no. 42184/05
Tănase and Chirtoacă v. Moldova, no. 7/08
Mangouras v. Spain, no. 12050/04
Taxquet v. Belgium, no. 926/05
Neulinger and Shuruk v. Switzerland, no. 41615/07
Sanoma Uitgevers B.V. v. the Netherlands, no. 38224/03
Şerife Yiğit v. Turkey, no. 3976/05
Sakhnovskiy v. Russia, no. 21272/03
Perdigão v. Portugal, no. 24768/06

The following cases in which a judgment was adopted in 2009 were accepted for referral by virtue of panel decisions in 2010:

Al-Khawaja and Tahery v. the United Kingdom, nos. 26766/05 and 22228/06
Lautsi v. Italy, no. 30814/06
Giuliani and Gaggio v. Italy, no. 23458/02

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

Second Section – *Čudak v. Lithuania*, no. 15869/02; *Paksas v. Lithuania*, no. 34932/04

Third Section – *Demopoulos and Others v. Turkey*, nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04 and 21819/04

Fourth Section – *Sejdić and Finci v. Bosnia and Herzegovina*, nos. 27996/06 and 34836/06

Fifth Section – *A., B. and C. v. Ireland*, no. 25579/05; *McFarlane v. Ireland*, no. 31333/06; *Georgia v. Russia (no. 1)*, no. 13255/07

The First Section took no decision to relinquish cases to the Grand Chamber.

XIII. STATISTICAL INFORMATION

STATISTICAL INFORMATION[1]

Events in total (2008-2009)

1. Applications allocated to a judicial formation Committee/Chamber (round figures [50])	**2009**	**2008**	**+/-**
Applications allocated	**57,100**	49,850	15%

2. Interim procedural events	**2009**	**2008**	**+/-**
Applications communicated to respondent Government	**6,197**	4,416	40%

3. Applications decided	**2009**	**2008**	**+/-**
By decision or judgment*	**35,460**	32,043	11%
– by judgment delivered	**2,395**	1,880	27%
– by decision (inadmissible/struck out)	**33,065**	30,163	10%

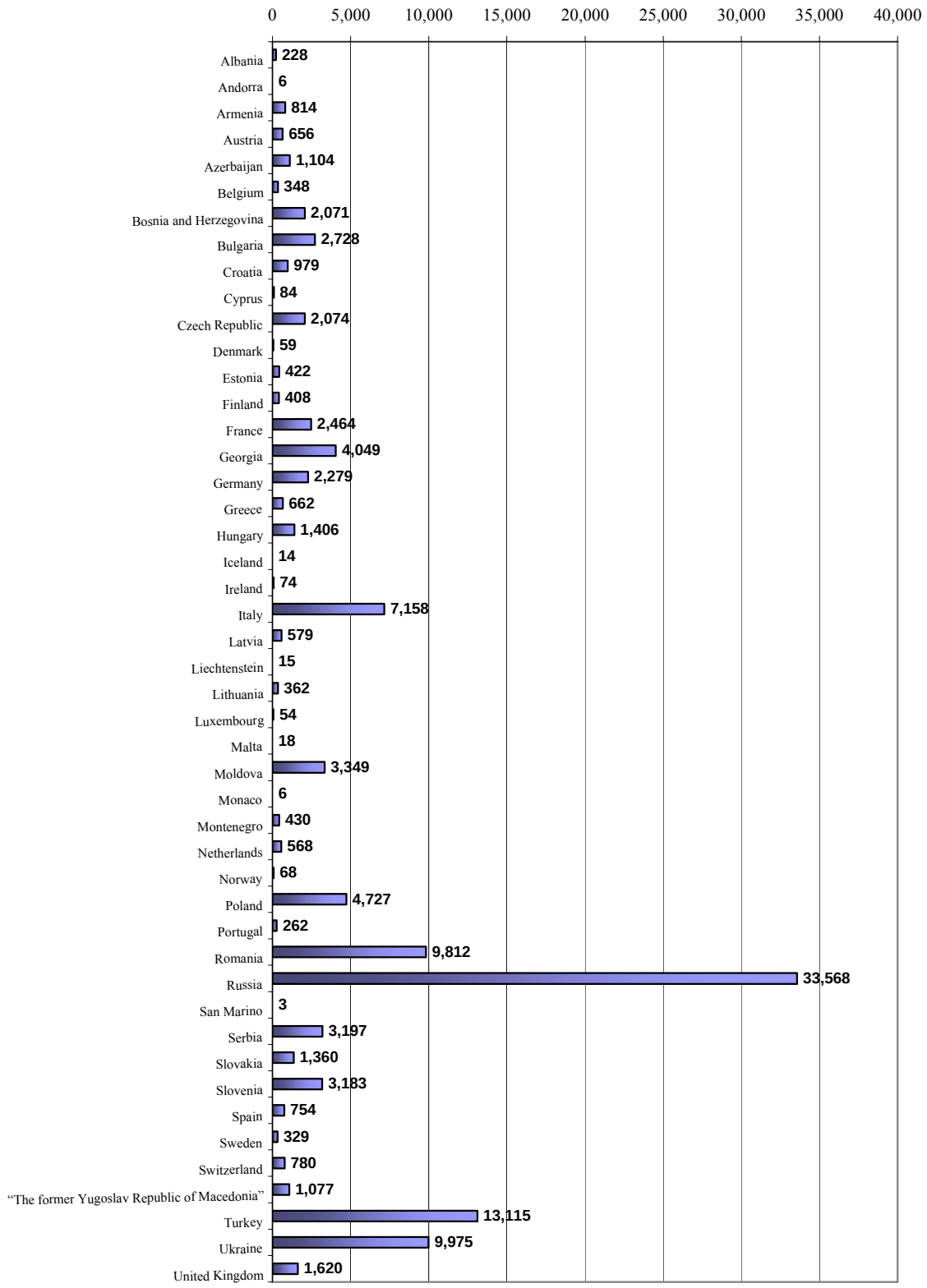
4. Pending applications (round figures [50])	**31/12/2009**	**1/1/2009**	**+/-**
Applications pending before a judicial formation	**119,300**	97,300	23%
– Chamber (7 judges)	**44,400**	33,850	31%
– Committee (3 judges) and single judge	**74,900**	63,450	18%

