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of Human Rights

ANNUAL REPORT 2007

Registry of the European Court
of Human Rights
Strasbourg, 2008

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FOREWORD

In 2007 the Court delivered judgments and decisions in important spheres, whose variety testifies to the importance the European Convention on Human Rights has taken on for European citizens. Readers of this latest edition of the Annual Report will be able to observe the importance of these rulings. However, 2007 will also be remembered as a year when certain illusions were lost.

First of all, the Court's caseload continued to increase. In 2006, 39,000 new applications were registered with a view to a judicial decision. In 2007 the figure was in excess of 41,000, a rise of 5%. Meanwhile, the total number of judgments and decisions given fell slightly (by 4%) to around the 29,000 mark. The total number of cases pending rose from 90,000 to 103,000 (of which 80,000 have been allocated to a decision body), an increase of some 15%. Just over 1,500 judgments on the merits were delivered. At the same time, 2007 saw a very considerable increase in the number of requests to the Court for interim measures: over 1,000 such requests were received, of which 262 were allowed, most often in sensitive cases concerning the rights of aliens and the right of asylum.

But the main source of disappointment for the Court lies in the fact that Protocol No. 14 has not yet come into force. At the San Marino colloquy last March I solemnly called on the Russian Federation to ratify this instrument, the procedural provisions of which, as everyone is aware, give the Court the means to increase its efficiency considerably. That call, which was backed by the different organs of the Council of Europe, was the subject of a number of favourable comments among the highest Russian courts. However, it has yet to produce the desired result.

Only if Protocol No. 14 comes into force soon can we look to the future with optimism by studying, on the basis of that instrument, the report of the Group of Wise Persons set up by the Council of Europe at its 3rd Summit in Warsaw in May 2005, and adopting some of its proposals concerning the long-term effectiveness of supervision under the Convention. If ratification does not occur in the near future, other solutions will need to be found, as we cannot allow the system to become bogged down by a continuous flow of applications, most of which have no serious prospect of success.

Nevertheless, in 2007 – and this is a broadly positive point – the Court did not remain idle and strove to implement a new policy of defining priority cases, concentrating its efforts to a greater extent on well-founded applications and especially on those of a complex nature, which are often also the most important. The proportion of applications declared inadmissible or struck out of the list remains considerable, at 94%. That figure in itself reveals an anomaly. It is not the vocation of a Court set up to protect respect for rights and freedoms to dismiss the vast majority of complaints, and their excessive number shows at the very least that what the Court is here to do is not properly understood. The new policy of defining priority cases, incidentally, explains the slight fall in the number of applications rejected, in particular by the three-judge committees. In this context we are also looking at ways of developing the pilot-judgment procedure, as recommended by the Wise Persons in their report. This makes it possible to give judgment on the merits and subsequently, when structural changes have been made to the legal system of the respondent State, to avoid an influx of similar cases, which are instead resolved at national level.

The delicate position in which the Court finds itself has done nothing to undermine its authority and prestige, as I have been able to observe during my visits to Contracting States and at high-level meetings in Strasbourg. In that regard, 2007 saw a strengthening of ties with United Nations agencies such as the Office of the High Commissioner for Human Rights, the Office of the High Commissioner for Refugees and the International Court of Justice, and also with the European

Union institutions, in particular the Court of Justice in Luxembourg. Interest in the Court's work extends well beyond the confines of Europe. Numerous meetings with national and international courts and the Court's increasing involvement in the training of judges and legal officers provide a way of increasing knowledge of the Convention and our case-law. Considerable progress has been made in terms of information technology and modern techniques to facilitate access to information from the Registry (including access to applications as soon as they are communicated to the respondent State) and even to open up access to Court hearings, which can now be followed on our website by Internet users in any part of the world.

The judgments given are better known and, by and large, better executed, thanks to the efforts of the Committee of Ministers of the Council of Europe, which is responsible for overseeing their execution.

A few examples from the Court's recent case-law testify to its diversity.

*The applications in Behrami v. France and Saramati v. France, Germany and Norway¹ related to events in Kosovo. The applicants complained that a French contingent of the international security force KFOR had not properly cleared the Mitrovica area of mines, leading to the detonation of a bomb which killed one child and injured another. They also complained that they had been arrested by UNMIK (United Nations Interim Administration Mission in Kosovo) police and detained by KFOR. The Court, after establishing that the acts in question were indeed attributable to the United Nations, noted that the latter was not a Contracting Party to the European Convention on Human Rights. The Court found that it did not have jurisdiction *ratione personae*, recognising that operations carried out on behalf of the United Nations under Chapter VII of the Charter had complete immunity from jurisdiction. It therefore declared the applications inadmissible.*

*Once again, the Court had to record findings of torture on account of treatment inflicted on detained persons and hold that there had been a two-fold violation of the Convention, firstly, from a substantive viewpoint, on account of the ill-treatment itself and, secondly, from the procedural point of view, in that there had been no effective investigation into the allegations of torture, despite medical reports. For example, in Mammadov v. Azerbaijan², an opposition party leader was subjected while in police custody to the practice of *falaka*, meaning that he was beaten on the soles of the feet. Another example was Chitayev v. Russia³, in which two Russian brothers of Chechen origin endured particularly serious and cruel suffering.*

In the Gebremedhin [Gaberamadhein] v. France⁴ judgment the Court examined the procedure known as "asylum at the border", in which the asylum-seeker is placed in a holding area at the airport and refused entry into the territory. In the Court's view, where such asylum-seekers ran a serious risk of torture or ill-treatment in their country of origin, Article 13 of the Convention required them to have access to a remedy with automatic suspensive effect. No such remedy had been available in that case. Here it is important to point out that the French legislature did introduce one a few months after the judgment and in order to comply with it.

The issues raised in Evans v. the United Kingdom⁵ were of a sensitive ethical nature. The case concerned the extraction of eggs from the applicant's ovaries for in vitro fertilisation. The applicant complained that domestic law allowed her former partner to withdraw his consent to the continued

1. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.

2. No. 34445/04, 11 January 2007.

3. No. 59334/00, 18 January 2007.

4. No. 25389/05, 26 April 2007.

5. [GC], no. 6339/05, 10 April 2007.

storage and use of the embryos, thus preventing her from having a child to whom she was genetically related. The Court accepted that “private life” encompassed the right to respect for the decision to become or not to become a parent. It therefore held that the legal obligation to obtain the father’s consent to the storage and implantation of the fertilised eggs was not contrary to Article 8 of the Convention. On the other hand, in Dickson v. the United Kingdom¹, it took the view that there had been a violation of Article 8 on account of the refusal to allow a request for artificial insemination treatment by a prisoner whose wife was at liberty, since a fair balance had not been struck between the conflicting public and private interests.

In two important cases the Court found violations of the right to education, guaranteed by Article 2 of Protocol No. 1. The first, Folgerø and Others v. Norway², concerned the refusal to grant pupils in public primary and lower secondary schools full exemption from participation in Christianity, religion and philosophy lessons. By a very narrow majority the Court held that the respondent State had not done enough to ensure that the information and knowledge which the syllabus required to be taught in these lessons were put across in a sufficiently objective, critical and pluralistic manner.

In the second case, D.H. and Others v. the Czech Republic³, it held to be discriminatory and contrary to Article 14 of the Convention a practice of placing Roma children in special schools intended for children suffering from a mental disability. It held that Roma, as a disadvantaged and vulnerable minority, were in need of special protection extending to the sphere of education.

The case of Tysiãc v. Poland⁴ concerned a Polish law which prohibited abortion except where pregnancy posed a threat to the woman’s life or health. The applicant was unable to obtain a therapeutic abortion owing to the refusal of the head of the hospital department to terminate the pregnancy, and lost her sight after giving birth. The Court held that there had been a violation of Article 8, as the Polish State had failed in its positive obligation “to safeguard the applicant’s right to respect for her private life in the context of a controversy as to whether she was entitled to a therapeutic abortion”.

These few cases show the variety, difficulty and, frequently, the gravity of the problems submitted to the Court.

What of the Court’s future?

First of all, experience shows that national courts, and especially supreme and constitutional courts, are increasingly incorporating the European Convention into their domestic law – are in a sense taking ownership of it through their rulings. National legislatures are moving in the same direction, for example when they introduce domestic remedies which must be exhausted on pain of having applications to Strasbourg declared inadmissible, or when they speedily draw the consequences of the Court’s judgments in the tangible form of laws or regulations. The approach based on subsidiarity, or as I would prefer to say on solidarity between national systems and European supervision, is in my view likely to be a fruitful one. In the medium term it will reduce the flow of new applications.

Lastly, and this is no small matter, the Lisbon Treaty has made the European Union’s accession to the Convention possible once more. Accession will strengthen the indispensable convergence between the rulings of the two great European Courts, the Court of Justice of the

1. [GC], no. 44362/04, 4 December 2007.

2. [GC], no. 15472/02, 29 June 2007.

3. [GC], no. 57325/00, 13 November 2007.

4. No. 5410/03, 20 March 2007.

European Communities and our own, which are moreover by no means rivals but strongly complementary, and which are already cooperating in the best spirit. Accession can be expected to bring a synergy and a tightening of bonds between the two Europes, and to strengthen our Court's cooperation in the construction of a single European judicial space of fundamental rights.

The Court will participate with enthusiasm and interest in all the discussions and negotiations towards that end.

Hence, we are beginning 2008 with what I would readily describe as legitimate expectations, to borrow a familiar concept from our case-law.

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

I. HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

A. A system in continuous evolution

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

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

3. There are two types of application under the Convention, inter-State and individual. Applications of the first type have been rare. Prominent examples are the case brought by Ireland against the United Kingdom in the 1970s relating to security measures in Northern Ireland, and several cases brought by Cyprus against Turkey over the situation in northern Cyprus.

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

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

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 had a period of three months following the transmission of the report to the Committee of Ministers within which to bring the case before the Court for a final, binding adjudication including, where appropriate, an award of compensation. Individuals were not entitled to bring their

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

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

If a case was not referred to the Court, the Committee of Ministers decided whether there had been a violation of the Convention and, if appropriate, awarded “just satisfaction” to the victim. The Committee of Ministers also had responsibility for supervising the execution of the Court’s judgments.

The Protocols to the Convention

7. Since the Convention’s entry into force, fourteen Protocols have been adopted. Protocols Nos. 1, 4, 6, 7, 12¹ and 13 added further rights and liberties to those guaranteed by the Convention. Protocol No. 2 conferred on the Court the power to give advisory opinions, a little-used function that is now governed by Articles 47 to 49 of the Convention². As noted above, Protocol No. 9 enabled individuals to seek referral of their case to the Court. Protocol No. 11 radically transformed the supervisory system, creating a single, full-time Court to which individuals can have direct recourse. Protocol No. 14, which was adopted in 2004 and has since been ratified by all the Contracting States except the Russian Federation, will introduce a number of institutional and procedural reforms, the main objective being to expand the Court’s capacity to deal with clearly inadmissible complaints as well as admissible cases that can be resolved on the basis of well-established case-law (see paragraphs 31-32 below). The other Protocols, which concerned the organisation of and procedure before the Convention institutions, are of no practical importance today.

B. Mounting pressure on the Convention system

8. In the early years of the Convention, the number of applications lodged with the Commission was comparatively small, and the number of cases decided by the Court was much lower again. This changed in the 1980s, by which time the steady growth in the number of cases brought before the Convention institutions made it increasingly difficult to keep the length of proceedings within acceptable limits. The problem was compounded by the rapid increase in the number of Contracting States from 1990 onwards, rising from twenty-two to the current total of forty-seven. The number of applications registered annually with the Commission increased from 404 in 1981 to 4,750 in 1997, the last full year of operation of the original supervisory mechanism. By that same year, the number of unregistered or provisional files opened annually in the Commission had risen to over 12,000. Although on a much lower scale, the Court’s statistics reflected a similar story, with the number of cases referred annually rising from 7 in 1981 to 119 in 1997³.

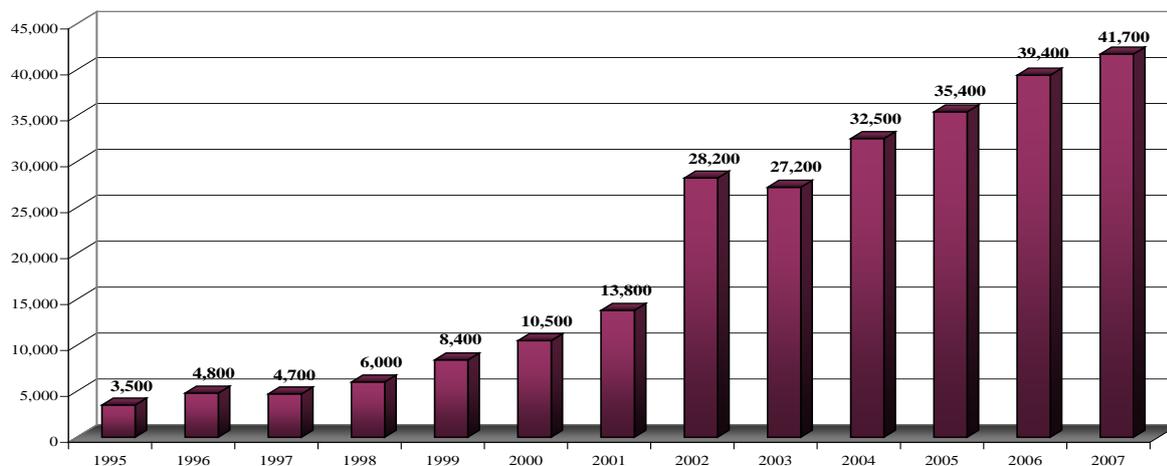
9. As the following table shows, the Court’s workload has continued to increase (applications allocated to a decision body⁴):

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

2. There have been two requests by the Committee of Ministers for an advisory opinion. The first request was found to be inadmissible, and an advisory opinion in respect of the second was delivered on 12 February 2008.

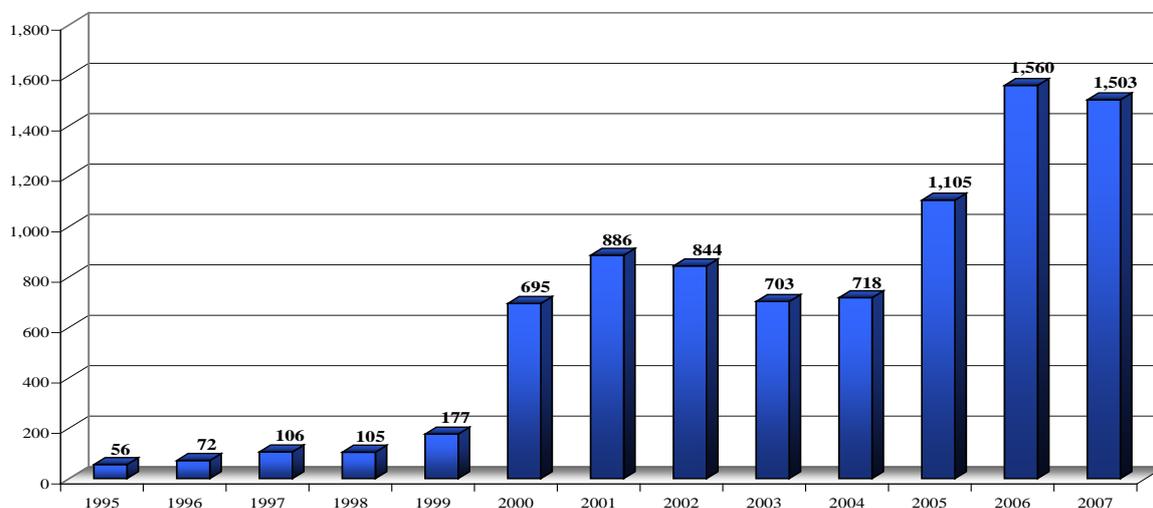
3. By 31 October 1998, the “old” Court had delivered a total of 837 judgments. The Commission received more than 128,000 applications during its lifetime (1955-98). It continued to operate for a further twelve months to deal with cases already declared admissible before Protocol No. 11 came into force.

4. See Chapter XII for details on the new presentation of the Court’s statistics.



By the end of 2007, almost 80,000 allocated applications were pending before the Court. Four States account for over half (55%) of its workload: 26% of the cases are directed against Russia, 12% of the cases concern Turkey, 10% Romania and 7% Ukraine.

In 2007, it handed down 1,503 judgments concerning a total of 1,735 applications:



The highest number of judgments concerned Turkey (331), Russia (192), Poland (111) and Ukraine (109). These four States accounted for almost half (49%) of all judgments. Nearly one-third (29%) of all judgments concerned seven other States: Romania (93 judgments), Italy (67), Greece (65), Moldova (60), Bulgaria (53), United Kingdom (50) and France (48). The remaining thirty-six Contracting States accounted for less than a quarter of all judgments.

In addition to its judgments, the Court disposed of more than 27,000 other applications, which were either declared inadmissible or struck out for another reason. Applications can also be disposed of administratively, for example if applicants fail to follow up on their initial correspondence with the Court. In 2007, over 13,000 applications were disposed of in this way.

In 2007 the Court dealt with an unprecedented number, over 1,000 in total, of requests for interim measures (Rule 39 of the Rules of Court).

For more detailed statistics, see Chapter XII.

10. This enormous caseload has raised concerns over the continuing effectiveness of the Convention system. Further changes to the system were agreed in 2004, when Protocol No. 14 was adopted and opened for signature. By the end of 2007, only one ratification was outstanding. Although Protocol No. 14 will allow the Court to deal more rapidly with certain types of cases, it cannot lessen the flow of new applications. It is widely agreed that further adaptation of the system is necessary. At the 3rd Summit of the Council of Europe in Warsaw in May 2005, the heads of State and government present decided to convene a Group of Wise Persons, composed of eminent legal personalities, to consider the steps that might be taken to ensure the system's continuing viability. The Group submitted its report in December 2006, making a number of recommendations, including introducing greater flexibility for reforming the judicial machinery and establishing a new judicial filtering mechanism. Terms of reference have been given to the Council of Europe's Steering Committee for Human Rights (CDDH) to study and take forward the different proposals.

The European Court of Human Rights

A. Organisation of the Court

11. The Court, as currently constituted, was brought into being by Protocol No. 11 on 1 November 1998. This instrument made the Convention process wholly judicial, as the Commission's function of screening applications was entrusted to the Court itself, whose jurisdiction became compulsory. The Committee of Ministers' adjudicative function was formally abolished.

12. 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 States¹. Judges are elected by the Parliamentary Assembly of the Council of Europe, which votes on a shortlist of three candidates put forward by the States. The term of office is six years, and judges may be re-elected. Their terms of office expire when they reach the age of 70, although they continue to deal with cases already under their consideration.

Judges sit on the Court in their individual capacity and do not represent any State. They cannot engage in any activity which is incompatible with their independence or impartiality, or with the demands of full-time office.

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

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 years.

1. See Chapter II for the list of judges. Biographical details of judges can be found on the Court's website (www.echr.coe.int).

15. The great majority of the judgments of the Court are given by Chambers. These comprise seven judges and are constituted within each Section. The Section President and the judge elected in respect of the State concerned sit in each case. Where the latter is not a member of the Section, he or she sits as an *ex officio* member of the Chamber. 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 function is to dispose of applications that are clearly inadmissible.

17. The Grand Chamber of the Court is composed of seventeen judges, who include, as *ex officio* members, the President, Vice-Presidents and Section Presidents. The Grand Chamber deals with cases that raise a serious question of interpretation or application of the Convention, or a serious issue of general importance. A Chamber may relinquish jurisdiction in a case to the Grand Chamber at any stage in the procedure before judgment, as long as both parties consent. Where judgment has been delivered in a case, either party may, within a period of three months, request referral of the case to the Grand Chamber. Where a request is granted, the whole case is reheard.

