

ANNUAL REPORT 2011

European Court
of Human Rights

ANNUAL REPORT 2011

Registry of the European Court
of Human Rights
Strasbourg, 2012

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FOREWORD

In 2010 the Interlaken Conference on the future of the Court reaffirmed the political commitment of the member States to and support for the Court. In 2011 this stance was essentially confirmed in Izmir during the Turkish chairmanship of the Committee of Ministers of the Council of Europe. These two conferences also opened up a number of avenues for further reform. Some of these have already been pursued by the Court in 2011. This will continue in 2012.

The Court was firstly asked to ensure, with the assistance of the States Parties, that comprehensive and objective information be provided to applicants on Convention case-law, in particular in relation to application procedures and admissibility criteria. The Court has been exploring new ways to improve the availability of information about its work so as to ensure that applicants take an informed decision and to facilitate proper application of the Convention at domestic level. Providing more information is clearly one way to counter the very large number of inadmissible applications. The Court has also produced a comprehensive admissibility guide which has been widely welcomed and is now in the process of being translated into different non-official languages. An important project for 2012 aims at including translations of the Court's most significant judgments in the HUDOC case-law database. At the same time, a new and more powerful search engine for HUDOC is being developed and should be available in 2012. It will permit more accurate and targeted searches of the case-law.

Another important aspect of the Interlaken Action Plan concerns filtering. The Court must make best use of the single-judge formation created by Protocol No. 14. The system has been in full operation since June 2010 and is proving to be probably the most effective of the procedural tools introduced by the Protocol. In 2011, 46,930 decisions were taken by single judges. Overall the number of striking-out and inadmissibility decisions has increased by 31% compared with 2010. Of course, despite these positive elements, the backlog continues to rise, increasing by some 12,300 in 2011.

To make the most of this new procedure, some structural changes in the Registry have been made. A Filtering Section has been created bringing together filtering teams working on applications made against the five States that account for the most new cases. The purpose of this change was to bring a degree of centralisation to the process, streamlining procedures and improving working methods. The results have been positive, as the figures quoted above show. In view of the success of the Filtering Section, its remit may be extended to more States.

The Interlaken Action Plan also refers to pilot judgments, with the Court being asked to develop clear standards for the pilot-judgment procedure. In

April 2011, following consultation with the Governments and civil society, the Court added Rule 61 to the Rules of Court to govern this procedure.

Interlaken stressed the interest in increasing recourse to friendly settlements and unilateral declarations, and the Court has acted on this point too. In 2010 there were more than 1,200 striking-out decisions on this basis (almost twice as many as in 2009). In 2011 there were more than 1,500. The increase in the number of unilateral declarations has been particularly striking. The Court has conducted a review of its practice regarding unilateral declarations with a view to clarifying and developing it further.

The Interlaken Action Plan called for measures to improve the transparency and quality of the selection procedure for judges. On the Court's initiative, the Committee of Ministers created an Advisory Panel to review the lists of candidates submitted by the member States. This procedure has already helped to ensure that each State's list is of the requisite standard.

The Action Plan called upon the Contracting States and the Council of Europe to grant to the Court, in the interest of its efficient functioning, the necessary level of administrative autonomy within the Council of Europe. In October the Committee of Ministers gave effect to this by adopting a resolution permitting the delegation of decision-making authority over most aspects of staff management to the Registrar of the Court.

The Court has been active in the follow-up process, and the results have been promising. It is still exploring other areas, such as improving its system for dealing with requests for interim measures under Rule 39 of the Rules of Court and a possible system of advisory opinions.

It is however no less important for the Contracting States to implement the parts of the Interlaken and İzmir Declarations that are addressed to them, in particular as concerns the effective execution of the Court's judgments. The extent to which they succeed in this task will be decisive for the future of the Convention system. I trust that they will prove themselves equal to the task, and as committed as the Court is to strengthening the protection of human rights in Europe.

Sir Nicolas Bratza
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, 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. I and II).

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 accept at their discretion. When the Convention came into force, only three of the original ten Contracting States accepted this right. By 1990, all Contracting States (twenty-two at the time) had accepted the right, which was subsequently accepted by all the central and east European States that joined the Council of Europe and ratified the Convention after that date. When Protocol No. 11 took effect in 1998, the right of individual petition became compulsory. In the words of the Court, “individuals now enjoy at the international level a real right of action to assert the rights and freedoms to which they are

directly entitled under the Convention”¹. This right applies to natural and legal persons, groups of individuals and to non-governmental organisations.

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

6. Where the respondent State had accepted the compulsory jurisdiction of the Court (this too having been optional until Protocol No. 11), the Commission and/or any Contracting State concerned by the application had a period of three months following the transmission of the report to the Committee of Ministers within which to bring the case before the Court for a final, binding adjudication including, where appropriate, an award of compensation (“just satisfaction”). Individuals were not entitled to bring their cases before the Court until 1994 when Protocol No. 9 came into force amending the Convention for those States that had accepted the Protocol, allowing 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 compensation to the victim. The Committee of Ministers also had responsibility for supervising the execution of the Court’s judgments. Protocol No. 11 made the Convention process wholly judicial, with the Commission’s function of screening applications transferred to the Court itself, whose jurisdiction became compulsory. The Committee of Ministers’ adjudicative function was abolished.

The Protocols to the Convention

7. Protocols Nos. 1, 4, 6, 7, 12 and 13 added further rights and liberties to those guaranteed by the Convention. Protocol No. 2 conferred on the Court the power to give advisory opinions, a little-used

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

function that is now governed by Articles 47 to 49 of the Convention¹. As noted above, Protocol No. 9 enabled individuals to seek referral of their case to the Court. Protocol No. 11 transformed the supervisory system, creating a single, full-time Court to which individuals have direct recourse. Further amendments to the system were introduced by Protocol No. 14 (see below). The other Protocols, which concerned the organisation of and procedure before the Convention institutions, are of no practical importance today.

B. Mounting pressure on the Convention system

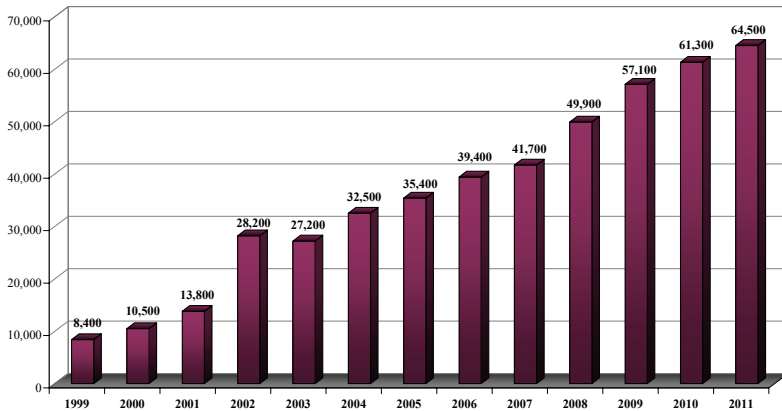
8. In the early years of the Convention, the number of applications lodged with the Commission was comparatively small, and the number of cases decided by the Court was much lower again. This changed in the 1980s, by which time the steady growth in the number of cases brought before the Convention institutions made it increasingly difficult to keep the length of proceedings within acceptable limits. The problem was compounded by the rapid increase in the number of Contracting States from 1990 onwards, rising from twenty-two to the current total of forty-seven. The number of applications registered annually with the Commission increased more than ten-fold between 1981 and 1997 (the last full year of operation of the original supervisory mechanism), leading to a considerable backlog of cases before it. 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 1997².

9. The graph below and the statistics in Chapter XII illustrate the current workload of the Court: at the end of 2011, more than 151,600 allocated applications were pending before the Court. As in previous years, four States account for over half (54.3%) of its docket: 26.6% of the cases are directed against Russia, 10.5% of the cases concern Turkey, 9.1% Italy and 8.1% Romania. Adding Ukraine (6.8%) and Serbia (4.5%), six States account for almost two-thirds of the caseload (65.6%).

1. 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. 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.

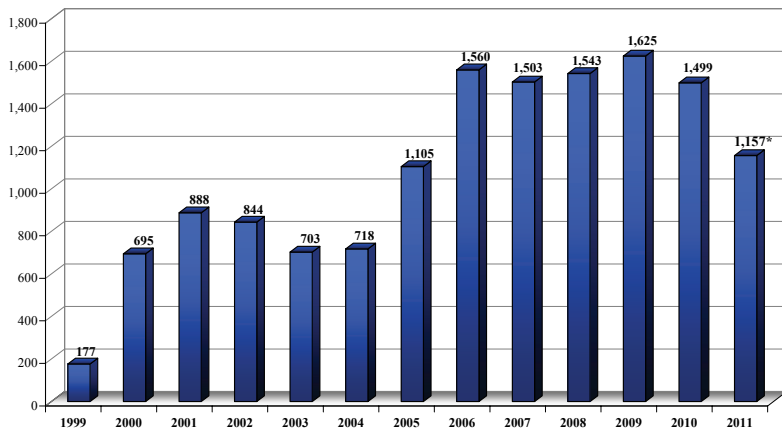
2. The Commission received more than 128,000 applications during its lifetime between 1955 and 1998. From 1 November 1998 it continued to operate for a further twelve months to deal with cases already declared admissible before Protocol No. 11 came into force.

Applications allocated to a judicial formation (1999-2011)



The following graph sets out the number of Court judgments since the entry into force of Protocol No. 11 for the period 1999 to 2011. The old Court delivered fewer than 1,000 judgments. The number of judgments delivered by the new Court exceeds 14,000.

Judgments (1999-2011)



* A judgment may concern more than one application.

In 2011, the highest number of judgments concerned Turkey (174), Russia (133), Ukraine (105), Greece (73), Poland (71), Romania (68) and Bulgaria (62). These seven States accounted for well over half (59%) of all judgments during the year.

10. Despite the large increase in the Court's output in 2011, the number of judgments has decreased. This is due to the fact that more applications were resolved by decision than by judgment. For example,

single judges took more than twice as many decisions in 2011 compared with the year before (over 46,900 compared with over 22,000 in 2010). Overall the number of striking-out and inadmissibility decisions increased by over 30% (from some 38,000 to some 50,000) compared with 2010.

Numerous applications, mostly concerning well-established case-law, tend to be resolved by a friendly settlement or unilateral declaration. In 2011 more than 1,500 applications were struck out in this manner, an increase of 25% compared with the previous year. This figure includes follow-up applications dealt with by decisions after the resolution of a pilot case concerning a systemic violation.

When dealing with repetitive cases, the Court frequently awaits the examination of a leading case to be able to process large groups of applications concerning the same issue. In 2011 the Court decided to adjourn more than 2,100 follow-up applications pending the outcome of a number of leading cases; this represents an increase of 300% compared with the previous year. Such adjourned applications may then be dealt with speedily either by a single-judge formation or a Committee of three judges.

The year 2011 also saw a decrease in the number of decisions on requests for interim measures, with approximately 350 being granted (a drop of 76% on the previous year) and approximately 1,800 refused (a 5% reduction on the previous year). Some 600 requests were considered to be out of the scope of Rule 39 of the Rules of Court.

C. Organisation of the Court

11. The provisions governing the structure and procedure of the Court are to be found in Section II of the Convention (Articles 19-51). The Court is composed of a number of judges equal to that of the Contracting States. Judges are elected by the Parliamentary Assembly of the Council of Europe, which votes on a shortlist of three candidates put forward by the States. Beginning in 2011, each State's shortlist is submitted in advance to an advisory panel of eminent national and European judges, who consider whether each of the candidates meets the criteria set down in the Convention¹. Judges serve a single term of office of nine years, with a mandatory retirement age of 70. However, they remain in office until replaced.

12. 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

1. Resolution Res(2010)26, adopted by the Committee of Ministers of the Council of Europe on 10 November 2010. The members of the panel were appointed in December 2010.

demands of full-time office. The relevant principles are set out in the resolution on judicial ethics adopted by the Court in 2008¹.

13. The Plenary Court has a number of functions that are stipulated in the Convention. It elects the office holders of the Court, namely, the President, the two Vice-Presidents (who also preside over a Section) and the three other Section Presidents. In each case, the term of office is three years. The Plenary Court also elects the Registrar and Deputy Registrar for a term of office of five years. The Rules of Court are adopted and amended by the Plenary Court. It also determines the composition of the Sections, and may request the Committee of Ministers to reduce the size of Chambers from seven judges to five for a fixed period.

14. 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 years².

15. Chambers are composed 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.

16. Committees of three judges are set up within each Section for twelve-month periods. Their principal function is to deal with cases covered by well-established case-law. Committees retain a residual competence as regards filtering, and are called on occasionally to deal with cases referred to them by a single judge for decision.

17. It is the single-judge formation that is now mainly responsible for filtering clearly inadmissible or ill-founded applications, these accounting for some 90% of all applications decided by the Court. The President of the Court initially designated twenty judges to perform this task for a period of one year, beginning on 1 June 2010. A second set of twenty judges was appointed to this function on 1 June 2011. They are assisted in their role by some sixty experienced Registry lawyers, designated by the President to act as rapporteurs, and acting under his authority. These judges continue to carry out their usual work on Chamber and Grand Chamber cases³.

18. The Grand Chamber of the Court is composed of seventeen judges, who include, as *ex officio* members, the President, Vice-

1. Available on the Court's website: www.echr.coe.int (see "The Court", "Judicial ethics").

2. The last change took place on 1 February 2011.

3. A judge may not act as single judge in a case against the country in respect of which he or she has been elected to the Court.

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 or more of the Convention rights. A notice for the guidance of applicants and the official application form are available on the Court's website. They may also be obtained directly from the Registry.

20. The procedure before the Court is adversarial and public. It is largely a written procedure¹. Hearings, which are held only in a very small minority of cases, are public, unless the Chamber/Grand Chamber decides otherwise on account of exceptional circumstances. Memorials and other documents filed with the Court's Registry by the parties are, in principle, accessible to the public.

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

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.

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

2. *The handling of applications*

23. All new applications are initially sifted by Registry lawyers who refer them to the appropriate judicial formation. An individual application that clearly fails to meet one of the admissibility criteria is referred to a single judge, who decides on the basis of a note prepared by or under the responsibility of a rapporteur. A decision of inadmissibility by a single judge is final. The single judge may decline to decide the case and refer it instead to a Committee or to a Chamber for examination.

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

25. Cases not assigned to either of the above formations will be dealt with by a Chamber, one of whose members will be designated as the judge rapporteur for the case. The judge elected in respect of the respondent State is automatically included in the Chamber. Where that judge is unable to take part in the examination of the case, an *ad hoc* judge will be appointed by the presiding judge¹. The procedure involves communicating the case to the Government to obtain its observations on the admissibility and merits of the application². The Government is normally given sixteen weeks to reply, with shorter time-limits applying to the later stages of the procedure. The Government's pleadings will be sent to the applicant for comment, and the applicant will also be requested to make his or her claim for just satisfaction at that stage. The applicant's comments and claims will be forwarded to the Government for its final observations, following which the judge rapporteur will present the case to the Chamber for decision. Where it finds a violation of one or more Convention rights, the Chamber will generally award compensation to the applicant in accordance with Article 41. It may also, in application of Article 46, provide guidance to the State regarding any structural problem giving rise to a finding of a violation and the steps that might be taken to resolve it. Chamber judgments are not immediately final. It is only once the period for requesting referral has passed without such a request being made, or when the parties waive

1. In accordance with Article 26 § 4 of the Convention, an *ad hoc* judge is selected from the list submitted by the State concerned. These lists have been published on the Court's website.

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

their right to make such a request, or a request has been rejected, that the judgment acquires final force.

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

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

E. Role of the Registry

28. The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. At the end of 2011 the Registry comprised 658 staff members. Registry staff are staff members of the Council of Europe and are thus subject to the Council of Europe's Staff Regulations. Approximately half the Registry staff are employed on contracts of unlimited duration and may be expected to pursue a career in the Registry or in other parts of the Council of Europe. They are recruited on the basis of open competitions. All members of the Registry are required to adhere to strict conditions as to their independence and impartiality.

29. 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 25 (e) of the Convention). The Registrar will, with effect from 1 January 2012, exercise certain staff management powers of the Secretary-General of the Council of Europe. These powers have been delegated to him by decision of the Committee of Ministers, implementing the decision taken at Interlaken to grant the Court a greater degree of administrative autonomy¹. The Registrar 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.

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

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

F. Budget of the Court

32. According to Article 50 of the Convention, the expenditure on the Court is to be borne by the Council of Europe. Under present arrangements, the Court does not have a separate budget, being financed out of the general budget of the Council of Europe which is approved each year by the Committee of Ministers. The Council of Europe is financed by the contributions of the forty-seven member States, which are fixed according to scales taking into account population and gross national product. The budget for the Court and its Registry amounted to 58.96 million euros in 2011.

1. Resolution Res(2011)9.

II. COMPOSITION OF THE COURT

COMPOSITION OF THE COURT

At 31 December 2011 the Court was composed as follows (in order of precedence)¹:

Name	Elected in respect of
Nicolas Bratza, President	United Kingdom
Françoise Tulkens, Vice-President	Belgium
Josep Casadevall, Vice-President	Andorra
Nina Vajić, Section President	Croatia
Dean Spielmann, Section President	Luxembourg
Lech Garlicki, Section President	Poland
Corneliu Bîrsan	Romania
Peer Lorenzen	Denmark
Karel Jungwiert	Czech Republic
Boštjan M. Zupančič	Slovenia
Anatoly Kovler	Russian Federation
Elisabeth Steiner	Austria
Elisabet Fura	Sweden
Alvina Gyulumyan	Armenia
Khanlar Hajiyev	Azerbaijan
Egbert Myjer	Netherlands
Davíð 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
George Nicolaou	Cyprus
Luis López Guerra	Spain
András Sajó	Hungary
Mirjana Lazarova Trajkovska	“The former Yugoslav Republic of Macedonia”
Ledi Bianku	Albania
Nona Tsotsoria	Georgia
Ann Power-Forde	Ireland
Zdravka Kalaydjieva	Bulgaria
Işıl Karakaş	Turkey
Mihai Poalelungi	Moldova
Nebojša Vučinić	Montenegro

¹. The seat of the judge in respect of Bosnia and Herzegovina is currently vacant.

Name	Elected in respect of
Kristina Pardalos	San Marino
Guido Raimondi	Italy
Ganna Yudkivska	Ukraine
Vincent A. De Gaetano	Malta
Angelika Nußberger	Germany
Julia Laffranque	Estonia
Paulo Pinto de Albuquerque	Portugal
Linos-Alexander Sicilianos	Greece
Erik Møse	Norway
Helen Keller	Switzerland
André Potocki	France

Erik Fribergh, Registrar

Michael O'Boyle, Deputy Registrar

III. COMPOSITION OF THE SECTIONS

COMPOSITION OF THE SECTIONS

First Section

<p>From 1 January 2011</p> <p><i>President</i> <i>Vice-President</i></p> <p>Christos Rozakis Nina Vajčić Anatoly Kovler Elisabeth Steiner Khanlar Hajiyev Dean Spielmann Sverre Erik Jebens Giorgio Malinverni George Nicolaou Søren Nielsen André Wampach</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>	<p>From 18 May 2011</p> <p>Nina Vajčić Anatoly Kovler Peer Lorenzen Elisabeth Steiner Khanlar Hajiyev George Nicolaou Mirjana Lazarova Trajkovska Julia Laffranque Linus-Alexandre Siciliano Søren Nielsen André Wampach</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>
<p>From 1 February 2011</p> <p><i>President</i> <i>Vice-President</i></p> <p>Nina Vajčić Anatoly Kovler Christos Rozakis Peer Lorenzen Elisabeth Steiner Khanlar Hajiyev George Nicolaou Mirjana Lazarova Trajkovska Julia Laffranque Søren Nielsen André Wampach</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>	<p>From 1 September 2011</p> <p>Nina Vajčić Anatoly Kovler Peer Lorenzen Elisabeth Steiner Khanlar Hajiyev Mirjana Lazarova Trajkovska Julia Laffranque Linus-Alexandre Siciliano Erik Møse Søren Nielsen André Wampach</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>

Second Section

From 1 January 2011		From 1 April 2011	
<i>President</i>	Françoise Tulkens	<i>President</i>	Françoise Tulkens
<i>Vice-President</i>	Ireneu Cabral Barreto	<i>Vice-President</i>	Danutė Jočienė
	Danutė Jočienė		David Thór Björgvinsson
	Dragoljub Popović		Dragoljub Popović
	András Sajó		Giorgio Malinverni
	Nona Tsotsoria		András Sajó
	Işıl Karakaş		Işıl Karakaş
	Kristina Pardalos		Guido Raimondi
	Guido Raimondi		Paulo Pinto de Albuquerque
<i>Section Registrar</i>	Stanley Naismith	<i>Section Registrar</i>	Stanley Naismith
<i>Deputy Section Registrar</i>	Françoise Elens-Passos	<i>Deputy Section Registrar</i>	Françoise Elens-Passos

From 1 February 2011		From 5 October 2011	
<i>President</i>	Françoise Tulkens	<i>President</i>	Françoise Tulkens
<i>Vice-President</i>	Danutė Jočienė	<i>Vice-President</i>	Danutė Jočienė
	Ireneu Cabral Barreto		David Thór Björgvinsson*
	David Thór Björgvinsson		Dragoljub Popović
	Dragoljub Popović		András Sajó
	Giorgio Malinverni		Işıl Karakaş
	András Sajó		Guido Raimondi
	Işıl Karakaş		Paulo Pinto de Albuquerque
	Guido Raimondi		Helen Keller
	Stanley Naismith		Stanley Naismith
<i>Section Registrar</i>	Françoise Elens-Passos	<i>Section Registrar</i>	Françoise Elens-Passos
<i>Deputy Section Registrar</i>		<i>Deputy Section Registrar</i>	

* Took up office of Vice-President of the Fourth Section and was replaced by Isabelle Berro-Lefèvre on 2 November 2011.

Third Section

From 1 January 2011	
<i>President</i>	Josep Casadevall
<i>Vice-President</i>	Elisabet Fura
	Corneliu Bîrsan
	Boštjan M. Zupančič
	Alvina Gyulumyan
	Egbert Myjer
	Ineta Ziemele
	Luis López Guerra
	Ann Power-Forde
<i>Section Registrar</i>	Santiago Quesada
<i>Deputy Section Registrar</i>	Marialena Tsirli

From 1 February 2011	
<i>President</i>	Josep Casadevall
<i>Vice-President</i>	Corneliu Bîrsan
	Alvina Gyulumyan
	Egbert Myjer
	Ján Šikuta
	Ineta Ziemele
	Luis López Guerra
	Nona Tsotsoria
	Mihai Poalelungi
	Kristina Pardalos
<i>Section Registrar</i>	Santiago Quesada
<i>Deputy Section Registrar</i>	Marialena Tsirli

Fourth Section

<p>From 1 January 2011</p> <p><i>President</i> <i>Vice-President</i></p> <p>Nicolas Bratza Lech Garlicki Ljiljana Mijović David Thór Björgvinsson Ján Šikuta Päivi Hirvelä Ledi Bianku Mihai Poalelungi Nebojša Vučinić Vincent A. De Gaetano Lawrence Early Fatoş Aracı</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>	<p>From 1 September 2011</p> <p>Nicolas Bratza Lech Garlicki Ljiljana Mijović Päivi Hirvelä George Nicolaou Ledi Bianku Zdravka Kalaydjieva Nebojša Vučinić Vincent A. De Gaetano Lawrence Early Fatoş Aracı</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>
<p>From 1 February 2011</p> <p><i>President</i> <i>Vice-President</i></p> <p>Nicolas Bratza Lech Garlicki Ljiljana Mijović Sverre Erik Jebens Päivi Hirvelä Ledi Bianku Zdravka Kalaydjieva Nebojša Vučinić Vincent A. De Gaetano Lawrence Early Fatoş Aracı</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>	<p>From 2 November 2011</p> <p><i>President</i> <i>Vice-President</i></p> <p>Lech Garlicki David Thór Björgvinsson Nicolas Bratza Päivi Hirvelä George Nicolaou Ledi Bianku Zdravka Kalaydjieva Nebojša Vučinić Vincent A. De Gaetano Lawrence Early Fatoş Aracı</p> <p><i>Section Registrar</i> <i>Deputy Section Registrar</i></p>

Fifth Section

From 1 January 2011		From 1 November 2011	
<i>President</i>	Peer Lorenzen	<i>President</i>	Dean Spielmann
<i>Vice-President</i>	Karel Jungwiert	<i>Vice-President</i>	Elisabet Fura
	Jean-Paul Costa		Jean-Paul Costa
	Mark Villiger		Karel Jungwiert
	Isabelle Berro-Lefèvre		Boštjan M. Zupančič
	Mirjana Lazarova Trajkovska		Mark Villiger
	Zdravka Kalaydjieva		Ann Power-Forde
	Ganna Yudkivska		Ganna Yudkivska
	Angelika Nußberger		Angelika Nußberger
	Julia Laffranque		André Potocki
	Claudia Westerdiek		Claudia Westerdiek
	Stephen Phillips		Stephen Phillips
<i>Section Registrar</i>		<i>Section Registrar</i>	
<i>Deputy Section Registrar</i>		<i>Deputy Section Registrar</i>	
From 1 February 2011		From 4 November 2011	
<i>President</i>	Dean Spielmann	<i>President</i>	Dean Spielmann
<i>Vice-President</i>	Elisabet Fura	<i>Vice-President</i>	Elisabet Fura
	Jean-Paul Costa		Karel Jungwiert
	Karel Jungwiert		Boštjan M. Zupančič
	Boštjan M. Zupančič		Mark Villiger
	Mark Villiger		Ann Power-Forde
	Isabelle Berro-Lefèvre		Ganna Yudkivska
	Ann Power-Forde		Angelika Nußberger
	Ganna Yudkivska		André Potocki
	Angelika Nußberger		Claudia Westerdiek
	Claudia Westerdiek		Stephen Phillips
	Stephen Phillips		
<i>Section Registrar</i>		<i>Section Registrar</i>	
<i>Deputy Section Registrar</i>		<i>Deputy Section Registrar</i>	

**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,
28 JANUARY 2011**

**SPEECH GIVEN BY MR JEAN-PAUL COSTA,
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OF THE JUDICIAL YEAR,
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Ladies and gentlemen,

On behalf of my colleagues and all the members of the European Court of Human Rights, I should like to thank you for honouring us with your presence at the official opening of our Court's judicial year. This is a sign of your attachment to human rights, which are our common heritage, and your loyalty to our Court, whose *raison d'être* is to ensure that they are respected and developed across the whole continent.

Before sharing a few thoughts with you, I should like to welcome our guest of honour, Mr António Guterres, United Nations High Commissioner for Refugees and former Prime Minister of Portugal. I am grateful to you, High Commissioner, for accepting our invitation. Your presence highlights the universal and topical nature of refugee protection, and also the practical links we are seeking to develop with the United Nations bodies and institutions working in the field of justice and fundamental rights. We will listen very attentively to what you have to say, especially in view of the delicate and important task of the High Commissioner's Office in assisting asylum-seekers, refugees and stateless persons.