5. Pre-judicial applications (round figures [50])	**31/12/2009**	**1/1/2009**	**+/-**
Applications at pre-judicial stage	**20,000**	21,450	-7%
	2009	**2008**	**+/-**
Applications disposed of administratively (applications not pursued)	**11,650**	14,800	-21%

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

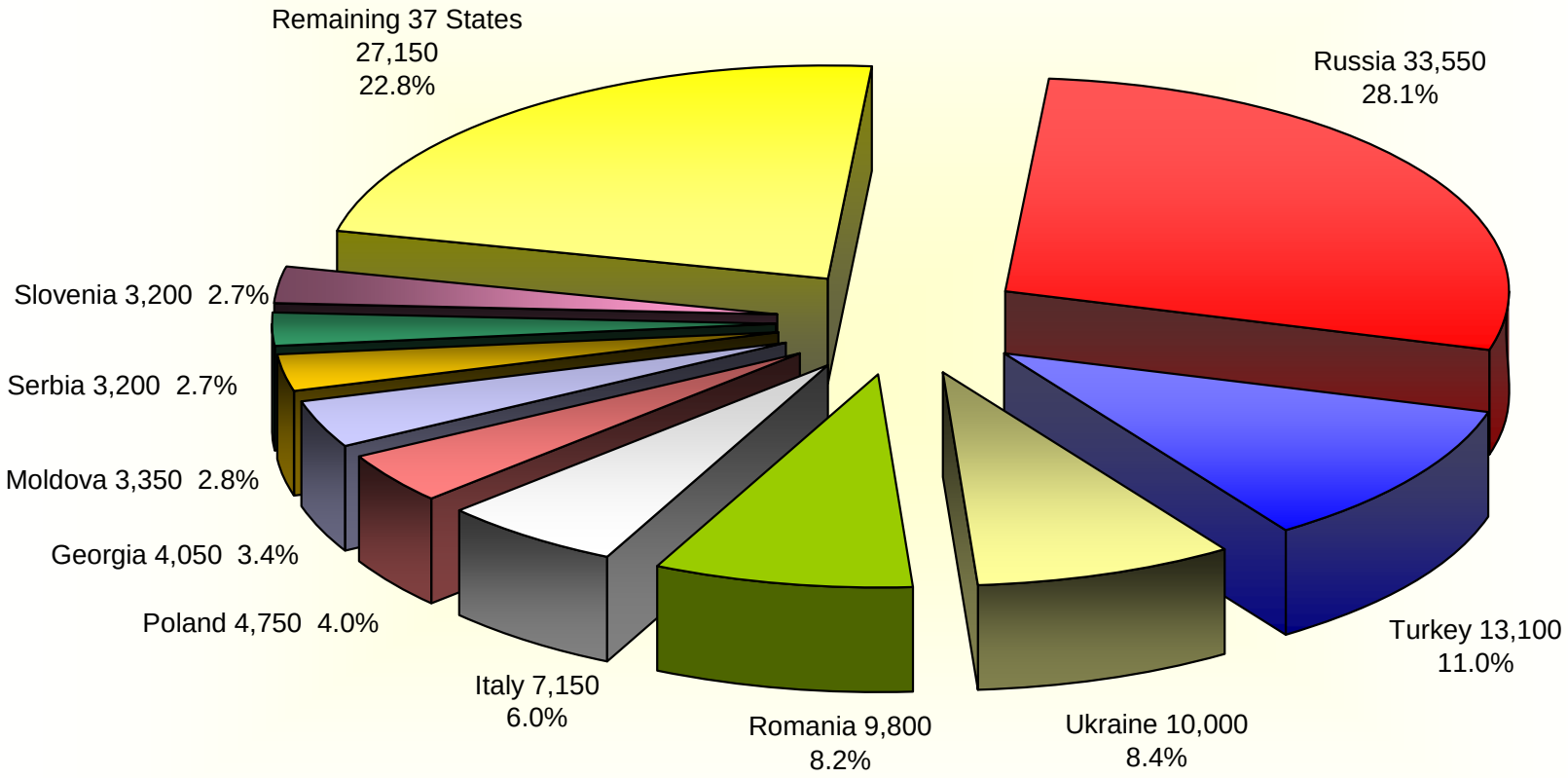
1. For a detailed presentation of the procedure before the Court, see Chapter I (part D "Procedure before the Court") of this Annual Report.
An updated glossary of statistical terms will be made available on the Court's website in the near future.

Pending cases allocated to a judicial formation at 31 December 2009, by respondent State



Total: 119,298 applications pending before a judicial formation

Pending cases allocated to a judicial formation at 31 December 2009
(principal respondent States)



Total number of pending applications: 119,300
(round figures [50])

Events in total, by respondent State (2009)

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	99	27	16	10	9	–
Andorra	6	2	1	–	–	–
Armenia	125	104	14	5	9	–
Austria	410	355	55	9	15	3
Azerbaijan	361	304	24	6	7	–
Belgium	256	101	25	11	11	–
Bosnia and Herzegovina	621	96	6	20	6	–
Bulgaria	1,194	596	208	71	63	25
Croatia	755	550	44	17	19	12
Cyprus	59	107	28	3	3	10
Czech Republic	726	765	15	6	3	1
Denmark	63	34	7	1	3	1
Estonia	204	170	10	3	4	–
Finland	489	342	38	28	29	28
France	1,589	1,512	111	33	33	12
Georgia	2,122	86	46	8	11	2
Germany	1,515	1,711	78	21	21	3
Greece	518	336	107	74	75	10
Hungary	449	233	60	24	30	9
Iceland	10	9	1	–	–	–
Ireland	62	45	2	–	–	–
Italy	3,624	584	757	61	69	5
Latvia	326	481	31	3	7	9
Liechtenstein	14	7	1	–	–	–
Lithuania	261	331	17	9	9	1