18. The effect of Protocol No. 14 on the organisation of the Court is explained in Part C below.

B. Procedure before the Court

1. General

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

20. The procedure before the European Court of Human Rights is adversarial and public. It is largely a written procedure. 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 cases, but they should be legally represented once the application has been communicated to the respondent Government. 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 declared admissible, one of the Court's official languages must be used, unless the President of the Chamber/Grand Chamber authorises the continued use of the language of the application.

2. The handling of applications

23. Each application is assigned to a Section, where it will be dealt with by a Committee or a Chamber.

An individual application that clearly fails to meet one of the admissibility criteria is referred to a Committee, which will declare it inadmissible or strike it out. A unanimous vote is required, and the Committee's decision is final. All other individual applications, as well as inter-State applications, are referred to a Chamber. One member of the Chamber is designated to act as judge rapporteur for the case. The identity of the rapporteur is not divulged to the parties. The application is communicated to the respondent Government, which is asked to address the issues of admissibility and merits that arise, as well as the applicant's claims for just satisfaction. The parties will also be invited to consider whether a friendly settlement is possible. The Registrar facilitates friendly settlement negotiations, which are confidential and without prejudice to the parties' positions.

24. The Chamber determines both admissibility and merits. As a rule, both aspects are taken together in a single judgment, although the Chamber may take a separate decision on admissibility, where appropriate. Such decisions, which are taken by majority vote, must contain reasons and be made public.

25. The President of the Chamber may, in the interests of the proper administration of justice, invite or grant leave to any Contracting State which is not party to the proceedings, or any person concerned who is not the applicant, to submit written comments, and, in exceptional circumstances, to make representations at the hearing. A Contracting State whose national is an applicant in the case is entitled to intervene as of right.

26. Chambers decide by a majority vote. Any judge who has taken part in the consideration of the case is entitled to append to the judgment a separate opinion, either concurring or dissenting, or a bare statement of dissent.

27. A Chamber judgment becomes final three months after its delivery. Within that time, any party may request that the case be referred to the Grand Chamber if it raises a serious question of interpretation or application or a serious issue of general importance. If the parties declare that they will not make such a request, the judgment will become final immediately. Where a request for referral is made, it is examined by a panel of five judges composed of the President of the Court, two Section Presidents designated by rotation, and two more judges also designated by rotation. No judge who has considered the admissibility and/or merits of the case may be part of the panel that considers the request. If the panel rejects the request, the Chamber judgment becomes final immediately. A case that is accepted will be reheard by the Grand Chamber. Its judgment is final.

28. All final judgments of the Court are binding on the respondent States concerned.

29. Responsibility for supervising the execution of judgments lies with the Committee of Ministers of the Council of Europe. The Committee of Ministers verifies whether the State in respect of which a violation of the Convention is found has taken adequate remedial measures, which may be specific and/or general, to comply with the Court's judgment.

30. The changes in procedure that Protocol No. 14 will bring about are described below.

C. Protocol No. 14

31. Protocol No. 14 will change the current organisation and procedure of the Court in a number of respects. When it takes effect, judges will be elected for a single term of nine years. The present judicial formations will be modified. The function discharged by a Committee will be taken on by a single judge, who cannot be the judge sitting in respect of the State concerned. The judge will be assisted by a new category of Court officers, to be known as rapporteurs. Committees will

have the power to give judgment in cases to which well-established case-law is applicable. The competence of Chambers will not change, although the Plenary Court may request the Committee of Ministers to reduce their size from seven members to five for a fixed period of time. The procedures before the Chambers and the Grand Chamber will remain as described above, although the Council of Europe Commissioner for Human Rights will be entitled to submit written comments and take part in the hearing in any case.

32. Protocol No. 14 will institute two new procedures regarding the execution phase. The Committee of Ministers will be able to request interpretation of a judgment of the Court. It will also be able to take proceedings in cases where, in its view, the respondent State refuses to comply with a judgment of the Court. In such proceedings, the Court will be asked to determine whether the State has respected its obligation under Article 46 of the Convention to abide by a final judgment against it.

II. COMPOSITION OF THE COURT

COMPOSITION OF THE COURT

At 31 December 2007 the Court was composed as follows (in order of precedence)¹:

Jean-Paul Costa, <i>President</i>	(French)
Christos Rozakis, <i>Vice-President</i>	(Greek)
Nicolas Bratza, <i>Vice-President</i>	(British)
Boštjan M. Zupančič, <i>Section President</i>	(Slovenian)
Peer Lorenzen, <i>Section President</i>	(Danish)
Françoise Tulkens, <i>Section President</i>	(Belgian)
Giovanni Bonello	(Maltese)
Loukis Loucaides	(Cypriot)
Ireneu Cabral Barreto	(Portuguese)
Rıza Türmen	(Turkish)
Corneliu Bîrsan	(Romanian)
Karel Jungwiert	(Czech)
Volodymyr Butkevych	(Ukrainian)
Josep Casadevall	(Andorran)
Nina Vajić	(Croatian)
Margarita Tsatsa-Nikolovska	(citizen of “the former Yugoslav Republic of Macedonia”)
András Baka	(Hungarian)
Rait Maruste	(Estonian)
Kristaq Traja	(Albanian)
Snejana Botoucharova	(Bulgarian)
Mindia Ugrekhelidze	(Georgian)
Anatoly Kovler	(Russian)
Vladimiro Zagrebelsky	(Italian)
Antonella Mularoni	(San Marinese)
Elisabeth Steiner	(Austrian)
Stanislav Pavlovschi	(Moldovan)
Lech Garlicki	(Polish)
Javier Borrego Borrego	(Spanish)
Elisabet Fura-Sandström	(Swedish)
Alvina Gyulumyan	(Armenian)
Khanlar Hajiyev	(Azerbaijani)
Ljiljana Mijović	(citizen of Bosnia and Herzegovina)
Dean Spielmann	(Luxembourgger)
Renate Jaeger	(German)
Egbert Myjer	(Netherlands)
Sverre Erik Jebens	(Norwegian)
David Thór Björgvinsson	(Icelandic)
Danutė Jočienė	(Lithuanian)
Ján Šikuta	(Slovakian)
Dragoljub Popović	(Serbian)
Ineta Ziemele	(Latvian)
Mark Villiger	(Swiss) ²
Isabelle Berro-Lefèvre	(Monegasque)
Päivi Hirvelä	(Finnish)
Giorgio Malinverni	(Swiss)
Erik Fribergh, <i>Registrar</i>	(Swedish)
Michael O’Boyle, <i>Deputy Registrar</i>	(Irish)

1. The seats of the judges in respect of Ireland and Montenegro were vacant.

2. Elected in respect of Liechtenstein.

III. COMPOSITION OF THE SECTIONS

COMPOSITION OF THE SECTIONS

(in order of precedence)

From 1 January 2007

	Section I	Section II	Section III	Section IV	Section V
<i>President</i>	Christos Rozakis	Jean-Paul Costa	Boštjan M. Zupančič	Nicolas Bratza	Peer Lorenzen
<i>Vice-President</i>	Loukis Loucaides	András Baka	John Hedigan	Josep Casadevall	Snejana Botoucharova
	Françoise Tulkens	Ireneu Cabral Barreto	Corneliu Bîrsan	Giovanni Bonello	Luzius Wildhaber
	Nina Vajić	Rıza Türmen	Vladimiro Zagrebelsky	Kirstaq Traja	Karel Jungwiert
	Anatoly Kovler	Mindia Ugrekhelidze	Alvina Gyulumyan	Stanislav Pavlovschi	Volodymyr Butkevych
	Elisabeth Steiner	Antonella Mularoni	Egbert Myjer	Lech Garlicki	Margarita Tsatsa-Nikolovska
	Khanlar Hajiyev	Elisabet Fura-Sandström	Davíð Thór Björgvinsson	Ljiljana Mijović	Rait Maruste
	Dean Spielmann	Danutė Jočienė	Ineta Ziemele	Ján Šikuta	Javier Borrego Borrego
	Sverre Erik Jebens	Dragoljub Popović	Isabelle Berro-Lefèvre	Päivi Hirvelä	Renate Jaeger
					Mark Villiger
<i>Section Registrar</i>	Søren Nielsen	Sally Dollé	Vincent Berger	Lawrence Early	Claudia Westerdiek
<i>Deputy Section Registrar</i>	Santiago Quesada	Stanley Naismith	Fatoş Aracı	Françoise Elens-Passos	Stephen Phillips

From 19 January 2007

	Section I	Section II	Section III	Section IV	Section V
<i>President</i>	Christos Rozakis	Françoise Tulkens	Boštjan M. Zupančič	Nicolas Bratza	Peer Lorenzen
<i>Vice-President</i>	Loukis Loucaides	András Baka	Corneliu Bîrsan ¹	Josep Casadevall	Snejana Botoucharova
	Nina Vajić	Ireneu Cabral Barreto	Jean-Paul Costa	Giovanni Bonello	Karel Jungwiert
	Anatoly Kovler	Rıza Türmen	Elisabet Fura-Sandström	Kirstaq Traja	Volodymyr Butkevych
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	Giorgio Malinverni	Dragoljub Popović	Isabelle Berro-Lefèvre	Päivi Hirvelä	Mark Villiger
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<i>Deputy Section Registrar</i>	André Wampach	Françoise Elens-Passos	Stanley Naismith	Fatoş Aracı	Stephen Phillips

1. From 23 March 2007, Mr Bîrsan replaced Mr Hedigan, who had resigned, as Vice-President of the Third Section.

**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,
25 JANUARY 2008**

**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,
25 JANUARY 2008**

When I see the number and quality of our guests who have come again this year to attend the solemn hearing to mark the beginning of the Court's judicial year, it is a pleasant duty for me to thank you all for your presence in this room. And since, in accordance with a custom which is not perhaps a general principle of law but which is generally recognised, the period for good wishes only closes at the end of January, please allow me, on behalf of my colleagues and myself, to wish you a happy new year in 2008, to you and to those you hold dear.

I am also very pleased to be able to welcome Mrs Louise Arbour, United Nations High Commissioner for Human Rights, who kindly accepted our invitation and to whom, in a few minutes, I will give the floor. After a brilliant national and international career, Mrs Arbour now holds a post which symbolises the universality of human rights and their protection by the international community as a whole. Her presence is particularly gratifying at the beginning of a year which will mark the 60th anniversary of the Universal Declaration of Human Rights. Without the proclamation of the Universal Declaration, without the dynamic which it set in motion, we would not be here this evening because there would not have been regional conventions like the European Convention, or at any rate not so early and not in the same circumstances.

Ladies and gentlemen, the start of the 2007 judicial year coincided with the departure of my predecessor and friend, President Luzius Wildhaber, and with the beginning of my term of office. It is therefore natural for me to take stock of the Court's activity. But I would first like to return to the concept of human rights, which is at the very heart of our work.

The human rights situation in the world is one of great contrasts. In Europe, which in some respects is privileged in relation to other regions, the situation can vary from country to country, though it is subject to common dangers. Globalisation affects more than just the economy; it has an impact on all areas of international life. Terrorism, for example, has not spared Europe in recent years, and it remains a constant threat, forcing States to make the difficult effort to reconcile the requirements of security with the preservation of fundamental freedoms. Similarly, immigration is both an opportunity and a challenge for our continent, which has to take in the victims of persecution and protect immigrants' private and family lives, but which at the same time cannot disregard the inevitable need for regulation, provided that this is done humanely and with respect for the dignity of each individual. The increase in private violence obliges criminal justice to deter unlawful acts and punish those responsible while upholding the rights of their victims; but that obligation does not dispense judges from respecting due process and proportionate sentences and prison authorities from guaranteeing prisoners' rights and sparing them inhuman or degrading treatment.

Our Court finds itself at the intersection of these tensions – I might even say these contradictions. And what can be said of the obvious correlation between internal and international conflicts and the aggravation of risks for human rights, other than that Europe is not a happy island, sheltered from wars and crises? Certainly, *pax europeana* holds good overall, but there are many dangerous pockets of tension, in the Balkans, in the Caucasus and at Europe's margins; after all, the conflict in the former Yugoslavia ended scarcely more than ten years ago. In short, our Court does

not have only peaceful situations to deal with. In any event the human rights situation is fragile everywhere, it can deteriorate under the pressure of particular circumstances, and human rights always have to be won all over again. This very precariousness of fundamental rights was the reason our Court was set up and remains its permanent justification. It is true that the founder members of the Council of Europe and the drafters of the Convention expected a gradual improvement, based on the three linked pillars of human rights, the rule of law and democracy. Those three principles can only make progress together. If when taking stock we go back as far as the 1950s, there is no doubt that, despite ups and downs, that is what has happened. The European system has surely helped to consolidate fundamental rights, but it has also added to their number, in a movement which is both creative and forward-moving.

For us the year 2007 brought certain disappointments, of a kind which are symptomatic of an already long-standing crisis, but which are fortunately counterbalanced by more encouraging prospects. The figures show that the trends noted in recent years have only become stronger. In 2006, 39,000 new applications were registered with a view to a judicial decision. In 2007 the corresponding number rose to 41,000, an increase of 5%. The total number of judgments and decisions fell slightly (by 4%) to around the 29,000 mark. The logical result is that the number of pending cases has risen from 90,000 to 103,000 (including 80,000 allocated to a decision body) – an increase of about 15%. Just over 1,500 judgments on the merits were given. The proportion of applications declared inadmissible or struck out of the list remains considerable at 94%. That figure reveals an anomaly. It is not the vocation of a Court set up to protect respect for human rights to devote most of its time to dismissing inadmissible complaints, and their excessive number shows at the very least that what the Court is here to do is not properly understood.

To flesh out this statistical information I will make two further remarks. Firstly, the efforts of judges and Registry staff have not slackened in the slightest in 2007. In fact, they have stepped up their efforts even further, and I wish to pay tribute to them for rising to the challenge. Additional but important tasks have increased their workload. For example, there have never been so many requests for interim measures: in 2007 more than a thousand were received and 262 were allowed, usually in sensitive cases concerning the rights of aliens and the right of asylum, which require a great deal of work, usually in great haste.

In fact, the gap between applications received and applications dealt with is essentially attributable to the rise in the number of new applications, but also to the implementation of a new policy. We have decided to concentrate our efforts more on well-founded applications, particularly in complex cases. That explains the slight fall in applications rejected, particularly by three-judge committees. We are also thinking about ways to develop the pilot-judgment procedure (as recommended by the Group of Wise Persons, of which I will say more later) and have begun to elaborate a more systematic definition of priority cases. Secondly, the accumulated backlog is very unevenly distributed, since applications against five States make up nearly 60% of the total of pending cases: the Russian Federation alone accounts for nearly a quarter of the total “stock” of applications before the Court.

I must also point out that this situation, alarming though it is, has not prevented the Court from giving important judgments, of which I will mention a few examples in a moment. I can also vouch for the fact that the authority and prestige of the Court remain intact, as I have been able to observe during my visits to Contracting States and top-level meetings in Strasbourg. Visits to the Court have indeed become an essential part of any journey to Strasbourg, and some of our visitors come from other continents to find out about our Court and what it is doing. Our judgments are better known and, on the whole, better executed, even though there is still work to be done. Here I would like to take the opportunity to thank the Committee of Ministers, which is responsible for overseeing execution of the Court’s judgments. In addition, the numerous meetings with national and

international courts and the increasing participation by the Court in training programmes for judges and legal officers provide a way of improving knowledge of the Convention and our case-law. Considerable progress has been made in the area of data-processing and modern techniques to facilitate access to information from the Registry (including access to applications at the stage of their communication to Governments), and to open up access to hearings before the Court, which can be viewed on our website by Internet users in any part of the world. I thank the Government of Ireland for the invaluable assistance they gave the Court to make that possible.

I would now like to give a few examples – striking in their diversity – of the Court’s recent case-law.

The *Behrami v. France* and *Saramati v. France, Germany and Norway* cases¹ concerned events in Kosovo. I will not discuss them in detail, since Mrs Arbour is better placed than I to analyse the relevant decisions, given in the context of United Nations peace-keeping operations in Kosovo conducted by KFOR and UNMIK. I will simply say that the Court held that the actions and omissions of the Contracting Parties were not subject to its supervision and declared the applications inadmissible.

Once again, the Court has had to record findings of torture on account of treatment inflicted on detained persons and hold that there had been a two-fold violation of the Convention, firstly on account of the ill-treatment itself and secondly, from the procedural point of view, in that there had been no effective investigation into the allegations of torture, despite medical reports. For example, in *Mammadov v. Azerbaijan*², an opposition party leader was subjected while in police custody to the practice of *falaka*, meaning that he was beaten on the soles of the feet. Another example was *Chitayev v. Russia*³, in which two Russian brothers of Chechen origin endured particularly serious and cruel suffering.

In the *Gebremedhin [Gaberamadhien] v. France*⁴ judgment, the Court looked into the procedure known as “asylum at the border”, in which the asylum-seeker is placed in a holding area at the airport and refused admission to the territory. In the Court’s view, where such asylum-seekers ran a serious risk of torture or ill-treatment in their country of origin, Article 13 of the Convention required them to have access to a remedy with automatically suspensive effect. No such remedy had been available in that case. Here I would like to point out that the legislature did introduce one a few months after our judgment and in order to comply with it.

The *Evans v. the United Kingdom*⁵ case raised very sensitive ethical questions. It concerned the extraction of eggs from the applicant’s ovaries for *in vitro* fertilisation. The applicant complained that under domestic law her former partner could withdraw his consent to the storage and use of the embryos, thus preventing her from having a child with whom she would have a genetic link. The Court accepted that “private life” encompassed the right to respect for the decision to become or not to become a parent. It therefore held that the legal obligation to obtain the father’s consent to the storage and implantation of the embryos was not contrary to Article 8 of the Convention. On the other hand, in *Dickson v. the United Kingdom*⁶, it took the view that there had been a violation of Article 8 on account of the refusal to allow a request for artificial insemination treatment by a prisoner whose wife was at liberty, since a fair balance had not been struck between the conflicting public and private interests.

1. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.

2. No. 34445/04, 11 January 2007.

3. No. 59334/00, 18 January 2007.

4. No. 25389/05, 26 April 2007.

5. [GC], no. 6339/05, 10 April 2007.

6. [GC], no. 44362/04, 4 December 2007.

Lastly, in two important cases the Court found violations of the right to education, guaranteed by Article 2 of Protocol No. 1. The first, *Folgerø and Others v. Norway*¹, concerned the refusal to grant pupils in public primary and lower secondary schools full exemption from participation in Christianity, religion and philosophy lessons. By a very narrow majority the Court held that the respondent State had not done enough to ensure that the information and knowledge the syllabus required to be taught in these lessons were put across in a sufficiently objective, critical and pluralistic manner. In the second case, *D.H. and Others v. the Czech Republic*², it held to be discriminatory and contrary to Article 14 of the Convention a practice of placing Roma children in special schools intended for children suffering from a mental disability. It held that Roma, as a disadvantaged and vulnerable minority, were in need of special protection extending to the sphere of education.

As you can see, these few cases show the variety, difficulty and, frequently, the gravity of the problems submitted to the Court.