I have a further preliminary announcement to make. It concerns the launch of a quite exceptional book about the European Court of Human Rights, published to celebrate its 50th anniversary and the 60th anniversary of the Convention by which it came into being. This is an important occasion. Never before have we had a high-quality reference book charting developments over the past few decades while looking firmly towards the future. This fine book is a collective effort. It was planned and produced under the guidance of an editorial board chaired by my colleague Egbert Myjer, with the assistance of several other judges and members of the Registry. The publication coordinator was Mr Jonathan Sharpe, a former member of the Registry. The book is published by Third Millennium Publishing in London, in English and French. Lastly, a very substantial contribution towards the funding of the book came from the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg, to which I should like to place on record our gratitude; the Ministry is represented here by Mr Georges Friden, Director of

Political Affairs. Without its contribution, the project could not have been completed. More broadly, I wish to thank everyone involved in producing the book, which is entitled *The Conscience of Europe*.

Lastly, I should mention, with a sense of collective pride, that on 29 May 2010 in Middelburg, in the presence of the Queen of the Netherlands, I received the Franklin D. Roosevelt Four Freedoms Award on behalf of the Court. More than just a reward, this high distinction is an encouragement for us.

Ladies and gentlemen, I would like to structure my thoughts this year around our Court's recent developments and future plans, before looking at the present state and the future of human rights in Europe.

The European Court of Human Rights, which became a permanent institution in 1998, has been undergoing reforms ever since, both through internal measures and as a result of institutional changes brought about by the States Parties. Emphasis should also be laid on the efforts made by States at national level that have facilitated the Court's task. I do not need to remind you that the Convention was established on the principle of shared responsibility. The member States undertook to guarantee the rights and freedoms set forth in the Convention. They collectively renewed this promise at Interlaken; I shall come back to this. In examining disputes brought before it, the Court determines whether these undertakings have been honoured; where this has not been the case, it reaches a finding of a violation of the Convention or the Protocols thereto. It will then be for the States concerned to execute the judgment, under the supervision of the Committee of Ministers of the Council of Europe; this requires them to take individual as well as general measures. Often, they will have to change their laws or practice, or the approach taken by their courts. When you think about it, this is a rather unusual process! It is understandable that there is sometimes resistance; I am happy to note that it fades over time.

This mechanism, an impressively bold innovation in 1950, has been constantly enriched over the years, first of all in terms of the nature and scope of the rights protected. There are now six additional Protocols in force complementing the substantive provisions of the Convention. Two of them have the supremely emblematic purpose of abolishing the death penalty, which now no longer exists in Europe. In addition, the case-law, which treats the Convention as a "living instrument", has favoured a dynamic interpretation of the rights it safeguards. This afternoon's seminar raised the question of the limits to this form of interpretation; in my view, an evolutive approach seems essential, otherwise the text of the 1950 Convention would have been rendered obsolete or ineffective as a result of changes in society and morals and

technological innovations. Who at the time could have imagined computers, the Internet, social networks, medically assisted procreation, gamete donation, transsexuality, or indeed the increasing importance of the environment and ecology?

Judicial protection of rights also requires procedures, which themselves have been amended several times. In the recent past, Protocol No. 11 abolished the European Commission of Human Rights, turned our Court into a permanent body and made the right of individual application and acceptance of the Court's jurisdiction automatic and compulsory aspects of procedure. As regards the long-awaited Protocol No. 14, which finally came into force on 1 June last year, it has created single-judge formations, assigned new powers to the three-judge Committees, made it possible to reduce the number of judges in a Chamber from seven to five, introduced a new admissibility criterion, empowered the Committee of Ministers to institute interpretation and infringement proceedings, and afforded the Commissioner for Human Rights the right to intervene as a third party.

The end of History as announced by Hegel, or more recently by Francis Fukuyama, does not appear imminent to me. Similarly, the history of the Convention seems far from complete. The fourteenth Protocol will certainly not be the last one. There are two main reasons for this, which are partly linked.

Firstly, the new procedures established by the Protocol, while necessary or even indispensable, are not sufficient. As was foreseeable and indeed foreseen, they do not in themselves make it possible to bridge the gap between the number of decisions delivered by the Court and the influx of applications lodged with it. I shall not overwhelm you with statistics. A single example will suffice: in 2010, the number of applications disposed of increased by 16% from 2009, without any additional resources, which is encouraging; however, alongside this, the number of new applications increased by 7%. At this rate, and bearing in mind the size of the backlog, it would still take many years to be wiped out. Although the effects of the single-judge procedure were only felt over a period of seven months in 2010, even over a full year they will not keep pace with the immensity of the task: we will need to go further. In any event, our Court, whose resources are scarcely increasing if at all, cannot devote most of its efforts and means to rejecting applications with no prospects of success; otherwise, the handling of serious and urgent cases would be delayed indefinitely. The Court has therefore set up a priority policy. There will be no immediate gains in purely statistical terms, but the cause of human rights and their effective protection will, on the other hand, benefit. We have to be clear on this point, so that all interested parties are aware and are not surprised over the next few years.

Secondly, the medium- and long-term future will involve changes that cannot take effect without amending the Convention, even if, as the Wise Persons' Report recommended in 2006, the amendment procedure needs to be simplified in future. As you know, a very important occasion in 2010 was the Ministerial Conference on the future of the Court, held in Interlaken, Switzerland, which I announced to you here a year ago, having suggested the idea the year before that. The conference was, in itself, a political success. In particular, it reaffirmed the States' attachment to the Convention and recognised "the extraordinary contribution of the Court to the protection of human rights in Europe", which is no mean tribute. It also adopted a Declaration, together with an Action Plan. I shall not go into the details of the measures recommended or envisaged in the two instruments. They make provision for decisions to be taken at various levels, stretching over a period of several years, from 2010 to 2019, and involving a range of different entities: the Court itself – and we have begun without delay; the States, which are responsible in the first place for protecting rights and freedoms at national level; and the bodies of the Council of Europe, in particular the Secretary General, the Committee of Ministers and the Parliamentary Assembly.

Several key words are particularly significant in the Declaration and Action Plan, illustrating the scale and variety of this pluriannual programme of reforms: subsidiarity; shared responsibility; clarity and consistency of the case-law; reduction in the number of clearly inadmissible applications; full and rapid execution of judgments; a Statute for the Court; greater autonomy for the Court within the Council of Europe (in the interests of efficiency); the crucial importance of its independence and impartiality; and systematic use of procedural tools (such as pilot judgments or friendly settlements). I wish to emphasise two aspects which I consider urgent: the setting up of a mechanism for effective *filtering* of applications – the vast majority of which, I would remind you, are rejected as inadmissible, a considerable and abnormal problem – and a radical reduction of the number of *repetitive applications*. Such applications are usually well-founded because they reflect systemic defects that should be remedied and eradicated at national level, so that clone cases of this kind would no longer be brought to Strasbourg in future. This would solve part of our problems regarding delays and processing times, and above all the principle of shared responsibility would be applied more fairly and effectively.

Since Interlaken, our Court has already taken steps, either alone or with the assistance of others, to increase its efficiency, despite the financial crisis which has deprived it of the additional resources it requires.

Without giving an exhaustive list, I would mention the development of *pilot judgments*, which are having an increasingly satisfactory effect, and clarification of the implications of such judgments; the adoption of the priority policy referred to earlier; new criteria and scales for the calculation of just-satisfaction awards under Article 41 of the Convention; and the adoption of a Practical Guide on Admissibility Criteria, designed to provide all interested parties with information about the conditions that must be satisfied for an application to have any chance of success.

Recently, on my initiative, the Committee of Ministers set up a Panel of Experts and appointed its seven members, several of whom are present, and I am pleased to welcome them; drawing inspiration from the panel established under the Lisbon Treaty for the appointment of judges and advocates-general of the Court of Justice, this panel, which has just met for the first time, is to advise States when drawing up lists of candidates submitted to the Parliamentary Assembly for election as judges of the Court. I can assure you that this is by no means a minor reform.

Short-term projects also include the enhancement of the tools at our disposal, in particular the HUDOC database, an essential resource not only for our own productivity and for maximum consistency of our case-law, but also for all practitioners, especially as a means of ensuring that national courts are familiar with our decisions and draw on them in their own rulings. I should point out that many States have provided the Court with valuable voluntary contributions, for which I thank them. Some are financial in nature and have, for example, enabled us to make webcasts of hearings available and to improve the Court's IT system – in particular, we will be able to develop the HUDOC case-law database thanks to contributions of this kind; others take the form of the secondment to the Registry of legal officers who come to help us and, when they leave, take back to their own countries' legal systems an extremely useful knowledge of the European Convention, based not on textbooks but on practice. This is a good example of *collaboration*, naturally on a wholly independent basis since we select the candidates, who are then overseen by experienced Registry lawyers, under the supervision of our judges.

This is perhaps the time to mention a serious obstacle to the Court's functioning, a problem which has recently worsened and which cannot be avoided without just such collaboration between all those involved in the system, whether State authorities or other entities. I am referring to the urgent measures provided for in Rule 39 of the Rules of Court, which are designed to avoid violations of the Convention that would be irreversible, and take the form of orders to the respondent State to take or to refrain from taking particular actions. The pre-eminent field in

which these interim measures are applied is that of the expulsion of aliens or the refusal of asylum requests, a subject which Mr Guterres will tell us about. It is not an exaggeration to say that the application of Rule 39 has preserved the physical integrity, the liberty and even the lives of many people who by definition are vulnerable. Rule 39 proceedings have developed considerably in the past few years; often, however, they confront the Court with a difficult or indeed impossible task. Decisions have to be taken as a matter of urgency, on the basis of a rudimentary case file, on whether to allow or refuse the expulsion or extradition of people to countries where they are at risk of serious violations of their rights. It is clear, as is confirmed by the Interlaken Declaration, that our Court cannot, without infringing the subsidiarity principle, assume the role of a third- or fourth-instance court; however, recourse to Rule 39, vital though it may be for the effectiveness of the rights at stake, is threatening to transform it into a first-instance immigration tribunal, while also taking up an excessive portion of its time and human resources, to the detriment of the examination of cases on the merits. It is time to come together to discuss these problems, which, it must be admitted, are a reflection of the state of fundamental freedoms in Europe and beyond; but to carry on as before without reviewing the situation would be irresponsible and harmful.

I cannot think about the future of our Court without emphasising the great importance of the European Union's accession to the European Convention on Human Rights. Envisaged in Brussels since the late 1970s, the Union's accession has been called for by its twenty-seven member States. This political decision was expressed in the Lisbon Treaty, which came into force on 1 December 2009, while Protocol No. 14 to the Convention made accession possible thanks to the unanimous consent of the forty-seven States Parties. Since last summer, the Council of Europe and the European Union have begun negotiations, in which the Court is taking part as an observer, on implementing this major decision in procedural terms. The issues to be resolved are not easy, since the Convention, which was drafted with States in mind, will apply to an organisation of twenty-seven States. But solutions will be found, I am sure. We discussed the matter very recently in Luxembourg at one of our regular meetings with our colleagues from the Court of Justice of the European Union; the meeting resulted in a joint communication by the Presidents of the two Courts, my friend Mr Vassilios Skouris, who is here today, and myself, with the aim of providing some guidance for the negotiators, who have received a copy of the document.

Ladies and gentlemen,

Having undergone a series of additions and amendments, the European Convention on Human Rights has stood the test of time. The

twelve States who signed it on 4 November 1950 have been joined by thirty-five others over the years, covering practically the entire continent, which constitutes an exceptional success. It forms part of the legal system of all member States. Litigants and their counsel rely on it, and the national courts interpret and apply it, under the ultimate supervision of our Court. Executives and legislatures take it into account and draw inspiration from it, at any rate much more than they did twelve years ago; this date serves as a useful reference point for me as an observer, since it coincides with my taking office as a judge in Strasbourg. The Convention is taught in the countries we cover, and not only as part of courses in law. Its 60th anniversary was celebrated in style at the Council of Europe last October, in the presence of the Secretary General of the United Nations, Mr Ban Ki-moon.

As for our Court, everyone is aware of its difficulties, largely arising from the hope it represents for eight hundred million Europeans, a hope which may, however, be too great because of a lack of sufficiently thorough information; hence the excessive number of applications with no prospects of success. We are trying to remedy this situation. Despite the Court's problems, it has unparalleled influence, authority and prestige. I am convinced that the process launched at Interlaken will be successfully pursued, thus preserving the future of the Court and hence of the protection system. At this juncture I wish to pay tribute to some 700 men and women – our forty-seven judges and the members of the Registry who assist them – for their dedication and the high quality of their work. Of course, to quote the poem by Aragon, “Man never truly possesses anything, neither his strength, nor his weakness ...”. All of us, therefore, must constantly strive to do better; it is only natural that we should be committed to this task.

Ladies and gentlemen, I promised – and this may come as a surprise – to reflect on *human rights*. A Convention and a Court, certainly; European – that goes without saying. But what about human rights? What does that mean? Or rather: what does it *still* mean, at the start of the twenty-first century?

We have come a long way since the Age of the Enlightenment, when, one hundred years after the British Bill of Rights and thirteen years after the American Declaration of Independence, the Constituent Assembly adopted the Declaration of the Rights of Man and of the Citizen. We have even moved on from the Universal Declaration, the fundamental instrument that inspired our Convention and, later on, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights. What are today's human rights, and those of the decades to come? What threats do they face, and what protective or preventive measures must be taken to counter those threats?

Answering these questions is no easy matter, and I do not claim to be giving anything other than a few outline replies, or even mere observations. I would note in passing that such questions have been asked by major writers, for example Mr Amartya Sen, Nobel Laureate in Economics, notably in a recent essay, *The Idea of Justice*.

First of all, an examination of the applications reaching Strasbourg indicates certain changes which are not insignificant. By way of example, since we are marking the opening of the judicial year, let us look at some important judgments delivered over the past year. I shall not always mention the conclusions reached by the Court, especially as some of the judgments are not final. But the subjects they concern are interesting.

Several recent cases have concerned general public international law, humanitarian law or the law of the sea. We had to adjudicate between an embassy employee's access to a court and the employer State's plea of immunity from jurisdiction (another case of the same type is pending). A person's conviction for war crimes committed in 1944 was challenged by him, mainly on the basis of the prohibition of retrospective application of the law; a case decided two years ago involved a similar complaint by a person convicted of crimes against humanity committed in 1956. As regards the law of the sea, two judgments delivered in 2010 concerned, in one case, the consequences of the arrest on the high seas of the crew of a ship engaged in drug trafficking and, in the other case, the arrest of the master of a ship that had caused an ecological disaster, who was deprived of his liberty and later released on bail. Human rights law has thus ventured beyond its traditional limits.

Private life, in the broad sense, has given rise to a large number of applications raising social issues. The applicants' contention that the State had a positive obligation to grant a same-sex couple the right to marry was rejected by the Court (the judgment is final). The Grand Chamber, without recognising a general right to abortion and while finding against two of the applicants, found that the third had suffered a violation of Article 8 because she had been unable to undergo a legal abortion in her country. The Grand Chamber also held that there would be a breach of Article 8 in the event of the enforcement of an order for a child to be returned to another country from which his mother had wrongfully removed him within the meaning of the Hague Convention. An applicant argued that the uncertainty of the law had deprived her of the right to home birth, and that her country should have enacted specific, comprehensive legislation. Very recently, another applicant contended that his country was under an obligation to supply him with medication enabling him to commit suicide in a safe and dignified manner. An application pending before the Grand Chamber concerns sperm and ova donation for *in vitro* fertilisation.

Several recent judgments have concerned the right to stand in elections under Article 3 of Protocol No. 1, or the right for a member of parliament to have his parliamentary immunity lifted, and a pending case raises the issue of the voting rights of a country's nationals living abroad.

Thus, besides the more typical disputes, many cases coming to Strasbourg, often important ones, relate either to other branches of international law, or to social issues relating to life, death, the family or sexual orientation, or to aspects of political and democratic life. Other recent or pending applications concern the delicate relations between religions, society and the State; and there are still large numbers of cases dealing with the balance to be struck between liberties and security, either in a general criminal context, or in the context of countering the dreadful scourge of terrorism. I shall not go into disputes concerning aliens, and more specifically the right to asylum – the specialist field of Mr Guterres, who will be talking about it with the particular authority deriving from his functions – other than to note that the Grand Chamber judgment in *M.S.S. v. Belgium and Greece*¹, concerning a case brought by an asylum-seeker, was delivered a few days ago. It has and will have significant consequences.

What conclusions can be drawn from the changes in the cases brought before the European Court of Human Rights, and more generally from the social observations to which such cases give rise? I can identify four main points.

Firstly, the State's duty to refrain from arbitrary interference in the exercise of rights and freedoms is increasingly being accompanied by *positive obligations*: the State must take the necessary steps to organise and facilitate the exercise of these rights and freedoms. Contrary to what is sometimes said, positive obligations are not a concept deriving purely from judicial interpretation. Significant traces of them can be found in the Convention itself. The law, and hence the State, has a duty to protect the right to respect for life; the right to a fair hearing – to which René Cassin attached vital importance, in relation to both the Universal Declaration and the Convention (Articles 10 and 6 respectively) – requires the public authorities to make a whole series of judicial and procedural arrangements; Article 13 of our Convention, of such great importance in the light of Interlaken, enshrines the right to an effective remedy, and thus an obligation for States to provide for means of redress in their own systems. It is true, however, that the case-law has developed the sphere of positive obligations, rightly so in my opinion, and this has certainly provided a source of arguments for our applicants.

1. [GC], no. 30696/09, 21 January 2011, to be reported in ECHR 2011.

Secondly, the relationship that existed in the minds of the Founding Fathers, and that can be found in the wording of the Preamble, between peace and democracy on the one hand, and justice and human rights on the other hand, is increasingly reflected in the applications being registered – and, more generally, in the state of rights and freedoms in Europe. However, this relationship often appears in a negative light. Conflicts at international level (or within nations) have either not ended, or their after-effects are still being felt, in several regions of our continent. Sometimes latent or dormant, they are at risk of resurfacing. They have given rise to a large number of actual or potential cases. For example, there are two inter-State applications pending before the Court, against a background of conflict, and there may well be others to come, which is certainly not a desirable state of affairs. Europe sometimes has trouble overcoming its past. We must hope that in the future, the “closer unity” set forth as an aim of the Council of Europe will be achieved by overcoming competing interests and passions. This will, of course, take time.

Thirdly, human rights violations, whether alleged or established, are nowadays often attributed not to the respondent State but to other individuals or groups. Of course, unfortunately, the public authorities and their officials continue to commit direct, and sometimes serious, violations of the Convention. But they no longer have a monopoly on them. The States’ positive obligations, which I have just mentioned, do not arise solely because the failure to take action may render freedoms more theoretical than practical. They may also come into being because the State, in guaranteeing collective security and social peace, has a legal and moral duty to protect everyone’s rights from anyone’s actions. Violence in all its forms, racism, xenophobia, domestic or professional exploitation, and discrimination of any kind cannot be tolerated by the authorities, and at all events require them to intervene, to protect the victims. This is not an entirely new idea: “Between the strong and the weak, it is freedom that oppresses and the law that sets free”, as Lacordaire said back in the nineteenth century. However, it is taking on renewed relevance: paradoxically, as a result of the financial and social crisis, the model of the Welfare State is becoming weaker, while that of the nightwatchman State is re-emerging, not only as the mere regulator and overseer of economic life, but as the protector of fundamental freedoms. Is this not another form of welfare? At any rate, it is no surprise that political and social trends should have an impact on the system of rights and on the foundations and applicability of State responsibility under our Convention. It is true that the “horizontal effect” resulting from our case-law has extended State responsibility, but is that really surprising? Such a development is entailed by the need to make rights effective and to afford them better protection.

The perception that may thus emerge of the new face of human rights calls, in my view, for two further and final observations.

Firstly, the Convention rightly calls not only for the protection of human rights but for their *development*. The first aim is crucial, and yet is not self-evident, since – despite the undeniable progress of democracy in Europe – rights and freedoms are never permanently secured; it thus remains essential to safeguard them. As to their development, or “further realisation” as the English version of the Convention puts it, this seems an equally desirable aim. It is an ideal that forms part of the “progress of the human mind”, as in the subject of Condorcet’s *Sketch for a Historical Picture*. Interpreting the Convention in a manner that is not static but dynamic contributes, as I have said, to this progress. However, I believe that the best way of achieving this aim lies in *deepening* rights. In this context, it is useful to bear in mind the adjective “*fundamental*”. It is found in the very title of our Convention, which is concerned with human rights and fundamental freedoms. Similarly, the European Union now has its own Charter of Fundamental Rights. Deepening rights will indisputably entail an increasingly exacting, rigorous approach to the setting of thresholds and standards, and to judicial review of their observance. On the other hand, the inflation or dilution of rights would result in weakening rather than actually developing them. Do we really need to be reminded that *not all rights of humans are human rights*? Or, as Sir Thomas Gresham said in the sixteenth century, in a different context, “bad money drives out good”; we must not become “counterfeiters”!

Secondly, the increasingly diverse nature of human rights violations should result in correspondingly diverse solutions to preventing and countering them. I attach importance to the role assigned by the Interlaken Conference to *civil society*. It called on the Committee of Ministers and the States Parties to consult with civil society “on effective means to implement the Action Plan”. This is necessary. Alongside the Council of Europe, the Court and the States Parties, non-institutional entities have extremely important tasks to perform. They can contribute to teaching citizenship and tolerance and providing legal training to potential applicants; they can display vigilance and solidarity in the face of threats to our liberties from whatever source; and they can remind people that the Convention and the Court, despite their considerable power of attraction, cannot resolve all problems in life. It is therefore above all at national level that civil society must be active, but the Court is naturally open to dialogue.

Ladies and gentlemen, human rights are not “a new idea in Europe”, as Saint-Just said of happiness. Nor are they, thankfully, an idea

belonging to the past. They must be preserved and developed. Let us all help each other to achieve that aim!

Thank you.

**V. SPEECH GIVEN BY
MR ANTÓNIO GUTERRES,
UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES,
ON THE OCCASION OF THE OPENING
OF THE JUDICIAL YEAR,
28 JANUARY 2011**

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

Thank you for inviting me to address this distinguished gathering, marking the opening of the judicial year. It is an honour for me as United Nations High Commissioner for Refugees, as a former member of the Parliamentary Assembly of the Council of Europe, and – most of all – as a citizen of Europe.

Mr President, the origins of the Council of Europe, of my Office and of this Court are intertwined. All were born out of the ruins of the Second World War, and all share a joint mission, and a joint vision, of respect for the rule of law and for human rights. My Office maintains a Representation here in Strasbourg in order to cooperate in the accomplishment of this mission, on behalf of refugees and stateless people in Europe.

UNHCR was established on 14 December 1950, just a few weeks after the European Convention on Human Rights was signed, and two years to the day after the proclamation of the Universal Declaration of Human Rights. Article 14 of that Declaration affirms the right of every person to seek and enjoy asylum from persecution. And although this right is not explicitly contained in the European Convention on Human Rights, your Court plays an indispensable role in ensuring protection from return to persecution or serious harm – in other words, in ensuring respect for the principle of *non-refoulement*.

That principle, contained in Article 3 of the European Convention on Human Rights, is also the corner-stone of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which together now have 147 States Parties. All European countries¹ have acceded to the Refugee Convention, but not all have national asylum systems which meet regional or international standards, and there are unfortunately still major situations of displacement in Europe. Yet when UNHCR was created, the United Nations General Assembly gave it just a three-year term to resolve refugee problems in Europe remaining from the Second

1. With the exception of Andorra and San Marino.

World War, and thereafter to disband. The hope that UNHCR would rapidly become redundant was short lived. Late last year we marked our 60th birthday, and this year we commemorate the 60th anniversary of the Refugee Convention.

In Europe alone, the 1951 Convention has provided a framework for the protection of millions of refugees, guaranteeing them not only safety but also the social and economic rights necessary to start new lives. However, the human rights agenda out of which UNHCR was born, and on which we depend, is increasingly coming under strain. The global economic crisis has brought with it a populist wave of anti-foreigner sentiment, albeit often couched in terms of national sovereignty and national security. At the same time, the changing nature of armed conflict is increasingly limiting the space for humanitarian action.

In this difficult environment, I am concerned about the emergence of protection gaps with respect to persons of concern to my Office. By protection gaps, I mean areas where existing provisions of international refugee law – and human rights law – are either not adequate in scope or are not applied in a sufficiently broad or inclusive way to protect victims of forced displacement. Our ability to address these gaps is complicated by the fact that, unlike other international human rights instruments, there is no treaty body to supervise the application of the 1951 Refugee Convention. And although Article 38 of that Convention allows parties to submit disputes relating to its interpretation or application to the International Court of Justice, this has never happened. Thus we must rely on UNHCR's supervisory role under Article 35 of the Refugee Convention, and on coherent legal interpretation and guidance from judicial bodies, whose role is to remain above the vagaries of public opinion, including in times of economic and social difficulty.

Mr President, you have pointed out that a large proportion of this Court's caseload concerns asylum issues. This highlights the unsettling fact that even in States party to both the 1951 Refugee Convention and the European Convention on Human Rights many asylum-seekers, refugees and other displaced people consider that their rights are not adequately respected. The volume of requests for interim measures, in particular from individuals who have fled conflict situations, reveals a gap in Europe's approach to the protection of victims of generalised violence.

Today we are witnessing some of the most intractable armed conflicts of modern history, creating displacement on a practically global scale, along with steadily diminishing space for humanitarian action. It has been reported that there were more than 300 armed conflicts in the second half of the twentieth century, involving a proliferation of State

and non-State actors, causing around 100 million deaths and countless millions of refugees and displaced persons.

It is therefore not surprising that one of the most important questions which European asylum authorities are grappling with today concerns the approach to be taken to persons seeking protection from the indiscriminate effects of generalised violence. Although it is now clearly recognised that persecution can emanate from non-State as well as State actors, a narrow interpretation of the refugee definition as well as of Article 3 of the European Convention on Human Rights and Article 15 (c) of the European Union Qualification Directive often leaves persons who have fled situations of violence without the protection they deserve. There is a certain irony in the fact that while European instances meticulously examine whether the intensity of an armed conflict or the individual level of risk is sufficient to justify granting protection, in Africa and Asia States are taking in hundreds of thousands of persons fleeing precisely the same situations.