Events in total, by respondent State (2009) (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	29	25	9	3	3	1
Malta	14	15	8	4	5	–
Moldova	1,322	386	217	36	30	21
Monaco	9	10	–	1	1	1
Montenegro	269	135	4	1	1	–
Netherlands	500	270	58	2	4	3
Norway	79	89	5	1	3	–
Poland	4,986	3,635	296	121	133	178
Portugal	152	90	85	62	17	15
Romania	5,260	4,094	627	201	168	83
Russia	13,666	6,961	1,029	501	219	54
San Marino	2	1	–	–	–	1
Serbia	1,576	444	82	48	16	26
Slovakia	569	357	41	53	39	14
Slovenia	598	628	254	7	8	5
Spain	641	493	21	16	17	–
Sweden	367	274	19	2	3	3
Switzerland	471	248	27	4	7	–
"The former Yugoslav Republic of Macedonia"	489	430	53	14	17	24
Turkey	4,474	1,965	1,195	436	356	56
Ukraine	4,693	2,863	399	188	126	4
United Kingdom	1,133	764	66	17	18	15
Total	**57,157**	**33,065**	**6,197**	**2,141**	**1,625***	**635**

* Including two judgments which concern two respondent States: Albania and Italy, and Montenegro and Serbia.

Violations by Article and by respondent State (2009)

2009	Total number of judgments	Judgments finding at least one violation	Friendly settlements/striking out judgments finding no violation	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	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to marry	Right to an effective remedy	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**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**9**	9							1			1	10								2		5				1
Andorra																											
Armenia	**9**	8	1						1				4						3			2				2
Austria	**15**	13	2						2				1	6		1						4	1				
Azerbaijan	**7**	7					1		1	1			3						1				2		1		
Belgium	**11**	8	3						1	1		1	4	2								1					
Bosnia Herzegovina	**6**	6										1	3									1	4				1
Bulgaria	**63**	61	2				1		3	1		16	11	21		6	1				9		18		1		4
Croatia	**19**	16	3			1			1	1			7	6		3					2		3			1	
Cyprus	**3**	3												3									1				
Czech Republic	**3**	3										2	1										1				
Denmark	**3**	3												3							2		1				
Estonia	**4**	4							1			1		1	1						2						
Finland	**29**	28			1								9	19		1		1			6					1	
France	**33**	20	11	1	1				2			4	5	2				3			1		4				
Georgia	**11**	11							7	1		6	4	2		1							1				
Germany	**21**	18	3									2		14	1						2	2					
Greece	**75**	69	3		3	1			5			10	16	41		3		1			8	1	6				
Hungary	**30**	28	1		1							1	3	20				4			2	1					
Iceland																											
Ireland																											
Italy	**69**	61	3		5	1	3	1	10			1	11	12	2	27		1			15	1	16	1			5
Latvia	**7**	6	1						2			2	3			3	1					1					
Liechtenstein																											
Lithuania	**9**	8	1											7								1	2				
Luxembourg	**3**	2		1									2														

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

Violations by Article and by respondent State (2009) (continued)

2009	Total number of judgments	Judgments finding at least one violation	Friendly settlements/striking out judgments finding no violation	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	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to marry	Right to an effective remedy	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**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Malta	**5**	4	1									1	1										2				
Moldova	**30**	29			1			2	6	4		7	12	3		1	1	3	4		6		8				1
Monaco	**1**	1										1															
Montenegro	**1**	1																					1				
Netherlands	**4**		2	2																							
Norway	**3**	1	2													1											
Poland	**133**	123	8		2	1			10	4		35	21	50		12		3					4				1
Portugal	**17**	17											2	3				2					10				
Romania	**168**	153	6	2	7	1	6		14	5		19	56	16		12		3			3	5	92				1
Russia	**219**	210	6	2	1	56	58	3	84	18		109	74	34		12	2	5			73	1	49			1	16
San Marino																											
Serbia	**16**	14	1		1							1	5	5		3		2			5		3				
Slovakia	**39**	38			1		1		1				4	29		4					2		3				
Slovenia	**8**	7	1				1						1	4		1					4						
Spain	**17**	11	6						1				5	3	1	1						1					
Sweden	**3**	1	1	1									1														
Switzerland	**7**	5	2										3	1		1		2				1					
"The former Yugoslav Republic of Macedonia"	**17**	16	1									3	4	10					1				1				
Turkey	**356**	341	9		6	10	9	2	28	26		88	126	95		22		12	9		20	1	86	1			
Ukraine	**126**	126					1		9	2		27	69	35		4		1			26		58				2
United Kindgom	**18**	14	3	1								3	1	2		2		1				7					
Sub-total	**1,627**	**1,504**	**83**	**10**	**30**	**71**	**81**	**8**	**190**	**64**		**342**	**482**	**449**	**5**	**121**	**5**	**44**	**18**		**190**	**29**	**384**	**2**	**2**	**3**	**34**
Total		**1,625****																									