Let me turn now to the present situation and the future. The main source of disappointment for the Court, and the word is not adequate to do justice to what we feel, is that Protocol No. 14 has not yet come into force. At the San Marino colloquy in March last year I solemnly called on the Russian Federation to ratify this instrument, the procedural provisions of which, as everyone is aware, give the Court the means to improve its efficiency considerably. My appeal, which was backed by the different organs of the Council of Europe, was the subject of a number of favourable comments among the highest Russian courts. But it is a fact that it has still not produced the desired result – a fact which I deeply regret. As regards the reasons for this attitude, I do not expect to uncover every detail, since a certain mystery still surrounds them. On the other hand, I have read reports of allegations that the Court has become political or sometimes gives decisions on non-legal grounds. If such things have been said, that is unacceptable. This Court is no more infallible than any other, but it is not guided by any – I repeat any – political consideration. You all know this, but it is as well for me to confirm it. I still hope that reason and good faith will prevail and that, in the coming weeks, that great country, the main supplier of cases to Strasbourg, will reconsider its decision, or rather the lack of a decision, which weakens us and undermines the whole process of European cooperation. I therefore retain that hope, but as Albert Camus wrote: “hope, contrary to popular belief, is tantamount to resignation. And living means not being resigned.”

Either it will be possible to apply Protocol No. 14 and, looking beyond its immediately beneficial effects, to plan rationally for the future by studying on the basis of Protocol No. 14 the report of the Group of Wise Persons, set up by the Council of Europe at its 3rd Summit in Warsaw in May 2005, and adopting some of its proposals concerning the long-term effectiveness of supervision under the Convention. Or, on the contrary, ratification will not take place in the near future, and the system must not be allowed to get bogged down by a continuous flow of applications, the majority of which have no serious prospect of success.

Individual petition is a major feature of the European system, and it is a unique feature, established with great difficulty and finally generalised less than ten years ago. I have repeatedly declared that it is quite simply inconceivable to abandon the right of individual petition deliberately, and I note in passing that to abolish it the Convention would need to be amended by a Protocol – which is no easy matter, as experience has shown! But it seems to me that no supreme court, be it national or international, can do without procedures whereby it can refuse to accept cases, or reject them summarily – in short a filtering mechanism. What the Court must now do, and in this I am sure it will be supported by the Committee of Ministers, is to introduce on its own initiative

1. [GC], no. 15472/02, 29 June 2007.

2. [GC], no. 57325/00, 13 November 2007.

procedures which, without contravening the Convention, enable it to achieve a different balance. That is to say, it must be able to rule more rapidly and with a greater concentration of its resources on those applications which raise real problems, and to deal more summarily with those which, even when applicants are acting in good faith, are objectively unmeritorious or which concern situations that in themselves cause applicants no real prejudice. The policy I have already mentioned, of defining priorities more precisely, forms part of this shifting of the balance between applications, or in other words this differentiated treatment, which is both fair and inevitable. In short, the aim would be, if we cannot immediately apply the letter of Protocol No. 14, to remain as faithful as possible to its spirit, not forgetting that it was the States which drafted it and that all have signed it. We will not drive straight into the wall. If the obstacle remains in place we will try to find a way round it.

There are still, however, grounds for concern. For various reasons, but in particular the fact that Protocol No. 14 and its provisions on judges' terms of office have not come into force, the Court will lose many of its judges all at once in the first half of this year. Such a sweeping renewal cannot fail to raise problems of continuity and experience. Of course, we extend a warm welcome to the new judges, confident that they will blend in at the Court and bring it their own energy and their own qualities. But I wish to thank the judges who must leave us for everything they have brought to the Court. And without wishing to interfere in the member States' affairs, I sincerely hope that they will be employed at a level commensurate with their worth and their experience in the service of a high international court. It is in the best interests of them, the image of our Court, and the contribution which in view of their qualities they can make to their national systems.

I would add that judges who leave Strasbourg receive no pension, unlike those at other international courts.

That is why the Court has fought and continues to fight for the introduction of a social protection scheme worthy of the name for judges, including a pension scheme, thus ending an anomaly which can only be explained by historical reasons relating to the failure to define a real status for our judges. The report of the Group of Wise Persons mentions the vital importance of setting up a social security scheme including pension rights. We are currently engaged in discussions on that point with the Secretary General, as we soon will be with the Committee of Ministers.

Ladies and gentlemen, I told you that the situation holds out encouraging prospects. Some of them are to be found within our institutional system and some outside it.

The Steering Committee for Human Rights has been asked by the Committee of Ministers to examine the Wise Persons' recommendations. In any event, it will therefore have to propose what the response to these various recommendations should be – after ascertaining the Court's opinion, naturally.

The Committee of Ministers itself will have to raise once more the question of the means to be employed, both from a procedural point of view and in budgetary terms, to enable the system to function and survive, even if ratification of Protocol No. 14 is not forthcoming.

There are therefore possibilities – if the political will is there. It would be better for that will to be expressed by forty-seven States than by forty-six, but if it is expressed only by forty-six, that will already be an achievement.

There are also a number of reasons outside our system itself why we should not be discouraged.

First of all, experience shows that national courts, and especially supreme and constitutional courts, are increasingly incorporating the European Convention into their domestic law – are in a sense taking ownership of it through their rulings. National legislatures are moving in the same direction, for example when they introduce domestic remedies which must be exhausted on pain of having applications to Strasbourg declared inadmissible, or when they speedily draw the consequences of the Court's judgments in the tangible form of laws or regulations. The approach based on subsidiarity, or as I would prefer to say on solidarity between national systems and European supervision, is in my view likely to be a fruitful one. In the medium term it will reduce the flow of new applications. All the contact I have been able to have with national authorities has shown me that there is a growing awareness among executive, legislative and judicial authorities of the need for States to forestall human rights violations and to remedy those it has not been possible to avoid.

Nor should one underestimate the Court's cooperation with the organs and institutions of the Council of Europe, and I am gratified by the interest they show in our work and the assistance they endeavour to give us.

Recommendations and resolutions of the Committee of Ministers and the Parliamentary Assembly, reports of the Human Rights Commissioner and various committees working under the aegis of the Secretary General often serve as a source of inspiration for our judgments. But these texts may also play a role in preventing violations, thus removing causes for a complaint to the Court. In the same spirit we may expect, as the Wise Persons observed in their report, a beneficial effect from the work of national ombudsmen and mediators.

Lastly, I place great hopes in the European Union's accession to the Convention. That was delayed by the vicissitudes we are aware of; the Lisbon Treaty has made it possible once more, even though the necessary technical adjustments may take some time. The accession will strengthen the indispensable convergence between the rulings of the two great European Courts, the Court of Justice of the European Communities and our own, which are moreover by no means rivals but strongly complementary, and which are already cooperating in the best spirit. Above and beyond that rather technical benefit, accession can be expected to bring a synergy and a tightening of bonds between the two Europes, and to strengthen our Court's cooperation in the construction of a single European judicial space of fundamental rights. That will be in the interest of all Europeans, or in any event of those whose rights and freedoms have been infringed.

Ladies and gentlemen, it is time for me to conclude, before giving the floor to High Commissioner Louise Arbour.

At the end of my first year in office, I cannot hide, and have not hidden from you, the fact that our Court is running into difficulties. Perhaps one can say without exaggeration that the crisis it faces is without precedent in its already long history.

But the authority, the outreach and the prestige of the Court are intact. And above all, the cause of human rights is such a noble one that it forbids us to be discouraged; on the contrary it demands that we continue untiringly in our Sisyphean task of rolling the boulder uphill, in furtherance of that mission, which is the Court's objective and its *raison d'être*. At stake are the applicants' rights, proper recognition for the efforts of those who assist them, whether lawyers or non-governmental organisations, but also the States' own interests. They have freely entered into a covenant which results in their being judged, and they have everything to gain by ensuring that its implementation remains effective if they are not to disown what they willed into being.

In our work we need the assistance of all our member States. Allow me to quote the words of famous figures from two of them. The first is William the Silent, the Stadhouder of Holland, whose proud motto you will have heard: “One need not hope in order to undertake, nor succeed in order to persevere.” Secondly, I would remind you of Goethe’s words: “Whatever you can do, or dream you can, begin it. Boldness has genius, power and magic in it.”

Not to give way to resignation, to undertake. It seems to me that the European Court of Human Rights, today, has no other choice.

Thank you.

**V. SPEECH GIVEN BY
MRS LOUISE ARBOUR,
UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS,
ON THE OCCASION OF THE OPENING
OF THE JUDICIAL YEAR,
25 JANUARY 2008**

**SPEECH GIVEN BY MRS LOUISE ARBOUR,
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President Costa, members of the Court, ladies and gentlemen, dear friends and colleagues,

It is an immense honour for me to take part in the ceremony marking the opening of the European Court of Human Rights' judicial year. I have always taken a great interest in the Court's work and the key institutional role it plays in the interpretation and development of international law in the human rights field, not only in my current position as High Commissioner for Human Rights, but also when I was a judge at the Canadian Supreme Court.

Mr President, the European regional human rights protection system often serves as a model for the rest of the world. The protection system established under the Convention for the Protection of Human Rights and Fundamental Freedoms provides clear proof that a regional mechanism can, indeed must, guarantee the protection of human rights where national systems – even the most efficient ones – fall short of their obligations. Europe's experience shows that a regional system can – with time and sustained commitment – develop its own culture of protection, drawing inspiration from the best things the various national legal systems and different cultures have to offer. The validity of this approach has been confirmed both in the Americas, through the Inter-American Court of Human Rights, and in Africa, with the creation of an even more ambitious regional protection mechanism, which now includes a court and involves all States across the African continent.

As High Commissioner for Human Rights, I have long deplored the fact that Asia does not have any system of this kind. Some doubt the viability of such a system in view of the size and diversity of the Asian continent. The example of Africa will perhaps serve to prove the contrary. Recently, there were the first signs of political commitment at sub-regional level: last November the ASEAN States agreed to set up, by virtue of its founding charter, a regional human rights system for the countries belonging to ASEAN. I am convinced that, as this system takes shape, lessons drawn from history and from the experiences of Europe, the Americas and Africa will enable an effective regional protection system to be developed on solid foundations, gaining the trust of the main parties concerned. I hope that one day everyone throughout the world will have access to a regional mechanism of this kind should the national system prove deficient. Since regional mechanisms are closer to local realities, they will inevitably be called upon in the first instance, while the international protection offered at United Nations level will more usually remain a last resort.

Mr President, some people argue that the European Court of Human Rights has become a victim of its own success, in view of the already high and still increasing number of cases before it. The Court's procedures, which were established some years ago, do not allow it to deal with such a volume of cases within a reasonable time. I therefore find it regrettable that Protocol No. 14, which provides for more effective procedures by amending the Court's control system, has not been ratified by all the States Parties to the Convention. I sincerely hope that this additional instrument will come into force quickly, so that the Court can deal more efficiently with the volume of complaints brought before it.

It remains possible that these reforms will relieve the pressure on the Court only temporarily and that it will ultimately have to move away from the concept of universal individual access towards a system of selective appeals, a practice that is, of course, already common in courts of appeal at national level. This would allow more appropriate use of the Court's limited judicial resources, targeting cases that arouse genuine debate of international law and human rights, and would at the same time provide an opportunity for more thorough consideration of highly complex legal issues with profound implications for society.

Mr President, members of the Court, the system of Grand Chamber review that has already been introduced is, in my opinion, very much proving its worth. A second tier of review, by an expanded chamber, increases overall conceptual clarity and doctrinal rigour in the law. It gives the voluminous body of law emerging from the Sections at first instance a coherence which could not otherwise easily be achieved. The Grand Chamber's decisions over this last year certainly confirm this. In particular, *Vilho Eskelinen and Others v. Finland*¹ has brought fresh conceptual clarity to access to justice issues in the public sector arising under Article 6 of the Convention.

In other cases, the Court has made very thoughtful contributions on issues that are sensitive across the Council of Europe space and on which there is little European consensus. Examples such as *Evans v. the United Kingdom*², on the use of embryos without consent, will guide further discussion on these issues by policy-makers, as well as the general public, and on complex social questions that do not come with easy answers. Other cases – such as *Ramsahai v. the Netherlands*³ and *Lindon and Others v. France*⁴ – have dealt with fact-specific incidents of use of force and defamation that have been very controversial in the countries in which they have arisen, but where the Court's judgment has been important in bringing finality to the discussion. These cases very much demonstrate the varied positive impact of the international judicial function.

In a review of the Court's jurisprudence from the United Nations human rights perspective, one decision over the last year stands out particularly, and raises both complex and challenging issues. In *Behrami v. France* and its companion case of *Saramati v. France, Germany and Norway*⁵, the Grand Chamber of the Court was called upon to decide the admissibility of cases against those participating member States arising from the activities in Kosovo of the United Nations Mission in Kosovo (UNMIK) and the Kosovo Force security presence (KFOR). In the first case, a child died and another was seriously wounded by a cluster bomblet that, it was alleged, UNMIK and KFOR were responsible for not having removed. The second case concerned the arrest and detention of an individual by UNMIK and KFOR.

Highlighting the degree to which human rights and classic international law have now become closely interwoven, the case required the Court to assess a particularly complex web of international legal materials, ranging from the United Nations Charter to the International Law Commission's Draft Articles on the Responsibility of International Organisations and on State Responsibility, respectively, as well as the Military Technical Agreement, the relevant United Nations Security Council Resolutions, the Regulations on KFOR/UNMIK status, privileges and immunities, KFOR Standard Operating Procedures, and so on. The United Nations Office of Legal Affairs itself submitted a third-party brief to the Court, set out in the judgment, delineating the legal differences between UNMIK and KFOR. It also argued, in respect of the cluster-bomblet accident, that in the

1. [GC], no. 63235/00, 19 April 2007.

2. [GC], no. 6339/05, 10 April 2007.

3. [GC], no. 52391/99, 15 May 2007.

4. [GC], nos. 21279/02 and 36448/02, 2 October 2007.

5. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.

absence of necessary location information being passed on from KFOR, “the impugned inaction could not be attributed to UNMIK”.

The Grand Chamber unanimously took a different approach, holding that both in respect of KFOR – as an entity exercising lawfully delegated Chapter VII powers of the Security Council – and UNMIK – as a subsidiary organ of the United Nations created under Chapter VII – the impugned acts and failure to act were “in principle, attributable to the United Nations”. At another point, the Court stated that the actions in question were “directly attributable to the United Nations”. That being said, the Court went on to see whether it was appropriate to identify behind this veil the member States whose forces had actually engaged in the relevant action or failure to act. Perhaps unsurprisingly, the Court found that in light of the United Nations’ objectives and the need for effectiveness of its operations, it was without jurisdiction *ratione personae* against individual States. Accordingly, the case was declared inadmissible.

This leaves, of course, many unanswered questions, in particular as to what the consequences are – or should be – for acts or omissions “in principle attributable to the United Nations”. If only as a matter of sound policy, I would suggest that the United Nations should ensure that its own operations and processes subscribe to the same standards of rights protection which are applicable to individual States. How to ensure that this is so, and the setting up of appropriate remedial measures in cases of default, would benefit immensely from the input of legal scholars and policy-makers, if not from the jurisprudential insight of the courts. In areas of counterterrorism, notably the United Nations’ sanctions regimes, similar problems have become apparent, and, in that area, decisions of the European Court of Justice, in particular, have highlighted both the problems and possible solutions. I do look forward to following the contribution that this Court will offer to resolving these jurisprudentially very challenging but vitally important issues.

Mr President, within any system of law, national as well as regional, it can be tempting to confine one’s view to the sources of law within the parameters of that system. As a former national judge, I am very much aware of how readily this can occur. That temptation can rise as the internal volume of jurisprudence grows and the perceived need to look elsewhere for guidance and inspiration can wane. In that context, allow me to say how particularly important it is to see the Court’s frequent explicit reference to external legal materials, notably – from my point of view – the United Nations human rights treaties, and the concluding observations, general comments and decisions on individual communications emanating from the United Nations treaty-monitoring bodies.

To cite but one recent example of wide reference to such sources, the Grand Chamber’s decision in *D.H. and Others v. the Czech Republic*¹ made extensive reference to provisions of the International Covenant on Civil and Political Rights, of the International Convention on the Elimination of All Forms of Racial Discrimination and of the Convention on the Rights of the Child, as well as citing General Comments by the United Nations Human Rights Committee on non-discrimination and a relevant decision by the Committee on an individual communication against the same State Party. The Court also referred to General Recommendations of the Committee on the Elimination of Racial Discrimination on the definition of discrimination, on racial segregation and apartheid, and on discrimination against Roma. I find this open and generous approach exemplary as it recognises the commonality of rights problems, as well as the interconnectedness of regional and international regimes.

In international law, there is a real risk of unnecessary fragmentation of the law, with different interpretative bodies taking either inconsistent, or worse, flatly contradictory views of the law,

1. (dec.) [GC], no. 57325/00, 13 November 2007.

without proper acknowledgment of differing views, and proper analysis in support of the stated better position. In the field of human rights, these effects can be particularly damaging, especially when differing views are taken of the scope of the same State's obligations. Given the wide degree of overlap of substantive protection between the European Convention and, in particular, the International Covenant on Civil and Political Rights, the Court's use of United Nations materials diminishes the risk of inconsistent jurisprudence and enhances the likelihood of a better result in both venues.

Of course, there are some variations of substance between certain provisions of the two sets of treaties, and there may on occasion be justified differences in interpretative approach between the two systems on points of law. I would, however, hope that contrasting conclusions of law between the Court and, for example, the Human Rights Committee on essentially the *same* questions of law would be rare and exceptional. I think it correct in principle, let alone as a matter of prudent use of scarce international judicial resources and comity between international rights institutions, that plaintiffs should have one opportunity to litigate thoroughly a question of international human rights law before an international forum, rather than routinely engaging different international fora on essentially the same legal issue. To that end, in circumstances where a substantive legal issue comes before an international body that has already been carefully resolved by another, in my view special attention should be paid to the reasoning and adequate reasons should be expressed in support of any contrary views of the other body before a contrary conclusion of law is reached. Ultimately, the systems of law are complementary rather than in competition with each other, and with sensitive interpretation there is plentiful scope for the regimes to work in their own spheres but in a mutually reinforcing fashion. I would certainly welcome opportunities for a number of judges of the Court and treaty body members to meet and share perspectives on some of these legal questions.

Allow me to add how encouraged I have been by the dramatic expansion in the Court's practice of *amicus curiae* third-party briefs, which put before the Court broader views and other legal approaches, and which can be beneficial in giving the Court's interpretations of the Convention the richest possible basis. As High Commissioner for Human Rights, over the last two years I have begun myself to use this tool, putting briefs to the Special Court for Sierra Leone, the International Criminal Court, the Iraqi High Tribunal and the United States Supreme Court, in instances where I have felt that the court might be assisted by my input on a particular point of international human rights law. I am sure that in due course similar opportunities before this Court will present themselves, and I hope to be in a position to make useful contributions to your work in this fashion.

Mr President, a final issue that has long been close to my heart is the effort to bring economic, social and cultural rights back into what should be their natural environment – the courts. The unnatural cleavage that took place decades ago when the full, interconnected span of rights set out in the Universal Declaration of Human Rights were split into supposedly separate collections of civil and political rights on the one hand and economic, social and cultural rights on the other has done great damage in erecting quite false perceptions of hierarchies of rights. In the area of justiciability of rights, particularly, the notion of economic, social and cultural rights as essentially aspirational, in contrast to the “hard law” civil and political rights, has proved especially difficult to undo. At the national level, some judiciaries have been bolder than others in this area, while at the international level, discussions continue to proceed slowly on the elaboration of an Optional Protocol permitting individual complaints for violations of the International Covenant on Economic, Social and Cultural Rights.

Against this background, this Court's jurisprudence has been very constructive in setting the stage for progress on these issues. Although the Convention's articulation of rights is essentially civil and political in character, the Court has not hesitated to draw upon the interconnected nature of

all rights to address many economic, social and cultural issues through the lens of – nominally – civil rights. The Court’s approach, for example, to health issues through the perspective of the right to security of the person – in the absence of a right to health as such – shows how rights issues can be effectively approached from various perspectives. These techniques are of real value to national judiciaries, whose constitutional documents are also often limited to listings of civil and political rights, which nevertheless seek to address issues of broader community concern in rights-sensitive fashion.