In Europe last year, nearly 25% of asylum applicants came from just three countries in conflict: Afghanistan, Iraq and Somalia. I would like to dwell for a moment on the effects of the conflict in Somalia, which has been ongoing for twenty years. At the end of 2010, there were around 700,000 Somali refugees in more than 100 countries around the world, though more than 90% were in six countries in the East African region. Every month, 8,000 more flee Somalia. Within the country, one and a half million people are displaced and live in conditions so miserable that it is hard to find words to describe them. Those who try to flee risk drowning in the Gulf of Aden, perishing in deserts or being shot at trying to cross borders. Outside Somalia, they are often subject to security crackdowns, or face racism and xenophobia. Yet many are denied protection because decision-makers and national courts are not persuaded that they are *individually* at risk.

In the *Salah Sheekh v. the Netherlands* case¹, your Court addressed the degree of individual risk required in order to be protected under Article 3 of the Convention, and dismissed the restrictive interpretation put forward by the respondent State. The national court had rejected the asylum application of a Somali man, *inter alia*, because he failed to show that he was personally targeted by the violence in Mogadishu. Your Court found that belonging to a minority clan which was systematically at risk was sufficient to enjoy protection from *refoulement* under Article 3 of the European Convention on Human Rights, without having to demonstrate further distinguishing features.

Persons fleeing violence are also often told by European asylum authorities that they could have found safety in another part of their

1. No. 1948/04, 11 January 2007.

own countries – the so-called internal flight or relocation alternative. Your Court has also set out important safeguards for application of this concept, which refers to a specific part of an asylum-seeker's country of origin where he or she has no well-founded fear of persecution and can reasonably be expected to establish him or herself. The safeguards developed in the *Salah Sheekh* case have been incorporated by the European Commission in its proposal for recast of the European Union Qualification Directive, thereby demonstrating that your guidance is also crucial to addressing some of the normative gaps in the emerging common European asylum system.

This decision goes some way towards filling the protection gap which relates to persons fleeing conflict situations, but there are still a number of open issues. Our own research reveals great differences in the approach taken by European countries to asylum applications from persons fleeing internal or international armed conflict, and in particular disparities in the criteria used to assess the nature and intensity of violence and the resulting risks. We will follow with great interest the development of the case-law in this respect, and will remain available to provide information to the Court, based on our field experience, to help in your assessment of the risks against which human rights protection must be granted.

I should also note that the narrow approach taken by many States to the protection needs of persons fleeing conflict situations results in a growing number whose applications for protection are turned down, but who cannot be returned to their countries of origin. Such persons frequently end up in a situation of illegality and destitution, without access to basic rights. This in turn generates social tensions and criticism of government policies.

Alongside the problem of how to ensure protection of persons fleeing generalised violence, we also observe ongoing – I might even say expanding – efforts by States to deflect their protection obligations to other countries. Within Europe, the Dublin II Regulation establishes a system for identifying the State responsible for examining an asylum application. That system is based on the assumption, which is unfortunately not a reality, that an asylum-seeker's chances of finding protection are equivalent in all Dublin participating States.

Your Court has already clarified that the *non-refoulement* obligation under Article 3 of the European Convention on Human Rights also extends to indirect *refoulement* – that is, to return to a country from where there is a risk of onward return to ill-treatment. A little over ten years ago you confirmed that the operation of the Dublin Convention (now the Dublin II Regulation) did not affect States' responsibilities

under the ECHR¹. Your recent judgment in *M.S.S. v. Belgium and Greece*² reiterates this fundamental principle, and at the same time provides a vivid reminder of just how much still needs to be done to achieve a truly common European asylum system, in full respect of human rights.

We also observe that States are increasingly acting outside their territories in order to prevent irregular migration. Border management and the territorial scope of States' refugee protection and human rights obligations are issues which will no doubt require this Court's attention in future. It is UNHCR's long-held view that the obligations of States under international human rights treaties, including the 1951 Refugee Convention, prevail wherever the State exercises its jurisdiction, including outside its borders.

Mr President, this Court has addressed a number of issues not explicitly covered by the 1951 Refugee Convention – in particular with regard to how asylum procedures should be conducted. For example, the Eritrean journalist Asebeha Gebremedhin turned to this Court³ after his asylum application was rejected at the French border. By virtue of the interim measures of your Court, he was allowed to enter France and, a few months later, the authorities recognised him as a refugee in the sense of the 1951 Convention. In that case, the Rule 39 mechanism compensated for the absence of automatic suspensive effect of an appeal made in the accelerated asylum procedure at the border. In its judgment on the merits of the case, the Court found that such a procedural gap violated the right to an effective remedy guaranteed by the European Convention on Human Rights. This is extremely important, as a growing number of asylum applications are being dealt with in accelerated procedures, often at borders and frequently involving asylum-seekers who are held in detention.

It remains a matter of serious concern to me that persons seeking entry into Europe for the purpose of claiming protection are increasingly detained on immigration grounds, irrespective of their specific situation. Asylum-seekers who are detained for illegal entry or illegal stay benefit from fewer safeguards than persons suspected or convicted of criminal acts, for instance with regard to judicial review and to their conditions of detention. The safeguards set out by your Court against unlawful and arbitrary detention, as well as regarding conditions of detention, are therefore of great importance to asylum-seekers deprived of their liberty in Europe⁴. It is not unreasonable to expect that your Court will be

1. See *T.I. v. the United Kingdom* (dec.), no. 43844/98, ECHR 2000-III.

2. [GC], no. 30696/09, 21 January 2011, to be reported in ECHR 2011.

3. See *Gebremedhin [Gaberamadhien] v. France*, no. 25389/05, ECHR 2007-II.

4. See *Abdolkhani and Karimnia v. Turkey*, no. 30471/08, 22 September 2009.

called upon to provide further guidance regarding detention of asylum-seekers for the purpose of preventing their irregular entry.

I would be remiss if I did not also mention the situation of persons who flee, but remain within the borders of their own countries. As of the end of last year, there were still more than two million internally displaced persons in Europe – and more than 27 million worldwide. In the context of collaborative arrangements among United Nations agencies, UNHCR already plays the lead role with respect to the protection of persons internally displaced by conflict, and we are now also called upon to intervene when displacement is caused by natural disasters.

The United Nations Guiding Principles on Internal Displacement were derived from relevant international human rights instruments. However, no specific international instrument protects the rights of persons displaced within the borders of their own countries, whether by war or by natural disaster. In an encouraging development, the African Union recently adopted the Kampala Convention for the Protection and Assistance of Internally Displaced Persons. There is no similar regional instrument in Europe, although internally displaced persons on this continent enjoy protection of their fundamental rights through the European Convention on Human Rights. Your Court has on several occasions been called upon to address issues concerning the rights of internally displaced people, including the right of return as well as housing and property rights. While the number of cases brought to the Court by IDPs is still relatively low¹, in view of the protracted nature of internal displacement in Europe and the mounting frustration of the internally displaced, this number could rise.

Finally, let me mention a further area where protection gaps emerge, and where the complementarity of different bodies of law can help to fill them. Although it is not widely known, UNHCR has a global mandate for the prevention and reduction of statelessness and for the international protection of stateless persons. At the end of 2010, there were some six million persons known to be stateless worldwide, of whom around 600,000 in Europe. The real number may be much higher, as statelessness often goes unrecorded. And while the Refugee Convention enjoys broad ratification, only sixty-five States are party to the 1954 Convention relating to the status of stateless persons, and just thirty-seven to the 1961 Convention on the reduction of statelessness. Only twenty member States of the Council of Europe are party to both instruments.

1. See, among a few others, *Sagbinadze and Others v. Georgia*, no. 18768/05, 27 May 2010, or more recently *Soltanov and Others v. Azerbaijan*, nos. 41177/08 et al., 13 January 2011.

A person who is not regarded as a national by any State clearly faces a particular risk of human rights violations. Your Court has already dealt with a number of applications from stateless persons¹ and found that some of their rights under the European Convention on Human Rights had been violated. The Court may be called upon in future also to examine, under the Convention, the responsibility of the State for deprivation of nationality or for failing to resolve situations of statelessness.

Mr President, it is well known that this Court is the busiest international judicial body. Conscious of your workload, I sincerely hope that it will continue to be possible for individuals to continue to have effective access to the Court, as it is an important source of guidance on issues of principle as well as of legal protection for vulnerable people, including many to whom my mandate extends. The authority and the prestige of the Court have been reinforced both by its accessibility and by its ability to interpret and apply the European Convention on Human Rights as a “living instrument ... in the light of present-day conditions”².

Before concluding, I also wish to say how positive it is that the Court remains open to the views of others. Engagement with the judiciary, at national and regional levels, is a central part of my Office’s work. The practice of your Court to authorise and even to invite third-party interveners such as UNHCR allows broader perspectives to be brought to the Court. We appreciate this opportunity and are humbled by the responsibility it carries. It is also a source of great encouragement to us in the exercise of our supervisory role, and for the purpose of filling the protection gaps highlighted above, that the Court gives due weight to our views.

Mr President, ladies and gentlemen, it is nearly seventy years now since Hannah Arendt, in the middle of the Second World War, published her seminal essay entitled “We Refugees”, in which she developed the notion of “the right to have rights”. By working over the past fifty years to define and defend the rights of refugees, internally displaced and stateless people, your Court has helped to make this notion a reality. For this, we remain very grateful.

Thank you.

1. See list of cases at <http://www.unhcr.org/45179cbd4.html>.

2. See *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, § 121, ECHR 2005-I.

VI. VISITS

VISITS

7 January 2011	Chief Rabbi Israel Meir Lau, Israel
11 January 2011	Mr Yuji Iwasawa, Chairperson of the Human Rights Committee, Office of the United Nations High Commissioner for Human Rights
18 January 2011	Mr Božidar Đelić, Deputy Prime Minister, Serbia
21 January 2011	Mr Alexander Kononov, Minister of Justice, Russian Federation
24 January 2011	Mr Jean-François Robillon, President of the National Council, Monaco
27 January 2011	Mr Vasyl Onopenko, President of the Supreme Court, Ukraine Mr Fokion Georgakopoulos, President of the Council of State, Greece
28 January 2011	Mr Didier Migaud, First President of the Court of Audit, France Mr Georges Friden, Director General of Political Affairs, Ministry of Foreign Affairs, Luxembourg Mr António Guterres, United Nations High Commissioner for Refugees, Switzerland
3 February 2011	Mr Yuriy Chaika, Prosecutor General of the Russian Federation
14 February 2011	Mr Jean Castelain and Mr Jean-Yves Le Borgne, President and Vice-President of the Paris Bar Association, France
8 March 2011	Mr Angelino Alfano, Minister of Justice, Italy
15 March 2011	Mr Markus Löning, Federal Government Commissioner for Human Rights Policy and Humanitarian Aid at the Federal Foreign Office, Germany
17 March 2011	Mr Harold Koh, Legal Adviser to the Department of State, United States
29 March 2011	Delegation from the Constitutional Court, Poland
1 April 2011	Mr Pavel Varvarovsky, Ombudsman, Czech Republic
11 April 2011	Cardinal Jean-Louis Tauran, France Patriarch Daniel of Romania

25 May 2011	Mr Ivo Opstelten, Minister of Security and Justice, and Mr Edward Vriends, Deputy Director of International and European Affairs, the Netherlands
15 June 2011	Mr Hrair Tovmasyan, Minister of Justice, Armenia
22 June 2011	Mr Serzh Sargsyan, President of Armenia
23 June 2011	Mr Dominic Grieve, Attorney General for England and Wales, United Kingdom Ms Sabine Leutheusser-Schnarrenberger, Federal Minister of Justice, Germany
27 June 2011	Mr Rfaaa Ben Achour, Minister Delegate to the Prime Minister, Tunisia
5 July 2011	Delegation from the Commission on a Bill of Rights, United Kingdom Mr Michel Mercier, <i>Garde des Sceaux</i> , Minister of Justice and Liberties, France
12 September 2011	Mr Vijay Rangarajan, Director for International Institutions, Foreign and Commonwealth Office, and Ms Clare Sumner, Director, Law and Rights, Ministry of Justice, United Kingdom
13 September 2011	Mr François Hollande, President of the General Council and MP of Corrèze, France
26 September 2011	Delegation from the Supreme Court of Austria
3 October 2011	Delegation from the Court of Justice of the European Union Mr Marian Lupu, Acting President of Moldova
4 October 2011	Delegation of Belgian parliamentarians
6 October 2011	Mr Mahmoud Abbas, President of the Palestinian National Authority
7 November 2011	Mr Katsumi Chiba, Justice of the Supreme Court of Japan, and Mr Naoki Onishi, Judge, Tokyo District Court, Japan
8 November 2011	Ms Ilze Brands Kehris, Chairperson, and Mr Morten Kjaerum, Director, European Union Agency for Fundamental Rights
9 November 2011	Mr Diego García Sayán, President of the Inter-American Court of Human Rights
23 November 2011	The Hon. Robert McClelland MP, Attorney-General of Australia

- 1 December 2011 Mr Sadullah Ergin, Minister of Justice, Turkey
Mr Nazım Kaynak, President, and Mr Aydın Boşgelmez, Secretary General, Court of Cassation, Turkey
- 6 December 2011 Mr Duško Marković, Deputy Prime Minister and Minister of Justice, Montenegro
- 9 December 2011 Mr Derek Walton, Government Agent, and Mr Rob Linham, Ministry of Justice, United Kingdom

In addition to the visits of the dignitaries listed above, the Court also organised 74 study visits (held over one or more days) for a total of 1,645 participants and received 619 groups, totalling 16,398 visitors, mostly connected with the legal professions. In 2011 the Court welcomed a total of 18,043 visitors from 129 countries (compared with 19,378 visitors in 2010).

**VII. ACTIVITIES OF THE GRAND CHAMBER,
SECTIONS AND SINGLE-JUDGE FORMATIONS**

ACTIVITIES OF THE GRAND CHAMBER, SECTIONS AND SINGLE-JUDGE FORMATIONS

1. Grand Chamber

In 2011 15 new cases (concerning 17 applications) were referred to the Grand Chamber, 4 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 21 oral hearings. It delivered 13 judgments on the merits, 6 in relinquishment cases, 7 in rehearing cases.

At the end of the year 29 cases (concerning 36 applications) were pending before the Grand Chamber.

2. First Section

In 2011 the Section delivered 190 Chamber judgments for 281 applications. Of the other applications examined by a Chamber, 343 were declared inadmissible or struck out of the list.

In addition, the Section delivered 66 Committee judgments for 89 applications. 175 applications were declared inadmissible or struck out of the list.

Of the applications struck out of the list by the Section, 281 resulted in a friendly settlement or a unilateral declaration (this figure concerns both Chambers and Committees).

At the end of the year approximately 7,550 Chamber or Committee applications were pending before the Section.

3. Second Section

In 2011 the Section delivered 248 Chamber judgments for 313 applications. Of the other applications examined by a Chamber, 861 were declared inadmissible or struck out of the list.

In addition, the Section delivered 62 Committee judgments for 113 applications. 457 applications were declared inadmissible or struck out of the list.

Of the applications struck out of the list by the Section, 302 resulted in a friendly settlement or a unilateral declaration (this figure concerns both Chambers and Committees).

At the end of the year approximately 26,450 Chamber or Committee applications were pending before the Section.

4. Third Section

In 2011 the Section delivered 129 Chamber judgments for 143 applications. Of the other applications examined by a Chamber, 154 were declared inadmissible or struck out of the list.

In addition, the Section delivered 21 Committee judgments for 55 applications. 290 applications were declared inadmissible or struck out of the list.

Of the applications struck out of the list by the Section, 118 resulted in a friendly settlement or a unilateral declaration (this figure concerns both Chambers and Committees).

At the end of the year approximately 10,850 Chamber or Committee applications were pending before the Section.

5. Fourth Section

In 2011 the Section delivered 143 Chamber judgments for 195 applications. Of the other applications examined by a Chamber, 350 were declared inadmissible or struck out of the list.

In addition, the Section delivered 31 Committee judgments for 31 applications. 265 applications were declared inadmissible or struck out of the list.

Of the applications struck out of the list by the Section, 354 resulted in a friendly settlement or a unilateral declaration (this figure concerns both Chambers and Committees).

At the end of the year approximately 6,600 Chamber or Committee applications were pending before the Section.

6. Fifth Section

In 2011 the Section delivered 165 Chamber judgments for 183 applications. Of the other applications examined by a Chamber, 152 were declared inadmissible or struck out of the list.

In addition, the Section delivered 89 Committee judgments for 92 applications. 700 applications were declared inadmissible or struck out of the list.

Of the applications struck out of the list by the Section, 463 resulted in a friendly settlement or a unilateral declaration (this figure concerns both Chambers and Committees).

At the end of the year approximately 7,950 Chamber or Committee applications were pending before the Section.

7. Single-judge formation

In 2011 46,928 applications were declared inadmissible or struck out of the list by single judges.

At the end of the year, 92,050 applications were pending before that formation.

**VIII. PUBLICATION OF INFORMATION
ON THE COURT AND ITS CASE-LAW**

PUBLICATION OF INFORMATION ON THE COURT AND ITS CASE-LAW

A. Overview

The Court is currently in the process of implementing a series of changes intended, in particular, to further enhance access to its case-law. The most significant of these will undoubtedly be the planned replacement in the second quarter of 2012 of the current HUDOC database, which has been in service for over a decade, by a new, completely revised, system incorporating an array of features designed to make searching the database simpler and more efficient.

The Court has also sought to address the question of how to make its leading judgments and decisions more visible and easier to identify. To this end, from 2007 the number of cases selected for publication in the *Reports of Judgments and Decisions* has been reduced to approximately thirty a year so as to focus only on those cases of the highest jurisprudential interest. The revised selection (see section B.3.7. below) has been made under a new procedure whereby the Jurisconsult submits a list for approval by the Bureau of the Court. This procedure will also be followed in 2012. The list of cases selected for publication will be updated throughout the year and, once the new HUDOC is in place, all new cases selected for publication will appear in an enhanced 'e-Report' format in a special section of the HUDOC interface.

The Court has been aware too of the need to make as many materials as possible available in languages other than its two official languages of English and French. As part of an ongoing project in this area, it has continued to populate the database with third-party translations of judgments and decisions into non-official languages and has been actively involved in the production and dissemination of two important guides – the *Practical Guide on Admissibility Criteria* and, jointly with the European Union Agency for Fundamental Rights, the *Handbook on European non-discrimination law* – in a variety of different languages. In the same vein, a new Russian interface is planned for the new HUDOC database.

These changes reflect the Court's commitment to a wide and effective dissemination of its ever growing body of case-law and will, it is hoped, assist State authorities and legal professionals alike in achieving more effective implementation of Convention standards at national level, in line with the Interlaken and İzmir Declarations.

B. Communication tools

1. Website

The focal point of the Court's communication policy is the website (www.echr.coe.int), which recorded a total of over 264 million hits in 2011 (a 5% increase compared with 2010). The site is regularly refreshed, notably with news on developments in important cases, and users can subscribe to a selection of RSS news feeds for updates.

The website provides a wide range of information on all aspects of the Court and its work. Visitors to the site will find: details of the Court's composition, organisation and procedure; core Convention materials; statistical and other reports; and general information and videos on the Court and the Convention.

Information about cases before the Court can be found in the section on pending cases or through the Court's press releases, while hearings can be viewed through webcasts.

There are special sections for potential applicants and for groups wishing to visit the Court.

The website also hosts the HUDOC case-law database and provides details of the Court's publications, most of which can be downloaded free of charge directly from the site (see section 3 below).

Lastly, the website provides a gateway to the Court library website, which, though specialised in human rights law, also has materials on comparative law and public international law. The library website was consulted over 73,500 times in 2011, and its online catalogue, containing references to the secondary literature on the Convention case-law and Articles, was consulted over 175,000 times.

2. HUDOC Search Portal

The HUDOC Search Portal contains the full text of all the Court's judgments, of admissibility decisions (except those adopted by Committees and single-judge formations) and of the statements of facts, complaints and the Court's questions to the parties in certain pending cases. Resolutions of the Committee of Ministers relating to its examination of cases under Article 46 or under former Articles 32 and 54 of the Convention are also available.

HUDOC also provides access to translations of some of the Court's leading judgments in twenty languages in addition to the two official ones. It also offers links to over seventy online case-law collections maintained by third parties.

When it comes into service in 2012 the new HUDOC will offer an improved, more user-friendly interface, greater stability and a series of

new state-of-the art functionalities designed to facilitate searching. Users will be able to make complex searches using term clustering, to search across a variety of document types and languages, and to use intuitive “suggest-as-you-type” search terms.

3. Publications

3.1. Case-law Information Note

The *Case-law Information Note* provides a monthly round-up of the most significant developments in the Court’s case-law in the form of summaries of all pending Grand Chamber cases and of judgments, admissibility decisions and communicated cases considered to be of particular jurisprudential interest. The individual summaries are classified by reference to the Convention provision to which they relate and by keywords. The Information Note is available in English and French and can be consulted online or downloaded free of charge via the HUDOC search portal. A hard-copy format is also available for an annual subscription fee which covers all eleven issues and the annual index.

When the new HUDOC comes into operation, it will be possible to extract individual summaries from the monthly Information Note in which they appear and even to compile a user-generated Information Note containing summaries on a particular theme, such as freedom of expression.

3.2. Research reports and the Practical Guide on Admissibility Criteria

The Research Division is attached to the Jurisconsult’s Office and its task is essentially to provide research reports to assist the Grand Chamber and Sections in the examination of pending cases. In 2011 the Division prepared a total of 61 reports (33 on the Court’s case-law, 3 on international law and 25 on comparative law). So far, 7 of these Research reports – on positive obligations under Article 10, on Internet governance, on child sexual abuse and child pornography, on freedom of religion, on cultural rights, on the role of the public prosecutor outside the criminal-law field and on the use of Council of Europe treaties in the case-law of the Court – have been made available to the public on the Court’s website.

The Research Division also produced a second, updated edition of the French and English versions of the *Practical Guide on Admissibility Criteria*, which is intended to assist lawyers in advising their clients on their chances of bringing an admissible case to the Court and to discourage clearly inadmissible applications. The Guide can be downloaded free of charge from the Court’s website in the following

languages: English (second edition), French (second edition), Bulgarian, German, Greek, Italian and Spanish. Russian, Turkish and various other translations will follow.

3.3. Handbook on European non-discrimination law

In 2011 the Court and the European Union Agency for Fundamental Rights (FRA) completed their first joint project aimed at increasing awareness and domestic implementation of European Union law, the Convention and other legal instruments in the field of non-discrimination with the launch of this case-law handbook analysing the key principles developed by the European Court of Human Rights and the Court of Justice of the European Union in this area. The handbook is available free of charge on the Court's website in English, French, Bulgarian, Catalan, Czech, German, Hungarian, Italian, Polish, Romanian, Spanish and Turkish. Translations into a number of other languages are under way. An update of the case-law developments from July 2010 to October 2011 inclusive will be published shortly.

The Court has recently begun work on a second joint project with FRA with a view to producing a case-law handbook on European law in the area of asylum, immigration and border control.

3.4. Fact Sheets and Country Profiles

In addition to publishing press releases on Court cases and events, the Press Unit has also compiled a series of fact sheets and country profiles containing snapshots of the most interesting decided and pending cases by theme and by country. Both series can be downloaded free of charge from the Court's website in English and French.

The fact sheets currently cover some thirty-three themes, including children's rights, data protection, the environment, forced labour and trafficking, gender identity, mental health, new technologies, protection of journalistic sources, Roma and travellers, and violence against women. They enable readers to obtain a rapid overview of the most relevant cases on a given topic and are regularly updated to keep up with case-law developments.

The country profiles cover each of the forty-seven member States of the Council of Europe. In addition to general and statistical information on each State, they provide resumés of the most noteworthy cases concerning that State.

3.5. The European Court of Human Rights – Facts and Figures

This book was published in January 2011 and retraces the Court's activities and case-law since its foundation in 1959. The presentation of several hundred of the cases the Court has examined, together with

statistics for each State, paints an overall picture of the Court's work and the impact its judgments have had in the member States. It can be purchased online in English or French from Council of Europe Publishing at <http://book.coe.int> or be consulted (in two separate documents) in the statistics section of the Court's website.

3.6. Anniversary book

The Conscience of Europe: 50 Years of the European Court of Human Rights, a book marking the Court's 50th anniversary in 2009 and the Convention's 60th anniversary in 2010, was launched in English and French at the opening of the judicial year on 28 January 2011. This richly illustrated, large-format book was published in collaboration with the London publishers Third Millennium Information Ltd and was made possible by a generous contribution from the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg. This book groups a variety of individual contributions, including articles on sample judgments, around a skeleton retracing the main events over the last half-century. A Russian edition is also planned.

3.7. Reports of Judgments and Decisions

The *Reports of Judgments and Decisions* (cited in the case-law as ECHR) is an official collection of selected judgments and decisions of the Court published in English and French. The published texts are accompanied by summaries, and a separate annual index volume is also available. Details of the publishers can be found on the Court's website. With the launch of the new HUDOC in 2012, all new cases selected by the Jurisconsult for publication will also be published in a special 'e-Report' format available online. The Jurisconsult's selection of cases for publication for the years 2007-2011¹ is set out below. The final selection for 2012 will be published on the website.

Notes on citation:

By default, all references are to Chamber judgments. Grand Chamber cases, whether judgments or decisions, are indicated by "[GC]". Decisions are indicated by "(dec.)".

2007

Albania

Driza v. Albania, no. 33771/02, 13 November 2007 (extracts)

Armenia

Harutyunyan v. Armenia, no. 36549/03, 28 June 2007

1. This is a revised (shortened) list, approved by the Bureau, of the cases that were originally selected for those years by the Publications Committee.