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

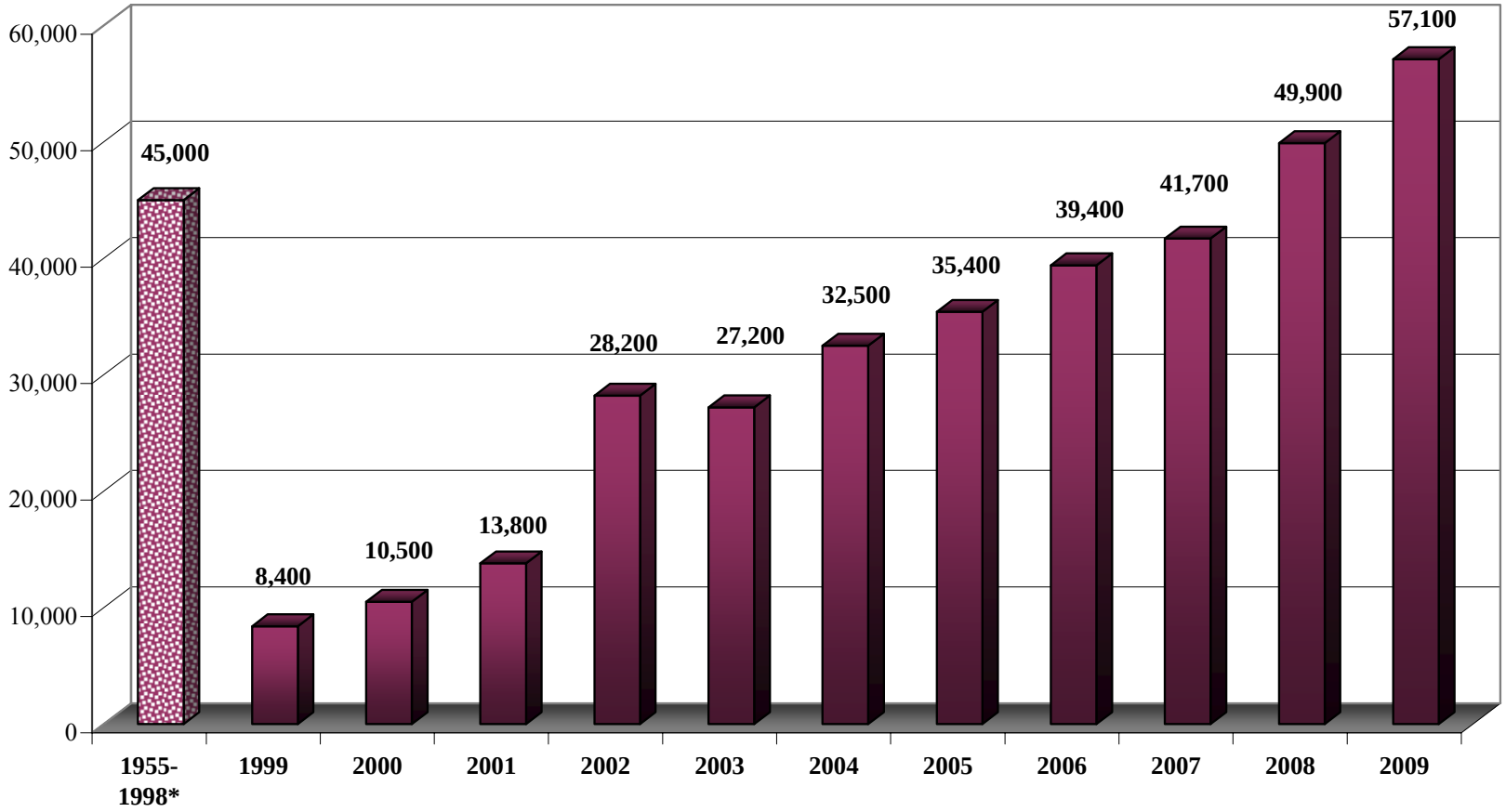
** Including two judgments which concern two respondent States: Albania and Italy, and Montenegro and Serbia.

Applications processed in 2009

Applications processed in 2009	Section I	Section II	Section III	Section IV	Section V	Grand Chamber	Total
Applications in which judgments were delivered	690	650	278	354	396	27	**2,395**
Applications declared inadmissible (Chamber/Grand Chamber)	90	82	62	120	243		**597**
Applications struck out (Chamber/Grand Chamber)	165	200	390	304	152		**1,211**
Applications declared inadmissible or struck out (Committee)	8,457	3,419	5,581	5,002	6,568		**29,027**
Applications declared inadmissible or struck out (single judge)	245	73	367	437	1,108		**2,230**
Total	**9,647**	**4,424**	**6,678**	**6,217**	**8,467**	**27**	**35,460**
Applications communicated*	1,318	2,258	1,026	694	901		**6,197**
Judgments delivered**	335	444	234	313	281***	18	**1,625**
Interim measures (Rule 39) granted	21	68	94	372	99		**654**
Interim measures (Rule 39) refused	91	110	151	890	164		**1,406**
Interim measures (Rule 39) refused – falling outside the scope	31	53	35	166	54		**339**

* Including applications communicated for information and without requesting observations. Applications may concern several States.
** One judgment may concern several applications.
*** Including two judgments delivered by a Committee of three judges.

Applications allocated to a judicial formation (1955-2009)



* European Commission of Human Rights

Events in total, by respondent State (1 November 1998-31 December 2009)

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	380	139	80	20	20	–
Andorra	33	26	4	3	4	2
Armenia	1,223	393	81	21	20	–
Austria	3,410	2,916	421	197	193	52
Azerbaijan	2,186	1,063	124	25	26	1
Belgium	1,542	1,122	200	119	107	23
Bosnia and Herzegovina	2,948	861	78	33	13	1
Bulgaria	7,099	4,164	805	357	292	48
Croatia	5,455	4,332	447	167	170	136
Cyprus	495	375	132	50	54	34
Czech Republic	8,747	6,620	493	148	147	79
Denmark	741	695	71	27	27	13
Estonia	1,400	961	48	22	21	5
Finland	2,613	2,274	276	128	128	54
France	17,429	13,682	1,257	695	656	121
Georgia	4,374	293	176	36	35	3
Germany	13,241	11,117	376	114	119	44
Greece	3,460	2,367	783	509	515	45
Hungary	3,946	2,453	342	191	190	50
Iceland	77	65	13	9	8	2
Ireland	406	340	23	12	12	2
Italy	15,355	7,380	3,481	1,805	1,866	359
Latvia	2,079	1,467	174	42	41	27
Liechtenstein	48	32	4	3	4	–
Lithuania	2,980	2,596	145	68	57	7

Events in total, by respondent State (1 November 1998-31 December 2009) (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	259	200	54	28	28	5
Malta	101	171	34	21	26	–
Moldova	5,436	2,260	693	221	168	92
Monaco	31	328	2	1	1	1
Montenegro	573	241	5	1	1	–
Netherlands	3,602	3,175	270	65	75	21
Norway	631	1,171	40	26	23	–
Poland	37,329	33,296	1,779	753	763	429
Portugal	1,633	1,311	431	278	170	75
Romania	28,883	19,417	2,157	687	646	210
Russia	70,466	36,114	3,614	1,302	862	112
San Marino	28	197	12	8	11	5
Serbia	5,356	2,455	221	81	40	36
Slovakia	4,289	4,329	467	218	205	93
Slovenia	5,790	2,514	899	229	227	76
Spain	5,212	6,244	544	76	57	11
Sweden	3,505	3,590	195	48	47	48
Switzerland	2,590	2,108	122	45	52	3
"The former Yugoslav Republic of Macedonia"	2,236	1,119	216	66	63	70
Turkey	29,331	15,625	6,103	2,671	2,261	679
Ukraine	26,776	16,806	1,769	853	608	49
United Kingdom	9,115	8,130	1,079	366	310	258
Total	**344,839**	**228,541**	**30,740**	**12,845**	**11,361***	**3,381**

* Including several judgments which concern two Respondent States.