The very first Protocol to the European Convention, of course, does explicitly set out a classic social right, the right to education. As is well known, Article 2 of that Protocol sets out explicitly that: “No person shall be denied the right to education.” The Court’s jurisprudence in elaborating the contours of this right with judicial rigour is, in my view, particularly important in elaborating how these rights can be subjected to just the same judicial treatment as the more familiar catalogues of civil and political rights. In this respect, I particularly welcomed the recent decision in November last year of the Grand Chamber of the Court in *D.H. and Others v. the Czech Republic*, cited above, which held that the system of Roma schools established in that country breached the right to education, read in conjunction with the prohibition of discrimination. The course marked by the Court in this landmark case will be of great importance to national judiciaries and regional courts increasingly dealing with economic, social and cultural issues.

Mr President, please allow me to conclude my address by congratulating the Court on the vitality and energy of its decisions, and to underline the importance of its work in relation to the more general international human rights protection system with which the European system has so many similarities. Rigorous though the standards already established may be, I believe that it is still possible to refine approaches and to enhance the existing natural complementarities.

I should now like to thank you for giving me the opportunity to speak on this occasion and I wish you a productive judicial year. I can assure you that I shall be following the results of your deliberations with great enthusiasm this year and well beyond.

Thank you.

VI. VISITS

VISITS

12 January 2007	Mr George Papuashvili, President of the Constitutional Court, and Mr Constantin Kublashvili, President of the Supreme Court, Georgia
19 January 2007	Mr Fiorenzo Stolfi, Chairman of the Committee of Ministers, Minister for Foreign Affairs, San Marino
19 January 2007	Mr Gagik Harutyunyan, President of the Constitutional Court, Armenia
19 January 2007	Mr Pascal Clément, Minister of Justice, France
23 January 2007	Mrs Josefina Topalli, Speaker of Parliament, Albania
14 February 2007	Mrs Anna Fotyga, Minister for Foreign Affairs, Poland
21 February 2007	The Captains Regents, San Marino
29 March 2007	Mr Egidijus Kūris, President of the Constitutional Court, Lithuania
11 April 2007	Mr Karl Korinek, President of the Constitutional Court, Austria
18 April 2007	Mrs Louise Arbour, United Nations High Commissioner for Human Rights
14 May 2007	Mr Bernard Stirn, President of the litigation section of the <i>Conseil d'Etat</i> , France
29 May 2007	Mr Ricardo Acevedo Peralta, President, and Mr Orlando Guerrero Mayorga, Secretary General, of the Central American Court of Justice
18 June 2007	H.S.H. Prince Albert II of Monaco and Mr Jean-Paul Proust, Minister of State, Monaco
19 June 2007	Mr Joan Gabriel i Estany, Speaker of Parliament, Andorra
22 June 2007	Mr Jean-Paul Delevoye, Mediator of the French Republic, France
27 June 2007	Mr António Guterres, United Nations High Commissioner for Refugees
2 July 2007	Mr Marek Safjan, former President of the Constitutional Court, and Mr Jerzy Stepien, President of the Constitutional Court, Poland
2 July 2007	Mr Boris Tadić, President of Serbia
6 July 2007	Mr Vincent Lamanda, President of the Court of Cassation, France

6 July 2007	Mr Oliver Dulić, Speaker of Parliament, Serbia
6 September 2007	Mr Viatcheslav Lebedev, President of the Supreme Court, accompanied by a delegation from the Supreme Court, Russia
14 September 2007	Delegation from the Supreme Court, South Korea
27 September 2007	Mrs Annemarie Huber-Hotz, Federal Chancellor, Switzerland
27 September 2007	Mr Anton Ivanov, President of the Supreme Court of Arbitration, Russia
28 September 2007	Mr Jean-Marc Sauvé, Vice-President of the <i>Conseil d'Etat</i> , accompanied by a delegation from the <i>Conseil d'Etat</i> , France
2 October 2007	Mr Jean-Pierre Jouyet, State Secretary for European Affairs, France
3 October 2007	Mr Abdullah Gül, President of Turkey
9 November 2007	Mr Vassilios Skouris, President of the Court of Justice of the European Communities, accompanied by a delegation from the Court of Justice of the European Communities
15 November 2007	Mr Oleksandr Lavrinovich, Minister of Justice, Ukraine
15 November 2007	Mr Cyril Svoboda, Minister for Foreign Affairs, Czech Republic
27 November 2007	Mr Andriy Stryzhak, President of the Constitutional Court, Ukraine
29 November 2007	Mr Valery Zorkin, President of the Constitutional Court, accompanied by a delegation from the Constitutional Court, Russia
4 December 2007	Mrs Miglena Ianakieva Tacheva, Minister of Justice, Bulgaria
7 December 2007	Mr Vartan Oskanian, Minister for Foreign Affairs, Armenia
11 December 2007	Mrs Rama Yade, State Secretary for Foreign Affairs and Human Rights, France

**VII. ACTIVITIES OF THE GRAND CHAMBER
AND SECTIONS**

ACTIVITIES OF THE GRAND CHAMBER AND SECTIONS

1. Grand Chamber

At the beginning of the year, there were 22 cases (concerning 25 applications) pending before the Grand Chamber. At the end of the year there were 25 cases (concerning 25 applications).

17 new cases (concerning 19 applications) were referred to the Grand Chamber, 8 by relinquishment of jurisdiction by the respective Chambers pursuant to Article 30 of the Convention, and 9 by a decision of the Grand Chamber's panel to accept a request for re-examination under Article 43 of the Convention. In addition, 1 request for an advisory opinion was brought before the Court, pursuant to Article 47 of the Convention.

The Grand Chamber held 16 oral hearings.

The Grand Chamber adopted 1 decision on admissibility and delivered 12 judgments on the merits (concerning 12 applications), 5 in relinquishment cases and 7 in rehearing cases, as well as 2 striking-out judgments.

2. First Section

In 2007 the Section held 39 Chamber meetings. Oral hearings were held in 3 cases. The Section delivered 336 judgments, of which 252 concerned the merits, 2 concerned friendly settlements and 2 concerned the striking out of the case. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 723 cases and 232 judgments were delivered under this procedure.

Of the applications examined by a Chamber

- (a) 60 were declared admissible;
- (b) 50 were declared inadmissible;
- (c) 133 were struck out of the list; and
- (d) 746 were communicated to the State concerned for observations, of which 713 were communicated by the President.

In addition, the Section held 44 Committee meetings. 5,705 applications were declared inadmissible and 100 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.9% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 23,953 applications were pending before the Section.

3. Second Section

In 2007 the Section held 45 Chamber meetings (including 7 in the framework of the Section's former composition). Oral hearings were held in 3 cases (including 1 in its former composition). The Section delivered 344 judgments (including 25 in its former composition), of which 341 concerned the merits, 1 concerned a friendly settlement and 2 dealt with just satisfaction. The

Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 887 cases and 297 judgments were delivered under this procedure.

Of the applications examined by a Chamber

- (a) 23 were declared admissible;
- (b) 144 were declared inadmissible;
- (c) 134 were struck out of the list (including 1 which had previously been declared admissible);
- (d) 898 were communicated to the State concerned for observations, of which 789 were communicated by the President.

In addition, the Section held 58 Committee meetings. 3,351 applications were declared inadmissible and 118 applications were struck out of the list. The total number of applications rejected by a Committee represented around 80% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 13,814 applications were pending before the Section.

4. Third Section

In 2007 the Section held 42 Chamber meetings (including 2 in its former composition). Oral hearings were held in 3 cases. The Section delivered 271 judgments (including 4 in its former composition), of which 261 concerned the merits, 3 concerned friendly settlements, 3 were striking-out judgments and 4 dealt with just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 667 cases and 229 judgments were delivered under this procedure.

Of the applications examined by a Chamber

- (a) 12 were declared admissible;
- (b) 87 were declared inadmissible;
- (c) 108 were struck out of the list; and
- (d) 726 were communicated to the State concerned for observations, of which 668 were communicated by the President.

In addition, the Section held 51 Committee meetings. 4,925 applications were declared inadmissible and 93 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.26% of the inadmissibility and striking-out decisions adopted by the Section during the year.

During the year, the Section examined 202 requests for interim measures to be applied by virtue of Rule 39 of the Rules of Court. 56 of these requests were granted.

At the end of the year 17,222 applications were pending before the Section.

5. Fourth Section

In 2007 the Section held 39 Chamber meetings. An oral hearing was held in 1 case. The Section delivered 333 judgments, of which 292 concerned the merits and 24 concerned friendly settlements. Article 29 § 3 of the Convention (combined examination of admissibility and merits) was applied in 521 cases and 257 judgments were delivered under this procedure.

Of the applications examined by a Chamber

- (a) 273 were declared admissible;
- (b) 77 were declared inadmissible;
- (c) 283 were struck out of the list; and
- (d) 550 were communicated to the State concerned for observations, of which 479 were communicated by the President.

In addition, the Section held 45 Committee meetings. 5,049 applications were declared inadmissible and 75 applications were struck out of the list. The total number of applications rejected by a Committee represented 93.44 % of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 9,036 applications were pending before the Section.

6. Fifth Section

In 2007 the Section held 38 Chamber meetings. The Section delivered 212 judgments (concerning 239 applications), of which 209 (concerning 236 applications) concerned the merits, 2 concerned friendly settlements and 1 concerned the striking out of the case. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 372 cases (concerning 388 applications) and 184 judgments (concerning 201 applications) were delivered under this procedure.

Of the applications examined by a Chamber

- (a) 71 were declared admissible;
- (b) 132 were declared inadmissible;
- (c) 92 were struck out of the list; and
- (d) 413 were communicated to the State concerned for observations, of which 316 were communicated by the President.

In addition, the Section held 43 Committee meetings. 6,253 applications were declared inadmissible and 143 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.6 % of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 15,195 applications were pending before the Section.

**VIII. PUBLICATION
OF THE COURT'S CASE-LAW**

PUBLICATION OF THE COURT'S CASE-LAW

A. Reports of Judgments and Decisions

The official collection of selected judgments and decisions of the Court, *Reports of Judgments and Decisions* (cited as ECHR), is published by Carl Heymanns Verlag GmbH, Luxemburger Straße 449, D-50939 Köln (Tel.: (+49) 221/94373-0; Fax: (+49) 221/94373-901; Internet address: <http://www.heymanns.com>). The publisher offers special terms to anyone purchasing a complete set of the judgments and decisions and also arranges for their distribution, in association with the following agents for certain countries:

Belgium: Etablissements Emile Bruylant, 67 rue de la Régence, B-1000 Bruxelles

Luxembourg: Librairie Promoculture, 14 rue Duscher (place de Paris), B.P. 1142, L-1011 Luxembourg-Gare

The Netherlands: B.V. Juridische Boekhandel & Antiquariaat A. Jongbloed & Zoon, Noordeinde 39, NL-2514 GC 's-Gravenhage

The published texts are accompanied by headnotes and summaries and a separate volume containing indexes is issued for each year. The following judgments and decisions delivered in 2007 have been accepted for publication. Grand Chamber cases are indicated by [GC]. Where a Chamber judgment is not final or a request for referral to the Grand Chamber is pending, the decision to publish the Chamber judgment is provisional.

Judgments

Fener Rum Erkek Lisesi Vakfı v. Turkey, no. 34478/97, 9 January 2007 (extracts)

Kwiecień v. Poland, no. 51744/99, 9 January 2007

Russian Conservative Party of Entrepreneurs and Others v. Russia, nos. 55066/00 and 55638/00, 11 January 2007

Augusto v. France, no. 71665/01, 11 January 2007 (extracts)

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

Salah Sheekh v. the Netherlands, no. 1948/04, 11 January 2007 (extracts)

Syssoyeva and Others v. Latvia [GC], no. 60654/00, 15 January 2007

Solmaz v. Turkey, no. 27561/02, 16 January 2007 (extracts)

Bak v. Poland, no. 7870/04, 16 January 2007 (extracts)

Farhi v. France, no. 17070/05, 16 January 2007 (extracts)

Vereinigung Bildender Künstler v. Austria, no. 68354/01, 25 January 2007

Aon Conseil et Courtage S.A. and Christian de Clarens S.A. v. France, no. 70160/01, 25 January 2007

Boldea v. Romania, no. 19997/02, 15 February 2007 (extracts)

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

Akpınar and Altun v. Turkey, no. 56760/00, 27 February 2007 (extracts)

Geerings v. the Netherlands, no. 30810/03, 1 March 2007

Tønssbergs Blad A/S and Haukom v. Norway, no. 510/04, 1 March 2007

Scordino v. Italy (no. 3) (just satisfaction), no. 43662/98, 6 March 2007

Erdoğan Yağız v. Turkey, no. 27473/02, 6 March 2007 (extracts)

Arma v. France, no. 23241/04, 8 March 2007 (extracts)
Gheorghe v. Romania, no. 19215/04, 15 March 2007 (extracts)
Tysic v. Poland, no. 5410/03, 20 March 2007
Copland v. the United Kingdom, no. 62617/00, 3 April 2007
Evans v. the United Kingdom [GC], no. 6339/05, 10 April 2007
Ivanova v. Bulgaria, no. 52435/99, 12 April 2007
Vilho Eskelinen and Others v. Finland [GC], no. 63235/00, 19 April 2007
Matyjek v. Poland, no. 38184/03, 24 April 2007
Gergely v. Romania (striking out), no. 57885/00, 26 April 2007 (extracts)
Gebremdhin [Gaberamadhien] v. France, no. 25389/05, 26 April 2007
Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia, no. 71156/01,
 3 May 2007
Grzini v. Slovenia, no. 26867/02, 3 May 2007 (extracts)
Bczkowski and Others v. Poland, no. 1543/06, 3 May 2007
Ramsahai v. the Netherlands [GC], no. 52391/99, 15 May 2007
Paudicio v. Italy, no. 77606/01, 24 May 2007
ei v. Croatia, no. 40116/02, 31 May 2007
Kontrov v. Slovakia, no. 7510/04, 31 May 2007 (extracts)
Delle Cave and Corrado v. Italy, no. 14626/03, 5 June 2007
Parti nationaliste basque – Organisation rgionale d'Iparralde v. France, no. 71251/01, 7 June
 2007
Smirnov v. Russia, no. 71362/01, 7 June 2007
Dupuis and Others v. France, no. 1914/02, 7 June 2007
Garabayev v. Russia, no. 38411/02, 7 June 2007 (extracts)
Frrot v. France, no. 70204/01, 12 June 2007 (extracts)
Hachette Filipacchi Associs v. France, no. 71111/01, 14 June 2007
Ferreira Alves v. Portugal (no. 3), no. 25053/05, 21 June 2007
Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, 28 June 2007 (extracts)
Harutyunyan v. Armenia, no. 36549/03, 28 June 2007
Folger and Others v. Norway [GC], no. 15472/02, 29 June 2007
O'Halloran and Francis v. the United Kingdom [GC], nos. 15809/02 and 25624/02, 29 June 2007
Provide S.r.l. v. Italy, no. 62155/00, 5 July 2007 (extracts)
Sara Lind Eggertsdttir v. Iceland, no. 31930/04, 5 July 2007
Stankov v. Bulgaria, no. 68490/01, 12 July 2007
Jorgic v. Germany, no. 74613/01, 12 July 2007 (extracts)
Kuera v. Slovakia, no. 48666/99, 17 July 2007 (extracts)
Bukta and Others v. Hungary, no. 25691/04, 17 July 2007
Feyzi Yildirim v. Turkey, no. 40074/98, 19 July 2007 (extracts)
Krasnov and Skouratov v. Russia, nos. 17864/04 and 21396/04, 19 July 2007
Angelova and Iliev v. Bulgaria, no. 55523/00, 26 July 2007
Peev v. Bulgaria, no. 64209/01, 26 July 2007 (extracts)
Hirschhorn v. Romania, no. 29294/02, 26 July 2007
Zaicevs v. Latvia, no. 65022/01, 31 July 2007 (extracts)
J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom [GC], no. 44302/02,
 30 August 2007
Johansson v. Finland, no. 10163/02, 6 September 2007
Kucheruk v. Ukraine, no. 2570/04, 6 September 2007
Teren Aksakal v. Turkey, no. 51967/99, 11 September 2007 (extracts)
L. v. Lithuania, no. 27527/03, 11 September 2007
Sultani v. France, no. 45223/05, 20 September 2007 (extracts)
Saoud v. France, no. 9375/02, 9 October 2007 (extracts)
Hasan and Eylem Zengin v. Turkey, no. 1448/04, 9 October 2007

Glas Nadejda EOOD and Elenkov v. Bulgaria, no. 14134/02, 11 October 2007 (extracts)
Wieser and Bicos Beteiligungen GmbH v. Austria, no. 74336/01, 16 October 2007
Lindon and Others v. France [GC], nos. 21279/02 and 36448/02, 23 October 2007
D.H. and Others v. the Czech Republic [GC], no. 57325/00, 13 November 2007
Driza v. Albania, no. 33771/02, 13 November 2007 (extracts)
Khamidov v. Russia, no. 72118/01, 15 November 2007 (extracts)
Pfeifer v. Austria, no. 12556/03, 15 November 2007
Urbárska Obec Trenčianske Biskupice v. Slovakia, no. 74258/01, 27 November 2007 (extracts)
Luczak v. Poland, no. 77782/01, 27 November 2007
Hamer v. Belgium, no. 21861/03, 27 November 2007 (extracts)
Tillack v. Belgium, no. 20477/05, 27 November 2007
Dickson v. the United Kingdom [GC], no. 44362/04, 4 December 2007
Maumousseau and Washington v. France, no. 39388/05, 6 December 2007
Beian v. Romania (no. 1), no. 30658/05, 6 December 2007 (extracts)
Stoll v. Switzerland [GC], no. 69698/01, 10 December 2007
Emonet and Others v. Switzerland, no. 39051/03, 13 December 2007
Islamic Republic of Iran Shipping Lines v. Turkey, no. 40998/98, 13 December 2007
Marini v. Albania, no. 3738/02, 18 December 2007 (extracts)
Phinikaridou v. Cyprus, no. 23890/02, 20 December 2007 (extracts)

Decisions

Benazet v. France (dec.), no. 49/03, 4 January 2007
Storbråten v. Norway (dec.), no. 12277/04, 1 February 2007 (extracts)
Erdel v. Germany (dec.), no. 30067/04, 13 February 2007
Pavel Ivanov v. Russia (dec.), no. 35222/04, 20 February 2007
Collins and Akaziebie v. Sweden (dec.), no. 23944/05, 8 March 2007 (extracts)
Carlo Spampinato v. Italy (dec.), no. 23123/04, 29 March 2007
Antonio Esposito v. Italy (dec.), no. 34971/02, 5 April 2007
Depauw v. Belgium (dec.), no. 2115/04, 15 May 2007
Giusto and Others v. Italy (dec.), no. 38972/06, 15 May 2007 (extracts)
Tamburini v. France (dec.) no. 14524/06, 7 June 2007
Pad and Others v. Turkey (dec.), no. 60167/00, 28 June 2007
Saccoccia v. Austria (dec.), no. 69917/01, 5 July 2007 (extracts)
Suküt v. Turkey (dec.), no. 59773/00, 11 September 2007 (extracts)
Mouillet v. France (no. 2) (dec.), no. 27521/04, 13 September 2007
Phocas v. France (dec.), no. 15638/06, 13 September 2007
Merie v. France (dec.), no. 664/05, 20 September 2007
Berić and Others v. Bosnia and Herzegovina (dec.), nos. 36357/04, 36360/04, 38346/04, 41705/04, 45190/04, 45578/04, 45579/04, 45580/04, 91/05, 97/05, 100/05, 101/05, 1121/05, 1123/05, 1125/05, 1129/05, 1132/05, 1133/05, 1169/05, 1172/05, 1175/05, 1177/05, 1180/05, 1185/05, 20793/05 and 25496/05, 16 October 2007
Omwenyike v. Germany (dec.), no. 44294/04, 20 November 2007
Wolkenberg and Others v. Poland (dec.), no. 50003/99, 4 December 2007 (extracts)

B. The Court's Internet site

The Court's website (<http://www.echr.coe.int>) provides general information about the Court, including its composition, organisation and procedure, details of pending cases and oral hearings, as well as the text of press releases. In addition, the site gives access to the Court's case-law database (HUDOC), containing the full text of all judgments and of admissibility decisions, other than those adopted by Committees of three judges, since 1986 (plus certain earlier ones), as well as resolutions

of the Committee of Ministers in so far as they relate to the European Convention on Human Rights. The database is accessible via an advanced search screen and a powerful search engine enables the user to carry out searches in the text and/or in separate data fields. A user manual and a help function are provided.