Austria

Wieser and Bicos Beteiligungen GmbH v. Austria, no. 74336/01,
16 October 2007

Belgium

Hamer v. Belgium, no. 21861/03, 27 November 2007 (extracts)

Czech Republic

D.H. and Others v. the Czech Republic [GC], no. 57325/00, 13 November
2007

Finland

Vilho Eskelinen and Others v. Finland [GC], no. 63235/00, 19 April
2007

France

Gebremedhin [Gaberamadhien] v. France, no. 25389/05, 26 April 2007
Lindon, Otchakovsky-Laurens and July v. France [GC], nos. 21279/02 and
36448/02, 22 October 2007

Parti nationaliste basque – Organisation régionale d'Iparralde v. France,
no. 71251/01, 7 June 2007

Sultani v. France, no. 45223/05, 20 September 2007 (extracts)

Germany

Jorgic v. Germany, no. 74613/01, 12 July 2007

Hungary

Bukta and Others v. Hungary, no. 25691/04, 17 July 2007

Latvia

Sisojeva and Others v. Latvia (striking out) [GC], no. 60654/00,
15 January 2007

Lithuania

L. v. Lithuania, no. 27527/03, 11 September 2007

Netherlands

Ramsahai and Others v. the Netherlands [GC], no. 52391/99, 15 May
2007

Norway

Folgerø and Others v. Norway [GC], no. 15472/02, 29 June 2007

Poland

Tysiąc v. Poland, no. 5410/03, 20 March 2007

Portugal

Anheuser-Busch Inc. v. Portugal [GC], no. 73049/01, 11 January 2007

Romania

Beian v. Romania (no. 1), no. 30658/05, 6 December 2007 (extracts)

Russia

Tatishvili v. Russia, no. 1509/02, 22 February 2007

Switzerland

Stoll v. Switzerland [GC], no. 69698/01, 10 December 2007

Turkey

Islamic Republic of Iran Shipping Lines v. Turkey, no. 40998/98,
13 December 2007

United Kingdom

Copland v. the United Kingdom, no. 62617/00, 3 April 2007

Dickson v. the United Kingdom [GC], no. 44362/04, 4 December 2007

Evans v. the United Kingdom [GC], no. 6339/05, 10 April 2007

J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom [GC], no. 44302/02, 30 August 2007

O'Halloran and Francis v. the United Kingdom [GC], nos. 15809/02 and
25624/02, 29 June 2007

2008

34 member States of the Council of Europe

Boivin v. 34 member States of the Council of Europe (dec.), no. 73250/01,
9 September 2008

Austria

Maslov v. Austria [GC], no. 1638/03, 23 June 2008

Cyprus

Kafkaris v. Cyprus [GC], no. 21906/04, 12 February 2008

France

July and Sarl Libération v. France, no. 20893/03, 14 February 2008
(extracts)

Renolde v. France, no. 5608/05, 16 October 2008

Finland

K.U. v. Finland, no. 2872/02, 2 December 2008

Georgia

The Georgian Labour Party v. Georgia, no. 9103/04, 8 July 2008

Hungary

Korbely v. Hungary [GC], no. 9174/02, 19 September 2008

Vajnai v. Hungary, no. 33629/06, 8 July 2008

Italy

Saadi v. Italy [GC], no. 37201/06, 28 February 2008

Lithuania

Ramanauskas v. Lithuania [GC], no. 74420/01, 5 February 2008

Moldova

Guja v. Moldova [GC], no. 14277/04, 12 February 2008
Megadat.com SRL v. Moldova, no. 21151/04, 8 April 2008

Norway

TV Vest AS and Rogaland Pensjonistparti v. Norway, no. 21132/05,
11 December 2008

Poland

E.G. v. Poland (dec.), no. 50425/99, 23 September 2008 (extracts)

Russia

Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02,
11673/02 and 15343/02, 20 March 2008 (extracts)
Chember v. Russia, no. 7188/03, 3 July 2008
Dedovskiy and Others v. Russia, no. 7178/03, 15 May 2008 (extracts)
Ryakib Biryukov v. Russia, no. 14810/02, 17 January 2008
Shtukaturov v. Russia, no. 44009/05, 27 March 2008

Spain

Monedero Angora v. Spain (dec.), no. 41138/05, 7 October 2008

Turkey

Demir and Baykara v. Turkey [GC], no. 34503/97, 12 November 2008
Emine Araç v. Turkey, no. 9907/02, 23 September 2008
Salduz v. Turkey [GC], no. 36391/02, 27 November 2008
Yumak and Sadak v. Turkey [GC], no. 10226/03, 8 July 2008

Ukraine

Kovach v. Ukraine, no. 39424/02, 7 February 2008

United Kingdom

Burden v. the United Kingdom [GC], no. 13378/05, 29 April 2008
McCann v. the United Kingdom, no. 19009/04, 13 May 2008
N. v. the United Kingdom [GC], no. 26565/05, 27 May 2008
S. and Marper v. the United Kingdom [GC], nos. 30562/04 and
30566/04, 4 December 2008
Saadi v. the United Kingdom [GC], no. 13229/03, 29 January 2008

2009

Azerbaijan

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

Belgium

L'Erablière A.S.B.L. v. Belgium, no. 49230/07, 24 February 2009
(extracts)

Bosnia and Herzegovina

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

France

Gardel v. France, no. 16428/05, 17 December 2009

Ould Dah v. France (dec.), no. 13113/03, 17 March 2009

Germany

Appel-Irrgang and Others v. Germany (dec.), no. 45216/07, 6 October 2009

M. v. Germany, no. 19359/04, 17 December 2009

Italy

Enea v. Italy [GC], no. 74912/01, 17 September 2009

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)

Netherlands

“Blondje” v. the Netherlands (dec.), no. 7245/09, 15 September 2009

Coöperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. the Netherlands (dec.), no. 13645/05, 20 January 2009

Russia

Burdov v. Russia (no. 2), no. 33509/04, 15 January 2009

Danilenkov and Others v. Russia, no. 67336/01, 30 July 2009 (extracts)

Kimlya and Others v. Russia, nos. 76836/01 and 32782/03, 1 October 2009

Sergey Zolotukhin v. Russia [GC], no. 14939/03, 10 February 2009

Slovakia

K.H. and Others v. Slovakia, no. 32881/04, 28 April 2009

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

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

Turkey

Güveç v. Turkey, no. 70337/01, 20 January 2009 (extracts)

Kart v. Turkey [GC], no. 8917/05, 3 December 2009

Opuz v. Turkey, no. 33401/02, 9 June 2009

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

United Kingdom

A. and Others v. the United Kingdom [GC], no. 3455/05, 19 February 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

2010

Austria

Schalk and Kopf v. Austria, no. 30141/04, 24 June 2010

Belgium

Taxquet v. Belgium [GC], no. 926/05, 16 November 2010

Croatia

Oršuš and Others v. Croatia [GC], no. 15766/03, 16 March 2010

Cyprus and Russia

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

France

Depalle v. France [GC], no. 34044/02, 29 March 2010

Medvedyev and Others v. France [GC], no. 3394/03, 29 March 2010

Germany

Gäfgen v. Germany [GC], no. 22978/05, 1 June 2010

Schüth v. Germany, no. 1620/03, 23 September 2010

Uzun v. Germany, no. 35623/05, 2 September 2010

Iceland

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

Ireland

A, B and C v. Ireland [GC], no. 25579/05, 16 December 2010

Stapleton v. Ireland (dec.), no. 56588/07, 4 May 2010

Latvia

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

Lithuania

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

Malta

Gatt v. Malta, no. 28221/08, 27 July 2010

Moldova

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

Poland

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

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

Romania

Grosaru v. Romania, no. 78039/01, 2 March 2010

Russia

Korolev v. Russia (dec.), no. 25551/05, 1 July 2010

Spain

Mangouras v. Spain [GC], no. 12050/04, 28 September 2010

Switzerland

Neulinger and Shuruk v. Switzerland [GC], no. 41615/07, 6 July 2010

Schwizgebel v. Switzerland, no. 25762/07, 10 June 2010 (extracts)

Turkey

Demopoulos and Others v. Turkey (dec.) [GC], nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04 and 21819/04, 1 March 2010

Sinan Işık v. Turkey, no. 21924/05, 2 February 2010

United Kingdom

Al-Saadoon and Mufdhi v. the United Kingdom, no. 61498/08, 2 March 2010

Carson and Others v. the United Kingdom [GC], no. 42184/05, 16 March 2010

Gillan and Quinton v. the United Kingdom, no. 4158/05, 12 January 2010 (extracts)

Greens and M.T. v. the United Kingdom, nos. 60041/08 and 60054/08, 23 November 2010 (extracts)

O'Donoghue and Others v. the United Kingdom, no. 34848/07, 14 December 2010 (extracts)

2011

Armenia

Bayatyan v. Armenia [GC], no. 23459/03, 7 July 2011

Austria

Stummer v. Austria [GC], no. 37452/02, 7 July 2011

S.H. and Others v. Austria [GC], no. 57813/00, 3 November 2011

Belgium

RTBF v. Belgium, no. 50084/06, 29 March 2011

Belgium and Greece

M.S.S. v. Belgium and Greece [GC], no. 30696/09, 21 January 2011

Bulgaria

Ponomaryovi v. Bulgaria, no. 5335/05, 21 June 2011

Croatia

Durđević v. Croatia, no. 52442/09, 19 July 2011

Germany

Heinisch v. Germany, no. 28274/08, 21 July 2011

Schwabe and M.G. v. Germany, nos. 8080/08 and 8577/08, 1 December 2011 (not final)

Italy

Lautsi and Others v. Italy [GC], no. 30814/06, 18 March 2011

Giuliani and Gaggio v. Italy [GC], no. 23458/02, 24 March 2011

Lithuania

Paksas v. Lithuania [GC], no. 34932/04, 6 January 2011

Moldova

Megadat.com SRL v. Moldova (just satisfaction – striking out),
no. 21151/04, 17 May 2011

Netherlands

S.T.S. v. the Netherlands, no. 277/05, 7 June 2011

Poland

Association of Real Property Owners in Łódź v. Poland (dec.), no. 3485/02,
8 March 2011

R.R. v. Poland, no. 27617/04, 26 May 2011

Portugal

Karoussiotis v. Portugal, no. 23205/08, 1 February 2011

Romania

Giuran v. Romania, no. 24360/04, 21 June 2011

Russia

Kiyutin v. Russia, no. 2700/10, 10 March 2011

Finogenov and Others v. Russia, nos. 18299/03 and 27311/03,
20 December 2011 (not final)

Slovakia

V.C. v. Slovakia, no. 18968/07, 8 November 2011

Laduna v. Slovakia, no. 31827/02, 13 December 2011 (not final)

Spain

Palomo Sánchez and Others v. Spain [GC], nos. 28955/06, 28957/06,
28959/06 and 28964/06, 12 September 2011

Otegi Mondragon v. Spain, no. 2034/07, 15 March 2011

Switzerland

Haas v. Switzerland, no. 31322/07, 20 January 2011

Ukraine

Editorial Board of Pravoye Delo and Shtekel v. Ukraine, no. 33014/05,
5 May 2011

United Kingdom

Al-Skeini and Others v. the United Kingdom [GC], no. 55721/07, 7 July
2011

Al-Jedda v. the United Kingdom [GC], no. 27021/08, 7 July 2011

Bah v. the United Kingdom, no. 56328/07, 27 September 2011

Al-Khawaja and Tahery v. the United Kingdom [GC], nos. 26766/05 and
22228/06, 15 December 2011

Reserve list¹

Association "21 December 1989" and Others v. Romania, nos. 33810/07
and 18817/08, 24 May 2011

Ehrmann and SCI VHI v. France (dec.), no. 2777/10, 7 June 2011

Information on how to purchase the Court's *Reports of Judgments and Decisions* or to subscribe to the monthly information notes is available at www.echr.coe.int/ECHRpublications/en.

1. If any or all of the not-final judgments are referred to the Grand Chamber, judgments from the reserve list will be selected to take their place.

**IX. SHORT SURVEY
OF THE MAIN JUDGMENTS AND DECISIONS
DELIVERED BY THE COURT IN 2011**

SHORT SURVEY OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2011¹

Introduction

In 2011 the Court delivered a total of 1,157 judgments, compared with 1,499 judgments delivered in 2010. In fact, in 2011 a greater number of applications were resolved by a decision.

875 judgments were delivered by Chambers and 269 by Committees of three judges. 13 judgments on the merits were delivered by the Grand Chamber. 1,860 applications were declared inadmissible or struck out of the list by Chambers.

In 2011, 46.6% of all judgments delivered by a Chamber were categorised as being of high or medium importance in the Court's case-law database (HUDOC)². All Grand Chamber judgments are of high-level importance in HUDOC. In 2011, those judgments classed as importance level 1 or 2 represented 36.39% of all judgments delivered during the year, a slight increase when compared with the figure of 32.5% from the previous year. As to the rest, 736 judgments concerned so-called "repetitive" cases with a low level of importance (level 3).

The majority of decisions published in 2011 in the Court's case-law database concerned so-called "repetitive" cases.

Jurisdiction and admissibility

Obligation to respect human rights (Article 1)

Extra-territorial acts by a State Party to the Convention may engage its responsibility under the Convention in exceptional circumstances. One such exception is where a Contracting State exercises public powers normally exercised by a sovereign government, on the territory of another State. The case of *Al-Skeini and Others v. the United Kingdom*³ concerned acts which took place during the occupation of Iraq, in a

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

2. Level 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.

Level 2 = Medium importance – judgments which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law.

Level 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).

3. [GC], no. 55721/07, 7 July 2011, to be reported in ECHR 2011.

province in which the United Kingdom, as an occupying power, had responsibility for maintaining security. The deaths of civilians during security operations conducted by the British forces between May and November 2003 in that province were found to fall within the United Kingdom’s “jurisdiction” within the meaning of Article 1 of the Convention. The United Kingdom was therefore under an obligation to conduct an investigation meeting the requirements of Article 2 of the Convention into these events which, although they occurred outside its territory, fell within its “jurisdiction” in view of the exceptional circumstances of the case.

In the case of *Al-Jedda v. the United Kingdom*¹, the Court examined whether the internment of an individual in Iraq, ordered by the British forces which were stationed there at the time with the authorisation of the United Nations Security Council, was the responsibility of the United Nations or of the Contracting State. It analysed in particular the wording of the United Nations Security Council Resolutions defining the security regime applicable during the period in question. In this case, the applicant’s internment between October 2004 and December 2007 in a detention facility in Basrah, controlled exclusively by British forces, was found to fall within the United Kingdom’s territorial jurisdiction.

Admissibility conditions

Right of individual petition (Article 34)

Persons who were not themselves “victims” of an alleged violation of the Convention have been accorded standing by the Court in the past in the specific situations outlined in the decision in *Nassau Verzekering Maatschappij N.V. v. the Netherlands*². This decision establishes the principle that the right of individual petition is not a proprietary right, nor is it transferable as if it were. Hence, the right of application before the Court cannot be transferred by means of a deed of assignment.

Application substantially the same as a matter that has already been submitted to another procedure of international investigation or settlement (Article 35 § 2 (b))

Does the fact that an individual has previously lodged “infringement proceedings” against a member State before the European Commission make a similar application to the Court inadmissible? The judgment in *Karoussiotis v. Portugal*³ answered this question in the negative, finding that a similar application to this Court was not inadmissible on those grounds. The Court found that, in ruling on an individual’s complaint, the European Commission did not constitute another “procedure of

1. [GC], no. 27021/08, 7 July 2011, to be reported in ECHR 2011.

2. (dec.), no. 57602/09, 4 October 2011.

3. No. 23205/08, 1 February 2011, to be reported in ECHR 2011.

international investigation or settlement” within the meaning of Article 35 § 2 (b) of the Convention.

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

This was the first full year of application of this new admissibility criterion, which came into force on 1 June 2010. Under Article 35 § 3 (b) of the Convention as amended by Protocol No. 14, an application is to be declared inadmissible where the applicant has not suffered significant disadvantage, if respect for human rights as defined in the Convention and the Protocols thereto does not require an examination of the application on the merits, and if the case has been duly considered by a domestic court. The Court may apply Article 35 § 3 (b) of its own motion even where the application is not inadmissible under a different provision of Article 35 (*Ștefănescu v. Romania*¹).

The Court applied this new admissibility criterion in several rulings. The violation of a right, however real from a purely legal standpoint, must attain a minimum threshold of severity to justify examination by an international court; this threshold must be assessed on a case-by-case basis in the light of all the circumstances of the case.

The decision in *Ștefănescu* (cited above) was the first in which the damage alleged was non-pecuniary and the Court referred to the amount claimed in the domestic courts in assessing whether the applicant had suffered significant disadvantage.

In *Giuran v. Romania*², the Court introduced new factors to be considered in applying this admissibility criterion, namely the applicant’s emotional attachment to the property in question and the fact that the matter submitted to the domestic courts was a matter of principle for him.

“Core” rights

Right to life (Article 2)

The case of *Giuliani and Gaggio v. Italy*³ concerned the death of the applicants’ son and brother while he was taking part in clashes surrounding a G8 summit. The judgment given by the Grand Chamber clarified the notion of the use of force made “absolutely necessary” “in defence of any person from unlawful violence” within the meaning of Article 2 § 2 (a) of the Convention. In this case, the person in question had been killed during a sudden and violent attack which posed an imminent and serious threat to the lives of three law-enforcement *carabinieri*. The Grand Chamber reiterated States’ positive obligation to

1. (dec.), no. 11774/04, 12 April 2011.

2. No. 24360/04, 21 June 2011, to be reported in ECHR 2011.

3. [GC], no. 23458/02, 24 March 2011, to be reported in ECHR 2011.

take the necessary measures to protect life, particularly with regard to the legal and administrative framework defining the limited circumstances in which force could be used, in order to reduce the adverse consequences. The Convention provided no basis for concluding that law-enforcement officers should not be entitled to use lethal weapons to counter attacks such as the one in question. The Grand Chamber further reiterated States' obligations with regard to the organisation and planning of policing operations.

The obligation to conduct an effective and independent investigation for the purposes of Article 2 continues to apply even in difficult circumstances such as armed conflict. The judgment in *Al Skeini and Others* (cited above) extended this obligation to a Contracting State occupying a foreign and hostile region in the immediate aftermath of invasion and war, where there had been a breakdown in infrastructure. The Court acknowledged that this created practical difficulties for the investigating authorities of the occupying State. In such circumstances, the procedural duty under Article 2 had to be applied realistically, to take account of the specific problems faced by the investigators. Nonetheless, the fact that the State concerned was in occupation meant that it was particularly important that the investigating authority should be, and should be seen to be, operationally independent of the military chain of command. An investigation into the death of civilians carried out by an authority which was hierarchically separate from the soldiers implicated, but which was not independent from the military chain of command, was held to be in breach of Article 2.

The Court is aware of the difficulties faced by States in protecting their populations against terrorist violence. The judgment in *Finogenov and Others v. Russia*¹ (not final) concerned a situation in which the use of force in response to a terrorist hostage-taking was found to comply with Article 2. The Court examined in particular the circumstances in which the hostages had been evacuated and provided with medical assistance in the course of a rescue operation involving the use of gas inside an occupied building.

In its *Haas v. Switzerland*² judgment, the Court held that Article 2 obliged the national authorities to prevent an individual from ending his or her life unless the decision to do so was taken freely and in full knowledge of the facts. The right to life obliged States to put in place a procedure apt to ensure that a decision to end one's life did in fact reflect the free will of the party concerned. A patient who wished to commit suicide had sought permission to obtain a lethal drug without a prescription, by way of derogation from the legislation. The Court took

1. Nos. 18299/03 and 27311/03, 20 December 2011, to be reported in ECHR 2011.

2. No. 31322/07, 20 January 2011, to be reported in ECHR 2011.

the view that requiring a medical prescription, issued on the basis of a thorough psychiatric assessment, constituted a satisfactory solution.

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

The general issue of the *refoulement* of asylum-seekers under the European Union's Dublin II Regulation was examined in *M.S.S. v. Belgium and Greece*¹. The Grand Chamber stressed Contracting States' obligations under Article 3 of the Convention.

Regarding the conditions of detention of asylum-seekers, the Court did not underestimate the burden which the increasing influx of migrants and asylum-seekers placed on the States which formed the external borders of the European Union, or the difficulties involved in the reception of these persons on their arrival at major international airports. However, having regard to the absolute character of Article 3, this could not absolve a State of its obligations under that provision.

With regard to the European asylum system, the Court stated that, when they applied the Dublin II Regulation, States must make sure that the intermediary country's asylum procedure afforded sufficient guarantees to avoid an asylum-seeker being removed, directly or indirectly, to his or her country of origin without any evaluation, from the standpoint of Article 3, of the risks he or she faced.

The conditions to which an asylum-seeker had been subjected for months, living on the streets in a situation of extreme deprivation, unable to meet his most basic needs, in fear of being attacked and robbed and with no prospect of any improvement in his situation, had resulted in suffering which the Court held to be contrary to Article 3.

In its judgment in *Kashavelov v. Bulgaria*², the Court agreed with the European Committee for the Prevention of Torture that there was no justification for routinely handcuffing a prisoner in a secure environment. The case concerned a prisoner serving a life sentence who, over a thirteen-year period, had been handcuffed whenever he was outside his cell, even when taking his daily exercise. The Court observed that the authorities had not pointed to any specific incidents in which the applicant had tried to flee or harm himself or others. It concluded that he had been subjected to degrading treatment.

The case of *Đurđević v. Croatia*³ is the first concerning violence in school. The Court did not rule out the possibility that a member State might be held responsible under Article 3 and/or Article 8. While it was aware of the seriousness of the problem of violence in schools, it set

1. [GC], no. 30696/09, 21 January 2011, to be reported in ECHR 2011.

2. No. 891/05, 20 January 2011.

3. No. 52442/09, 19 July 2011, to be reported in ECHR 2011.

certain limits: for the State's obligations under Articles 3 and 8 to be triggered, the allegations of violence had to be specific and detailed as to the place, time and nature of the acts complained of. In this case, the complaint concerning the bullying of one of the applicants by his fellow pupils would have needed to be more specific.

In some cases, the attitudes of hospital medical staff gave rise to findings of a violation of Article 3:

In the case of *R.R. v. Poland*¹, the Court found for the first time that the attitude of hospital medical staff, which had caused acute anguish to a pregnant woman, amounted to treatment contrary to Article 3. The woman in question complained of the deliberate refusal of doctors opposed to abortion to carry out in good time the necessary genetic tests to which she was legally entitled, after preliminary tests had revealed a malformation of the foetus. Despite the statutory obligation of the health professionals to acknowledge and address her concerns, she had to endure six weeks of painful uncertainty concerning the health of the foetus. By the time the foetal abnormality was confirmed, the legal time-limit for carrying out an abortion had expired. The Court found that the applicant's suffering had reached the threshold of severity required for a violation of Article 3.

The Court found a violation of the fundamental rights of a twenty-year-old Roma woman on account of her sterilisation in a public hospital after the birth of her second child, in circumstances which deprived her of any possibility of giving her informed consent. The Court stressed patients' right to autonomy (*V.C. v. Slovakia*² judgment (not final)).

In its judgment in *Hristovi v. Bulgaria*³ (not final), the Court clarified an aspect of the procedural limb of Article 3. If the authorities were obliged to deploy masked police officers in order to carry out an arrest, the officers had to display an anonymous means of identification such as a number or a letter, so that they could be identified and questioned in the event of a challenge to the manner in which the operation had been conducted. Excluding certain kinds of psychological trauma inflicted by State agents from the scope of the criminal-law provisions resulted in those responsible being able to escape accountability and was therefore unacceptable. The Court expressed serious reservations about deploying masked and armed police officers to carry out an arrest at the family home, where it was highly unlikely that the security forces would encounter armed resistance.

1. No. 27617/04, 26 May 2011, to be reported in ECHR 2011.

2. No. 18968/07, 8 November 2011, to be reported in ECHR 2011.

3. No. 42697/05, 11 October 2011.

A violation of Article 3 on account of conditions of detention was found to have been aggravated by the fact that it came after an earlier judgment in which the Strasbourg Court had found a violation and had strongly urged the respondent State to release the persons concerned (*Ivanțoc and Others v. Moldova and Russia*¹ judgment (not final)).

Prohibition of slavery and forced labour (Article 4)

In the absence of a sufficient degree of consensus in Europe on the issue of the affiliation of working prisoners to the retirement-pension scheme, obligatory work performed by prisoners without their being affiliated to the scheme is to be regarded as “work required to be done in the ordinary course of detention” within the meaning of Article 4 § 3 (a) of the Convention. Thus, in *Stummer v. Austria*², the Grand Chamber ruled that the work performed by the applicant did not constitute “forced or compulsory labour” within the meaning of Article 4 § 2.

Right to liberty and security (Article 5)

Lawful detention

In its judgment in *Al-Jedda* (cited above), the Court assessed the compatibility with Article 5 § 1 of the indefinite internment without charge of the applicant by one of the occupying powers in Iraq on the ground that he represented a security risk. The respondent Government argued unsuccessfully that their obligations under Article 5 § 1 were displaced by the obligations arising out of a United Nations Security Council Resolution.

The continuing detention of the applicants after a judgment of the Strasbourg Court finding that their detention had been arbitrary and strongly urging the respondent State to release them immediately gave rise to an “aggravated” violation of Article 5 of the Convention in *Ivanțoc and Others* (cited above).

Length of pre-trial detention

In principle, neither Article 5 § 3 nor any other provision of the Convention creates a general obligation for a Contracting State to take into account the length of a period of pre-trial detention undergone in another State. The Court spelled this out for the first time in its judgment in *Zandbergs v. Latvia*³ (not final).

1. No. 23687/05, 15 November 2011.

2. [GC], no. 37452/02, 7 July 2011, to be reported in ECHR 2011.

3. No. 71092/01, 20 December 2011.

Review of the lawfulness of detention

In *S.T.S. v. the Netherlands*¹, an appeal on points of law lodged by the applicant against the decision refusing his request for release was declared inadmissible as being devoid of interest since the applicant had been released in the meantime. The Court's judgment finding a violation of Article 5 § 4 is important: even after being released, former prisoners may well still have a legal interest in the determination of the lawfulness of their detention, for instance in order to assert their right to compensation under Article 5 § 5.

Procedural rights

Right to a fair hearing (Article 6)

Divergences in the rulings of two different and independent Supreme Courts in the same country were examined by the Court for the first time in the Grand Chamber judgment in *Nejdet Şahin and Perihan Şahin v. Turkey*². The Court had already established certain principles in cases concerning divergences of interpretation within a single hierarchical judicial structure. However, as the legal context in issue in this case was different, those principles could not be transposed to it. Responsibility for the consistency of their decisions lay primarily with the domestic courts and any intervention by the Court should therefore remain exceptional. Divergences might be tolerated when the domestic legal system was capable of accommodating them. In any case, the core principle of legal certainty had to be respected.

In the *Al-Khawaja and Tahery v. the United Kingdom*³ judgment, the Grand Chamber explored at length the use during a criminal trial of evidence taken from witnesses who are absent because they have died or owing to fear. The Grand Chamber stressed that, in a criminal trial, the accused must have a real chance of defending himself by being able to challenge the case against him. The Court considered that, as a general rule, witnesses should give evidence during the trial and all reasonable efforts had to be made to secure their attendance. Thus, when witnesses did not attend to give live evidence, the judicial authority had a duty to enquire whether that absence was justified. Where a conviction was based solely or decisively on the evidence of absent witnesses, the Court had to subject the proceedings to the most searching scrutiny. The Court specified the criteria which should be applied in order to ensure the overall fairness of the proceedings in question from the standpoint of Article 6 § 1 read in conjunction with Article 6 § 3 (d). In every case in which an issue concerning the fairness of the proceedings arose in

1. No. 277/05, 7 June 2011, to be reported in ECHR 2011.

2. [GC], no. 13279/05, 20 October 2011.

3. [GC], nos. 26766/05 and 22228/06, 15 December 2011, to be reported in ECHR 2011.

relation to the evidence of an absent witness, the Court had to ascertain whether there were sufficient counterbalancing factors to compensate for the difficulties caused by the admission of such evidence and thus permit a fair and proper assessment of its reliability.