Violations by Article and by respondent State (1959-2009)

1959-2009	Total 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	Right to a fair trial	Length of proceedings	No punishment without law	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**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**20**	18	1		1				2			1	18	2		1					6		9				1
Andorra	**4**	2		1	1								1									1					
Armenia	**20**	19	1						4				12					1	6				2		1		7
Austria	**268**	199	33	23	13			1	4			10	77	72		14	1	32	1		8	17	3			4	
Azerbaijan	**26**	22		2	2		1	1	2	2			9	2				1	5		3		5		1		1
Belgium	**158**	109	19	16	14				4	1		14	42	55		9		3			6	9	1				1
Bosnia Herzegovina	**13**	13							1			2	7			1					1	1	7				1
Bulgaria	**294**	274	9	4	7	7	9		33	13		205	41	110		22	4	5	8		72	4	35		1		7
Croatia	**170**	133	8	26	3	1			5	2			45	72		8					23	1	11			1	
Cyprus	**57**	47	4	3	3				2			1	8	34	1	5		1			8	2	4		1		1
Czech Republic	**147**	133	4	8	2							17	40	76		12		1	1		12	2	7				
Denmark	**34**	13	9	11	1							1	1	8		1		1	1		2		1				
Estonia	**21**	18	2	1					2			7	4	4	4						3						
Finland	**134**	103	20	9	2				1			1	35	48		16		7			10		2			1	
France	**773**	576	103	62	32	3	2	1	11		1	41	230	278	3	25		19	2		26	8	23				4
Georgia	**35**	28	6	1					10	5		11	9	5		2	1	1			4	1	3		1		1
Germany	**157**	99	41	9	8				1			15	14	54	1	14		3	1		5	11	1				
Greece	**557**	488	14	20	35	4	3		13	3		20	106	320		5	8	8	5		83	6	61		2		
Hungary	**190**	179	4	6	1				1	2		6	5	156	1	1		5	2		3	1					2
Iceland	**11**	8		3								1	4					1	1				1				
Ireland	**23**	13	5	1	4							2	5	5		4		1			3	1					
Italy	**2,023**	1,556	48	351	68	1	3	1	13	1		27	229	1,095	2	128		4	3		76	2	291	1	15		21
Latvia	**41**	34	4	3					5			22	8	6	1	15	3	2	1		2	1			3		5
Liechtenstein	**4**	4										1	1	1				1			1						
Lithuania	**57**	45	6	6		1	1		3			16	10	16		12						3	5				
Luxembourg	**29**	24	2	3			1						8	13		3		2	1		3	1	1				

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

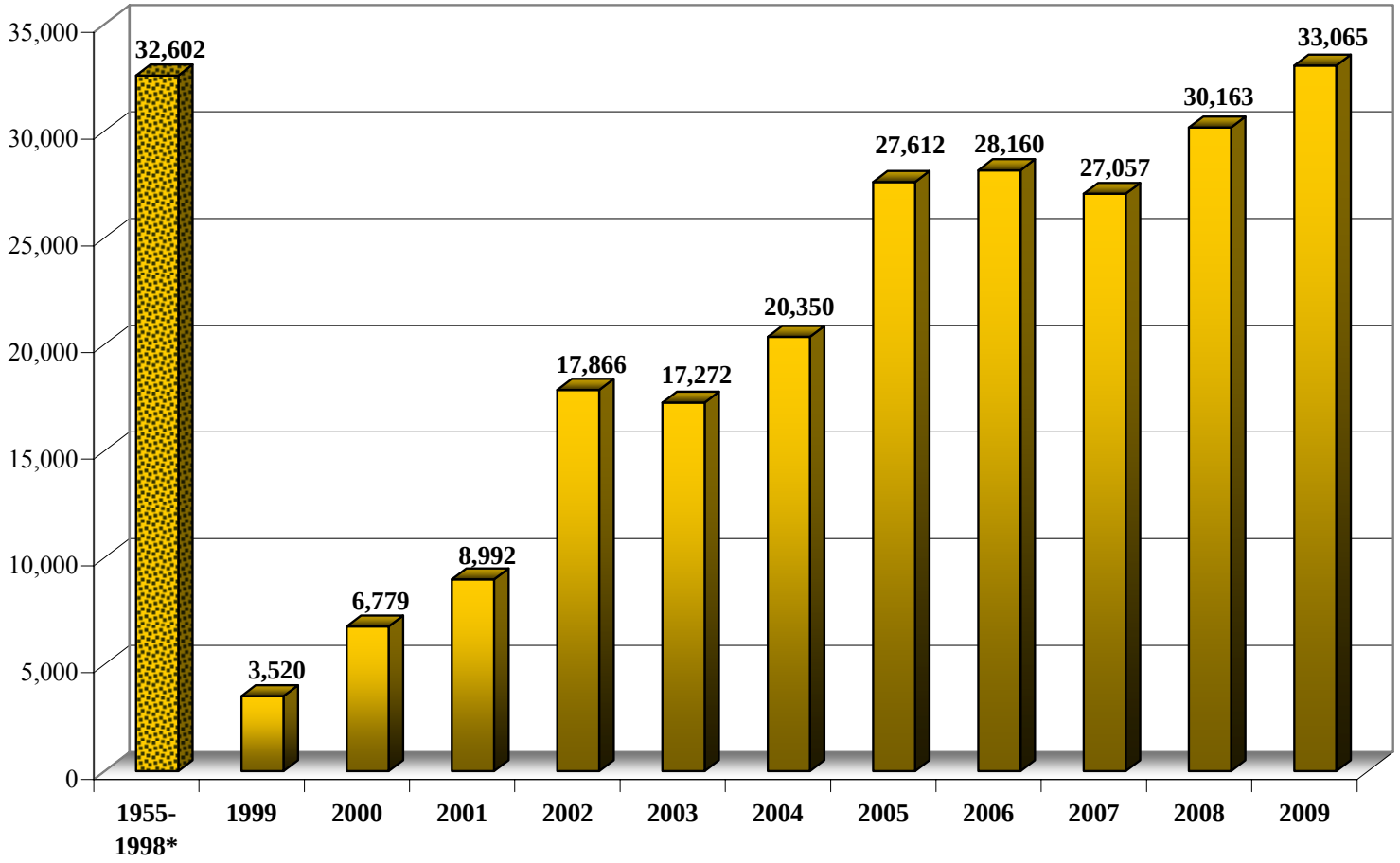
Violations by Article and by respondent State (1959-2009) (continued)