In 2007 the Court's site had 151 million hits in the course of 2.5 million user sessions.

The Court's database is also available as a CD-ROM (<http://www.echr.coe.int/HUDOCCD/Default.htm>).

In addition, monthly Case-law Information Notes are accessible at <http://www.echr.coe.int/echr/NoteInformation/en>. These contain summaries of cases which the Jurisconsult, the Section Registrars and the Head of the Publications and Case-Law Information Division have highlighted for their particular interest (judgments, applications declared admissible or inadmissible and cases which have been communicated to the respondent Government for observations).

**IX. SHORT SURVEY OF THE MAIN JUDGMENTS AND DECISIONS
DELIVERED BY THE COURT IN 2007**

SHORT SURVEY OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2007

Introduction

In 2007 the Court delivered a total of 1,503 judgments, a figure that is in decline compared with the 1,560 judgments delivered in 2006; this reduction is a result of the Court's decision to concentrate on the most complex and serious cases, the processing of which requires more time. 15 judgments were delivered by the Court in its composition as a Grand Chamber (compared with 30 in 2006).

Although many of the judgments concerned so-called "repetitive" cases, the number of judgments putting an end to more complex cases rose by 8.2% compared with that for 2006: the number of judgments classed as importance level 1 or 2 in the Court's case-law database (HUDOC) represents 25% of all the judgments delivered in 2007.

The number of cases declared admissible was 1,621, including 181 in which the declaration was made in a separate decision (compared with 266 in 2006) and 1,440 (1,368) in a judgment on the merits (joint examination of the admissibility and merits).

In Chamber and Grand Chamber compositions, 491 applications were declared admissible and 764 were struck out of the list.

Of the Chamber and Grand Chamber judgments and decisions adopted in 2007, a total of 116 judgments and decisions were accepted by the Court's Publications Committee with a view to publication in the *Reports of Judgments and Decisions* of the Court (ECHR) (figure on 6 February 2008, excluding the Chamber judgments subsequently referred to the Grand Chamber), compared with 128 for 2006.

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

The highest number of judgments finding at least one violation of the Convention was delivered in respect of Turkey (319), followed by Russia (175), Ukraine (108), Poland (101) and Romania (88).

Jurisdiction and admissibility

Jurisdiction

The applications in *Behrami v. France* and *Saramati v. France, Germany and Norway*¹ concerned the events in Kosovo. It was alleged that the death of a child and the injuries sustained by another were attributable to the fact that French KFOR troops had not marked out and/or defused undetonated cluster bombs which were present in the area placed under their control. Another applicant complained about his detention and the lack of access to a court. The Grand Chamber declared these applications inadmissible on the ground of incompatibility *ratione personae* with the provisions of the Convention: the acts and omissions of Contracting Parties which were covered by

United Nations Security Council Resolutions and occurred prior to or in the course of missions for the maintenance of international peace and security were not subject to the scrutiny of the Court.

In its decision in the case of *Pavel Ivanov v. Russia*², the Court applied Article 17 (prohibition of abuse of rights). The author of eminently anti-Semitic publications who sought to incite hatred towards the Jewish people could not benefit from the protection afforded by Article 10. Such a general and vehement attack on one ethnic group was in contradiction with the Convention's underlying values, notably tolerance, social peace and non-discrimination. The applicant's complaint, alleging that his conviction by the domestic courts for publications that incited to racial hatred against the Jewish people was contrary to his right to freedom of expression, was incompatible *ratione materiae*.

Victim status (Article 34)

In the judgment *Nikolova and Velichkova v. Bulgaria*³, and in the context of respect for the right to life, the Court applied the principles concerning "victim" status that it had developed with regard to excessive length of proceedings in the *Scordino v. Italy (no. 1)*⁴ judgment. Police officers who were responsible when arresting a man for ill-treatment that had resulted in his death had been given only a suspended prison sentence, the lightest penalty available, after seven years of proceedings with delays that were attributable to the State, and had been ordered in civil proceedings to pay the damages claimed by the victim's relatives; however, no disciplinary sanctions had been imposed, and one of the officers had even been promoted.

Referring in particular to the 2006 *Okkali v. Turkey*⁵ judgment concerning Article 3, the Court indicated that its task in this instance consisted in "reviewing whether and to what extent the national courts may be deemed to have submitted the case to the careful scrutiny required by Article 2, so that the deterrent effect of the judicial system in place and the significance of the role it is required to play in preventing violations of the right to life are not undermined". In the case in question, although the applicants had received compensation for the death of their relative, the measures taken by the authorities had not provided appropriate redress in this respect, and the Court therefore accepted that they had "victim" status. In particular, it noted that "while the Court should grant substantial deference to the national courts in the choice of appropriate sanctions for ill-treatment and homicide by State agents, it must exercise a certain power of review and intervene in cases of manifest disproportion between the gravity of the act and the punishment imposed. Were it to be otherwise, the States' duty to carry out an effective investigation would lose much of its meaning, and the right enshrined in Article 2, despite its fundamental importance, would be ineffective in practice".

Exercise of the right of petition (Article 34)

The judgment in *Colibaba v. Moldova*⁶ has enriched the Court's case-law concerning breaches by States of their obligations under Article 34. For the first time, the Court was faced with pressure or a threat which came directly from the Prosecutor-General of a Contracting State, expressly targeting an entire national Bar association and openly challenging international institutions or associations specialising in human rights. The Court considered that there had been an attempt to intimidate the applicant's lawyer by the Prosecutor-General, through a letter sent to the National Bar Association four days after the application was lodged in Strasbourg, threatening criminal proceedings against lawyers who involved "international organisations specialising in the protection of human rights" in the examination of criminal cases. Whether the Prosecutor-General had known about the application to the Court when he wrote the letter was less important than the potentially chilling effect on the intention to bring or pursue the application.

Six-month time-limit (Article 35 § 1)

Reiterating that the six-month rule serves the interests not only of the respondent State but also of legal certainty as a value in itself, the Court wished to clarify the date from which the six-month time-limit starts to run in cases of multiple periods of pre-trial detention. Thus, its judgment in *Solmaz v. Turkey*⁷ stated that consecutive detention periods imposed on an individual should be regarded as a whole, so that the six-month period in respect of Article 5 § 3 should only start to run from the end of the last period of pre-trial detention.

Exhaustion of domestic remedies (Article 35 § 1)

In the case of *Vokurka v. the Czech Republic*⁸, the applicant complained about the length of civil proceedings. The Court examined the effectiveness of new remedies that had been introduced in the domestic legislation for the purpose of solving the systemic problem of the length of judicial proceedings. In its admissibility decision in this pilot case in respect of the Czech Republic, it considered that the “preventive” remedy (the possibility of requesting that a deadline be set for completion of a procedural act), which had existed since 1 July 2004, was ineffective. On the other hand, it held that the remedy of a claim for compensation, which since April 2006 allowed compensation to be granted for the non-pecuniary damage resulting from the failure to comply with the reasonable time requirement, was effective, while reiterating that in this area “the ideal solution is prevention”. In addition, it attached particular importance to a transitional provision of the law, under which the State’s responsibility was also engaged in respect of damage sustained before the law had come into force, provided that the right to compensation was not yet time-barred.

“Core rights”

Right to life (Article 2)

An applicant complained that British legislation authorised her ex-partner to withdraw his consent to the storage and use of jointly created embryos. In her opinion, this amounted to an infringement of the embryos’ right to life, in breach of Article 2. Under British law, an embryo does not have independent rights or interests and cannot claim – or have claimed on its behalf – a right to life under Article 2. The Grand Chamber found that the issue of when the right to life begins comes within the margin of appreciation the Court generally considers that States should enjoy, and that the embryos created in this way did not have a right to life and there had not, accordingly, been a violation of Article 2 (*Evans v. the United Kingdom*⁹).

When examining the case of *Scavuzzo-Hager and Others v. Switzerland*¹⁰, the Court had already considered the events surrounding the arrest and subsequent immobilisation of an individual in life-threatening conditions. In the case of *Saoud v. France*¹¹, it had to examine the use by the police, when arresting a deranged individual, of a technique which entailed immobilisation, face-down on the ground, in the so-called “ventral decubitus” position. The judgment set out the dangers of this immobilisation technique and deplored the fact that no precise instructions had been issued by the French authorities with regard to this type of immobilisation technique, which had been identified as life-threatening.

Numerous cases concerned complaints submitted by the relatives of deceased individuals about offences allegedly committed by agents of the State.

The case of *Feyzi Yıldırım v. Turkey*¹² concerned a death which, it was alleged, resulted from blows inflicted a month previously by an army officer, who was charged with unintentional homicide. The “suspect” nature of the death in question was not disputed. Examining the State’s

compliance with its positive and procedural obligations under Article 2, the Court criticised the shortcomings at the various stages of the domestic judicial proceedings, which were largely to blame for the difficulties encountered in establishing the exact circumstances of the death. These failings had undoubtedly prevented the Assize Court from establishing the facts as fully as it could have done in other circumstances. As to the conduct of the proceedings against the officer, the Court raised the issue of the witnesses, ordinary citizens who had been called upon to give evidence against State agents who had been accused of serious offences. In its procedural aspect, Article 2 may imply that criminal proceedings should be organised in such a way that the interests of witnesses required to give evidence against agents of the State are not unjustifiably imperilled, particularly where those interests concern their life, liberty or security. In the case in question, three witnesses had withdrawn their testimony before the courts, after previously giving evidence against the defendant to the prosecutor; they subsequently reconfirmed their evidence, explaining that they had been threatened by the defendant. Their vulnerability called for protection.

Prohibition of torture (Article 3)

As in previous years, the Court was obliged to reach findings of torture on account of the treatment inflicted on individuals in detention, and to conclude that there had been a double violation of Article 3 of the Convention: under the substantive aspect, for the existence of the ill-treatment itself, and under the procedural aspect, for the failure to conduct an effective investigation into the allegations of torture, in spite of medical reports. This was the case in *Mammadov v. Azerbaijan*¹³, in which the Secretary General of an opposition political party was subjected while in police custody to *falaka*, namely violent repeated blows to the soles of his feet.

The Court concluded (in its judgment in *Kucheruk v. Ukraine*¹⁴) that there had been a violation of Article 3 in respect of the unjustified use of truncheons by prison wardens, resulting in injuries to a prisoner suffering from schizophrenia. The fact of locking the handcuffed prisoner in a punishment cell for seven days, in spite of the fact that he suffered from mental illness, and without psychiatric justification or medical treatment for the injuries which he had sustained when being taken by force to the cell by wardens and/or had inflicted on himself during his isolation in the punishment cell, amounted to inhuman and degrading treatment.

In the case of *Salah Sheekh v. the Netherlands*¹⁵, the applicant had fled Somalia following persecution of himself, his relatives and other members of a minority. He alleged, *inter alia*, that deportation would expose him to a genuine risk of being subjected to acts of torture or inhuman or degrading treatment, given his membership of a minority group and the general human rights situation in his country. The Court considered that deportation would entail a violation of Article 3. As well as the absence of a significant improvement in the situation in the destination country, it noted that the applicant himself, and his family, had been targeted because they belonged to a minority, which meant that they had no means of protection. Such an applicant could not be asked to establish the existence of further special distinguishing features concerning him personally in order to show that he had been, and continued to be, personally at risk, or the protection offered by Article 3 would be rendered illusory. The mere possibility of a risk of ill-treatment was insufficient to give rise to a violation of Article 3, but in the case in question the risk was foreseeable.

Freedom of movement (Article 2 of Protocol No. 4)

The decision in *Omwenyeye v. Germany*¹⁶ is the first in which the Court considered the obligation imposed on an asylum-seeker to reside and remain in the territory of a town pending a decision on his asylum request. It confirmed the case-law of the European Commission of Human Rights dating back to the 1980s. Under that case-law, foreigners provisionally admitted to a certain

district of the territory of a State could only be regarded as “lawfully” in the territory as long as they complied with the conditions to which their admission and stay were subjected.

The Court has already held that the obligation on applicants to inform the police every time they wish to change their place of residence or visit their family or friends amounted to an infringement of their freedom of movement.

In the case of *Tatishvili v. Russia*¹⁷, the authorities had refused to register as her place of residence the address chosen by the applicant, who was legally obliged to register as officially resident at addresses at which she intended to be resident for more than ten days. The legal obligation in question, namely to register one’s place of residence with the police within three days of moving, under pain of administrative sanctions and fines, amounted to an “interference” with the right guaranteed by Article 2 § 1 of Protocol No. 4. The authorities dismissed the registration application as incomplete, without however specifying which legally required documents were missing, and without following the Constitutional Court’s interpretation of the rules governing registration of one’s place of residence, as they should have done: accordingly, the interference was not “in accordance with law”.

Prohibition of collective expulsion of aliens (Article 4 of Protocol No. 4)

In the context of grouped flights for the deportation of foreigners unlawfully present in a country, the Court examined for the first time, in its *Sultani v. France*¹⁸ judgment, the practical arrangements for the transport of deported aliens. The practice was based on economic and organisational considerations (lack of direct air links, refusal by the leading airlines to land on security grounds, etc.). The Court does not find that there has been a “collective expulsion” if the authorities examine individually the case of each foreigner concerned, as had been the case here.

Procedural rights

Right to a fair hearing (Article 6)

Applicability

In its judgment in *Vilho Eskelinen and Others v. Finland*¹⁹, the Grand Chamber had an opportunity to reconsider its case-law on the applicability of Article 6 § 1 to disputes between the State and its agents. It introduced two conditions that must be fulfilled cumulatively in order for a State to be able to rely on the applicant’s status as a civil servant to exclude the application of Article 6 § 1: firstly, the State in its national law must have expressly excluded the right of access to a court for the category of civil servant in question; secondly, the exclusion from the rights guaranteed by Article 6 must be justified on objective grounds in the State’s interest.

The decision in *Saccoccia v. Austria*²⁰ is interesting in that it raises the question of the applicability of Article 6 § 1, not to forfeiture proceedings in general, but to the enforcement of a forfeiture order issued by a foreign court which had convicted the applicant in criminal proceedings. The Court noted that the domestic enforcement proceedings in question amounted to a straightforward enforcement measure. It extended the principle of the non-applicability of Article 6 under its criminal limb to matters concerning the execution of a sentence, in this case the *exequatur* of a sentence imposed by a foreign court. On the other hand, the civil limb of Article 6 § 1 was declared applicable to the enforcement proceedings, which were decisive in terms of the applicant’s assets.

In the case of *Hamer v. Belgium*²¹, the applicant had been found guilty of retaining a building which had been erected without permission, in breach of the regional planning regulations. The domestic court merely pronounced a finding of guilt against her, the length of proceedings having exceeded a reasonable time, and ordered her to have the house demolished. The contribution of the Court's judgment is significant with regard to the notion of a penalty under Article 6 § 1: the demolition order amounted to a "penalty" and therefore came under the criminal head of Article 6, although there was no criminal conviction.

In connection with the time-limit for challenging an administrative act in the courts, the decision in *Millon v. France (no. 1)*²² represents a significant development in the case-law. The Court ruled on an issue that was different from that of compliance with the time-limits laid down in domestic law, which had already been raised on several occasions. Relying on the principle of legal certainty, the applicant in this case complained that, in the legislation in force at the material time, there was no time-limit on the period within which an administrative act could be challenged before the courts (the *Conseil d'Etat* had declared admissible an application for judicial review of decisions by a regional council more than nine years after they had been adopted). In the Court's view, "neither Article 6 nor indeed any other Convention provision requires States to introduce limitation periods or to specify the point from which such periods began to run". The complaint was therefore incompatible *ratione materiae* with the provisions of the Convention.

Fairness of the proceedings

In its judgment in *Beian v. Romania (no. 1)*²³, the Court examined a case of far-reaching and persisting conflicts in the case-law of a supreme court. It noted that these conflicts were the result of "the absence of a mechanism for ensuring consistency of practice within the highest domestic court" and reiterated the role of supreme courts in resolving case-law conflicts. It found that, while conflicting decisions by different tribunals of fact were inherent in any judicial system, such conflicts were a source of legal uncertainty when they occurred within the State's highest court.

The judgment in *Harutyunyan v. Armenia*²⁴ marks significant developments in the extension of the principles set out in the *Jalloh v. Germany*²⁵ judgment. The case concerned the use in a trial of statements made under torture by the defendant and witnesses. The use of force in order to obtain confessions had been acknowledged by the domestic courts. In the absence of jurisdiction *ratione temporis* in the case, the Court did not itself examine the ill-treatment inflicted under Article 3. It took into consideration, in particular, the findings of the national court, which had classified the events as torture. It emphasised that, although the ill-treatment had been established at domestic level, the statements obtained by force had been used as evidence by the courts in criminal proceedings. It further noted that where there was compelling evidence that a person had been subjected to ill-treatment, including physical violence and threats, the fact that this person confessed – or confirmed a coerced confession in later statements – to an authority other than the one responsible for this ill-treatment should not automatically lead to the conclusion that such confession or later statements were not made as a consequence of the ill-treatment or the fear that it had caused. It concluded that there had been a violation of Article 6 since, regardless of the impact the statements obtained under torture had had on the outcome of the criminal proceedings, the use of such evidence had rendered the trial as a whole unfair.

Access to a court

The decision in *Antonio Esposito v. Italy*²⁶ examined the issue of the absolute immunity enjoyed by members of the Judicial Service Commission for opinions expressed in the exercise and framework of their duties. The applicant alleged that the application of this rule had unjustly restricted his right of access to a court. In the Court's opinion, such immunity in respect of a body

guaranteeing, among other things, the autonomy and independence of the judiciary pursued legitimate aims and, having regard to that body's roles and functions, it did not consider the immunities enjoyed by its members unjustified. Various elements led the Court to consider that the infringement of the applicant's right to a court had not been contrary to the Convention. The application of a rule conferring absolute immunity on members of the Judicial Service Commission could not be considered to exceed the margin of appreciation enjoyed by the States in limiting an individual's right of access to a court, and the fair balance which had to be struck in the matter between the demands of the general interest and the requirements of the protection of the individual's fundamental freedoms had not been upset in this case.