Right to an effective remedy (Article 13)

The Grand Chamber judgment in *M.S.S. v. Belgium and Greece* (cited above) concerned the existence of effective guarantees capable of protecting asylum-seekers against arbitrary *refoulement*. The Court had already stressed the importance of conducting proceedings swiftly in cases concerning ill-treatment by State agents. It added that this was all the more necessary in a case where the person concerned had lodged a complaint under Article 3 in the event of his deportation, had no procedural guarantee that the merits of his complaint would be given serious consideration at first instance, statistically had virtually no chance of being offered any form of protection and lived in a state of precariousness that the Court found to be contrary to Article 3.

Civil and political rights

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

Applicability

The judgment in *Haas* (cited above) concerned a particularly sensitive issue, namely a patient's desire to commit suicide. The right of an individual to decide how and when to end his own life, provided he was in a position to make up his own mind in that respect and to take the appropriate action, was found to be one aspect of his right to respect for his "private life".

The Court considered that denying a person citizenship could, in addition to its impact on family life, raise an issue under Article 8 because of the impact on "private life", which embraced some aspects of social identity (*Genovese v. Malta*¹ judgment (not final)).

The right of couples to have recourse to medically assisted procreation techniques in order to conceive a child was found to attract the protection of Article 8, as this choice was an expression of private and family life (*S.H. and Others v. Austria*² judgment).

Private and family life

In *Haas* (cited above), a patient wished to commit suicide without pain and without risk of failure. To this end, he sought permission to

1. No. 53124/09, 11 October 2011.

2. [GC], no. 57813/00, 3 November 2011, to be reported in ECHR 2011.

obtain a lethal substance without a medical prescription by way of derogation from the legislation. The Court observed that the great majority of member States appeared to place more weight on the protection of an individual's life than on the right to end one's life. Accordingly, States had a wide margin of appreciation in this sphere.

Three important judgments concerning individuals' health and physical integrity highlighted States' positive obligations in this regard:

The Court stressed the importance for pregnant women of having timely access to information on the health of the foetus, making it possible to determine whether the conditions for lawful abortion were met. The judgment in *R.R. v. Poland* (cited above) concerned a mother-to-be whose foetus was thought to have an abnormality. States had to provide effective mechanisms enabling pregnant women to have access to ante-natal diagnostic services, which are of crucial importance in making an informed decision as to whether or not to seek an abortion. States were obliged to organise their health services so as to ensure that effective exercise of the freedom of conscience of medical personnel in a professional context did not prevent patients from obtaining access to services to which they were legally entitled. The Court considered that the domestic provisions regulating the availability of lawful abortion should be formulated in such a way as to alleviate the "chilling effect" on doctors when deciding whether the conditions for lawful abortion had been met in an individual case.

As part of their positive obligation to ensure respect for private and family life, States had to put in place effective legal safeguards to protect reproductive health. The Court delivered its first judgment concerning sterilisation in the case of *V.C. v. Slovakia* (cited above), concerning a woman of Roma origin. Owing to the absence, at the time of the applicant's sterilisation, of safeguards giving special consideration to her reproductive health as a Roma woman, the State had failed to comply with its positive obligations.

The case of *Georgel and Georgeta Stoicescu v. Romania*¹ concerned a serious public-health issue and a real threat to public safety. Where a phenomenon had reached such a degree of severity in terms of public health and safety, the State's obligation to protect private life came into play. Article 8 obliged States to take the appropriate measures to protect individuals and provide redress. The Court noted, in particular, that stray dogs continued to be a major scourge in the country's cities, with thousands of people being bitten each year. Accordingly, it found a violation on account of the authorities' failure to protect a woman attacked by a pack of stray dogs.

1. No. 9718/03, 26 July 2011.

Medical science, and in particular infertility treatment involving medically assisted procreation techniques, was at the centre of the judgment in *S.H. and Others v. Austria* (cited above). This case concerned the prohibition under the Artificial Procreation Act of ovum donation for the purpose of artificial procreation and sperm donation for the purpose of *in vitro* fertilisation. In the Court's view, this field, which was subject to particularly dynamic development in science and law, had to be kept under ongoing review by the Contracting States. The Convention always had to be interpreted and applied in the light of current circumstances.

Correspondence

The judgment in *Mehmet Nuri Özen and Others v. Turkey*¹ added to the Court's case-law concerning the monitoring of prisoners' correspondence. Here, the Court dealt with a new aspect of potential importance to prisoners who are members of national minorities. Requiring prisoners to obtain in advance, at their own expense, translations of letters written in their native language, which was not understood by the prison staff responsible for checking the contents, was held to be in breach of Article 8. The Court found that this practice "resulted in a whole category of private correspondence of which prisoners might wish to take advantage being automatically excluded from the protection of that provision".

Freedom of conscience and religion (Article 9)

Applicability

Article 9 does not make express reference to the right to conscientious objection. However, opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or his deeply and genuinely held religious or other beliefs, constitutes a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9. This is the Court's position following its Grand Chamber judgment in *Bayatyan v. Armenia*². The question whether and to what extent opposition to military service falls within the scope of Article 9 must be addressed in the light of the specific circumstances of each case.

Freedom to manifest one's religion or beliefs

The case of *Bayatyan* (cited above) concerned a Jehovah's Witness who refused to perform military service because of his genuinely held religious beliefs. As no provision was made for the alternative civilian service he requested, he had to serve a term of imprisonment instead.

1. Nos. 15672/08 et al., 11 January 2011.

2. [GC], no. 23459/03, 7 July 2011, to be reported in ECHR 2011.

Almost all the member States of the Council of Europe which had ever had or still had compulsory military service had introduced alternatives to such service in order to reconcile the possible conflict between individual conscience and military obligations. Accordingly, a State which had not done so enjoyed only a limited margin of appreciation and had to advance convincing and compelling reasons to justify any interference. In particular, it had to demonstrate that the interference corresponded to a “pressing social need”.

Democracy required a balance to be achieved which ensured the fair and proper treatment of people from minorities and avoided any abuse of a dominant position. Thus, respect on the part of the State towards the beliefs of a minority religious group (like the Jehovah’s Witnesses) by providing them with the opportunity to serve society as dictated by their conscience was apt to ensure cohesive and stable pluralism and promote religious harmony and tolerance in a democratic society.

The conviction of the applicant had been in direct conflict with the official policy of reform and legislative change being implemented in the country concerned at the material time in pursuance of its international commitments as a member State of the Council of Europe and had not been necessary in a democratic society.

Freedom of expression (Article 10)

The dismissal of trade unionists following publication of a cartoon and articles considered insulting to two other employees and a manager was the subject of the Grand Chamber judgment in *Palomo Sánchez and Others v. Spain*¹. This is an important judgment as regards the scope of freedom of expression in the context of labour relations.

The case was examined from the standpoint of Article 10 read in the light of Article 11, since the applicants’ trade-union membership had not played a decisive role in their dismissal for serious misconduct. The Court held that the members of a trade union had to be able to express to their employer their demands by which they sought to improve the situation of workers in their company. However, a clear distinction had to be made between criticism and insult and the latter might, in principle, justify sanctions. The content of the impugned articles and cartoon had overstepped the limits of admissible criticism in labour relations. Although the matter had been one of general interest for the workers, the use of offensive cartoons and expressions, even in the context of labour relations, was not justified. The Court stressed that, in order to be fruitful, labour relations had to be based on mutual trust. This did not imply an absolute duty of loyalty towards the employer or

1. [GC], nos. 28955/06, 28957/06, 28959/06 and 28964/06, 12 September 2011, to be reported in ECHR 2011.

a duty of discretion to the point of subjecting the worker to the employer's interests. Nevertheless, certain manifestations of the right to freedom of expression that might be legitimate in other contexts were not legitimate in that of labour relations. An attack on the respectability of individuals by using grossly insulting or offensive expressions in the professional environment was, on account of its disruptive effects, particularly serious and capable of justifying severe sanctions. The Court held in this case that there had been no violation of Article 10 read in the light of Article 11.

The decision in *Donaldson v. the United Kingdom*¹ is the first ruling concerning a ban on the wearing of emblems by prisoners. The Court considered that some emblems, when displayed publicly in prison, could be a source of disturbances. Political and cultural emblems had many levels of meaning which could only fully be understood by persons with an in-depth understanding of their historical background. The Court therefore accepted that Contracting States must enjoy a wide margin of appreciation in assessing which emblems could potentially inflame existing tensions if displayed publicly by a prisoner. This margin of appreciation clearly had to go hand in hand with supervision by the Court.

In its judgment in *Otegi Mondragon v. Spain*², the Court examined the compatibility with Article 10 of the criminal conviction of a politician for insulting the King. The Court took the view that the principles laid down in its case-law concerning republican systems “[were] in theory also valid for a monarchical system”. The imposition of a prison sentence for an offence committed in the area of political discussion was compatible with freedom of expression only in exceptional cases, such as hate speech or incitement to violence, where there had been a serious infringement of other fundamental rights.

The judgment in *RTBF v. Belgium*³ dealt for the first time with a preventive measure in the sphere of television broadcasting. The case concerned a temporary ban on broadcasting a television documentary, imposed by the urgent-applications judge at the request of an individual named in the programme, pending the decision in a case concerning him. Prior restraints on broadcasting required a particularly strict legal framework, ensuring both tight control over the scope of bans and effective judicial review. News was a perishable commodity and to delay its publication, even for a short period, might well deprive it of all its interest. In this case, the legislative framework, taken together with the case-law of the courts, did not fulfil the condition of foreseeability required by the Convention.

1. (dec.), no. 56975/09, 25 January 2011.

2. No. 2034/07, 15 March 2011, to be reported in ECHR 2011.

3. No. 50084/06, 29 March 2011, to be reported in ECHR 2011.

Article 10 is to be interpreted as imposing a positive obligation on States to create an appropriate legislative framework to ensure effective protection of journalists using material obtained from the Internet. This principle was articulated for the first time in the judgment in *Editorial Board of Pravoye Delo and Shtetel v. Ukraine*¹. Some journalists were ordered to pay damages for having reproduced an anonymous letter that was held to be defamatory, taken from the Internet (and accompanied by a comment in which the editors indicated the source and distanced themselves from the text). The journalists were also ordered to publish a retraction and an apology, although the law made no provision for the latter. The Court concluded that the penalties imposed had not been “in accordance with the law” as required by the second paragraph of Article 10, in the absence of rules governing the reproduction by journalists of publications obtained from the Internet. Legislation on the publication of information from the Internet had to take account of the specific features of that technology, in order to safeguard and promote the rights and freedoms at stake.

The judgment in *Uj v. Hungary*² concerned the scope of freedom of the press when weighed against the right to a good reputation. The Court acknowledged the distinction between a company’s commercial reputation and an individual’s reputation, finding that, whereas damage to the latter could have repercussions on a person’s dignity, an attack on the commercial reputation of a company lacked a moral dimension.

For the first time, the Court applied the criteria established in its *Guja v. Moldova*³ judgment, which concerned a public servant, to private-sector employees reporting unlawful or criminal conduct by their employer. The Court found that a criminal complaint brought by the applicant against her employer, alleging shortcomings in the workplace, amounted to the signalling of illegal conduct or wrongdoing and thus attracted the protection of Article 10. Likewise, her subsequent dismissal, upheld by the domestic courts, constituted interference with the exercise of her right to freedom of expression. This judgment, in the case of *Heinisch v. Germany*⁴, recognised that the protection of the business reputation and interests of a company specialising in health care was subject to limits. Those interests were outweighed by the public interest in being informed of shortcomings in the provision of institutional care for the elderly.

1. No. 33014/05, 5 May 2011, to be reported in ECHR 2011.

2. No. 23954/10, 19 July 2011.

3. [GC], no. 14277/04, 12 February 2008, to be reported in ECHR 2008.

4. No. 28274/08, 21 July 2011, to be reported in ECHR 2011.

Freedom of assembly and association (Article 11)

For the first time, the Court addressed the issue of State interference in the internal organisation of a political party in the absence of any complaint by members of the party, and that of the dissolution of a party owing to the insufficient number of members and regional branches. The party in question had been dissolved on the ground that it had fewer than 50,000 members and fewer than 45 regional branches with over 500 members each, in breach of the Political Parties Act. The Court referred, *inter alia*, to the work of the Council of Europe's Venice Commission (*Republican Party of Russia v. Russia*¹).

Prohibition of discrimination (Article 14)

The Grand Chamber judgment in *Stummer* (cited above) concerned a prisoner who had worked for long periods while in prison, between the 1960s and 1990s. He complained of the fact that prisoners who worked were not affiliated to the retirement-pension scheme provided for by the General Social Security Act. In addition to the grounds explicitly mentioned, Article 14 also prohibited discrimination based on "other status", a category which covered prisoners. Prisoners who worked were in a situation "relevantly similar" to that of ordinary employees.

In *Kiyutin v. Russia*², the Court considered that the expression "other status" also covered a person's state of health, including his or her HIV-positive status. This judgment stated that persons living with HIV/AIDS constituted a vulnerable group in society and that States' margin of appreciation was narrow where they were concerned. Refusing to grant residence permits to persons living with HIV/AIDS did not reflect an established European consensus and had little support among the Council of Europe member States. Accordingly, the national authorities had to provide very compelling reasons for imposing such a restriction. In this case the Court found, on various grounds, that the State had exceeded its narrow margin of appreciation by refusing the applicant's residence application because he was HIV-positive.

The judgment in *Ponomaryovi v. Bulgaria*³ concerned the obligation for certain categories of aliens to pay school fees in order to have access to State secondary schools. The Court reiterated that very weighty reasons would have to be put forward before it could regard a difference of treatment based exclusively on the ground of nationality as compatible with the Convention. The right to education, which was indispensable to the furtherance of human rights, was directly protected by the Convention. It was a very particular type of public service, which benefited not only those who used it but also society as a whole, which

1. No. 12976/07, 12 April 2011.

2. No. 2700/10, 10 March 2011, to be reported in ECHR 2011.

3. No. 5335/05, 21 June 2011, to be reported in ECHR 2011.

needed to integrate minorities if it was to be democratic. Secondary education played an increasing role in social and professional integration. Indeed, in a modern society, having no more than basic knowledge and skills constituted a barrier to successful personal and professional development. The Court therefore took the view that the proportionality of national restrictions of this kind affecting State secondary education had to be subjected to closer scrutiny.

With regard to the allocation of social housing, when supply was not sufficient to meet demand, it was legitimate for the national authorities to lay down certain criteria, provided such criteria were not arbitrary or discriminatory. A distinction could justifiably be made on the basis of immigration status between persons applying for social housing. The judgment in *Bah v. the United Kingdom*¹ concerned legislation aimed at the fair allocation of a scarce resource by the authorities between different categories of claimants. The authorities had refused to grant priority to an application for social housing made by an immigrant whose minor son had been granted entry to the country on condition that he would not have recourse to public funds.

The Court also considered that a difference in the arrangements applied to convicted prisoners and prisoners awaiting trial with regard to family visits and access to television programmes had to have an objective and reasonable justification (*Laduna v. Slovakia*² judgment (not final)). In this regard, the imposition of more restrictive arrangements on prisoners awaiting trial – who were presumed innocent – compared with convicted prisoners was found to be disproportionate. The Court held that there had been a violation of Article 14 in conjunction with Article 8.

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

The Grand Chamber judgment in *Lautsi and Others v. Italy*³ dealt with the sensitive subject of religion in State schools. The Court found that the decision whether crucifixes should be present in classrooms was, in principle, a matter falling within the State's margin of appreciation, particularly in the absence of any European consensus. However, this margin of appreciation went hand in hand with supervision by the Court, whose task was to ensure that the presence of crucifixes did not amount to a form of indoctrination. In the Court's view, while a crucifix was above all a religious symbol, there was no evidence that the display of such a symbol on classroom walls might have an influence on pupils. It was understandable that individuals might see in the display of crucifixes in the classrooms of the State school attended by their

1. No. 56328/07, 27 September 2011, to be reported in ECHR 2011.

2. No. 31827/02, 13 December 2011, to be reported in ECHR 2011.

3. [GC], no. 30814/06, 18 March 2011, to be reported in ECHR 2011.

children a lack of respect on the State's part for their right to ensure the children's education and teaching in conformity with their own philosophical convictions. Nevertheless, that subjective perception was not sufficient to establish a breach of Article 2 of Protocol No. 1.

The case of *Ali v. the United Kingdom*¹ concerned the temporary exclusion of a pupil from a secondary school. The judgment is important because of the Court's finding that, to be compatible with the right to education, the exclusion of a pupil has to comply with the principle of proportionality. The Court listed the factors to be taken into consideration and addressed the issue of alternative education for excluded pupils.

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

The Grand Chamber judgment in *Paksas v. Lithuania*² concerned the disqualification from parliamentary office of a former President who was removed from office for committing a gross violation of the Constitution and breaching the constitutional oath. A State might well consider such acts to be a particularly serious matter requiring firm action when committed by a person holding an office such as that of President. However, the applicant's permanent and irreversible disqualification from standing for election as a result of a general provision was not a proportionate means of satisfying the requirements of preserving the democratic order. The Court noted in that regard that Lithuania's position on the matter constituted an exception in Europe.

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

Peaceful enjoyment of possessions

The Grand Chamber judgment in *Stummer* (cited above) concerned the issue of the affiliation of working prisoners to the retirement-pension scheme. The Court observed that the Contracting States had a wide margin of appreciation in this sphere, and that it would intervene only where it considered the legislature's policy choice to be manifestly without reasonable foundation. This is a complex issue which the Court sees as one feature in the overall system of prison work and prisoners' social cover. When defining the breadth of the margin of appreciation in relation to prisoners' social cover, a relevant factor may be the existence or non-existence of common ground between the laws of the Contracting States.

1. No. 40385/06, 11 January 2011.

2. [GC], no. 34932/04, 6 January 2011, to be reported in ECHR 2011.

Just satisfaction (Article 41)

The case of *Megadat.com SRL v. Moldova*¹ was the first in which the Court accepted a unilateral declaration from the Government aimed at settling the question of just satisfaction after it had been reserved. The Court stated that there was nothing to prevent a respondent State from submitting a unilateral declaration at that stage, which it would examine in the light of the general principles applicable in respect of Article 41 of the Convention.

Binding force and execution of judgments (Article 46)

In *M.S.S. v. Belgium and Greece* (cited above), concerning an Afghan asylum-seeker in Greece, the Court, stressing the urgent need to put a stop to the violations of Articles 13 and 3 of the Convention, considered it incumbent on Greece, without delay, to proceed with an examination of the merits of the applicant's asylum request that met the requirements of the Convention and, pending the outcome of that examination, to refrain from deporting the applicant.

In its judgment in *Gluhaković v. Croatia*², the Court held that the respondent State must secure effective contact between the applicant and his daughter at a time which was compatible with the applicant's work schedule and on suitable premises. This was the first time that the Court indicated to a State under Article 46 the measures to be taken with regard to the right to respect for family life, on an exceptional basis and in view of the urgent need to put an end to a violation of Article 8.

The judgment in *Emre v. Switzerland (no. 2)*³ (not final) concerned an application to reopen proceedings made by the applicant following a judgment by the Strasbourg Court finding a Convention violation. The Court reiterated the binding nature of its judgments for the purposes of Article 46 § 1 and the importance of executing them effectively, in good faith and in keeping with the "letter and the spirit" of the judgment. In this case, the domestic courts had substituted their own interpretation for that of the Court, without providing a thorough and persuasive reassessment of the arguments put forward by the Court in its judgment. For the first time the Court found, both in its reasoning and in the operative part of the judgment, that there had been a violation of a substantive provision of the Convention – in this case, Article 8 – in conjunction with Article 46.

1. (just satisfaction – striking out), no. 21151/04, 17 May 2011, to be reported in ECHR 2011.

2. No. 21188/09, 12 April 2011.

3. No. 5056/10, 11 October 2011.

Striking out (Article 37)

The Court struck out a number of applications relating to a systemic problem at national level identified in a 2006 pilot judgment. Determining whether the issue raised by a pilot case has been resolved is not merely a matter of assessing the redress offered to the applicant and the solutions adopted in the particular case. The Court's assessment necessarily encompasses the measures applied by the State aimed at resolving the general underlying defect identified in the domestic legal order. The Court assessed the "global solutions" adopted by the respondent State and the compensation mechanism made available at national level. The Court declared the pilot-judgment procedure closed (decision in *Association of Real Property Owners in Łódź v. Poland*¹).

Restrictions on rights and freedoms for a purpose other than those prescribed (Article 18)

The judgment in *Khodorkovskiy v. Russia*² clarified the standard of proof applied where an applicant alleged that the State authorities had made use of their power for a purpose other than those defined in the Convention. The standard of proof in such cases was very exacting. To assert that the whole legal machinery of the State had been misused from beginning to end in blatant disregard of the Convention was a very serious claim which required incontrovertible and direct proof.

1. (dec.), no. 3485/02, 8 March 2011, to be reported in ECHR 2011.

2. No. 5829/04, 31 May 2011.

**X. CASES REPORTED IN THE COURT'S CASE-LAW
INFORMATION NOTES IN 2011**

CASES REPORTED IN THE COURT'S CASE-LAW INFORMATION NOTES IN 2011¹

Article 1

Responsibility of States

Positive obligations of Moldova with regard to parts of its territory over which it has no control

Ivanțoc and Others v. Moldova and Russia, no. 23687/05,
15 November 2011, [no. 146](#)

Jurisdiction of States

Territorial jurisdiction in relation to detention of Iraqi national by British armed forces in Iraq

Al-Jedda v. the United Kingdom [GC], no. 27021/08,
7 July 2011, [no. 143](#)

Territorial jurisdiction in relation to the alleged killing of Iraqi nationals by members of the British armed forces in Iraq

Al-Skeini and Others v. the United Kingdom [GC], no. 55721/07,
7 July 2011, [no. 143](#)

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Positive obligations of Moldova with regard to parts of its territory over which it has no control

Continuing responsibility of Russia in respect of acts of the “Moldavian Republic of Transnistria”

Ivanțoc and Others v. Moldova and Russia, no. 23687/05,
15 November 2011, [no. 146](#)

1. This chapter is an extract from the Index to the Court's *Case-law Information Notes* for 2011. 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 monthly 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 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.

Article 2

Applicability

Failure to provide plausible explanation for a gunshot wound sustained by prisoner during security operation in prison: *violation*

Peker v. Turkey (no. 2), no. 42136/06, 12 April 2011, [no. 140](#)

Life

Fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *no violations*

Giuliani and Gaggio v. Italy [GC], no. 23458/02, 24 March 2011, [no. 139](#)

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Fatal attack on girl by stray dogs: *no violation*

Berü v. Turkey, no. 47304/07, 11 January 2011, [no. 137](#)

Failure to provide plausible explanation for a gunshot wound sustained by prisoner during security operation in prison: *violation*

Peker v. Turkey (no. 2), no. 42136/06, 12 April 2011, [no. 140](#)

Non-fatal shooting of journalist by special operations police unit which had not been informed that his presence had been authorised by local chief of police: *violation; no violation*

Trévalec v. Belgium, no. 30812/07, 14 June 2011, [no. 142](#)

Suicide of prisoner with mental-health problems held in an ordinary cell: *violation*

De Donder and De Clippel v. Belgium, no. 8595/06, 6 December 2011, [no. 147](#)

Inadequate preparation of hostage-rescue operation and lack of effective investigation: *violations*

Finogenov and Others v. Russia, nos. 18299/03 and 27311/03, 20 December 2011, [no. 147](#)

Positive obligations

Fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *no violations*

Giuliani and Gaggio v. Italy [GC], no. 23458/02, 24 March 2011, [no. 139](#)

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Fatal attack on girl by stray dogs: *no violation*

Berü v. Turkey, no. 47304/07, 11 January 2011, [no. 137](#)

Bombing of residential buildings by Russian military jets during Chechen war, with loss of civilian life: *violation*

Kerimova and Others v. Russia, nos. 17170/04 et al., 3 May 2011
Khamzayev and Others v. Russia, no. 1503/02, 3 May 2011, [no. 141](#)

Failure to provide effective treatment to a prisoner suffering from multidrug-resistant tuberculosis: *violation*

Makharadze and Sikharulidze v. Georgia, no. 35254/07,
22 November 2011, [no. 146](#)

Suicide of prisoner with mental-health problems held in an ordinary cell: *violation*

De Donder and De Clippel v. Belgium, no. 8595/06,
6 December 2011, [no. 147](#)

Inadequate preparation of hostage-rescue operation and lack of effective investigation: *violations*

Finogenov and Others v. Russia, nos. 18299/03 and 27311/03,
20 December 2011, [no. 147](#)

Use of force

Fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *no violations*

Giuliani and Gaggio v. Italy [GC], no. 23458/02,
24 March 2011, [no. 139](#)

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Excessive use of police force: *violation*

Soare and Others v. Romania, no. 24329/02,
22 February 2011, [no. 138](#)

Excessive use of force by police and lack of effective investigation: *violations*

Alikaj and Others v. Italy, no. 47357/08, 29 March 2011, [no. 139](#)

Bombing of residential buildings by Russian military jets during Chechen war, with loss of civilian life: *violation*

Kerimova and Others v. Russia, nos. 17170/04 et al., 3 May 2011
Khamzayev and Others v. Russia, no. 1503/02, 3 May 2011, [no. 141](#)

Death of hostages as a result of use of potentially lethal gas to neutralise hostage takers: *no violation*

Finogenov and Others v. Russia, nos. 18299/03 and 27311/03,
20 December 2011, [no. 147](#)

Effective investigation

Fatal shooting of a demonstrator by a member of the security forces at a G8 summit: *no violations*

Giuliani and Gaggio v. Italy [GC], no. 23458/02,
24 March 2011, [no. 139](#)

Failure to hold fully independent and effective investigation into deaths of Iraqi nationals during occupation of southern Iraq by British armed forces: *violation*

Al-Skeini and Others v. the United Kingdom [GC], no. 55721/07,
7 July 2011, [no. 143](#)

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Effectiveness of investigation into disappearance of applicant's husband during the war in Bosnia and Herzegovina: *no violation*

Palić v. Bosnia and Herzegovina, no. 4704/04,
15 February 2011, [no. 138](#)

Excessive use of force by police and lack of effective investigation: *violations*

Alikaj and Others v. Italy, no. 47357/08, 29 March 2011, [no. 139](#)

Failure to provide plausible explanation for a gunshot wound sustained by prisoner during security operation in prison: *violation*

Peker v. Turkey (no. 2), no. 42136/06, 12 April 2011, [no. 140](#)

Lack of effective investigation into death of a young man during events linked to overthrow of Romanian Head of State in December 1989: *violation*

Association "21 December 1989" and Others v. Romania,
nos. 33810/07 and 18817/08, 24 May 2011, [no. 141](#)

Inadequate preparation of hostage-rescue operation and lack of effective investigation: *violations*

Finogenov and Others v. Russia, nos. 18299/03 and 27311/03,
20 December 2011, [no. 147](#)

Article 3

Inhuman or degrading treatment

Lack of access to prenatal genetic tests resulting in inability to have an abortion on grounds of foetal abnormality: *violation*