1959-2009	Total number of judgments	Judgments finding at least one violation	Friendly settlements/striking out judgments finding no violation	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	Right to a fair trial	Length of proceedings	No punishment without law	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to marry	Right to an effective remedy	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**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Malta	**27**	22	2		3							7	5	5		1		1				2	5				
Moldova	**168**	158	1	2	7			7	28	12		46	90	10		7	3	16	6		27		70		1		9
Monaco	**1**	1										1															
Montenegro	**1**	1																					1				
Netherlands	**124**	71	27	15	11		3	1	7			21	21	8		14		4			1	3	1				
Norway	**27**	20	7									1	9	2		3		5						1			
Poland	**767**	674	46	40	7	2	2		12	5		237	58	360		71		13	1		18	2	18				3
Portugal	**187**	123	5	56	3							2	16	71		3		9			1	1	26				
Romania	**648**	584	18	23	23	1	6	1	26	20		45	304	62	1	35		9	2		8	22	373		1		9
Russia	**862**	815	28	13	6	115	122	18	193	34		265	475	112		34	4	16	6		178	2	386	1	2	2	66
San Marino	**11**	8		2	1								7	2			1						1				
Serbia	**40**	37	2		1							4	12	16		7		4			14		10				
Slovakia	**208**	178	5	21	4	1	1		1			15	17	137		11		5			15	1	7				
Slovenia	**227**	217	7	3			2		2	1		2	2	209		2					199						
Spain	**78**	50	24	2	2				1	1		3	24	11	2	6		2				1					1
Sweden	**89**	43	20	23	3	1			1			2	25	11		6		2	1		2	1	5				
Switzerland	**91**	63	21	5	2		1					11	22	6		11	1	11		1	1	3					
"The former Yugoslav Republic of Macedonia"	**63**	58	3	2						4		3	11	40					1		4		4				
Turkey	**2,295**	2,017	46	204	28	76	129	24	175	74		436	657	357	4	69	1	182	39		209	3	544	4	5		29
Ukraine	**608**	602	3	2	1	2	6	1	31	10		49	396	133		16	3	4	1		122		289		2		5
United Kindgom	**422**	257	79	65	21	2	12		13			58	87	24	1	58		10	3	3	28	39	2	2	3		1
Sub-total		**10,156**	**687**	**1,047**	**320**	**217**	**304**	**56**	**607**	**190**	**1**	**1,629**	**3,207**	**4,008**	**21**	**652**	**30**	**392**	**98**	**4**	**1,187**	**152**	**2,215**	**9**	**39**	**8**	**175**
Total		**12,198****																									

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

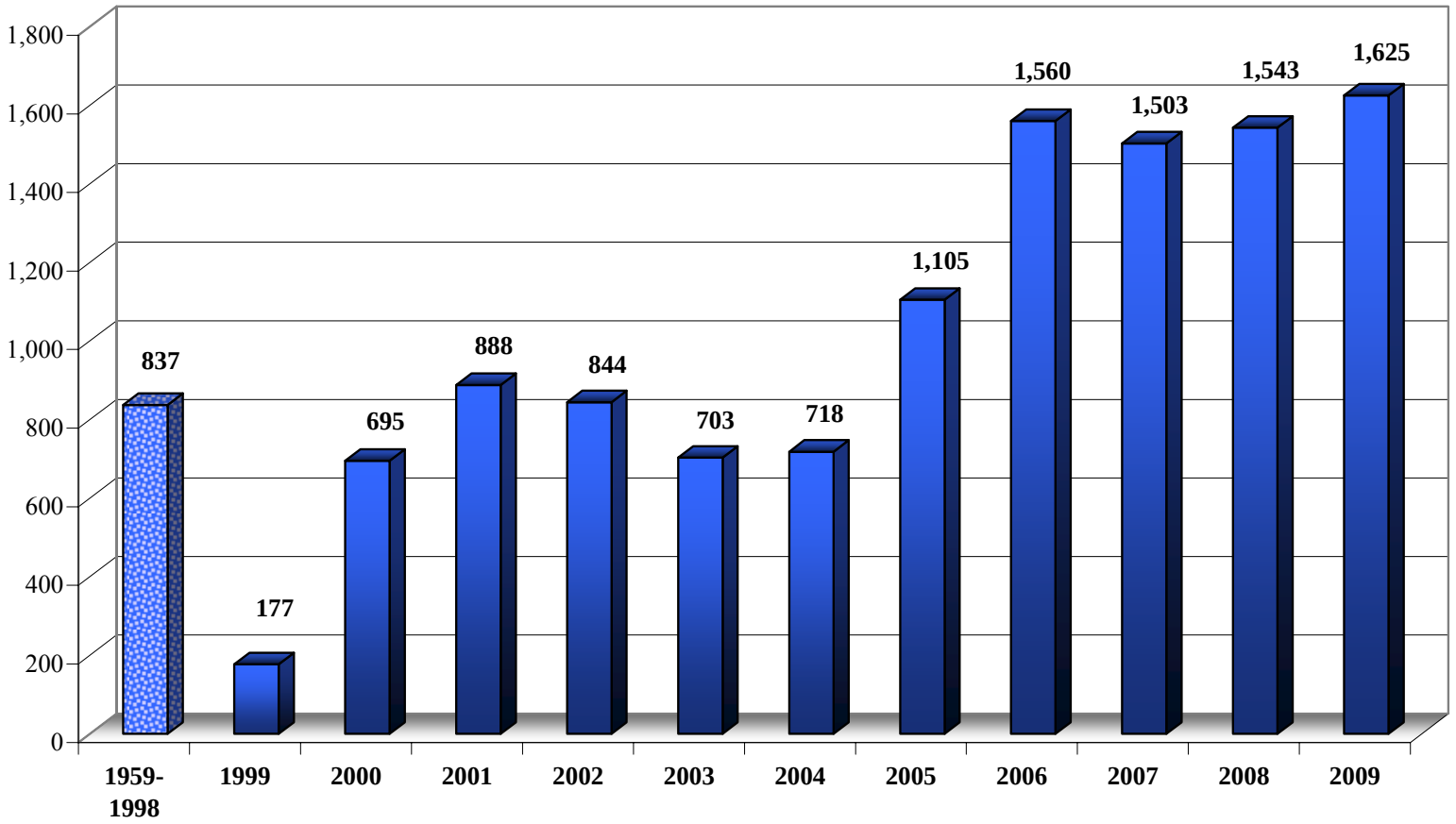
** Including twelve judgments which concern two respondent States: France and Spain (1992), Turkey and Denmark (2001), Hungary and Greece (2004), Moldova and Russia (2004), Romania and Hungary (2005), Georgia and Russia (2005), Hungary and Slovakia (2006), Hungary and Italy (2008), Romania and the United Kingdom (2008), Romania and France (2008), Albania and Italy (2009), and Montenegro and Serbia (2009).