Equality of arms

The compliance with the Convention of "lustration proceedings" – which seek to identify individuals who worked for the State security services or collaborated with them during the communist period – had already been examined in respect of Slovakia in the 2006 *Turek v. Slovakia*²⁷ judgment, and was considered in respect of Poland in the *Matyjek v. Poland*²⁸ judgment. This provided an opportunity for the Court to reiterate, under Article 6, that where lustration measures are adopted, the State must ensure that the individuals concerned enjoy all of the procedural guarantees provided for in the Convention. Although there may be a situation in which there is a compelling State interest in maintaining the secrecy of documents produced under the former communist regime, such a situation will only arise exceptionally given the considerable time that has elapsed since the documents were created. It was for the Government to prove the existence of such an interest. In the *Matyjek* case, the Court concluded that the principle of equality of arms had not been respected: the confidentiality of the documents and the limitations on the applicant's access to the case file, as well as the privileged position of the commissioner representing the public interest in the proceedings, had severely curtailed the applicant's ability to challenge the accusations against him. There had therefore been a violation of Article 6 § 1 taken in conjunction with Article 6 § 3.

Impartiality of a court

In its judgment in *Driza v. Albania*²⁹, the Court found for the first time that a Supreme Court lacked both subjective and objective impartiality. Supervisory review proceedings had been initiated at the request of the President of the Supreme Court, who had previously delivered a judgment that was unfavourable to the applicant in the same case. The President had also sat on the bench of the Supreme Court that had examined the application for supervisory review and overturned the merits of a final decision in the applicant's favour. The practices in question were held to be incompatible with the principle of subjective impartiality, since no one could be both plaintiff and judge in his own case. The Supreme Court's objective impartiality was also open to doubt, firstly because three judges who had already ruled on the case had been required to decide first on the admissibility of the application for supervisory review and subsequently on the merits of the case, and secondly, because three of their colleagues had also already expressed their opinions on the matter before them.

Presumption of innocence

In its decision in *Moulet v. France (no. 2)*³⁰, the Court adopted a new approach regarding the application of Article 6 § 2 to disciplinary disputes. The case concerned criminal proceedings which were brought against a civil servant and discontinued after expiry of the limitation period, his compulsory early retirement as a disciplinary penalty, and the reference by the *Conseil d'Etat* to facts established during a judicial investigation in criminal proceedings. The Court transposed the solution reached in the cases of *Y v. Norway*³¹ and *Ringvold v. Norway*³² (2003), which concerned

liability that was both criminal and civil, to liability that was simultaneously criminal and “administrative”. It examined whether the administrative proceedings for disciplinary liability, based on the same facts as those which had given rise to criminal proceedings, had given rise to a “criminal charge”, within the meaning of Article 6 § 1, and, if not, whether the administrative proceedings were nonetheless related to the criminal proceedings, which had culminated in a finding that there was no case to answer, in such a way as to render Article 6 § 2 applicable. In terms of principles, the Court specified that “the fact that an act which may give rise to a disciplinary sanction, under administrative law, is also covered by the constitutive elements of a criminal offence cannot provide a sufficient ground for regarding the person allegedly responsible before the administrative authority and court as being ‘charged with an offence’”.

No punishment without law (Article 7)

In its decision in *Saccoccia*³³, cited above, the Court concluded that Article 7 did not apply to the execution of a forfeiture order issued by a foreign court.

The case of *Jorgic v. Germany*³⁴ concerned events which took place in the course of ethnic cleansing in Bosnia; the applicant was convicted, *inter alia*, of genocide and murder, and sentenced to life imprisonment. He challenged the wide interpretation by the German courts of the crime of genocide, an interpretation which he alleged had no basis in German or public international law (1948 Convention on Genocide). The Court was of the opinion that, in a case such as this one, which concerned the interpretation by the national courts of a provision stemming from public international law, it was necessary, in order to ensure that the protection guaranteed by Article 7 § 1 of the Convention remained effective, to examine whether there were special circumstances warranting the conclusion that the applicant, if necessary after having obtained legal advice, could have relied on a narrower interpretation of the scope of the crime of genocide by the domestic courts, having regard, notably, to the interpretation of the offence of genocide by other authorities. Many authorities had favoured a narrow interpretation of the crime of genocide, but there had already, at the relevant time, been several authorities which had interpreted it in a wider way, in common with the German courts in this instance. The Court also had regard to the gravity and duration of the acts of which the applicant had been convicted. It concluded that the national courts’ interpretation of the crime of genocide could reasonably be regarded as consistent with the essence of that offence and reasonably foreseeable by the applicant at the material time. Once those requirements were met, it was for the German courts to decide which interpretation of the crime of genocide under domestic law they wished to adopt. The applicant’s conviction was not therefore held to have been contrary to the principle *nullum crimen sine lege*.

Right to an effective remedy (Article 13)

In its judgment in *Gebremedhin [Gaberamadhien] v. France*³⁵, the Court examined the procedure known as “asylum at the border”, whereby the asylum-seeker is placed in a “waiting area” at the airport and is served a decision refusing leave to enter the territory and ordering his or her removal. The Court reiterated that if asylum-seekers ran a serious risk of torture or ill-treatment in their country of origin, it was a requirement of Article 13 that the persons concerned should have access to a remedy with automatic suspensive effect. This had not been the case here.

The case of *Bączkowski and Others v. Poland*³⁶ gave the Court an opportunity to rule on the time-limits for issuing decisions concerning the exercise of freedom of assembly. The case concerned the cancellation of an unlawful refusal to authorise demonstrations, delivered after the date on which the demonstrations had been scheduled. The applicants complained of the absence of a remedy which would have enabled them to obtain a final decision before the date on which their events were scheduled. The Court considered that it was important for the effective enjoyment of

freedom of assembly that the applicable laws provided for reasonable time-limits within which the State authorities should act when giving relevant decisions. The applicable laws clearly set out the time-limits within which the applicants were to submit their requests for authorisation. In contrast, the authorities were not obliged by any legally binding time frame to give their final decisions before the planned date of the demonstration. The Court was therefore not persuaded that the remedies available to the applicants in the present case, all of them being of a *post-hoc* character, could provide adequate redress in respect of the alleged violations of the Convention. It therefore concluded that there had been a violation of Article 13.

Right of appeal in criminal matters (Article 2 of Protocol No. 7)

The application *Zaicevs v. Latvia*³⁷ concerned the lack of a remedy by which to complain of a sentence of three days' "administrative detention" for an offence that was not classified as criminal under domestic law. The Government argued that the offence amounted to an "offence of a minor character" within the meaning of Article 2 § 2, which authorises exceptions to the rule. Referring to the purpose of Article 2 and the nature of the guarantees enshrined in it, the Court noted that an offence for which the legislation laid down a custodial sentence as the principal penalty could not be described as "minor" for the purposes of the second paragraph of that Article. The classification of the offence in domestic legislation had only a relative value. The Court found that there had been a violation.

Civil and political rights

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

Applicability

In its judgment in *Evans*³⁸, cited above, the Grand Chamber accepted that the concept of "private life" incorporated the right to respect for both the decisions to become and not to become a parent. It added that the more limited issue, concerning the right to respect for the decision to become a parent in the genetic sense, also fell within the scope of Article 8.

The judgment in *Pfeifer v. Austria*³⁹ represents an interesting step in the development of the case-law on the right to respect for "private life": it expressly recognises that Article 8 applies to the protection of one's reputation. It states that a person's reputation, even if that person is criticised in the context of a public debate, forms part of his or her personal identity and psychological integrity and imposes an obligation on the national courts to protect it.

The judgment in *Peev v. Bulgaria*⁴⁰ defined the scope of "private life" in the context of a search carried out in the office of a public official who worked on the premises of a public administration. The applicant was employed as an expert at the Supreme Cassation Prosecutor's Office, where he had his office. In the Court's view, this public official could reasonably have expected his workspace to be treated as private property, or at the least, his desk and filing cabinets, in which he kept personal belongings. The search thus amounted to an "interference" with his private life.

In the case of *Copland v. the United Kingdom*⁴¹, the Court ruled on a case concerning the unlawful monitoring of a civil servant's telephone, e-mail and Internet usage. It held that e-mails sent from the workplace should be covered by the notions of "private life" and "correspondence", as should information obtained from monitoring of personal use of the Internet at the place of work. The applicant had been given no warning that her calls would be liable to monitoring, and she had therefore had a reasonable expectation as to the privacy of calls made from her work telephone; she had probably had the same feeling with regard to her e-mails and use of the Internet.

Medical issues

The case in *Evans*⁴², cited above, undoubtedly raised issues of a morally and ethically delicate nature, since it concerned the removal of ova for the purpose of *in vitro* fertilisation (IVF). The Grand Chamber emphasised that the decision to use IVF treatment gave rise to sensitive moral and ethical issues against a background of fast-moving medical and scientific developments, which touched on areas where there was no clear common ground amongst the member States of the Council of Europe. The margin of appreciation to be afforded to the respondent State had therefore to be a wide one, and this margin must in principle extend both to the State's decision whether or not to enact legislation governing the use of IVF treatment and, once having intervened, to the detailed rules it lays down in order to achieve a balance between the competing public and private interests. The Court did not consider the legal obligation to obtain the father's consent to store and implant the fertilised eggs to be contrary to Article 8, given the lack of European consensus on this point, the fact that the domestic rules were clear and had been brought to the attention of the applicant, and that they struck a fair balance between the competing interests.

In contrast, in the case of *Dickson v. the United Kingdom*⁴³, the Grand Chamber held that there had been a breach of Article 8 on account of the refusal of a request for artificial insemination facilities, submitted by a prisoner whose wife was at liberty, since a fair balance had not been struck between the competing public and private interests involved.

In the case of *Tysi c v. Poland*⁴⁴, which concerned a refusal to carry out a therapeutic abortion despite the risk that the mother's eyesight would deteriorate seriously if she continued with the pregnancy, the Court examined how the legal framework governing the use of therapeutic abortion in Poland had been applied in the applicant's case and how it had addressed her concerns about the possible negative impact of pregnancy and birth on her health. It concluded that the State had failed to comply with the positive obligation to safeguard the applicant's right to respect for her private life within the context of a dispute concerning her entitlement to a therapeutic abortion.

Adoption

The case of *Wagner and J.M.W.L. v. Luxembourg*⁴⁵ raised the issue of recognition of a fully valid foreign adoption judgment in favour of an unmarried adoptive mother. The latter had behaved as the under-age child's mother since that judgment, and thus *de facto* family ties existed between them. The Luxembourg courts' refusal to declare the foreign judgment enforceable stemmed from the absence of provisions in the domestic legislation enabling an unmarried person to be granted full adoption of a child. The Court considered that this refusal amounted to an "interference" with the right to respect for family life, and observed that a broad consensus existed in Europe on the issue: adoption by unmarried persons was permitted without restrictions in most of the member States of the Council of Europe. Reiterating that the child's best interests had to take precedence in cases of this kind, the Court considered that the domestic courts could not reasonably disregard the legal status which had been created on a valid basis in a foreign country and which corresponded to family life within the meaning of Article 8. They could not reasonably refuse to recognise the family ties which *de facto* already existed between the applicants and thus dispense with an examination of the specific situation. In addition to the violation of Article 8 taken alone, the refusal to declare the foreign adoption judgment enforceable entailed a breach of Article 14 taken in conjunction with Article 8: as a result of the refusal to have the family ties created by the foreign adoption recognised in Luxembourg, the child had been subjected in her daily life to a difference in treatment compared with children whose full adoption granted abroad was recognised, and the resulting obstacles in her daily life indirectly affected her adoptive mother, even though an open adoption had been granted.

Application of the Hague Convention on the Civil Aspects of International Child Abduction

The judgment in *Maumousseau and Washington v. France*⁴⁶ concerned a child's return, ordered by the courts on the basis of the Hague Convention, to her father in the United States, where she had been born and had been habitually resident until her mother decided to keep her in France. It is important in that the Court dealt here with an issue of principle concerning the compatibility of contracting States' obligations under the various applicable international instruments, specified that "the notion of the 'child's best interests' cannot be construed differently depending on which international convention is relied upon" (the Hague Convention and the New York Convention on the Rights of the Child), and stated that it "subscribes fully to the underlying philosophy" of the Hague Convention.

Interception and transcription of telephone calls

The judgment in *Dumitru Popescu v. Romania (no. 2)*⁴⁷ sets out, in relation to the compliance with the Convention of telephone tapping carried out by the authorities, the guarantees laid down by law to ensure the minimum degree of protection required by the rule of law in a democratic society. The case of *Klass and Others v. Germany*⁴⁸ had resulted in a finding of no violation of Article 8 on the ground that the legislation contained adequate and effective safeguards to prevent individuals from abuses of power by the authorities. This was not the case with regard to the legislation in question. In particular, the Court noted the lack of any safeguards concerning the need to keep recordings of telephone calls intact and in their entirety. The inclusion in the case files of incomplete transcriptions of the tapped telephone conversations was not in itself incompatible with the requirements of Article 8. The Court could accept that, in certain circumstances, it would be excessive, if only from a practical point of view, to transcribe and include in the investigation file of a case all of the conversations that had been recorded from a particular telephone. This could run counter to other rights, such as, for example, the right to respect for the private life of other individuals who had made calls from the telephone being tapped. The Court noted, however, that if this were the case, the applicant must be given the opportunity to listen to the recordings or to challenge their accuracy, which explained the need to keep the recordings intact until the end of the criminal trial and, more generally, must be able to include in the investigation file any evidence which seemed relevant for his or her defence. It also noted that the authority empowered to certify that recordings were genuine and reliable had demonstrated a lack of independence and impartiality. The Court emphasised that, where doubts existed as to the genuineness or reliability of a recording of tapped conversations, there should be a clear and effective means of having them examined by a public or private body that was independent from the authorities which had carried out the telephone tapping.

Freedom of religion (Article 9)

In the case of *Ivanova v. Bulgaria*⁴⁹, an employee who was also a member of a religious community that was not officially recognised and in relation to which various events hinted at a policy of intolerance on the part of the authorities, had been dismissed on the ground that she no longer met the requirements for her post. The domestic courts had considered that her employer had both a need and the right to change the roster of posts and the requirements for the applicant's post and to dismiss her because she did not meet those requirements. However, considering the sequence of events in their entirety, the Court reached the conclusion that the applicant's employment had in reality been terminated because of her religious beliefs and affiliation with the community in question. The fact that her employment had been terminated in accordance with the applicable labour legislation – by introducing new requirements for her post which she failed to meet – did not eliminate the substantive motive for her dismissal. The right to freedom of religion had been

violated because the applicant's employment had been terminated on account of her religious beliefs.

The judgment in *Perry v. Latvia*⁵⁰ dealt with the politically sensitive issue of the direct implications of Article 9 in the area of immigration. A foreign missionary who had held a residence permit which implied authorisation to organise public activities of a religious nature had subsequently been refused a renewal of his residence permit under the same conditions and rules. A different type of permit which did not entitle him to continue to perform religious activities was issued. He was thus compelled to stand down as pastor of his parish and to become an ordinary member. The main reason for his move to Latvia had been the creation of a community of his faith and preaching within that community. The withdrawal of permission to organise religious activities when renewing his residence permit, although he wished to continue those activities, represented an "interference" within the meaning of Article 9. In his capacity as a pastor, his freedom to manifest his religion had been affected, although he could continue to take part in the spiritual life of his parish as an ordinary member. No provision of Latvian law in force at the material time had entitled the Nationality and Migration Directorate to use the renewal of a residence permit as a pretext for prohibiting a foreign national from performing religious activities: the interference had not therefore been "prescribed by law".

The case of *Carlo Spampinato v. Italy*⁵¹ raised the issue of the legal obligation to allocate part of one's income tax to the State, the Catholic Church or an institution representing another religion. The applicant complained that he was obliged to manifest his religious beliefs when submitting his tax declaration. The complaint was declared inadmissible. As taxpayers had the option of expressing no choice – in which case the amount was divided on a pro rata basis – this system entailed no obligation to manifest one's religious beliefs in a way that could be considered contrary to the Convention.

Freedom of expression (Article 10)

Defamation

Many of the judgments in the area of freedom of expression concerned defamation proceedings.

The case of *Lindon and Others v. France*⁵² concerned the specific area of defamation through a novel mixing fact and fiction. The author and publisher had been convicted of defaming an extreme right-wing party and its President. The domestic courts' findings were not related to the argument developed in the novel, but rather to the content of three passages in it. The Grand Chamber held that the criteria applied by the national courts in assessing whether or not the impugned passages of the novel were defamatory had been compatible with Article 10. In particular, the fact of emphasising that all writings, even novelistic, were capable of resulting in a conviction for defamation was consistent with Article 10. With regard to political struggles, it found that, regardless of their forcefulness, "it is legitimate to try to ensure that they abide by a minimum degree of moderation and propriety, especially as the reputation of a politician, even a controversial one, must benefit from the protection afforded by the Convention" and that even in respect of a figure who occupies an extremist position in the political spectrum, remarks expressing the intention to stigmatise the other side and whose content is such as to stir up violence and hatred go beyond what is tolerable in political debate. The case also concerned the conviction for defamation of the publication director of a daily newspaper on the ground that he had published a petition which reproduced the extracts from the novel the national courts had found defamatory; its signatories protested against that finding and denied that the passages were defamatory. The Grand Chamber held that the limits of permissible "provocation" had been overstepped, reiterating in

particular the potential impact on the public of the remarks found to be defamatory on account of their publication by a national daily newspaper with a large circulation, and that it was not necessary to reproduce them in order to give a complete account of the conviction and resulting criticism.

The judgment in *Boldea v. Romania*⁵³ sheds light on the principles for applying Article 10 in the area of a conviction for defamation in the academic world. A university lecturer had been convicted of defamation after accusing two colleagues of plagiarism during a meeting of the teaching staff in his department at which the dean had raised the issue of alleged plagiarism in scientific publications. The Court noted that the applicant's assertions had merely reflected his professional opinion, expressed orally in the course of the meeting, which had denied him the possibility of reformulating, perfecting or retracting them.

Preventing "the disclosure of information received in confidence"

In the context of a case in which a journalist was convicted for the publication of a diplomatic "strategy document" classified as confidential (*Stoll v. Switzerland*⁵⁴), the Grand Chamber clarified the interpretation to be given to the "legitimate aim" referred to in the second paragraph of Article 10, which thus encompasses "confidential information disclosed either by a person subject to a duty of confidence or by a third party and, in particular, as in the present case, by a journalist". The Grand Chamber indicated that it was vital to diplomatic services and the smooth functioning of international relations for diplomats to be able to exchange confidential or secret information. It pointed out, however, that the confidentiality of diplomatic reports could not be protected at any price, so that "preventing all public debate on matters relating to foreign affairs by invoking the need to protect diplomatic correspondence is unacceptable". In this respect, account must be taken of the content of the document in question and the potential threat posed by its publication.

Freedom of artistic expression

As the above-mentioned judgment in *Lindon and Others*⁵⁵ reiterated, artistic expression falls within the scope of Article 10. In examining an application concerning an injunction prohibiting the continued display of a painting, the Court stated in the case of *Vereinigung Bildender Künstler v. Austria*⁵⁶ that satire was a form of artistic expression and social comment which, by exaggerating and distorting reality, was intentionally provocative. Accordingly, any interference with an artist's right to such expression had to be examined with particular care.

Freedom of assembly (Article 11)

In the case of *Bukta and Others v. Hungary*⁵⁷, the applicants had organised a spontaneous demonstration and had not therefore informed the police within the legal time-limit for that purpose. They complained that the demonstration had been lawfully dispersed merely because the police had not had prior notification. The Court reiterated that a prior-authorisation procedure did not normally encroach upon the essence of the right to freedom of assembly. However, in special circumstances when an immediate response, in the form of a demonstration, to a political event (made public after the expiry of the legal deadline for prior notification) might be justified and in the absence of evidence to suggest a danger to public order, a decision to disband the ensuing, peaceful assembly solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, amounted to a disproportionate restriction.