R.R. v. Poland, no. 27617/04, 26 May 2011, [no. 141](#)

Protracted solitary confinement in inadequate prison conditions: *violation*

Csüllög v. Hungary, no. 30042/08, 7 June 2011, [no. 142](#)

Inmate's seven-day placement in security cell without clothing:
violation

Hellig v. Germany, no. 20999/05, 7 July 2011, [no. 143](#)

Sterilisation of Roma woman without her informed consent: *violation*

V.C. v. Slovakia, no. 18968/07, 8 November 2011, [no. 146](#)

Inadequate conditions of detention aggravated by failure to comply with earlier ruling of European Court: *violation*

Ivanțoc and Others v. Moldova and Russia, no. 23687/05,
15 November 2011, [no. 146](#)

Ill-treatment in police custody and lack of effective investigation:
violations

Taraburca v. Moldova, no. 18919/10, 6 December 2011, [no. 147](#)

Detention of alien minors accompanied by their mother in a closed centre: *violation*

Kanagaratnam v. Belgium, no. 15297/09, 13 December 2011,
[no. 147](#)

Delay in determining appropriate treatment for detainee at advanced stage of HIV infection: *violation*

Yob-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011,
[no. 147](#)

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Alleged risk of female genital mutilation if applicant returned to Nigeria: *inadmissible*

Omeredo v. Austria (dec.), no. 8969/10, 20 September 2011, [no. 144](#)

Extradition putting applicant at risk of lengthy, consecutive prison sentences: *inadmissible*

Schuchter v. Italy (dec.), no. 68476/10, 11 October 2011, [no. 145](#)

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Imprisonment for life with release possible only in the event of terminal illness or serious incapacitation: *communicated*

Vinter and Others v. the United Kingdom, nos. 66069/09, 130/10 and
3896/10, [no. 138](#)

Sterilisation of young mentally disabled women: *communicated*

Gauer and Others v. France, no. 61521/08, [no. 139](#)

Alleged failure to protect pupils adequately from sexual abuse at school: *communicated*

O'Keefe v. Ireland, no. 35810/09, [no. 140](#)

Prosecution of child aged 12 years and 11 months in assize court:
communicated

Agit Demir v. Turkey, no. 36475/10, no. 144

Inhuman treatment

Repeated transfers of high-security prisoner to avoid escape attempts:
no violation

Payet v. France, no. 19606/08, 20 January 2011, no. 137

Degrading treatment

Conditions of detention and subsistence of asylum-seeker expelled under the Dublin Regulation: *violation*

M.S.S. v. Belgium and Greece [GC], no. 30696/09, 21 January 2011,
no. 137

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Repeated, video-taped, full-body searches by masked security-force personnel: *violation*

El Shennawy v. France, no. 51246/08, 20 January 2011, no. 137

Systematic handcuffing of life prisoner whenever he left his cell:
violation

Kashavelov v. Bulgaria, no. 891/05, 20 January 2011, no. 137

Gynaecological examination of minor in custody without consent:
violation

Yazgöl Yılmaz v. Turkey, no. 36369/06, 1 February 2011, no. 138

Police questioning of witnesses for nine and a half hours without food or water: *violation*

Soare and Others v. Romania, no. 24329/02, 22 February 2011,
no. 138

Conditions in detention centre unadapted to minor Afghan asylum-seeker: *violation*

Rahimi v. Greece, no. 8687/08, 5 April 2011, no. 140

Conditions of detention unadapted to detainee's disability: *violation*

Flamînzeanu v. Romania, no. 56664/08, 12 April 2011, no. 140

Use of hood, handcuffs and leg shackles to restrain particularly dangerous suspect for two hours: *no violation*

Portmann v. Switzerland, no. 38455/06, 11 October 2011, no. 145

Prisoner held in foul-smelling cell in disciplinary wing, 23 hours a day for 28 days: *no violation*

Plathey v. France, no. 48337/09, 10 November 2011, no. 146

Inhuman or degrading punishment

Detainee suffering from lung disease subjected to passive smoking in prison and on court premises: *violation*

Elefteriadis v. Romania, no. 38427/05, 25 January 2011, [no. 137](#)

Positive obligations

Detainee suffering from lung disease subjected to passive smoking in prison and on court premises: *violation*

Elefteriadis v. Romania, no. 38427/05, 25 January 2011, [no. 137](#)

Failure of detention administration to prevent a detainee's systematic ill-treatment by fellow inmates: *violation*

Premininy v. Russia, no. 44973/04, 10 February 2011, [no. 138](#)

Conditions in detention centre unadapted to minor Afghan asylum-seeker: *violation*

Rahimi v. Greece, no. 8687/08, 5 April 2011, [no. 140](#)

Violence among pupils in school: *inadmissible*

Durđević v. Croatia, no. 52442/09, 19 July 2011, [no. 143](#)

Failure to apply effectively criminal-law mechanisms to protect child from sexual abuse: *violation*

M. and C. v. Romania, no. 29032/04, 27 September 2011, [no. 144](#)

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Alleged failure to protect adequately pupils from sexual abuse at school: *communicated*

O'Keefe v. Ireland, no. 35810/09, [no. 140](#)

Effective investigation

Lack of effective investigation into raid of family home by masked police officers: *violation*

Hristovi v. Bulgaria, no. 42697/05, 11 October 2011, [no. 145](#)

Ill-treatment in police custody and lack of effective investigation: *violations*

Taraburca v. Moldova, no. 18919/10, 6 December 2011, [no. 147](#)

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Alleged failure to protect adequately pupils from sexual abuse at school: *communicated*

O'Keefe v. Ireland, no. 35810/09, [no. 140](#)

Expulsion

Conditions of detention and subsistence of asylum-seeker expelled under the Dublin Regulation: *violation*

M.S.S. v. Belgium and Greece [GC], no. 30696/09,
21 January 2011, [no. 137](#)

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Conditions in detention centre unadapted to minor Afghan asylum-seeker: *violation*

Rahimi v. Greece, no. 8687/08, 5 April 2011, [no. 140](#)

Orders for deportation to Somalia: *deportation would constitute violation*

Sufi and Elmi v. the United Kingdom, nos. 8319/07 and 11449/07,
28 June 2011, [no. 142](#)

Order for applicant's expulsion on national-security grounds without adequate assessment of risk of proscribed treatment in receiving country: *deportation would constitute violation*

Auad v. Bulgaria, no. 46390/10, 11 October 2011, [no. 145](#)

Threatened deportation of alien at advanced stage of HIV infection to country of origin without certainty that appropriate medical treatment was available: *deportation would not constitute violation*

Yoh-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011,
[no. 147](#)

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Alleged risk of female genital mutilation if applicant returned to Nigeria: *inadmissible*

Omeredo v. Austria (dec.), no. 8969/10, 20 September 2011, [no. 144](#)

Extradition

Alleged risk of ill-treatment if Hutu suspected of genocide and crimes against humanity were sent to stand trial in Rwanda: *extradition would not constitute violation*

Aborugeze v. Sweden, no. 37075/09, 27 October 2011, [no. 145](#)

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Extradition putting applicant at risk of lengthy, consecutive prison sentences: *inadmissible*

Schuchter v. Italy (dec.), no. 68476/10, 11 October 2011, [no. 145](#)

Article 4

Forced labour

Obligation for lawyer to act as unpaid guardian to a mentally ill person: *no violation*

Graziani-Weiss v. Austria, no. 31950/06, 18 October 2011, [no. 145](#)

Article 5

Article 5 § 1

Deprivation of liberty

Containment of peaceful demonstrators within a police cordon for over seven hours: *relinquishment in favour of the Grand Chamber*

Austin and Others v. the United Kingdom, nos. 39692/09, 40713/09 and 41008/09, [no. 140](#)

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Indefinite preventive detention following completion of prison term: *violation*

Haidn v. Germany, no. 6587/04, 13 January 2011, [no. 137](#)

Continued placement in preventive detention beyond maximum period authorised at time of placement: *violation*

Jendrowiak v. Germany, no. 30060/04, 14 April 2011, [no. 140](#)

Indefinite preventive detention ordered by sentencing court: *no violation*

Schmitz v. Germany, no. 30493/04, 9 June 2011
Mork v. Germany, nos. 31047/04 and 43386/08, 9 June 2011, [no. 142](#)

Forty-five minute arrest of human rights activist with a view to preventing him committing unspecified administrative and criminal offences: *violation*

Shimovolos v. Russia, no. 30194/09, 21 June 2011, [no. 142](#)

Lawful arrest or detention

Continued preventive detention of Iraqi national by British armed forces in Iraq on basis of United Nations Security Council Resolution: *violation*

Al-Jedda v. the United Kingdom [GC], no. 27021/08, 7 July 2011, [no. 143](#)

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Indefinite preventive detention following completion of prison term: *violation*

Haidn v. Germany, no. 6587/04, 13 January 2011, [no. 137](#)

Remand in custody beyond maximum statutory period where application for pre-trial detention was made in time and hearing of that application was imminent: *no violation*

Ignatenco v. Moldova, no. 36988/07, 8 February 2011, [no. 138](#)

Continued placement in preventive detention beyond maximum period authorised at time of placement: *violation*

Jendrowiak v. Germany, no. 30060/04, 14 April 2011, [no. 140](#)

Indefinite preventive detention ordered by sentencing court: *no violation*

Schmitz v. Germany, no. 30493/04, 9 June 2011
Mork v. Germany, nos. 31047/04 and 43386/08, 9 June 2011, [no. 142](#)

Detention aimed at preventing participation in demonstration: *violation*

Schwabe and M.G. v. Germany, nos. 8080/08 and 8577/08,
1 December 2011, [no. 147](#)

Article 5 § 1 (b)

Non-compliance with court order

Detention for failure to comply with court order which the applicant was never informed about: *violation*

Beiere v. Latvia, no. 30954/05, 29 November 2011, [no. 146](#)

Secure fulfilment of obligation prescribed by law

Outer purpose of arrest different from the real one: *violation*

Khodorkovskiy v. Russia, no. 5829/04, 31 May 2011, [no. 141](#)

Article 5 § 1 (e)

Persons of unsound mind

Overnight detention in sobering-up centre for aggressive behaviour in local shop: *no violation*

Kharin v. Russia, no. 37345/03, 3 February 2011, [no. 138](#)

Preventive detention in prison of person allegedly of unsound mind: *violation*

O.H. v. Germany, no. 4646/08, 24 November 2011, [no. 146](#)

Article 5 § 1 (f)

Prevent unauthorised entry into country

Detention of alien minors accompanied by their mother in a closed centre: *violation*

Kanagaratnam v. Belgium, no. 15297/09, 13 December 2011,
[no. 147](#)

Expulsion

Detention of unaccompanied foreign minor in adult detention centre: *violation*

Rahimi v. Greece, no. 8687/08, 5 April 2011, [no. 140](#)

Absence of link between detention of alien at advanced stage of HIV infection and the aim pursued by her deportation: *violation*

Yob-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011, [no. 147](#)

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Detention of applicant in respect of whom interim measure by Court preventing his deportation was in force: *inadmissible*

S.P. v. Belgium (dec.), no. 12572/08, 14 June 2011, [no. 142](#)

Extradition

Detention pending extradition to the United States of a former Russian minister who, while visiting Switzerland for private reasons, was summoned as a witness in a criminal case: *no violation*

Adamov v. Switzerland, no. 3052/06, 21 June 2011, [no. 142](#)

Article 5 § 3

Length of pre-trial detention

Multiple periods of pre-trial detention: *relinquishment in favour of the Grand Chamber*

Idalov v. Russia, no. 5826/03, [no. 141](#)

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Refusal to take detention abroad pending extradition into account when determining whether maximum period of detention on remand had been exceeded: *inadmissible*

Zandbergs v. Latvia, no. 71092/01, 20 December 2011, [no. 147](#)

Article 5 § 4

Review of lawfulness of detention

Speediness of review

Inordinate delay by Supreme Court and refusal to entertain appeal against detention once period covered by detention order had expired: *violations*

S.T.S. v. the Netherlands, no. 277/05, 7 June 2011, [no. 142](#)

Article 6

Article 6 § 1 (civil)

Applicability

Immunity from jurisdiction preventing non-national employee of foreign embassy to challenge dismissal: *Article 6 applicable*

Sabeh El Leil v. France [GC], no. 34869/05, 29 June 2011, [no. 142](#)

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Denial of the right to appeal against a preliminary judgment: *Article 6 applicable*

Mercieca and Others v. Malta, no. 21974/07, 14 June 2011, [no. 142](#)

Alleged lack of impartiality where same bench heard successive applications concerning a request for a stay of execution: *Article 6 applicable*

Central Mediterranean Development Corporation Limited v. Malta (no. 2), no. 18544/08, 22 November 2011, [no. 146](#)

Civil rights and obligations

Prison board's repeated refusal, with no right of appeal to the administrative courts, to grant prisoner temporary leave: *case referred to the Grand Chamber*

Boulois v. Luxembourg, no. 37575/04 (Chamber judgment of 14 December 2010), [no. 140](#)

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Alleged lack of impartiality where same bench heard successive applications concerning a request for a stay of execution: *no violation*

Central Mediterranean Development Corporation Limited v. Malta (no. 2), no. 18544/08, 22 November 2011, [no. 146](#)

Access to court

Immunity from jurisdiction preventing non-national employee of foreign embassy to challenge dismissal: *violation*

Sabeh El Leil v. France [GC], no. 34869/05, 29 June 2011, [no. 142](#)

Prison board's repeated refusal, with no right of appeal to the administrative courts, to grant prisoner temporary leave: *case referred to the Grand Chamber*

Boulois v. Luxembourg, no. 37575/04 (Chamber judgment of 14 December 2010), [no. 140](#)

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Appeal struck out of the list because of failure to comply with first-instance judgment: *violation*

Chatellier v. France, no. 34658/07, 31 March 2011, [no. 139](#)

Retrospective application of a reversal of case-law to proceedings already under way: *no violation*

Legrand v. France, no. 23228/08, 26 May 2011, [no. 141](#)

Denial of the right to appeal against a preliminary judgment: *violation*

Mercieca and Others v. Malta, no. 21974/07, 14 June 2011, [no. 142](#)

Refusal of Russian courts to examine a claim against Russian authorities concerning the interpretation of Russian law: *violation*

Zylkov v. Russia, no. 5613/04, 21 June 2011, [no. 142](#)

Fair hearing

Introduction of legislation effectively deciding outcome of pending litigation against the State: *violation*

Maggio and Others v. Italy, nos. 46286/09 et al.,
31 May 2011, [no. 141](#)

Lack of procedural safeguards in proceedings divesting the applicant of legal capacity: *violation*

X and Y v. Croatia, no. 5193/09, 3 November 2011, [no. 146](#)

Public hearing

Absence of public hearing before Stock Exchange Regulatory Authority or indication of identity of members of hearing panel: *violations*

Vernes v. France, no. 30183/06, 20 January 2011, [no. 137](#)

Independent and impartial tribunal

Absence of public hearing before Stock Exchange Regulatory Authority or indication of identity of members of hearing panel: *violations*

Vernes v. France, no. 30183/06, 20 January 2011, [no. 137](#)

Alleged lack of impartiality where Constitutional Court President's judicial assistant had acted for one of the parties in prior civil proceedings in same case: *no violation*

Bellizzi v. Malta, no. 46575/09, 21 June 2011, [no. 142](#)

Tribunal established by law

Alleged lack of impartiality where same bench heard successive applications concerning a request for a stay of execution: *no violation*

Central Mediterranean Development Corporation Limited v. Malta (no. 2), no. 18544/08, 22 November 2011, [no. 146](#)

Article 6 § 1 (criminal)

Access to Court

Judicial review by courts exercising full jurisdiction of administrative decision taken by independent authority: *no violation*

A. Menarini Diagnostics S.r.l. v. Italy, no. 43509/08,
27 September 2011, [no. 144](#)

Fair hearing

Inability to defend charge of malicious prosecution owing to presumption that accusation against a defendant acquitted for lack of evidence was false: *violation*

Klouvi v. France, no. 30754/03, 30 June 2011, [no. 142](#)

Refusal by supreme courts to refer a preliminary question to the European Court of Justice: *no violation*

Ullens de Schooten and Rezabek v. Belgium, nos. 3989/07 and
38353/07, 20 September 2011, [no. 144](#)

Alleged risk of flagrant denial of justice if Hutu suspected of genocide and crimes against humanity was sent to stand trial in Rwanda: *extradition would not constitute violation*

Aborugeze v. Sweden, no. 37075/09, 27 October 2011, [no. 145](#)

Insufficient reasoning in criminal conviction leading to forty-year prison sentence: *violation*

Ajdarić v. Croatia, no. 20883/09, 13 December 2011, [no. 147](#)

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Alleged denial of fair trial for suspected terrorist, notably on account of adverse media publicity: *inadmissible*

Mustafa (Abu Hamza) v. the United Kingdom (dec.), no. 31411/07,
18 January 2011, [no. 137](#)

Absence of requirement for jury to state reasons when delivering guilty verdict: *inadmissible*

Judge v. the United Kingdom (dec.), no. 35863/10, 8 February 2011,
[no. 138](#)

Public Hearing

Oral hearing

Lack of hearing in summary administrative-offences proceedings: *inadmissible*

Subadolec v. Slovenia (dec.), no. 57655/08, 17 May 2011, [no. 141](#)

Independent and impartial tribunal

Police officer's participation on jury in case involving disputed police evidence: *violation*

Hanif and Khan v. the United Kingdom, nos. 52999/08 and 61779/08, 20 December 2011, [no. 147](#)

Tribunal established by law

Applicant's case decided by Special Court established for trying corruption and organised crime: *no violation*

Fruni v. Slovakia, no. 8014/07, 21 June 2011, [no. 142](#)

Extradition

Alleged risk of flagrant denial of justice if Hutu suspected of genocide and crimes against humanity were sent to stand trial in Rwanda: *extradition would not constitute violation*

Ahorugeze v. Sweden, no. 37075/09, 27 October 2011, [no. 145](#)

Article 6 § 1 (administrative)

Fair hearing

Divergences in case-law of separate, autonomous and hierarchically unconnected administrative and administrative-military courts: *no violation*

Nejdet Şahin and Perihan Şahin v. Turkey [GC], no. 13279/05, 20 October 2011, [no. 145](#)

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Refusal by supreme courts to refer a preliminary question to the European Court of Justice: *no violation*

Ullens de Schooten and Rezabek v. Belgium, nos. 3989/07 and 38353/07, 20 September 2011, [no. 144](#)

Article 6 § 2

Applicability

Statements made by ministers before Parliament concerning a public figure who had been convicted at first instance and had appealed: *violation*

Konstas v. Greece, no. 53466/07, 24 May 2011, [no. 141](#)

Presumption of innocence

Statements made by ministers before Parliament concerning a public figure who had been convicted at first instance and had appealed: *violation*

Konstas v. Greece, no. 53466/07, 24 May 2011, [no. 141](#)

Inability to defend charge of malicious prosecution owing to presumption that accusation against a defendant acquitted for lack of evidence was false: *violation*

Klouvi v. France, no. 30754/03, 30 June 2011, [no. 142](#)

Refusal to make defendants' costs orders following their acquittals: *no violation*

Ashendon and Jones v. the United Kingdom, nos. 35730/07 and 4285/08, 13 September 2011, [no. 144](#)

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Lack of defence of consent or reasonable belief as to complainant's age on charge of rape of a child: *inadmissible*

G. v. the United Kingdom (dec.), no. 37334/08, 30 August 2011, [no. 144](#)

Article 6 § 3

Rights of defence

Criminal trial of a prominent Yukos board member: *admissible*

Khodorkovskiy v. Russia (dec.), no. 11082/06, 8 November 2011, [no. 146](#)

Article 6 § 3 (c)

Defence through legal assistance

Questioning, under international letter of request, of a "legally assisted witness" without a lawyer: *violation*

Stojkovic v. France and Belgium, no. 25303/08, 27 October 2011, [no. 145](#)

Article 6 § 3 (d)

Examination of witnesses

Convictions based on statements by absent witnesses: *no violation/violation*

Al-Khawaja and Tahery v. the United Kingdom [GC], nos. 26766/05 and 22228/06, 15 December 2011, [no. 147](#)

Article 7

Article 7 § 1

Applicability **Heavier penalty**

International transfer of prisoner liable to delay his eligibility for conditional release: *inadmissible*

Müller v. the Czech Republic (dec.), no. 48058/09, 6 September 2011,
no. 144

Nullum crimen sine lege

Conviction for murder of a former prosecutor, who had been involved in the elimination of opponents through a political trial: *inadmissible*

Polednová v. the Czech Republic (dec.), no. 2615/10, 21 June 2011,
no. 142

Article 8

Applicability

Absence of any legal requirement for newspapers to give advance notice before publishing details of a person's private life: *no violation*

Mosley v. the United Kingdom, no. 48009/08, 10 May 2011, no. 141

Private life

Conviction of university professor for refusing to comply with court order requiring him to grant access to research materials: *case referred to the Grand Chamber*

Gillberg v. Sweden, no. 41723/06 (Chamber judgment of
2 November 2010), no. 140

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Disclosure of police decision stating that the applicant had committed an offence, even though no criminal proceedings were ever brought: *violation*

Mikolajová v. Slovakia, no. 4479/03, 18 January 2011, no. 137

Refusal to make medication available to assist suicide of a mental patient: *no violation*

Haas v. Switzerland, no. 31322/07, 20 January 2011, no. 137

Absence of any legal requirement for newspapers to give advance notice before publishing details of a person's private life: *no violation*

Mosley v. the United Kingdom, no. 48009/08, 10 May 2011, no. 141

Retention of information obtained through undercover surveillance:
violation

Association “21 December 1989” and Others v. Romania,
nos. 33810/07 and 18817/08, 24 May 2011, [no. 141](#)

Police listing and surveillance of applicant on account of his
membership in a human rights organisation: *violation*

Shimovolos v. Russia, no. 30194/09, 21 June 2011, [no. 142](#)

Non-fatal attack on elderly woman by stray dogs in city where
problem was rife: *violation*

Georgel and Georgeta Stoicescu v. Romania, no. 9718/03,
26 July 2011, [no. 143](#)

Police records describing applicant’s occupation as “prostitute”, despite
lack of any conviction for prostitution-related offences: *violation*

Khelili v. Switzerland, no. 16188/07, 18 October 2011, [no. 145](#)

Unwarranted institution of proceedings to divest applicant of legal
capacity: *violation*

X and Y v. Croatia, no. 5193/09, 3 November 2011, [no. 146](#)

Private and family life

Prohibition under domestic law on the use of ova and sperm from
donors for *in vitro* fertilisation: *no violation*

S.H. and Others v. Austria [GC], no. 57813/00, 3 November 2011,
[no. 146](#)

Failure to regulate residence of persons who had been “erased” from
the permanent-residents register following Slovenian independence: *case*
referred to the Grand Chamber

Kurić and Others v. Slovenia, no. 26828/06 (Chamber judgment of
13 July 2010), [no. 138](#)

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Refusal to renew expatriate’s passport for over six years with a view to
forcing his return home to stand trial: *no violation*

M. v. Switzerland, no. 41199/06, 26 April 2011, [no. 140](#)

Unjustified refusal to recognise the adoption of an adult by his uncle,
a monk: *violation*

Négrépontis-Giannisis v. Greece, no. 56759/08, 3 May 2011, [no. 141](#)

Refusal to renew residence permit of minor who had been sent abroad
by her parents against her will: *violation*

Osman v. Denmark, no. 38058/09, 14 June 2011, [no. 142](#)

Inability of father divested of his legal capacity to acknowledge
paternity of his child: *violation*

Krušković v. Croatia, no. 46185/08, 21 June 2011, [no. 142](#)

Denial of access to possible biological father without consideration of child's best interests: *violation*

Schneider v. Germany, no. 17080/07, 15 September 2011, [no. 144](#)

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Inability of healthy couple with high risk of transmitting hereditary illness to obtain genetic screening of embryo prior to implantation: *communicated*

Costa and Pavan v. Italy, no. 54270/10, [no. 142](#)

Family life

Failure of State to take applicant's personal circumstances into account when arranging contact with his daughter: *violation*

Gluhaković v. Croatia, no. 21188/09, 12 April 2011, [no. 140](#)

Deportation and exclusion orders that would effectively result in a mother guilty of immigration-law breaches being separated from her young children for two years: *deportation would constitute violation*

Nunez v. Norway, no. 55597/09, 28 June 2011, [no. 142](#)

Order for return of minor child, who had been living with mother in Latvia, to father in Italy without due consideration of child's best interests: *violation*

Šneersonė and Kampanella v. Italy, no. 14737/09, 12 July 2011, [no. 143](#)

Failure to revoke an order for alien's exclusion from national territory despite Court's finding of a violation of right to respect for private and family life: *violation*

Emre v. Switzerland (no. 2), no. 5056/10, 11 October 2011, [no. 145](#)

Conviction with absolute discharge for assisting illegal immigrant: *no violation*

Mallah v. France, no. 29681/08, 10 November 2011, [no. 146](#)

Inability of a father to exercise his contact rights in relation to his son during the course of divorce proceedings: *violation*

Cengiz Kılıç v. Turkey, no. 16192/06, 6 December 2011, [no. 147](#)

Lack of in-depth examination of all relevant factors when deciding to return applicant's child under the Hague Convention on the Civil Aspects of International Child Abduction: *violation*

X v. Latvia, no. 27853/09, 13 December 2011, [no. 147](#)

Expulsion

Refusal to renew residence permit of minor who had been sent abroad by her parents against her will: *violation*

Osman v. Denmark, no. 38058/09, 14 June 2011, [no. 142](#)

Deportation and exclusion orders that would effectively result in a mother guilty of immigration-law breaches being separated from her young children for two years: *deportation would constitute violation*

Nunez v. Norway, no. 55597/09, 28 June 2011, [no. 142](#)

Proposed deportation on account of serious offence committed as minor despite subsequent exemplary conduct: *deportation would constitute violation*

A.A. v. the United Kingdom, no. 8000/08, 20 September 2011, [no. 144](#)

Home

Failure by State authority to assess proportionality when evicting bona fide purchaser from flat fraudulently acquired by previous owner: *violation*

Gladysheva v. Russia, no. 7097/10, 6 December 2011, [no. 147](#)

Correspondence

Refusal of prison authorities to send prisoners' letters to members of their family drafted in the Kurdish language: *violation*

Mehmet Nuri Özen and Others v. Turkey, nos. 15672/08 et al., 11 January 2011, [no. 137](#)

Positive obligations

Refusal to make medication available to assist suicide of a mental patient: *no violation*

Haas v. Switzerland, no. 31322/07, 20 January 2011, [no. 137](#)

Failure of State to take applicant's personal circumstances into account when arranging contact with his daughter: *violation*

Gluhaković v. Croatia, no. 21188/09, 12 April 2011, [no. 140](#)

Deportation and exclusion orders that would effectively result in a mother guilty of immigration-law breaches being separated from her young children for two years: *deportation would constitute violation*