Applications declared inadmissible or struck out (1955-2009)

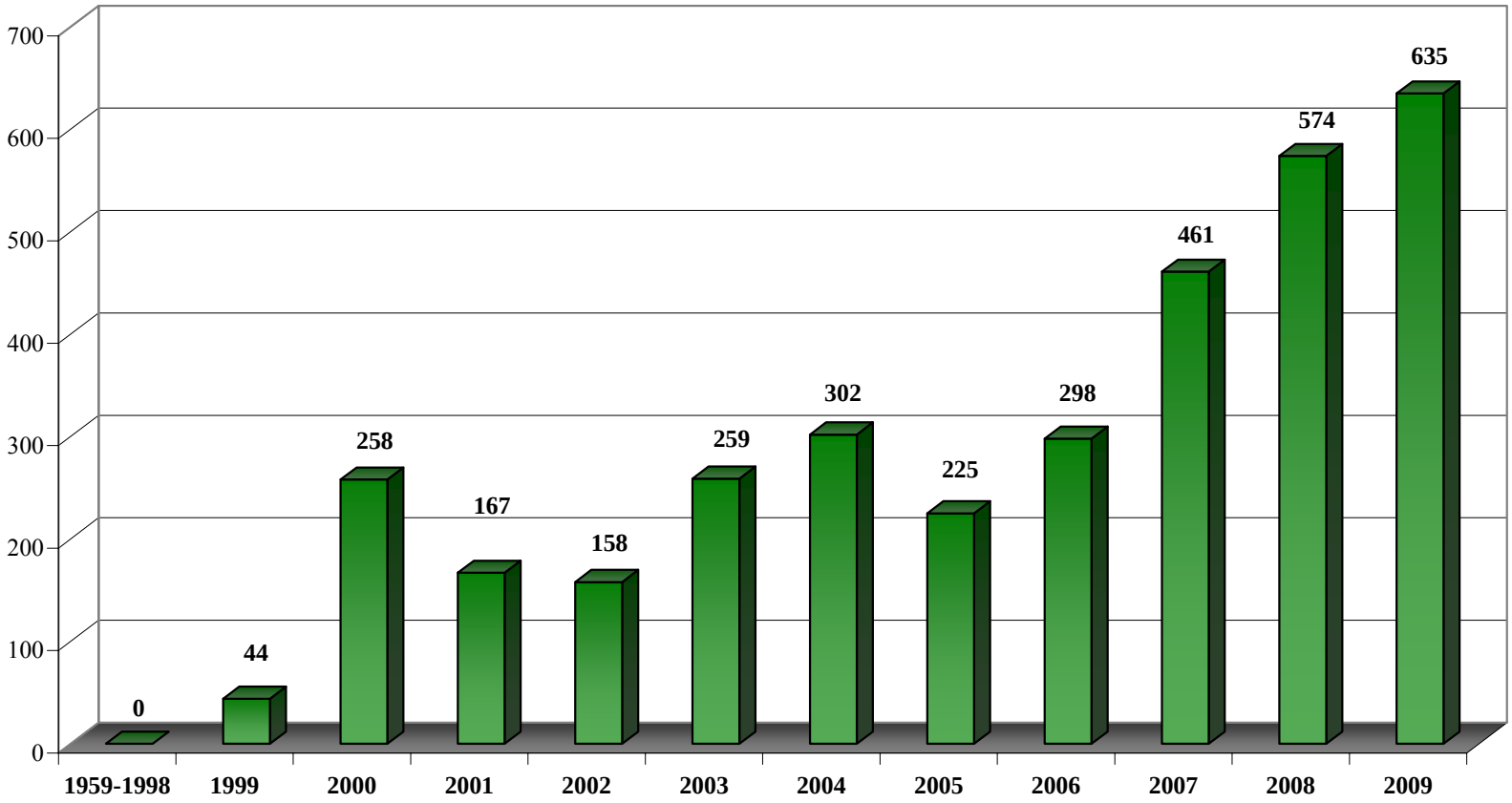


* European Commission of Human Rights

Judgments (1959-2009)



Applications struck out by a decision or judgment following a friendly settlement or unilateral declaration (1959-2009)



NB: Figures until 2002 may be incomplete.