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

Religious education classes

The case of *Folgerø and Others v. Norway*⁵⁸ concerned the refusal to grant total exemption to pupils in State primary schools and the first level of secondary education from lessons in Christianity, religion and philosophy. Non-Christian parents alleged that the obligation on their children to follow these lessons had entailed an unjustified interference with the exercise of their right to freedom of conscience and religion, and had been in breach of their right to ensure that their children received an education in conformity with their religious and philosophical convictions. The Grand Chamber considered that the parents' complaint, based on Article 9 of the Convention and Article 2 of Protocol No. 1, fell to be examined under the latter provision, which was the *lex specialis* in the area of education. In the Court's view, the system of partial exemption was capable of subjecting the parents concerned to a heavy burden with a risk of undue exposure of their private life and that the potential for conflict was likely to deter them from requesting such exemptions. In certain instances, notably with regard to activities of a religious character, the scope of a partial exemption might even be substantially reduced. This could hardly be considered consistent with the parents' right to respect for their convictions for the purposes of Article 2 of Protocol No. 1, as interpreted in the light of Articles 8 and 9 of the Convention. The Court found that the State had not taken sufficient care that information and knowledge included in the curriculum be conveyed in an objective, critical and pluralistic manner.

Schooling of children belonging to a minority

In its judgment in the case of *D.H. and Others v. the Czech Republic*⁵⁹, the Grand Chamber held that the placement of Roma children in special schools intended for children with learning difficulties had been discriminatory and contrary to Article 14 of the Convention taken in conjunction with Article 2 of Protocol No. 1. It considered that, as a specific type of disadvantaged and vulnerable minority, the Roma required special protection, including in the sphere of education. It affirmed that a difference in treatment that takes the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group, amounts to "indirect discrimination", which does not necessarily require a discriminatory intent on the part of the authorities.

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

In the case of *Russian Conservative Party of Entrepreneurs and Others v. Russia*⁶⁰, a party's entire list of candidates for election to the State Duma had been disqualified on account of inexact information provided by certain candidates on that list. A potential elector complained that he had been unable to vote for the party of his choice. The Court reiterated that the right to vote could not be construed as laying down a general guarantee that every voter should be able to find on the ballot paper the candidate or the party for which he or she had intended to vote. It took note of the general context in which the elector had been able to exercise his right to vote, and concluded that his right to take part in free and pluralist elections had not been unduly restricted.

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

The Convention organs have very rarely been required to rule on issues concerning intellectual property. In the case of *Anheuser-Busch Inc. v. Portugal*⁶¹, a foreign company had had a trade mark registered by the Portuguese National Institute for Industrial Property. In addition to noting that Article 1 of Protocol No. 1 applied to intellectual property as such, the Grand Chamber concluded that this Article also applied to an application for the registration of a trade mark: the applicant

company owned a set of proprietary rights – linked to its application for the registration of a trade mark – that were recognised by domestic law, even though they could be revoked under certain conditions.

The case of *Hamer*⁶² concerned the compulsory demolition of a house constructed without planning permission in a forest area designated as non-building land. The judgment marks a significant contribution to the Court's case-law in that, for the first time, the Court held that "the environment constitutes a value" and that "economic considerations and even certain fundamental rights such as the right of property should not take precedence over considerations relating to protection of the environment, in particular where the State has enacted legislation on the subject".

In its judgment in *Evaldsson and Others v. Sweden*⁶³, the Court examined the specific question of a system by which deductions were made from the wages of non-union workers in order to reimburse a trade union for the costs associated with its monitoring activities. It considered that, in these circumstances, the applicants were entitled to information sufficiently exhaustive for them to verify that the fees corresponded to the actual cost of the inspection work and that the amounts paid were not used for other purposes, especially as they did not support the trade union's political line. This had not been the case. The union's monitoring activities lacked the necessary transparency and, even having regard to the limited amounts of money involved, it was not proportionate to "the public interest" to make deductions from the applicants' wages without giving them a proper opportunity to check how that money was spent.

In the decision in *Carlo Spampinato*⁶⁴, the Court stated that tax legislation – which did not provide for a levy to be added to the ordinary income tax but only for the specific allocation of a percentage of that tax – fell within the State's margin of appreciation and could not as such be considered arbitrary. Under the relevant law, eight-thousandths of an individual's income tax must be allocated to the State, to the Catholic Church, or to one of the institutions representing the other five religions which had agreed to receive that contribution after concluding an agreement with the State.

Just satisfaction and execution of judgments (Articles 41 and 46)

As the Court reiterated in its judgment in *D.H. and Others v. the Czech Republic*⁶⁵, cited above, by virtue of Article 46 of the Convention the High Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, execution being supervised by the Committee of Ministers. It follows, *inter alia*, that a judgment in which the Court finds a breach imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction under Article 41, but also to select subject to supervision by the Committee of Ministers the general and/or, if appropriate, individual measures to be adopted in their domestic legal order to put an end to the violation found by the Court and to redress in so far as possible the effects. However, the respondent State remains free to choose the means by which it will discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment.

The case of *Yakışan v. Turkey*⁶⁶ concerned the length of criminal proceedings (almost thirteen years, and still pending when the judgment was adopted) and the length of the applicant's pre-trial detention (eleven years and seven months by the date the judgment was adopted). In its judgment, the Court concluded that there had been a violation of Article 5 § 3 and Article 6 § 1, and inserted a special clause with regard to the application of Article 41: it considered that an appropriate measure to put an end to the violation found would be to complete the trial as rapidly as possible, taking into consideration the requirements of the proper administration of justice, or to release the applicant pending trial, as envisaged by Article 5 § 3.

In its judgment in the case of *Tan v. Turkey*⁶⁷, the Court concluded that the interference with the applicant's right to respect for his correspondence had not been "in accordance with the law" within the meaning of Article 8 § 2. In the context of the application of Article 41, the Court noted that this violation originated in a problem resulting from the Turkish legislation on the monitoring of correspondence and that a similar violation had already been found in a recent judgment concerning Turkey. It held that bringing the relevant domestic legislation into line with Article 8 would be an appropriate means of putting an end to the violation found.

The case of *Dybeku v. Albania*⁶⁸ concerned the conditions in which a mentally ill prisoner was detained. The Court found that the applicant, who suffered from chronic paranoid schizophrenia and was serving a life sentence in a high-security prison, had been subjected to inhuman and degrading treatment. The judgment is important as it is the first case in which Article 46 has been applied in relation to detention conditions. The Court called on the respondent State to take the necessary measures, as a matter of urgency, to secure appropriate conditions of detention, and in particular adequate medical treatment for prisoners requiring special care on account of their state of health.

The judgment in *Driza*⁶⁹ concerned the failure to enforce judicial or administrative decisions issued under a law on property. The Court applied Article 46 for the first time in an Albanian case (together with the *Ramadhi and Others* judgment of the same date), making this a "pilot" judgment, since the Court noted the existence of a general problem affecting a large number of individuals and giving rise to dozens of applications to Strasbourg, which constituted an aggravating factor and indicated that there was a legal vacuum, called on the respondent State to introduce a remedy to redress the violations found, and indicated in detail the measures to be taken to that end as a matter of urgency.

The same analysis applied to the judgment in *Ramadhi and Others v. Albania*⁷⁰, which concerned the failure to enforce decisions of the Property Restitution and Compensation Commission and the lack of a remedy in that respect.

In the case of *De Clerck v. Belgium*⁷¹, the Court concluded that there had been a violation of Article 6 § 1 and Article 13 on account of the length of criminal proceedings and the lack of an effective remedy in that respect. Under Article 46, the applicants requested immediate termination of the criminal proceedings against them on the ground that the reasonable time for a criminal investigation had been exceeded, thus raising the problem of the scope of the Court's power to give directions. The judgment is interesting because it reaffirms the principle whereby the Court may not direct independent judicial authorities to terminate criminal proceedings instituted in compliance with the law; accordingly, the applicants' request for an injunction was dismissed. In addition, it supplements the body of case-law in this sphere, relating both to structural situations affecting a large number of persons where the Court is faced with dozens of applications, and to individual measures concerning physical liberty and deprivation of property.

The case of *Karanović v. Bosnia and Herzegovina*⁷² concerned a failure by the authorities to eliminate the discrimination arising from the pensions legislation, despite a final and enforceable decision by the Human Rights Chamber. The Court found that there had been a violation of Article 6 § 1 on account of the failure to enforce the Human Rights Chamber's decision. The judgment's interest lies in its "pilot" nature with regard to Article 46, since the Court noted the existence of a general problem affecting a whole class of citizens (pensioners currently living in the Federation of Bosnia and Herzegovina who were displaced to Republika Srpska during the armed conflict), who are all potential applicants and represent a threat to the future effectiveness of the Convention system. It acknowledged that the respondent State had no real choice as to the measures

to be adopted to put an end to the violation, and urged it to enforce the Human Rights Chamber's decision.

Finally, the decisions in *Wolkenberg and Others*⁷³ and *Witkowska-Toboła v. Poland*⁷⁴ are pilot decisions for the treatment of cases which raise the same systemic problem as that dealt with in the first pilot judgment (*Broniowski v. Poland*⁷⁵). The Court took note of the compensation system introduced by a 2005 law and decided to strike the applications out of the list on the basis of Article 37 § 1 (b) ("the matter has been resolved").

Notes

1. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.
2. (dec.), no. 35222/04, to be reported in ECHR 2007.
3. No. 7888/03, 20 December 2007.
4. No. 36813/97, ECHR 2006-V.
5. No. 52067/99, 17 October 2006.
6. No. 29089/06, 23 October 2007.
7. No. 27561/02, to be reported in ECHR 2007 (extracts).
8. (dec.), no. 40552/02, 16 October 2007.
9. [GC], no. 6339/05, to be reported in ECHR 2007.
10. No. 41773/98, 7 February 2006.
11. No. 9375/02, to be reported in ECHR 2007 (extracts).
12. No. 40074/98, to be reported in ECHR 2007 (extracts).
13. No. 34445/04, 11 January 2007.
14. No. 2570/04, to be reported in ECHR 2007.
15. No. 1948/04, to be reported in ECHR 2007 (extracts).
16. (dec.), no. 44294/04, to be reported in ECHR 2007.
17. No. 1509/02, to be reported in ECHR 2007.
18. No. 45223/05, to be reported in ECHR 2007 (extracts).
19. [GC], no. 63235/00, to be reported in ECHR 2007.
20. (dec.), no. 69917/01, to be reported in ECHR 2007 (extracts).
21. No. 21861/03, to be reported in ECHR 2007 (extracts).
22. (dec.), no. 6051/06, 30 August 2007.
23. No. 30658/05, to be reported in ECHR 2007 (extracts).
24. No. 36549/03, to be reported in ECHR 2007.
25. [GC], no. 54810/00, ECHR 2006-IX.
26. (dec.), no. 34971/02, 5 April 2007.
27. No. 57986/00, ECHR 2006-II (extracts).
28. No. 38184/03, to be reported in ECHR 2007.
29. No. 33771/02, to be reported in ECHR 2007 (extracts).
30. (dec.), no. 27521/04, to be reported in ECHR 2007.
31. No. 56568/00, ECHR 2003-II (extracts).
32. No. 34964/97, ECHR 2003-II.
33. Decision cited above, note 20.
34. No. 74613/01, to be reported in ECHR 2007 (extracts).
35. No. 25389/05, to be reported in ECHR 2007.
36. No. 1543/06, to be reported in ECHR 2007.
37. No. 65022/01, to be reported in ECHR 2007 (extracts).
38. Judgment cited above, note 9.
39. No. 12556/03, to be reported in ECHR 2007.
40. No. 64209/01, to be reported in ECHR 2007 (extracts).
41. No. 62617/00, to be reported in ECHR 2007.
42. Judgment cited above, note 9.
43. [GC], no. 44362/04, to be reported in ECHR 2007.
44. No. 5410/03, to be reported in ECHR 2007.
45. No. 76240/01, to be reported in ECHR 2007 (extracts).
46. No. 39388/05, to be reported in ECHR 2007.
47. No. 71525/01, 26 April 2007.
48. Judgment of 6 September 1978, Series A no. 28.
49. No. 52435/99, to be reported in ECHR 2007.

50. No. 30273/03, 8 November 2007.
51. (dec.), no. 23123/04, to be reported in ECHR 2007.
52. [GC], nos. 21279/02 and 36448/02, to be reported in ECHR 2007.
53. No. 19997/02, to be reported in ECHR 2007 (extracts).
54. [GC], no. 69698/01, to be reported in ECHR 2007.
55. Judgment cited above, note 52.
56. No. 68354/01, to be reported in ECHR 2007.
57. No. 25691/04, to be reported in ECHR 2007.
58. [GC], no. 15472/02, to be reported in ECHR 2007.
59. [GC], no. 57325/00, to be reported in ECHR 2007.
60. Nos. 55066/00 and 55638/00, to be reported in ECHR 2007.
61. [GC], no. 73049/01, to be reported in ECHR 2007.
62. Judgment cited above, note 21.
63. No. 75252/01, 13 February 2007.
64. Decision cited above, note 51.
65. Judgment cited above, note 59.
66. No. 11339/03, 6 March 2007.
67. No. 9460/03, 3 July 2007.
68. No. 41153/06, 18 December 2007.
69. Judgment cited above, note 29.
70. No. 38222/02, 13 November 2007.
71. No. 34316/02, 25 September 2007.
72. No. 39462/03, 20 November 2007.
73. (dec.), no. 50003/99, to be reported in ECHR 2007 (extracts).
74. (dec.), no. 11208/02, 4 December 2007.
75. [GC], no. 31443/96, ECHR 2004-V.

**X. SELECTION OF JUDGMENTS AND DECISIONS
DELIVERED BY THE COURT
IN 2007**

**SELECTION OF JUDGMENTS AND DECISIONS
DELIVERED BY THE COURT
IN 2007¹**

JUDGMENTS

Article 2

Article 2 § 1

Life

Effectiveness of an investigation into a fatal shooting by a police officer, extent to which the victim's relatives were able to participate, and lack of a public hearing of the relatives' legal challenge against the decision not to prosecute the police officer: *violation/no violation*
Ramsahai v. the Netherlands, no. 52391/99, no. 97

Effectiveness of a continuing twelve-year inquiry into a fatal explosion in a state of emergency region: *violation*
Kamil Uzun v. Turkey, no. 37410/97, no. 97

Failure of the police to protect the lives of the applicant's children, eventually killed by their father: *violation*
Kontrová v. Slovakia, no. 7510/04, no. 97

Inadequacy of criminal sentence imposed on police officers responsible for ill-treatment causing death: *violation*
Nikolova and Velichkova v. Bulgaria, no. 7888/03, no. 103

Positive obligations

Failure of the police to protect the lives of the applicant's children, eventually killed by their father: *violation*
Kontrová v. Slovakia, no. 7510/04, no. 97

Civil proceedings in alleged medical negligence case rendered ineffective by lengthy delays and procedural problems: *violation (case referred to the Grand Chamber)*
Šilih v. Slovenia, no. 71463/01, no. 98

Investigative failings resulting in persons responsible for a fatal shooting following the intervention of an off-duty police officer not being called upon to furnish an explanation: *violation*
Celniku v. Greece, no. 21449/04, no. 99

Extrajudicial execution of tens of citizens by security forces and subsequent failure to conduct an effective investigation: *violations*

1. The cases (including non-final judgments, see Article 43 of the Convention) are listed with their name and application number. The two- or three-digit number at the end of each reference line indicates the issue of the Case-Law Information Note where the judgment was summarised. Depending on the Court's findings, a case may appear under several keywords. The monthly Information Notes are available in the Court's case-law database (HUDOC) at www.echr.coe.int. A hard-copy subscription is available from publishing@echr.coe.int for 30 euros or 45 United States dollars per year, including an index. All judgments and admissibility decisions (other than those taken by committees) are available in full text in HUDOC.

Musayev and Others v. Russia, nos. 57941/00, 58699/00 and 60403/00, no. 99

Death allegedly caused by an assault a month earlier by a State agent although no causal link was established at the trial: *violation (procedural)*

Feyzi Yıldıırım v. Turkey, no. 40074/98, no. 99

Failure to hold effective investigation into racially motivated killing: *violation*

Angelova and Iliev v. Bulgaria, no. 55523/00, no. 99

De facto impunity of State agents convicted of complicity in the torture and subsequent death of a person in police custody, and effectiveness of criminal proceedings: *violation*

Teren Aksakal v. Turkey, no. 51967/99, no. 100

Death by gradual asphyxiation of a young man who was handcuffed and held face down on the ground by police officers for over thirty minutes: *violation*

Saoud v. France, no. 9375/02, no. 101

Lack of adequate proceedings for examining hospital death: *violation (case referred to the Grand Chamber)*

Šilih v. Slovenia, no. 71463/01, no. 102

Lack of independence of police force called upon to investigate allegations of security force collusion in the death of the applicant's husband: *violation*

Brecknell v. the United Kingdom, no. 32457/04, no. 102

Article 2 § 2

Use of force

Fatal shooting by a police officer during an attempted arrest: *no violation*

Ramsahai v. the Netherlands, no. 52391/99, no. 97

Use of lethal force by police officers fired at in a café, and effectiveness of the investigation: *no violation/violation*

Yüksel Erdoğan and Others v. Turkey, no. 57049/00, no. 94

Killings during an armed clash with security forces and lack of domestic investigation into the circumstances of the deaths: *no violation/violation*

Akpınar and Altun v. Turkey, no. 56760/00, no. 94

Unintended killing of person during siege after he had been firing at police officers: *no violation*

Huohvanainen v. Finland, no. 57389/00, no. 95

Use by police of a face-down immobilisation technique to arrest a deranged man: *violation*

Saoud v. France, no. 9375/02, no. 101

Article 3

Torture

Torture of opposition leader and lack of effective investigation: *violation*

Mammadov v. Azerbaijan, no. 34445/04, no. 93

Torture and wrongful detention of Chechen applicants: *violation*

Chitayev v. Russia, no. 59334/00, no. 93

Force-feeding of prisoner on hunger strike in protest against prison conditions: *violation*

Ciorap v. Moldova, no. 12066/02, no. 98

Inhuman or degrading treatment

Mutilation of corpses – ears cut off after death: *no violation (as regards the deceased)*

Akpınar and Altun v. Turkey, no. 56760/00, no. 94

Applicants presented with the mutilated bodies of relatives: *violation*

Akpınar and Altun v. Turkey, no. 56760/00, no. 94

Unjustified strip-search during arrest: *violation*

Wieser v. Austria, no. 2293/03, no. 94

Applicant with no criminal record who developed irreversible psychopathological disorders after being arrested for questioning and forced to wear handcuffs at his place of work and in front of his family and neighbours: *violation*

Erdoğan Yağız v. Turkey, no. 27473/02, no. 95

Use of a tear gas, known as “pepper spray”, to break up demonstrators: *no violation*

Çiloğlu and Others v. Turkey, no. 73333/01, no. 95

Failure to carry out an effective investigation into a racist attack on a member of the Roma community: *violation*

Šečić v. Croatia, no. 40116/02, no. 97

Violent assault on a congregation of Jehovah’s Witnesses by a group purporting to support the Orthodox Church and lack of an effective investigation: *violation*

Members of the Gldani Congregation of Jehovah’s Witnesses and Others v. Georgia, no. 71156/01, no. 97

Conditions of pre-trial detention and detainee’s obligation to pay for their improvement: *violation*

Modarca v. Moldova, no. 14437/05, no. 97

Failure to take into account a prisoner’s serious invalidity when arranging for his detention and transfer: *violation*