Nunez v. Norway, no. 55597/09, 28 June 2011, [no. 142](#)

Violence among pupils in school: *inadmissible*

Durdević v. Croatia, no. 52442/09, 19 July 2011, [no. 143](#)

EU Regulation on the enforcement of judgments and illegal removal of a child: *violation*

Shaw v. Hungary, no. 6457/09, 26 July 2011, [no. 143](#)

Failure to apply effectively criminal-law mechanisms to protect child from sexual abuse: *violation*

M. and C. v. Romania, no. 29032/04, 27 September 2011, [no. 144](#)

Absence of safeguards giving special consideration to the reproductive health of a Roma woman: *violation*

V.C. v. Slovakia, no. 18968/07, 8 November 2011, [no. 146](#)

Article 9

Freedom of religion

Unforeseeable taxation of donations to religious association: *violation*

Association Les témoins de Jéhovah v. France, no. 8916/05,
30 June 2011, [no. 142](#)

Manifest religion or belief

Conviction of conscientious objector for refusing to perform military service: *violation*

Bayatyan v. Armenia [GC], no. 23459/03, 7 July 2011, [no. 143](#)

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Requirement to indicate on wage-tax card possible membership of a Church or religious society entitled to levy church tax: *no violation*

Wasmuth v. Germany, no. 12884/03, 17 February 2011, [no. 138](#)

Conviction of a Jehovah's Witness for refusal to perform his military service and absence of an alternative form of service: *violation*

Erçep v. Turkey, no. 43965/04, 22 November 2011, [no. 146](#)

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Disciplinary proceedings brought as a result of employees' refusals, on account of religious beliefs, to perform duties concerning same-sex couples: *communicated*

Ladele and McFarlane v. the United Kingdom, nos. 51671/10 and
36516/10, [no. 141](#)

Article 10

Freedom of expression

Dismissal of trade-union members for publishing articles offending their colleagues: *no violation*

Palomo Sánchez and Others v. Spain [GC], nos. 28955/06 et al.,
12 September 2011, [no. 144](#)

Ban on displaying advertising poster in public owing to immoral conduct of publishers and reference in poster to banned Internet site: *case referred to the Grand Chamber*

Mouvement raëlien suisse v. Switzerland, no. 16354/06 (Chamber
judgment of 13 January 2011), [no. 142](#)

Ban on television or radio advertising by animal-protection organisation on grounds that its objectives were “wholly or mainly of a political nature”: *relinquishment in favour of the Grand Chamber*

Animal Defenders International v. United Kingdom, no. 48876/08,
no. 146

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Ban on displaying advertising poster in public owing to immoral conduct of publishers and reference in poster to banned Internet site: *no violation*

Mouvement raëlien suisse v. Switzerland, no. 16354/06,
13 January 2011, no. 137

Damages award for breach of confidence after newspaper disclosed details of a celebrity’s therapy for drug addiction: *no violation*

Order requiring newspaper to pay success fees of opposing party’s lawyers: *violation*

MGN Limited v. the United Kingdom, no. 39401/04,
18 January 2011, no. 137

Conviction of supporter of a banned organisation for contravening the ban: *no violation*

Aydin v. Germany, no. 16637/07, 27 January 2011, no. 137

Criminal conviction for insulting the King: *violation*

Otegi Mondragon v. Spain, no. 2034/07, 15 March 2011, no. 139

Temporary ban on broadcasting of a television news programme: *violation*

RTBF v. Belgium, no. 50084/06, 29 March 2011, no. 139

Absence of safeguards in domestic law for journalists using publishing materials obtained from the Internet: *violation*

Editorial Board of Pravoye Delo and Shtekel v. Ukraine,
no. 33014/05, 5 May 2011, no. 141

Damages award against newspaper which had made all reasonable attempts to verify accuracy of report on court proceedings: *violation*

Aquilina and Others v. Malta, no. 28040/08, 14 June 2011, no. 142

Conviction of newspaper editor for publishing verbatim interview without prior authorisation by interviewee: *violation*

Wizerkaniuk v. Poland, no. 18990/05, 5 July 2011, no. 143

Conviction for defamation in respect of newspaper article criticising wine produced by State-owned company: *violation*

Uj v. Hungary, no. 23954/10, 19 July 2011, no. 143

Dismissal of nurse for lodging a criminal complaint alleging shortcomings in care provided by private employer: *violation*

Heinisch v. Germany, no. 28274/08, 21 July 2011, [no. 143](#)

Conviction of trade-union leaders for strident criticism of their mayor employer: *violation*

Vellutini and Michel v. France, no. 32820/09, 6 October 2011, [no. 145](#)

Criminal investigation for “denigrating Turkishness”: *violation*

Altuğ Taner Akçam v. Turkey, no. 27520/07, 25 October 2011, [no. 145](#)

Lawyer's conviction for comments to press on confidential expert report prepared in criminal investigation: *violation*

Mor v. France, no. 28198/09, 15 December 2011, [no. 147](#)

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Prohibition on prisoner wearing potentially inflammatory emblems outside his cell: *inadmissible*

Donaldson v. the United Kingdom (dec.), no. 56975/09, 25 January 2011, [no. 137](#)

Criminal conviction for breaching planning regulations applicable to external murals: *inadmissible*

Ehrmann and SCI VHI v. France (dec.), no. 2777/10, 7 June 2011, [no. 142](#)

Restrictions on postal distribution of magazines: *inadmissible*

Verein gegen Tierfabriken v. Switzerland (dec.), no. 48703/08, 20 September 2011, [no. 144](#)

Freedom to impart information

Dismissal of nurse for lodging a criminal complaint alleging shortcomings in care provided by private employer: *violation*

Heinisch v. Germany, no. 28274/08, 21 July 2011, [no. 143](#)

Article 11

Freedom of association

Dissolution of political party for failure to comply with statutory requirements for a minimum number of members and regional branches: *violations*

Republican Party of Russia v. Russia, no. 12976/07, 12 April 2011, [no. 140](#)

Disciplinary sanctions found to infringe trade-union freedom: *violation*
Şişman and Others v. Turkey, no. 1305/05, 27 September 2011,
no. 144

Dissolution of squatters' association: *violation*
Association Rhino and Others v. Switzerland, no. 48848/07,
11 October 2011, no. 145

Freedom of peaceful assembly

Detention aimed at preventing participation in demonstration:
violation

Schwabe and M.G. v. Germany, nos. 8080/08 and 8577/08,
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Article 12

Right to marry

Inability of legally incapacitated applicant to marry: *admissible*
Lashin v. Russia (dec.), no. 33117/02, 6 January 2011, no. 137

Article 13

Effective remedy

Deficiencies in the asylum procedure in Greece and risk of expulsion without any serious examination of merits of asylum application or access to effective remedy: *violation*

M.S.S. v. Belgium and Greece [GC], no. 30696/09, 21 January 2011,
no. 137

Lack of suspensive effect of remedy for challenging a deportation order: *case referred to the Grand Chamber*

De Souza Ribeiro v. France, no. 22689/07 (Chamber judgment of
30 June 2011), no. 146

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Lack of effective remedy to challenge conditions of detention in a punishment cell: *violation*

Payet v. France, no. 19606/08, 20 January 2011, no. 137

Leaflet giving information on procedures for complaining about conditions in detention centres incomplete and in a language the detainee, a minor, could not understand: *violation*

Rahimi v. Greece, no. 8687/08, 5 April 2011, no. 140

Failure to carry out careful and rigorous examination of situation of alien at advanced stage of HIV infection when assessing risk of ill-treatment in country of origin: *violation*

Yob-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011, no. 147

Article 14

Discrimination (Article 4)

Obligation for lawyer to act as unpaid guardian to a mentally ill person: *no violation*

Graziani-Weiss v. Austria, no. 31950/06, 18 October 2011, no. 145

Discrimination (Article 8)

Difference in treatment between male and female military personnel regarding rights to parental leave: *case referred to the Grand Chamber*

Konstantin Markin v. Russia, no. 30078/06 (Chamber judgment of 7 October 2010), no. 138

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Difference in treatment of HIV-positive alien regarding application for residence permit: *violation*

Kiyutin v. Russia, no. 2700/10, 10 March 2011, no. 139

Refusal to take minor subject to immigration control into account when determining priority in entitlement to social housing: *no violation*

Bah v. the United Kingdom, no. 56328/07, 27 September 2011, no. 144

Denial of citizenship to a child born out of wedlock: *violation*

Genovese v. Malta, no. 53124/09, 11 October 2011, no. 145

Unjustified difference in treatment of remand prisoners compared with convicted prisoners as regards visiting rights and access to television: *violation*

Laduna v. Slovakia, no. 31827/02, 13 December 2011, no. 147

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Inability of healthy couple with high risk of transmitting hereditary illness to obtain genetic screening of embryo prior to implantation: *communicated*

Costa and Pavan v. Italy, no. 54270/10, no. 142

Discrimination (Article 1 of Protocol No. 1)

Refusal to take work performed in prison into account in calculation of pension rights: *no violation*

Stummer v. Austria [GC], no. 37452/02, 7 July 2011, no. 143

Difference in treatment of legitimate and illegitimate children for succession purposes: *case referred to the Grand Chamber*

Fabris v. France, no. 16574/08 (Chamber judgment of 21 July 2011),
no. 146

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Lower pensionable age for women who had raised children, but not for men: *no violation*

Andrle v. the Czech Republic, no. 6268/08, 17 February 2011,
no. 138

Discrimination (Article 2 of Protocol No. 1)

Requirement on aliens without permanent residence to pay secondary-school fees: *violation*

Ponomaryovi v. Bulgaria, no. 5335/05, 21 June 2011, no. 142

Article 18

Restrictions for unauthorised purposes

Allegedly politically and economically motivated criminal proceedings against applicant: *no violation*

Khodorkovskiy v. Russia, no. 5829/04, 31 May 2011, no. 141

Article 33

Inter-State cases

Alleged pattern of official conduct by Russian authorities resulting in multiple breaches of Georgian nationals' Convention rights: *admissible*

Georgia v. Russia (II) (dec.), no. 38263/08, 13 December 2011,
no. 147

Article 34

Victim

Intervening domestic award in respect of length-of-proceedings complaint: *loss of victim status*

Vidaković v. Serbia (dec.), no. 16231/07, 24 May 2011, no. 141

General complaint on religious grounds about constitutional provision prohibiting construction of minarets: *absence of victim status*

Ouardiri v. Switzerland (dec.), no. 65840/09, 28 June 2011
Ligue des musulmans de Suisse and Others v. Switzerland (dec.),
no. 66274/09, 28 June 2011, no. 142

Applicant purporting to have acquired Convention claim under a deed of assignment: *absence of victim status*

Nassau Verzekering Maatschappij N.V. v. Netherlands (dec.),
no. 57602/09, 4 October 2011, [no. 145](#)

Lack of clear and specific instructions by alleged victims to their representative: *inadmissible*

Pană and Others v. Romania (dec.), no. 3240/03,
15 November 2011, [no. 146](#)

Unity of interests of applicant company and respondent Government:
inadmissible

Transpetrol a.s. v. Slovakia (dec.), no. 28502/08,
15 November 2011, [no. 146](#)

Hinder the exercise of the right of petition

Loss by prison authorities of irreplaceable papers relating to prisoner's application to European Court: *failure to comply with Article 34*

Buldakov v. Russia, no. 23294/05, 19 July 2011, [no. 143](#)

Failure to comply with interim measure requiring prisoner's placement in specialised medical establishment: *violation*

Makharadze and Sikharulidze v. Georgia, no. 35254/07,
22 November 2011, [no. 146](#)

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Inadvertent but not irremediable failure to comply with interim measure indicated in respect of Article 8: *inadmissible*

Hamidovic v. Italy (dec.), no. 31956/05, 13 September 2011, [no. 144](#)

Article 35

Article 35 § 1

Exhaustion of domestic remedies

Effective domestic remedy – Georgia

Provisions of new Prison Code affording improved protection of rights to health care in prison: *effective remedy*

Goginashvili v. Georgia, no. 47729/08, 4 October 2011, [no. 145](#)

Effective domestic remedy – “the former Yugoslav Republic of Macedonia”

Length-of-proceedings complaint with the Supreme Court under the 2006 Courts Act, as amended: *effective remedy*

Adži-Spirkoska and Others v. “the former Yugoslav Republic of Macedonia” (dec.), nos. 38914/05 and 17879/05,
3 November 2011, [no. 146](#)

Effective domestic remedy – Turkey

Request to Principal Public Prosecutor at Court of Cassation to lodge application to have Court of Cassation's decision set aside: *ineffective remedy*

Akçiçek v. Turkey (dec.), no. 40965/10, 18 October 2011, [no. 145](#)

Effective domestic remedy – United Kingdom

Application to Criminal Cases Review Commission: *not effective remedy*

Tucka v. the United Kingdom (dec.), no. 34586/10,
18 January 2011, [no. 137](#)

Six-month period

Preliminary objection that application concerning alleged property rights of displaced persons had been lodged out of time: *preliminary objection dismissed*

Chiragov and Others v. Armenia (dec.) [GC], no. 13216/05,
14 December 2011

Sargsyan v. Azerbaijan (dec.) [GC], no. 40167/06,
14 December 2011, [no. 147](#)

Calculation of time-limit when final day is not a working day: *case referred to the Grand Chamber*

Sabri Güneş v. Turkey, no. 27396/06 (Chamber judgment of
24 May 2011), [no. 144](#)

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Application to Criminal Cases Review Commission: *not effective remedy*

Tucka v. the United Kingdom (dec.), no. 34586/10,
18 January 2011, [no. 137](#)

Article 35 § 2 (b)

Substantially the same application

Application to the Court when individual complaint to European Commission pending: *admissible*

Karoussiotis v. Portugal, no. 23205/08, 1 February 2011, [no. 138](#)

Article 35 § 3 (a)

Competence *ratione personae*

Naming of street after public figure affiliated to the Nazis: *inadmissible*

L.Z. v. Slovakia (dec.), no. 27753/06, 27 September 2011, [no. 144](#)

Abuse of the right of application

Lack of fair-trial complaint concerning a token fine: *inadmissible*
Vasylenko v. Ukraine (dec.), no. 25129/03, 18 October 2011, [no. 145](#)

Article 35 § 3 (b)

No significant disadvantage

Domestic proceedings aimed at the recovery of goods worth EUR 350 allegedly stolen from the applicant's apartment: *preliminary objection dismissed*

Giuran v. Romania, no. 24360/04, 21 June 2011, [no. 142](#)

Subject matter of domestic proceedings sufficiently significant: *preliminary objection dismissed*

Giusti v. Italy, no. 13175/03, 18 October 2011, [no. 145](#)

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Complaint concerning failure to communicate to applicants observations of civil courts on their constitutional appeals: *inadmissible*

Holub v. the Czech Republic (dec.), no. 24880/05,

14 December 2010

Bratři Zátkové a.s. v. the Czech Republic (dec.), no. 20862/06,

8 February 2011, [no. 138](#)

Disadvantage characterised by low level of claim made to domestic courts in respect of non-pecuniary damage: *inadmissible*

Ștefănescu v. Romania (dec.), no. 11774/04, 12 April 2011, [no. 140](#)

Domestic courts' refusal to examine claim lacking any basis under domestic law: *inadmissible*

Ladygin v. Russia (dec.), no. 35365/05, 30 August 2011, [no. 144](#)

Pecuniary-damage claim in domestic proceedings amounting to EUR 500: *inadmissible*

Kiousi v. Greece (dec.), no. 52036/09, 20 September 2011, [no. 144](#)

Complaint concerning failure to execute a court order that had become devoid of purpose: *inadmissible*

Savu v. Romania (dec.), no. 29218/05, 11 October 2011, [no. 145](#)

Article 37

Article 37 § 1

Striking-out applications

Unilateral declaration made during Article 41 procedure and affording equitable amount in compensation: *struck out*

Megadat.com SRL v. Moldova (*just satisfaction – striking out*),

no. 21151/04, 17 May 2011, [no. 141](#)

Unilateral declaration acknowledging breach of right to fair hearing but without undertaking to reopen domestic proceedings: *strike out refused*

Rozhin v. Russia, no. 50098/07, 6 December 2011, no. 147

Respect for human rights

Unilateral declaration acknowledging breach of right to fair hearing but without undertaking to reopen domestic proceedings: *strike out refused*

Rozhin v. Russia, no. 50098/07, 6 December 2011, no. 147

Continued examination not justified

Unilateral declaration made during Article 41 procedure and affording equitable amount in compensation: *struck out*

Megadat.com SRL v. Moldova (just satisfaction – striking out),
no. 21151/04, 17 May 2011, no. 141

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Follow-up applications not requiring assessment of appropriate redress or payment of financial compensation: *struck out*

Pantusheva and Others v. Bulgaria (dec.), nos. 40047/04 et al.,
5 July 2011, no. 143

Article 37 § 1 (b)

Matter resolved

Implementation of general measures to remedy defects in housing legislation following pilot judgment and availability of redress at domestic level: *struck out*

Association of Real Property Owners in Łódź v. Poland (dec.),
no. 3485/02, 8 March 2011, no. 139

Article 38

Furnish all necessary facilities

Article 38 applicable even in absence of separate decision on admissibility

Enukidze and Girguliani v. Georgia, no. 25091/07, 26 April 2011,
no. 140

Article 46

Execution of a judgment

Failure to revoke order for alien's exclusion from national territory despite Court finding a violation of right to respect for private and family life: *violation*

Emre v. Switzerland (no. 2), no. 5056/10, 11 October 2011, [no. 145](#)

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Implementation of general measures to remedy defects in housing legislation following pilot judgment and availability of redress at domestic level: *pilot-judgment procedure closed*

Association of Real Property Owners in Łódź v. Poland (dec.),
no. 3485/02, 8 March 2011, [no. 139](#)

Measures of a general character

Respondent State required to take measures to eliminate structural problems relating to pre-trial detention

Kharchenko v. Ukraine, no. 40107/02, 10 February 2011, [no. 138](#)

Respondent State required to amend relevant legislation to remedy defects in pension system

Škerović and Pašalić v. Bosnia and Herzegovina, nos. 5920/04 and
67396/09, 8 March 2011, [no. 139](#)

Respondent State required to introduce effective legal remedies, conforming to the principles laid down in the Court's case-law, for the excessive length of civil, administrative and criminal proceedings

Dimitrov and Hamanov v. Bulgaria, nos. 48059/06 and 2708/09,
10 May 2011

Finger v. Bulgaria, no. 37346/05, 10 May 2011, [no. 141](#)

Respondent State required to take all necessary measures to secure effective investigation into events linked to overthrow of Romanian Head of State in December 1989

Association "21 December 1989" and Others v. Romania,
nos. 33810/07 and 18817/08, 24 May 2011, [no. 141](#)

Respondent State required to amend legislation in order to provide additional safeguards in deportation cases

M. and Others v. Bulgaria, no. 41416/08, 26 July 2011, [no. 143](#)

Respondent State required to take measures to ensure adequate safeguards in cases concerning the deportation of aliens at risk of ill-treatment in the country of destination

Auad v. Bulgaria, no. 46390/10, 11 October 2011, [no. 145](#)

Preventive detention in Germany: no indication of measures in view of adequate implementation at domestic level

O.H. v. Germany, no. 4646/08, 24 November 2011, [no. 146](#)

Respondent State required to provide effective remedy to contest detention pending trial and to claim compensation

Altınok v. Turkey, no. 31610/08, 29 November 2011, [no. 146](#)

Respondent State required to enact legislation concerning conscientious objectors and to introduce an alternative form of service

Erçep v. Turkey, no. 43965/04, 22 November 2011, [no. 146](#)

Individual measures

Respondent State required to secure effective contact between the applicant and his daughter

Gluhaković v. Croatia, no. 21188/09, 12 April 2011, [no. 140](#)

Request for individual measures to prevent future similar violations: *no individual measures indicated*

Khodorkovskiy v. Russia, no. 5829/04, 31 May 2011, [no. 141](#)

Respondent State required to refrain from demanding repayment of compensation awarded for expropriation

Zafranias v. Greece, no. 4056/08, 4 October 2011, [no. 145](#)

Preventive detention in Germany: no indication of measures in view of adequate implementation at domestic level

O.H. v. Germany, no. 4646/08, 24 November 2011, [no. 146](#)

Article 1 of Protocol No. 1

Peaceful enjoyment of possessions

Alleged loss of homes and possessions by persons fleeing Nagorno-Karabakh conflict: *admissible*

Chiragov and Others v. Armenia (dec.) [GC], no. 13216/05,
14 December 2011

Sargsyan v. Azerbaijan (dec.) [GC], no. 40167/06,
14 December 2011, [no. 147](#)

Obligation of landowner opposed to hunting on ethical grounds to tolerate hunting on his land and to join a hunting association: *case referred to the Grand Chamber*

Herrmann v. Germany, no. 9300/07 (Chamber judgment of
20 January 2011), [no. 142](#)

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Obligation of landowner opposed to hunting on ethical grounds to tolerate hunting on his land and to join a hunting association: *no violation*

Herrmann v. Germany, no. 9300/07, 20 January 2011, [no. 137](#)

Loss of lawyer's pension rights following disqualification from practice: *violation*

Klein v. Austria, no. 57028/00, 3 March 2011, [no. 139](#)

Inability to compel authorities to expropriate development land following its listing as an historic monument: *violation*

Potomska and Potomski v. Poland, no. 33949/05, 29 March 2011, [no. 139](#)

Capping of retirement pensions: *no violation*

Valkov and Others v. Bulgaria, nos. 2033/04 et al., 25 October 2011, [no. 145](#)

Revocation of bona fide purchaser's title to flat on account of a previous owner's fraudulent acquisition from State authority: *violation*

Gladysheva v. Russia, no. 7097/10, 6 December 2011, [no. 147](#)

Amendment, with retrospective effect, of statutory time-limit applicable to claims for restitution of land in the former GDR: *violation*

Althoff and Others v. Germany, no. 5631/05, 8 December 2011, [no. 147](#)

Suspension of pension payments following change in legislation regarding the right to do part-time work: *violation*

Lakićević and Others v. Montenegro and Serbia, nos. 27458/06 et al., 13 December 2011, [no. 147](#)

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Obligation to bear legal costs following reasonably foreseeable change in House of Lords' interpretation of law on limitation periods: *inadmissible*

Hoare v. the United Kingdom (dec.), no. 16261/08, 12 April 2011, [no. 140](#)

Inability to recover "old" foreign-currency savings following dissolution of the Socialist Federal Republic of Yugoslavia: *admissible*

Ališić and Others v. Bosnia and Herzegovina, Croatia, "the former Yugoslav Republic of Macedonia", Serbia and Slovenia (dec.), no. 60642/08, 17 October 2011, [no. 145](#)

Positive obligations

Lack of adequate procedures to protect shareholders from fraudulent takeover of their company: *violation*

Shesti Mai Engineering OOD and Others v. Bulgaria, no. 17854/04,
20 September 2011, [no. 144](#)

Deprivation of property

Compensation significantly lower than current cadastral value of land expropriated following restoration of Latvian independence: *case referred to the Grand Chamber*

Vistiņš and Perepjolkins v. Latvia, no. 71243/01 (Chamber judgment of 8 March 2011), [no. 144](#)

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Compensation significantly lower than current cadastral value of land expropriated following restoration of Latvian independence: *no violation*

Vistiņš and Perepjolkins v. Latvia, no. 71243/01, 8 March 2011,
[no. 139](#)

Loss of shares in land without full compensation in context of German reunification: *no violation*

Göbel v. Germany, no. 35023/04, 8 December 2011, [no. 147](#)

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Calculation of compensation for expropriation based on specific characteristics of expropriated property, not on strict market value: *inadmissible*

Helly and Others v. France (dec.), no. 28216/09, 11 October 2011,
[no. 145](#)

Control of the use of property

Obligation of landowner opposed to hunting on ethical grounds to tolerate hunting on his land and to join a hunting association: *case referred to the Grand Chamber*

Herrmann v. Germany, no. 9300/07 (Chamber judgment of 20 January 2011), [no. 142](#)

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Obligation of landowner opposed to hunting on ethical grounds to tolerate hunting on his land and to join a hunting association: *no violation*

Herrmann v. Germany, no. 9300/07, 20 January 2011, [no. 137](#)

Uncompromising execution of tax debts and disproportionate bailiffs' fees resulting in major company's demise: *violation*

OAO Neftyanaya Kompaniya Yukos v. Russia, no. 14902/04,
20 September 2011, [no. 144](#)

-000-

Termination without compensation by State of concession agreements for electricity transmission facilities operated by private companies: *inadmissible*

Uzan and Others v. Turkey (dec.), no. 18240/03, 29 March 2011,
[no. 139](#)

Article 2 of Protocol No. 1

Right to education

Exclusion of pupil from secondary school for long period, on account of criminal investigation into an incident at school: *no violation*

Ali v. the United Kingdom, no. 40385/06, 11 January 2011, [no. 137](#)

Respect for parents' religious and philosophical convictions

Display of crucifixes in State-school classrooms: *no violation*

Lautsi and Others v. Italy [GC], no. 30814/06, 18 March 2011,
[no. 139](#)

-000-

Refusal to exempt children from sex-education classes and other school events which parents considered contrary to their religious convictions: *inadmissible*

Dojan and Others v. Germany (dec.), nos. 319/08 et al.,
13 September 2011, [no. 144](#)

Article 3 of Protocol No. 1

Vote

Ban on prisoner voting imposed automatically as a result of sentence: *case referred to the Grand Chamber*

Scoppola v. Italy (no. 3), no. 126/05 (Chamber judgment of
18 January 2011), [no. 142](#)

-000-

Ban on prisoner voting imposed automatically as a result of sentence: *violation*

Scoppola v. Italy (no. 3), no. 126/05, 18 January 2011, [no. 137](#)

Stand for election

Permanent ineligibility of impeached President to stand for election to parliamentary office: *violation*

Paksas v. Lithuania [GC], no. 34932/04, 6 January 2011, [no. 137](#)

Article 2 of Protocol No. 4

Article 2 § 1

Freedom of movement

Prohibition on leaving the country on account of a criminal conviction: *violation*

Nalbantski v. Bulgaria, no. 30943/04, 10 February 2011, [no. 138](#)

Ban on foreign travel for former military officer who had had access to “State secrets”: *violation*

Soltysyak v. Russia, no. 4663/05, 10 February 2011, [no. 138](#)

Article 4 of Protocol No. 4

Prohibition of collective expulsion of aliens

Return of migrants intercepted on the high seas to country of departure: *relinquishment in favour of the Grand Chamber*

Hirsi and Others v. Italy, no. 27765/09, [no. 138](#)

Rules of Court

Rule 39

Interim measures

Statement issued on 11 February 2011 by the President of the Court
[no. 138](#)

New instructions on requests to suspend expulsion of applicants
[no. 143](#)

Rule 43 § 4

Costs on striking out of application

Recovery of translation costs

Youssef v. the Netherlands (dec.), no. 11936/08, 27 September 2011,
[no. 144](#)

Rule 61

Pilot-judgment procedure

New rule concerning the procedure for handling systemic and structural human rights violations

[no. 139](#)

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

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

A. Cases accepted for referral to the Grand Chamber

In 2011 the five-member panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 5 meetings (on 21 February, 11 April, 20 June, 15 September and 28 November) to examine requests by the parties for cases to be referred to the Grand Chamber under Article 43 of the Convention. It considered requests concerning a total of 239 cases, 108 of which were submitted by the respective Governments (in 6 cases both the Government and the applicant submitted requests).