Allocated applications by State and by population (2006-2009)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2006	2007	2008	2009	1/1/06	1/1/07	1/1/08	1/1/09	2006	2007	2008	2009*
Albania	52	55	75	99	3,127	3,153	3,170	3,169	0.17	0.17	0.24	0.31
Andorra	8	4	1	6	75	80	83	87	1.07	0.50	0.12	0.69
Armenia	98	614	106	125	3,216	3,226	3,230	3,090	0.30	1.90	0.33	0.40
Austria	344	329	373	410	8,266	8,299	8,332	8,357	0.42	0.40	0.45	0.49
Azerbaijan	221	708	334	361	8,388	8,533	8,630	8,934	0.26	0.83	0.39	0.40
Belgium	107	122	166	256	10,511	10,585	10,670	10,741	0.10	0.12	0.16	0.24
Bosnia and Herzegovina	243	705	971	621	3,842	3,884	3,843	3,760	0.63	1.82	2.53	1.65
Bulgaria	748	818	890	1,194	7,719	7,679	7,640	7,602	0.97	1.07	1.16	1.57
Croatia	640	558	608	755	4,443	4,441	4,435	4,432	1.44	1.26	1.37	1.70
Cyprus	56	63	66	59	766	779	795	802	0.73	0.81	0.83	0.74
Czech Republic	2,466	806	721	726	10,251	10,287	10,381	10,475	2.41	0.78	0.69	0.69
Denmark	68	45	73	63	5,427	5,447	5,476	5,519	0.13	0.08	0.13	0.11
Estonia	184	153	169	204	1,345	1,342	1,341	1,340	1.37	1.14	1.26	1.52
Finland	262	268	276	489	5,256	5,277	5,301	5,325	0.50	0.51	0.52	0.92
France	1,831	1,553	2,724	1,589	62,886	63,392	63,753	64,105	0.29	0.24	0.43	0.25
Georgia	105	162	1,771	2,122	4,361	4,400	4,382	4,219	0.24	0.37	4.04	5.03
Germany	1,601	1,483	1,572	1,515	82,438	82,315	82,222	82,062	0.19	0.18	0.19	0.18
Greece	371	384	416	518	11,125	11,172	11,215	11,263	0.33	0.34	0.37	0.46
Hungary	423	529	425	449	10,077	10,066	10,045	10,030	0.42	0.53	0.42	0.45
Iceland	12	9	7	10	300	308	314	321	0.40	0.29	0.22	0.31
Ireland	40	45	48	62	4,209	4,315	4,420	4,518	0.10	0.10	0.11	0.14
Italy	931	1,353	1,824	3,624	58,752	59,131	59,618	60,090	0.16	0.23	0.31	0.60
Latvia	268	232	248	326	2,295	2,281	2,271	2,261	1.17	1.02	1.09	1.44
Liechtenstein	1	5	8	14	35	35	35	36	0.29	1.42	2.26	3.92
Lithuania	204	226	255	261	3,403	3,385	3,366	3,350	0.60	0.67	0.76	0.78

Allocated applications by State and by population (2006-2009) (continued)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2006	2007	2008	2009	1/1/06	1/1/07	1/1/08	1/1/09	2006	2007	2008	2009*
Luxembourg	32	34	35	29	460	476	484	492	0.70	0.71	0.72	0.59
Malta	16	18	12	14	404	408	411	413	0.40	0.44	0.29	0.34
Moldova	517	889	1,147	1,322	3,604	3,581	3,573	3,576	1.43	2.48	3.21	3.70
Monaco	4	10	5	9	32	32	32	33	1.25	3.13	1.56	2.73
Montenegro	13	95	156	269	-	651	628	626	-	1.46	2.49	4.30
Netherlands	397	366	385	500	16,334	16,358	16,404	16,481	0.24	0.22	0.23	0.30
Norway	70	63	79	79	4,640	4,681	4,737	4,801	0.15	0.13	0.17	0.16
Poland	3,975	4,202	4,369	4,986	38,157	38,126	38,116	38,130	1.04	1.10	1.15	1.31
Portugal	215	134	151	152	10,570	10,599	10,618	10,632	0.20	0.13	0.14	0.14
Romania	3,310	3,168	5,242	5,260	21,610	21,565	21,529	21,497	1.53	1.47	2.43	2.45
Russia	10,132	9,493	10,146	13,666	143,821	142,221	142,009	140,367	0.70	0.67	0.71	0.97
San Marino	2	1	4	2	29	32	31	32	0.69	0.32	1.30	0.63
Serbia	595	1,056	1,067	1,576	8,118	7,398	7,374	9,856	0.75	1.43	1.45	1.60
Slovakia	487	349	488	569	5,389	5,394	5,401	5,411	0.90	0.65	0.90	1.05
Slovenia	1,338	1,012	1,353	598	2,003	2,010	2,026	2,053	6.68	5.03	6.68	2.91
Spain	361	310	393	641	43,758	44,475	45,283	45,853	0.08	0.07	0.09	0.14
Sweden	371	361	317	367	9,048	9,113	9,183	9,259	0.41	0.40	0.35	0.40
Switzerland	282	237	261	471	7,459	7,509	7,591	7,668	0.38	0.32	0.34	0.61
"The former Yugoslav Republic of Macedonia"	295	453	395	489	2,032	2,042	2,045	2,049	1.45	2.22	1.93	2.39
Turkey	2,328	2,828	3,706	4,474	72,520	69,689	70,586	71,517	0.32	0.41	0.53	0.63
Ukraine	2,482	4,499	4,770	4,693	47,075	46,466	46,373	45,433	0.53	0.97	1.03	1.03
United Kingdom	843	860	1,253	1,133	60,393	60,853	61,186	61,612	0.14	0.14	0.20	0.18

* The Council of Europe member States had a combined population of approximately 818 million inhabitants on 1 January 2009. The average number of applications allocated per 10,000 inhabitants was 0.7 in 2009.

Sources 2009: Eurostat ("Population and social conditions") or the United Nations Statistics Division.