In 2011 the panel accepted requests in the following 11 cases:

Konstantin Markin v. Russia, no. 30078/06
Kurić and Others v. Slovenia, no. 26828/06
Boulois v. Luxembourg, no. 37575/04
Gillberg v. Sweden, no. 41723/06
Scoppola v. Italy (no. 3), no. 126/05
Mouvement raëlien suisse v. Switzerland, no. 16354/06
Herrmann v. Germany, no. 9300/07
Vistiņš and Perepjolkins v. Latvia, no. 71243/01
Sabri Güneş v. Turkey, no. 27396/06
De Souza Ribeiro v. France, no. 22689/07
Fabris v. France, no. 16574/08

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

First Section – *Idalov v. Russia*, no. 5826/03

Second Section – *Hirsi and Others v. Italy*, no. 27765/09

Fourth Section – *Austin v. the United Kingdom*, nos. 39692/09, 40713/09 and 41008/09; *Animal Defenders International v. the United Kingdom*, no. 48876/08

XII. STATISTICAL INFORMATION

STATISTICAL INFORMATION¹

Events in total (2010-2011)

1. Applications allocated to a judicial formation

Committee/Chamber (round figures [50])	2011	2010	+/-
Applications allocated	64,500	61,300	5%

2. Interim procedural events

	2011	2010	+/-
Applications communicated to respondent Government	5,359	6,674	-20%

3. Applications decided

	2011	2010	+/-
By decision or judgment	52,188	41,182	27%
– by judgment delivered	1,511	2,607	-42%
– by decision (inadmissible/struck out)	50,677	38,575	31%

4. Pending applications (round figures [50])

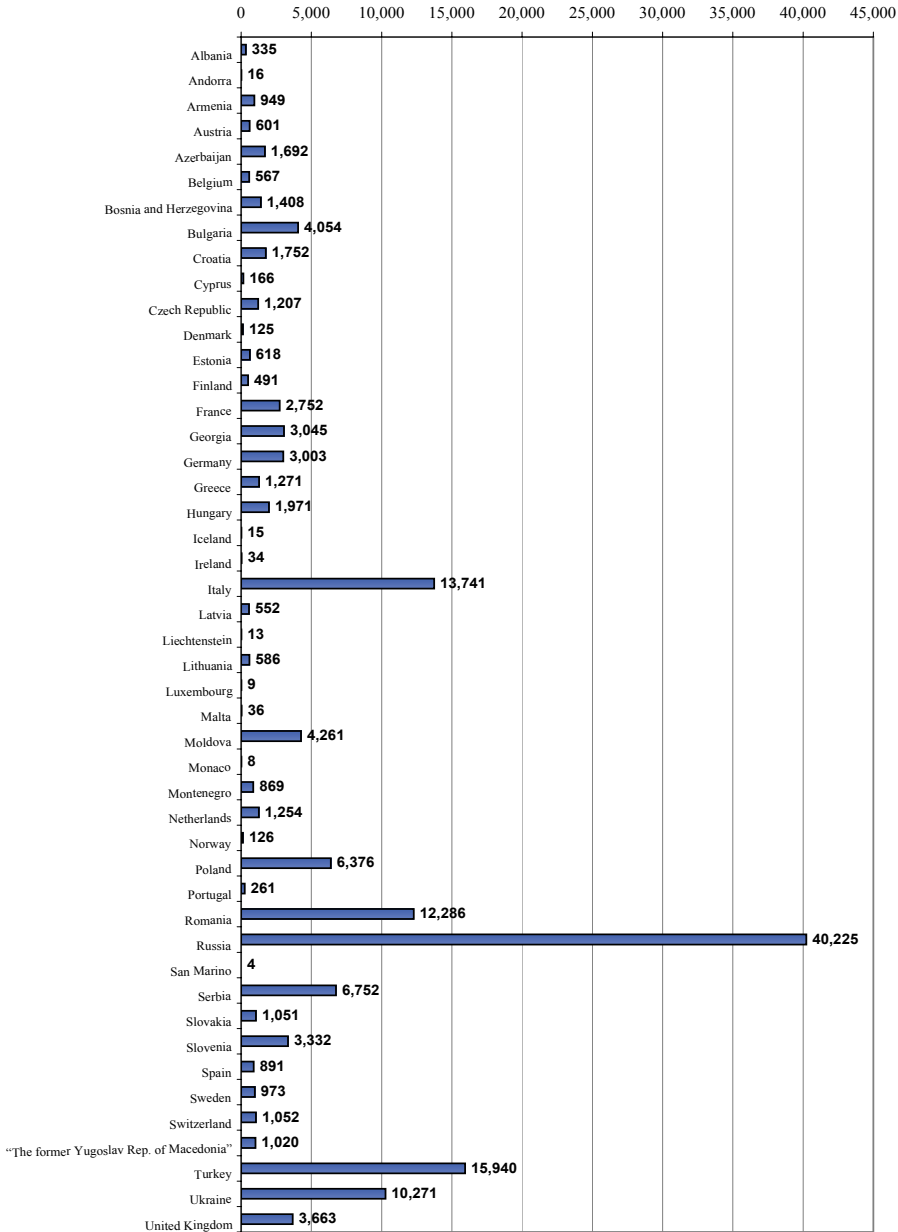
	31/12/2011	1/1/2011	+/-
Applications pending before a judicial formation	151,600	139,650	9%
– Chamber (7 judges)	45,850	47,150	-3%
– Committee (3 judges)	13,700	4,100	234%
– Single-judge formation	92,050	88,400	4%

5. Pre-judicial applications (round figures [50])

	31/12/2011	1/1/2011	+/-
Applications at pre-judicial stage	22,600	21,950	3%
	2011	2010	+/-
Applications disposed of administratively (applications not pursued)	13,400	11,800	14%

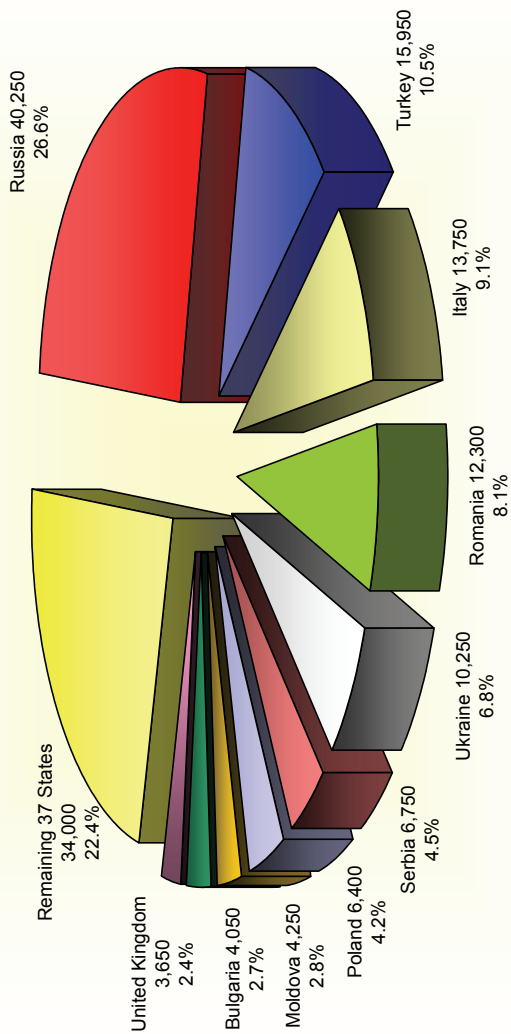
1. For a detailed presentation of the procedure before the Court, see Chapter I (part D “Procedure before the Court”) of this Annual Report. A glossary of statistical terms is available on the Court’s website (under “Reports”, “Statistics”): www.echr.coe.int. Further statistics are available online.

**Pending cases allocated to a judicial formation
at 31 December 2011, by respondent State**



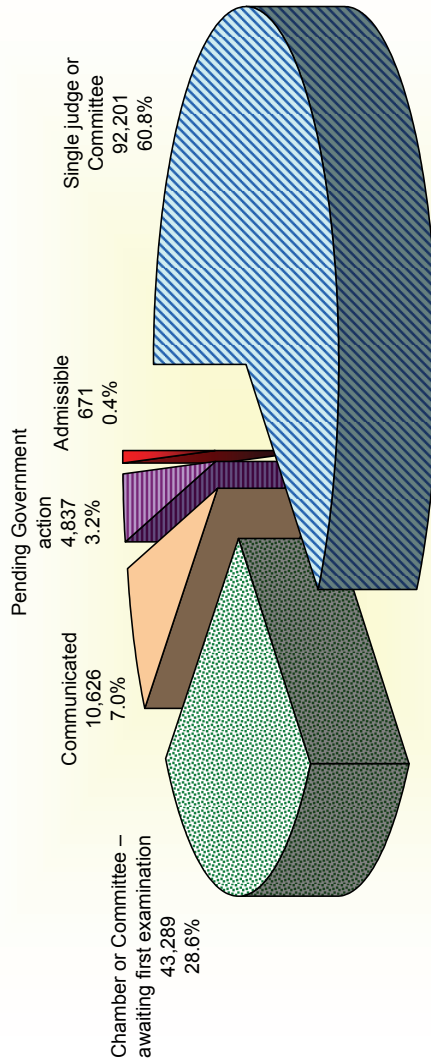
Total: 151,624 applications pending before a judicial formation

Pending cases allocated to a judicial formation at 31 December 2011



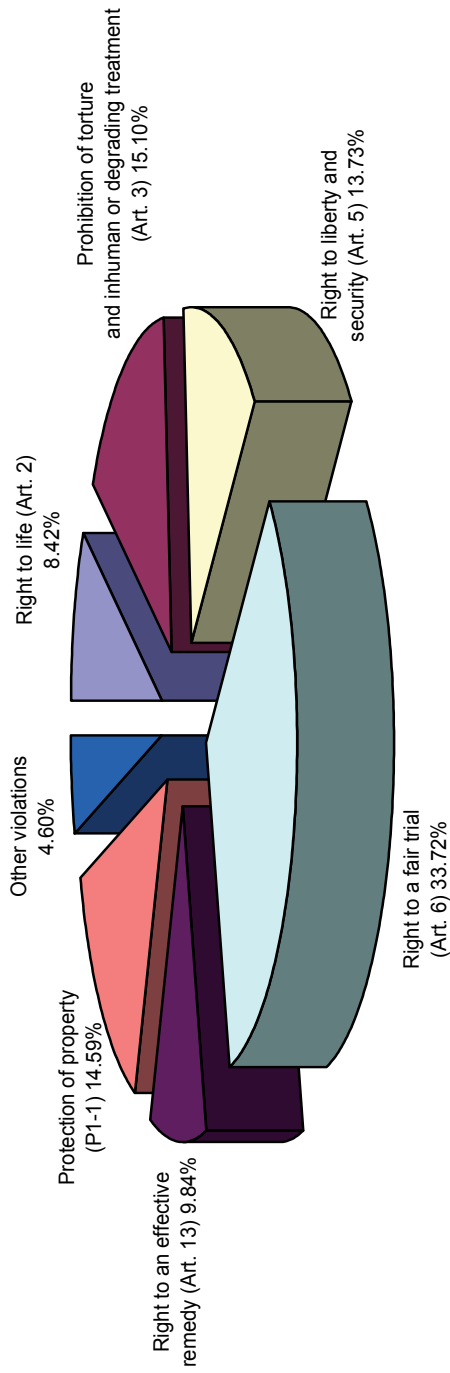
Total number of pending applications: 151,600
(round figures [50])

Court's workload by state of proceedings and application type at 31 December 2011

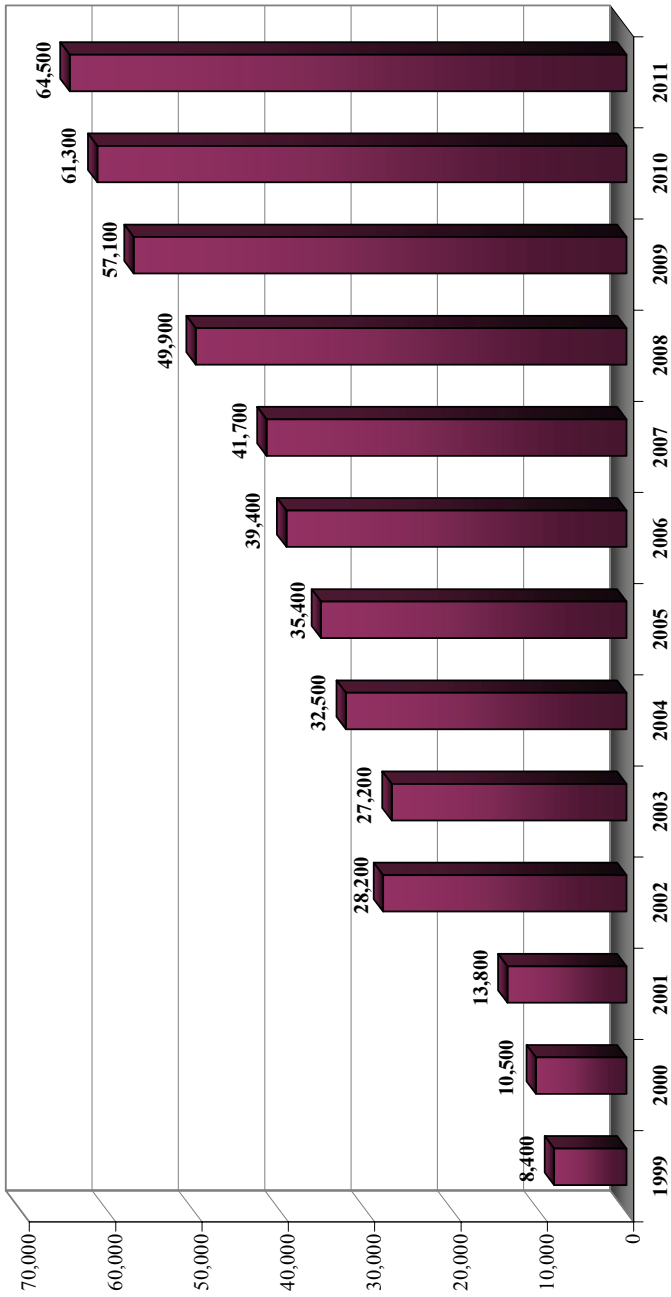


Total number of pending applications: 151,600

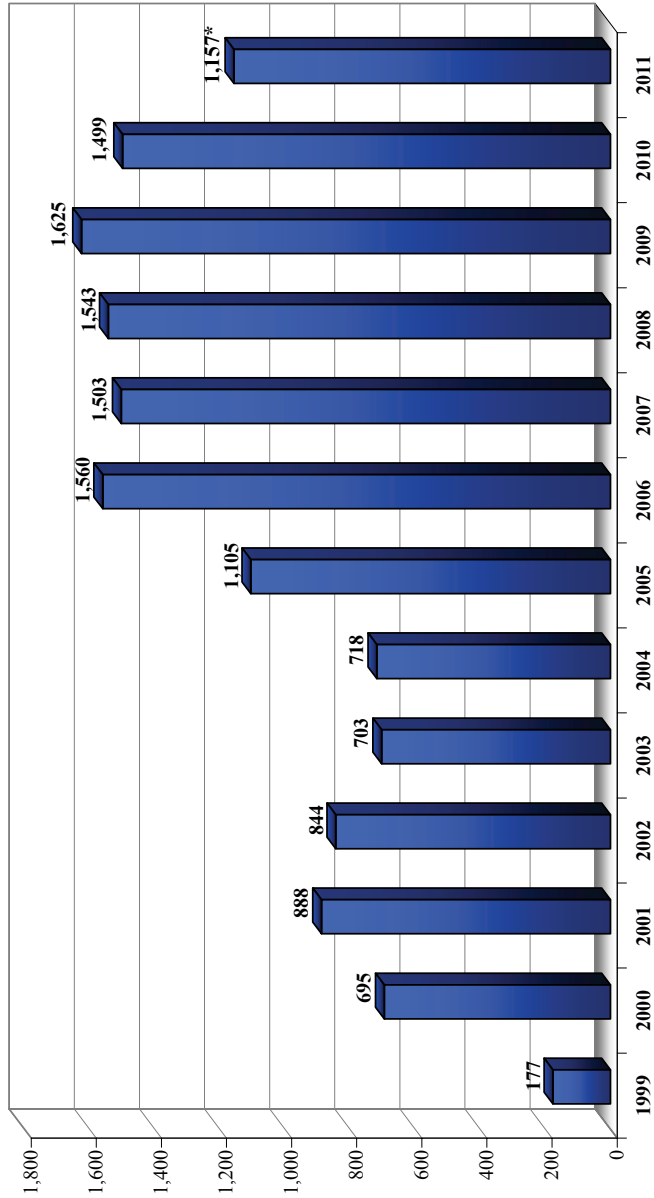
Violations by subject matter at 31 December 2011



Applications allocated to a judicial formation (1999-2011)



Judgments (1999-2011)



* A judgment may concern more than one application.

Violations by Article and by respondent State (1959-2011)

	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	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	Non-enforcement	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	Total	Total	Total	Total	Total	2	3	3	3	4	5	6	6	6	6	7	8	9	10	11	12	13	14	14-1	14-2	14-3	17-4								
1959-2011	32	27	1	4																																				
Albania																																								
Andorra	4	2	1	1																																				
Armenia	30	26	2	2																																				
Austria	299	222	40	24	13																																			
Azerbaijan	51	47	2	2																																				
Belgium	171	120	20	16	15	2																																		
Bosnia Herzegovina	19	17	2																																					
Bulgaria	437	395	27	5	10	13	20	2	41	19	229	49	162	3	35	5	7	11	125	6	60	1	1	15																
Croatia	216	177	10	26	3	1	2	8	6	10	59	83	1	14																										
Cyprus	62	51	5	3	3																																			
Czech Republic	180	161	6	8	5																																			
Denmark	40	14	1	1																																				
Estonia	26	22	3	1																																				
Finland	158	124	21	9	4																																			
France	848	627	125	62	34	3	3	2	19	1	47	251	281	1	3	29	1	25	2	32	8	29																		
Georgia	43	35	7	1																																				
Germany	234	159	56	9	10																																			
Greece	686	610	16	20	40	4	3	28	5	32	120	403	9	6	18	4	2	23	11	2																				
Hungary	245	233	4	6	2																																			
Iceland	12	9		3																																				
Ireland	27	17	5	1	4																																			
Italy	2,166	1,651	54	351	110	2	4	1	16	1	29	245	1,155	6	2	133	4	3	76	2	310	1	16																	
Latvia	57	47	7	3																																				
Liechtenstein	5	5																																						
Lithuania	75	61	7	7																																				

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

Violations by Article and by respondent State (1959-2011) (continued)

	1959-2011																
	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	
Luxembourg	39	30	6	3													
Malta	44	34	5	5													
Moldova	227	207	2	2	16												
Monaco	1	1															
Montenegro	8	8															
Netherlands	134	77	30	16	11												
Norway	29	21	8														
Poland	945	815	77	40	13												
Portugal	237	165	10	56	6												
Romania	859	777	24	23	35												
Russia	1,212	1,140	49	13	10												
San Marino	12	8	1	2	1												
Serbia	61	54	4	3													
Slovakia	269	237	7	21	4												
Slovenia	245	231	11	3													
Spain	103	65	33	2	3												
Sweden	99	47	26	23	3												
Switzerland	113	74	32	5	2												
The former Yugoslav Republic of Macedonia*	84	78	3	3													
Turkey	2,747	2,404	57	204	82												
Ukraine	822	814	4	2	2												
United Kingdom	462	279	95	67	21												
Sub-total	12,425	916	1,054	480	341	458	84	1,007	353	3	2,205	3,672	4,810	178	26	853	
Total																	14,854**

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

** Including twenty-one judgments which concern two respondent States: France and Spain (1992), Turkey and Denmark (2001), Hungary and Greece (2004), Moldova and Russia (2004, 2011), 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), Montenegro and Serbia (2009, 2 in 2011), Cyprus and Russia (2010), Italy and France (2011), Greece and Belgium (2011), Poland and Germany (2011), France and Belgium (2011), and Switzerland and Turkey (2011).
 NB: Non-execution of Court decisions has been a separate category since 2010.

Allocated applications by State and by population (2008-2011)

State	Applications allocated to a judicial formation				Population (1,000)					Allocated/population (10,000)			
	2008	2009	2010	2011	1/1/08	1/1/09	1/1/10	1/1/11	2008	2009	2010	2011	
Albania	75	99	96	85	3,170	3,169	3,185	3,185	0.24	0.31	0.30	0.27	
Andorra	1	6	8	8	83	87	85	85	0.12	0.69	0.94	0.94	
Armenia	106	125	197	173	3,230	3,238	3,249	3,249	0.33	0.39	0.61	0.53	
Austria	373	410	439	386	8,332	8,357	8,375	8,404	0.45	0.49	0.52	0.46	
Azerbaijan	334	361	337	532	8,630	8,934	8,997	8,997	0.39	0.40	0.37	0.59	
Belgium	166	256	304	256	10,670	10,741	10,840	10,918	0.16	0.24	0.28	0.23	
Bosnia and Herzegovina	971	621	658	509	3,843	3,760	3,844	3,844	2.53	1.65	1.71	1.32	
Bulgaria	890	1,194	1,348	1,206	7,640	7,602	7,564	7,505	1.16	1.57	1.78	1.61	
Croatia	608	755	992	1,192	4,435	4,432	4,426	4,426	1.37	1.70	2.24	2.69	
Cyprus	66	59	118	69	795	802	803	804	0.83	0.74	1.47	0.86	
Czech Republic	721	726	606	523	10,381	10,475	10,507	10,533	0.69	0.69	0.58	0.50	
Denmark	73	63	96	111	5,476	5,519	5,529	5,561	0.13	0.11	0.17	0.20	
Estonia	169	204	265	346	1,341	1,340	1,340	1,340	1.26	1.52	1.98	2.58	
Finland	276	489	377	433	5,301	5,325	5,351	5,375	0.52	0.92	0.70	0.81	
France	2,724	1,589	1,619	1,600	63,753	64,105	64,716	65,075	0.43	0.25	0.25	0.25	
Georgia	1,771	2,122	375	395	4,382	4,219	4,386	4,386	4.04	5.03	0.85	0.90	
Germany	1,572	1,515	1,683	1,754	82,222	82,062	81,802	81,752	0.19	0.18	0.21	0.21	
Greece	416	518	585	668	11,215	11,263	11,305	11,330	0.37	0.46	0.52	0.59	
Hungary	425	449	436	656	10,045	10,030	10,014	9,986	0.42	0.45	0.44	0.66	
Iceland	7	10	15	10	314	321	318	318	0.22	0.31	0.47	0.31	
Ireland	48	62	62	54	4,420	4,450	4,468	4,480	0.11	0.14	0.14	0.12	
Italy	1,824	3,624	3,852	4,733	59,618	60,090	60,340	60,626	0.31	0.60	0.64	0.78	
Latvia	248	326	271	291	2,271	2,261	2,248	2,230	1.09	1.44	1.21	1.30	
Liechtenstein	8	14	15	9	35	36	36	36	2.26	3.92	4.17	2.50	
Lithuania	255	261	242	305	3,366	3,350	3,329	3,245	0.76	0.78	0.73	0.94	

State	Allocated applications by State and by population (2008-2011) (continued)														
	Applications allocated to a judicial formation					Population (1,000)					Allocated/population (10,000)				
	2008	2009	2010	2011	1/1/08	1/1/09	1/1/10	1/1/11	2008	2009	2010	2011			
Luxembourg	35	29	44	24	484	492	502	512	0.72	0.59	0.88	0.47			
Malta	12	14	23	21	411	413	414	418	0.29	0.34	0.56	0.50			
Moldova	1,147	1,322	945	1,025	3,573	3,576	3,564	3,564	3.21	3.70	2.65	2.88			
Monaco	5	9	13	8	32	33	33	33	1.56	2.73	3.94	2.42			
Montenegro	156	269	305	318	628	626	633	633	-	4.30	4.82	5.02			
Netherlands	385	500	727	798	16,404	16,481	16,575	16,655	0.23	0.30	0.44	0.48			
Norway	79	79	86	154	4,737	4,801	4,858	4,920	0.17	0.16	0.18	0.31			
Poland	4,369	4,986	5,777	5,035	38,116	38,130	38,167	38,200	1.15	1.31	1.51	1.32			
Portugal	151	152	186	163	10,618	10,632	10,637	10,637	0.14	0.14	0.17	0.15			
Romania	5,242	5,260	5,992	5,207	21,529	21,497	21,462	21,414	2.43	2.45	2.79	2.43			
Russia	10,146	13,666	14,309	12,465	142,009	141,904	141,915	141,915	0.71	0.96	1.01	0.88			
San Marino	4	2	4	0	31	32	31	31	1.30	0.63	1.29	0.00			
Serbia	1,067	1,576	1,566	3,730	7,374	7,335	7,307	7,307	1.66	2.15	2.14	5.10			
Slovak Republic	488	569	568	553	5,401	5,411	5,425	5,435	0.90	1.05	1.05	1.02			
Slovenia	1,353	598	837	426	2,026	2,053	2,047	2,050	6.68	2.91	4.09	2.08			
Spain	393	641	689	808	45,283	45,853	45,989	46,153	0.09	0.14	0.15	0.18			
Sweden	317	367	901	1,899	9,183	9,259	9,341	9,416	0.35	0.40	0.96	2.02			
Switzerland	261	471	368	357	7,591	7,668	7,786	7,866	0.34	0.61	0.47	0.45			
"The former Yugoslav Republic of Macedonia"	395	489	422	376	2,045	2,049	2,053	2,057	1.93	2.39	2.06	1.83			
Turkey	3,706	4,474	5,821	8,702	70,586	71,517	72,561	73,723	0.53	0.63	0.80	1.18			
Ukraine	4,770	4,693	3,962	4,621	46,373	45,964	45,783	45,783	1.03	1.02	0.87	1.01			
United Kingdom	1,253	1,133	2,766	1,553	61,186	61,612	62,027	62,436	0.20	0.18	0.45	0.25			

* The Council of Europe member States had a combined population of approximately 819 million inhabitants on 1 January 2011. The average number of applications allocated per 10,000 inhabitants was 0.79 in 2011.

Sources 2011: Eurostat or the United Nations Statistics Division.