Hüseyin Yıldırım v. Turkey, no. 2778/02, no. 97

Placement in a disciplinary isolation cell, lack of medical care and undernourishment of a detainee suffering from tuberculosis: *violation*

Gorodnichev v. Russia, no. 52058/99, no. 97

Wearing of handcuffs at public hearings not justified by security requirements: *violation*
Gorodnichev v. Russia, no. 52058/99, no. 97

Force-feeding of prisoner on hunger strike in protest against prison conditions: *violation*
Ciorap v. Moldova, no. 12066/02, no. 98

Full body search of prisoner including systematic visual inspection of the anus after each prison visit during a period of two years: *violation*
Frérot v. France, no. 70204/01, no. 98

Inability of victims of an alleged criminal offence to challenge in court a prosecutor's decision not to institute proceedings: *violation*
Macovei and Others v. Romania, no. 5048/02, no. 98

Lack of proper medical assistance and abrupt interruption of neurological treatment administered to a detainee on remand: *violation*
Paladi v. Moldova, no. 39806/05, no. 99

Treatment of Roma suspect in police custody and failure to carry out a proper investigation into his allegations: *violation*
Cobzaru v. Romania, no. 48254/99, no. 99

Unjustified use of truncheons, placement in solitary confinement, handcuffing, and lack of adequate medical care of a detainee suffering from schizophrenia: *violation*
Kucheruk v. Ukraine, no. 2570/04, no. 100

Allegation by the applicant that she was forced by the conduct of the family allowance contribution collection agency to continue to work as a prostitute: *no violation*
V.T. v. France, no. 37194/02, no. 100

Use of excessive force by a police officer against an unaccompanied woman who had been required to attend a police station: *violation*
Fahriye Çalışkan v. Turkey, no. 40516/98, no. 101

Conditions in which a prisoner suffering from serious illness was held and lack of adequate medical care: *violation*
Yakovenko v. Ukraine, no. 15825/06, no. 101

Conditions of detention of a prisoner suffering from mental disorders: *violation*
Dybeku v. Albania, no. 41153/06, no. 103

Positive obligations

Lack of adequate investigation into the use of truncheons by prison guards on a detainee suffering from schizophrenia: *violation*
Kucheruk v. Ukraine, no. 2570/04, no. 100

Lack of investigation into complaints about intimidation of a remand prisoner in solitary confinement: *violation*
Stepuleac v. Moldova, no. 8207/06, no. 102

Expulsion

Proposed expulsion of asylum-seeker to “relatively safe area” of Somalia: *expulsion would violate Article 3*

Salah Sheekh v. the Netherlands, no. 1948/04, no. 93

Risk of deportation to Afghanistan: *deportation would not constitute a violation*

Sultani v. France, no. 45223/05, no. 100

Extradition

Arrest in breach of domestic law and extradition in circumstances in which the authorities must have been aware that the applicant faced a real risk of ill-treatment: *violation*

Garabayev v. Russia, no. 38411/02, no. 98

Article 5

Article 5 § 1

Lawful arrest or detention

Circumvention of a domestic-law provision on maximum length of detention by re-detaining person ten minutes after release: *violation*

John v. Greece, no. 199/05, no. 97

Continued detention in hospital after a compulsory psychiatric treatment order was lifted: *violation*

Kucheruk v. Ukraine, no. 2570/04, no. 100

Failure to notify a detention order within the time-limit prescribed by law: *violation*

Voskuil v. the Netherlands, no. 64752/01, no. 102

Article 5 § 1 (c)

Reasonable suspicion

Arrest and pre-trial detention of applicant without verifying whether the complaints against him were well-founded prima facie: *violation*

Stepuleac v. Moldova, no. 8207/06, no. 102

Article 5 § 1 (e)

Persons of unsound mind

Prolonged detention in an ordinary remand centre pending admission to a psychiatric hospital: *violation*

Mocarska v. Poland, no. 26917/05, no. 102

Article 5 § 1 (f)

Prevent unauthorised entry into country

Continued detention of an asylum-seeker in an airport waiting area following an interim indication by the Court under Rule 39 of the Rules of Court that he should not be removed to his country of origin: *no violation*

Gebremedhin [Gaberamadhien] v. France, no. 25389/05, no. 96

Expulsion

Circumvention of a domestic-law provision on maximum length of detention pending removal: *violation*

John v. Greece, no. 199/05, no. 97

Extradition

Inconsistent interpretation of provisions applicable to detainees awaiting extradition: *violation*

Nasrulloev v. Russia, no. 656/06, no. 101

Article 5 § 3

Detention on remand

Date when time starts to run for the purposes of the six-month time-limit in cases of consecutive periods of pre-trial detention: *violation*

Solmaz v. Turkey, no. 27561/02, no. 93

Failure to give detailed reasons for the continued detention of a remand prisoner: *violation*

Castravet v. Moldova, no. 23393/05, no. 95

Failure by the Belgian judicial authorities to give any serious consideration to the question of alternatives to preventive detention: *violation*

Lelièvre v. Belgium, no. 11287/03, no. 102

Article 5 § 4

Take proceedings

Remand prisoner prevented from communicating effectively with his lawyer by a glass partition and fear that their discussions were being monitored: *violation*

Castravet v. Moldova, no. 23393/05, no. 95

Lack of confidentiality of lawyer-client communications due to indiscriminate use of a glass partition in a detention centre: *violation*

Modarca v. Moldova, no. 14437/05, no. 97

Detainee held for three years pending extradition without any possibility of applying for review: *violation*

Nasrulloev v. Russia, no. 656/06, no. 101

Article 5 § 5

Compensation

Denial of compensation due to malfunction of judicial system and lack of final decisions ordering discontinuance of criminal proceedings: *violation*

Chitayev v. Russia, no. 59334/00, no. 93

Article 6

Article 6 § 1 (civil)

Applicability

Dispute regarding police personnel's entitlement to a special allowance: *Article 6 applicable (new approach in cases involving civil servants)*

Vilho Eskelinen and Others v. Finland, no. 63235/00, no. 96

Civil rights and obligations

Dispute over a claim of corporate succession which had no basis in domestic law: *no violation*

Oao Plodovaya Kompaniya v. Russia, no. 1641/02, no. 98

Right to a court

Association with limited resources ordered to pay a multinational's costs in environmental protection proceedings: *no violation*

Collectif national d'information et d'opposition à l'usine Melox – Collectif stop Melox et Mox v. France, no. 75218/01, no. 98

Non-enforcement of a decision of the Human Rights Chamber: *violation*

Karanović v. Bosnia and Herzegovina, no. 39462/03, no. 102

Supervisory review of final judgments and lack of impartiality of the Supreme Court, and failure to enforce judgments and administrative decisions for the restitution of property: *violations*

Driza v. Albania, no. 33771/02, no. 102

Ramadhi and Others v. Albania, no. 38222/02, no. 102

Access to a court

Inability of the managing director and sole shareholder of a company to challenge an order for its liquidation: *violation*

Arma v. France, no. 23241/04, no. 95

Inability of legal-aid clients to appeal to the Supreme Court owing to their lawyers' advice that they did not have reasonable prospects of success: *violation*

Staroszczyk v. Poland, no. 59519/00, no. 95

Siałkowska v. Poland, no. 8932/05, no. 95

Refusal, without any plausible explanation, of permission to lodge detailed appeal submissions: *violation*

Dunayev v. Russia, no. 70142/01, no. 97

Refusal of legal aid for a claimant who was unable to pay the procedural costs for bringing an action, and procedural guarantees afforded by the domestic legal-aid scheme: *violation*

Bakan v. Turkey, no. 50939/99, no. 98

Wrongful refusal by the Supreme Court to hear, for failure to pay the prescribed fee, an appeal in a case of alleged torture: *violation*

Ciorap v. Moldova, no. 12066/02, no. 98

Order requiring claimant in a civil action to pay court fees calculated as a percentage of any part of his claim that was disallowed: *violation*

Stankov v. Bulgaria, no. 68490/01, no. 99

Discontinuance of civil action as a result of failure of impecunious claimants to pay court fees after they were refused legal aid on the ground that they had obtained legal representation under a contingency fee arrangement: *violation*

Mehmet and Suna Yiğit v. Turkey, no. 52658/99, no. 99

Failure to comply with a final judgment requiring administrative authorities to deliver up possession of a building occupied by a governmental organisation that enjoyed diplomatic immunity: *violation*

Hirschhorn v. Romania, no. 29294/02, no. 99

Temporary suspension of courts in Chechnya owing to a counterterrorist operation: *violation*

Khamidov v. Russia, no. 72118/01, no. 102

Failure to give final determination of the applicant's constitutional appeal due to tied vote: *violation*

Marini v. Albania, no. 3738/02, no. 103

Fair hearing

Retrospective and final determination of the merits of pending litigation by legislative intervention that was not justified by compelling general-interest grounds: *violation*

Arnolin and Others v. France, nos. 20127/03, 31795/03, 35937/03, 2185/04, 4208/04, 12654/04, 15466/04, 15612/04, 27549/04, 27552/04, 27554/04, 27560/04, 27566/04, 27572/04, 27586/04, 27588/04, 27593/04, 27599/04, 27602/04, 27605/04, 27611/04, 27615/04, 27632/04, 34409/04 and 12176/05, no. 93

Aubert and Others v. France, nos. 31501/03, 31870/03, 13045/04, 13076/04, 14838/04, 17558/04, 30488/04, 45576/04 and 20389/05, no. 93

Failure by domestic courts to examine an alleged Convention violation: *violation*

Kuznetsov and Others v. Russia, no. 184/02, no. 93

Examination by appeal court judge of the merits of an appeal as well as the admissibility of a cassation appeal against that court's judgment, following which the appellant could appeal to the Supreme Court directly: *no violation*

Warsicka v. Poland, no. 2065/03, no. 93

Failure by domestic courts to give reasons for their decisions: *violation*

Tatishvili v. Russia, no. 1509/02, no. 94

Substantial delays (totalling almost three years) caused by a court error concerning the nature of the claim and a conflict of jurisdiction: *violations*

Gheorghe v. Romania, no. 19215/04, no. 95

Participation of the rapporteur in the deliberations of the adjudicating panel of the Audit Court: *inadmissible*

Tedesco v. France, no. 11950/02, no. 97

Failure to communicate to the applicant decisions and documents sent by the public prosecutor to the court and a note from the judge to the court of appeal: *violation*

Ferreira Alves v. Portugal (no. 3), no. 25053/05, no. 98

Failure by a court of appeal to examine one of the applicants' main grounds of appeal and one based on an alleged violation of the Convention: *violation*

Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, no. 98

Granting of legal aid for proceedings before the Court of Cassation after the time-limit for lodging submissions had expired: *violation*

Saoud v. France, no. 9375/02, no. 101

Arbitrary findings of the domestic courts: *violation*

Khamidov v. Russia, no. 72118/01, no. 102

Summary rejection of application for leave to appeal to the Court of Cassation: *no violation (case referred to the Grand Chamber)*

Gorou v. Greece (no. 2), no. 12686/03, no. 102

Lack of impartiality of the Supreme Court, and failure to enforce judgments and administrative decisions for the restitution of property: *violations*

Driza v. Albania, no. 33771/02, no. 102

Ramadhi and Others v. Albania, no. 38222/02, no. 102

Conflicting decisions of a supreme court: *violation*

Beian v. Romania (no. 1), no. 30658/05, no. 103

Adversarial trial

Failure to communicate the opinion of the court's medical expert: *violation*

Augusto v. France, no. 71665/01, no. 93

Failure to communicate to the applicant decisions and documents sent by the public prosecutor to the court and a note from the judge to the court of appeal: *violation*

Ferreira Alves v. Portugal (no. 3), no. 25053/05, no. 98

Equality of arms

Participation of the Government Commissioner in the deliberations of a regional audit board: *violation*

Tedesco v. France, no. 11950/02, no. 97

Anti-nuclear association faced with two opponents – the State and a multinational – when attempting to have authorisation to enlarge a nuclear site set aside: *no violation*

Collectif national d'information et d'opposition à l'usine Melox – Collectif stop Melox et Mox v. France, no. 75218/01, no. 98

Outcome of pending civil litigation affected by statutory amendment favourable to the State and contrary to the applicants' interests: *violation*

SCM Scanner de l'Ouest lyonnais and Others v. France, no. 12106/03, no. 98

Court's findings based on expert opinion of the employees of the defendant party: *violation*

Sara Lind Eggertsdóttir v. Iceland, no. 31930/04, no. 99

Public hearing

Lack of public hearing in proceedings for the imposition of preventive measures: *violation*

Bocellari and Rizza v. Italy, no. 399/02, no. 102

Reasonable time

Substantial delays (totalling almost three years) caused by a court error concerning the nature of the claim and a conflict of jurisdiction: *violations*

Gheorghe v. Romania, no. 19215/04, no. 95

Independent and impartial tribunal

Impartiality of Constitutional Court judge who had acted as legal expert of the applicant's opponent in the civil proceedings at first instance: *violation*

Švarc and Kavnik v. Slovenia, no. 75617/01, no. 94

Rapporteur's presence at the deliberations of a regional audit board: *violation*

Tedesco v. France, no. 11950/02, no. 97

Lack of impartiality of a Supreme Court judge whose son had been expelled from a school run by one of the parties to the dispute: *violation*

Tocono and Profesorii Prometeiști v. Moldova, no. 32263/03, no. 98

Intervention of the president of a court of appeal in order to influence proceedings in line with the report of a judicial inspector who was answerable to both the Minister of Justice and the presidents of the courts of appeal: *violation*

Hirschhorn v. Romania, no. 29294/02, no. 99

Court's findings based on expert opinion of the employees of the defendant party: *violation*

Sara Lind Eggertsdóttir v. Iceland, no. 31930/04, no. 99

Article 6 § 1 (criminal)

Applicability

Gravity of an order for three days' administrative detention: *Article 6 applicable*

Zaicevs v. Latvia, no. 65022/01, no. 99

Proceedings resulting in the demolition of a house built without planning permission: *Article 6 § 1 applicable*

Hamer v. Belgium, no. 21861/03, no. 102

Fair hearing

Obligation for the registered keeper of a vehicle to provide information identifying the driver where a road traffic offence is suspected: *no violation*

O'Halloran and Francis v. the United Kingdom, nos. 15809/02 and 25624/02, no. 98

Failure to afford a defendant in administrative proceedings the guarantees available in criminal proceedings: *no violation*

Mamidakis v. Greece, no. 35533/04, no. 93

Request for annulment by prosecutor resulting in quashing of applicant's acquittal without any new evidence: *violation*

Bujnița v. Moldova, no. 36492/02, no. 93

Applicant not served with written submissions in which complainant merely reproduced State Counsel's arguments: *no violation*

Verdú Verdú v. Spain, no. 43432/02, no. 94

Court of Cassation ruling that a ground of appeal based on the right to a fair trial was inadmissible: *violation*

Perlala v. Greece, no. 17721/04, no. 94

Failure by a court to address the defendants' submissions and arguments when imposing an administrative fine: *violation*

Boldea v. Romania, no. 19997/02, no. 94

Use in evidence at trial of a recording of a conversation obtained by a body-mounted listening device and of a list of the telephone calls made: *no violation*

Heglas v. the Czech Republic, no. 5935/02, no. 95

Restrictions on access to case file in lustration proceedings resulting in politician's temporary disqualification from public office: *violation*

Matyjek v. Poland, no. 38184/03, no. 96

Partial disclosure on appeal in criminal proceedings of evidence in respect of which a public-interest immunity certificate had been issued: *no violation*

Botmeh and Alami v. the United Kingdom, no. 15187/03, no. 98

Use at trial of statements obtained from the accused and witnesses through torture: *violation*

Harutyunyan v. Armenia, no. 36549/03, no. 98

Equality of arms

Presence of a member of the State prosecutor's office at an information meeting for members of the jury: *no violation*

Corcuff v. France, no. 16290/04, no. 101

Public hearing

Authorities' failure to provide regular transportation and information to the public at a trial held in a remote prison: *violation*

Hummatov v. Azerbaijan, nos. 9852/03 and 13413/04, no. 102

Reasonable time

Major financial implications of criminal proceedings on the professional activity of the applicants and their companies: *violation*

De Clerck v. Belgium, no. 34316/02, no. 100

Independent and impartial tribunal

Refusal of a request by the defendant for the record to indicate that an unlawful exchange had taken place between the Advocate-General and members of the jury during a break in his trial at the assize court: *violation*

Farhi v. France, no. 17070/05, no. 93

Tenuous difference between the role of a professional judge in deciding on the extension of a defendant's detention and her role in assessing whether to endorse the jury's verdict: *violation*

Ekeberg and Others v. Norway, nos. 11106/04, 11108/04, 11116/04, 11311/04 and 13276/04,
no. 99

Impartiality of a court of appeal of which two of the judges who ruled that the reproduction in a newspaper of certain passages from a novel was defamatory had already held the passages to be defamatory in previous proceedings against the author and publisher: *no violation*

Lindon and Others v. France, nos. 21279/02 and 36448/02, no. 101

Tribunal established by law

Allegation by the applicant that the German courts had no jurisdiction to try him for serious offences, including genocide, committed in Bosnia: *no violation*

Jorgic v. Germany, no. 74613/01, no. 99

Article 6 § 2

Presumption of innocence

Imposition of a confiscation order in respect of offences of which the applicant had been acquitted: *violation*

Geerings v. the Netherlands, no. 30810/03, no. 95

Administrative courts' interpretation of judgment by criminal court acquitting the applicant on the benefit of the doubt: *violation*

Vassilios Stavropoulos v. Greece, no. 35522/04, no. 100

Article 6 § 3 (b)

Adequate time and facilities

Applicant allowed only a few hours, without contact with the outside world, for the preparation of his defence: *violation*

Galstyan v. Armenia, no. 26986/03, no. 102

Article 6 § 3 (c)

Defence through legal assistance

Lack of legal assistance during police custody: *no violation (case referred to the Grand Chamber)*

Salduz v. Turkey, no. 36391/02, no. 100

Interception of a private telephone conversation between an accused taking part in a hearing by videoconference and his lawyer: *violation*

Zagaria v. Italy, no. 58295/00, no. 102

Article 7

Article 7 § 1

Nullum crimen sine lege

Conviction for entering defence area unmarked on official maps: *no violation*

Custers and Others v. Denmark, nos. 11843/03, 11847/03 and 11849/03, no. 97

Private-sector employees convicted of accepting bribes when under the wording of the Criminal Code at the material time the offence could only be committed by a public servant or a person working for a State-owned company: *violation*

Dragotoniu and Militaru-Pidhorni v. Romania, nos. 77193/01 and 77196/01, no. 97

Allegation by the applicant that the definition of the offence of genocide used by the domestic courts was unduly wide: *no violation*

Jorgic v. Germany, no. 74613/01, no. 99

Article 8

Applicability

Mother living with her adopted daughter since the date of the foreign adoption order: *Article 8 applicable*

Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, no. 98

Private life

Requirement of father's consent for the continued storage and implantation of fertilised eggs: *no violation*

Evans v. the United Kingdom, no. 6339/05, no. 96

Use in evidence of a recording of a conversation obtained by a body-mounted listening device and of a list of the telephone calls made: *violations*

Heglas v. the Czech Republic, no. 5935/02, no. 95

Refusal to perform a therapeutic abortion despite risks of serious deterioration of the mother's eyesight: *violation*

Tysic v. Poland, no. 5410/03, no. 95

Monitoring of telephone communications by the authorities without a prosecutor's warrant against a named suspect or a legislative framework affording adequate safeguards against arbitrariness: *violation*

Dumitru Popescu v. Romania (no. 2), no. 71525/01, no. 96

Civil servant's office sealed off and searched following a letter he had published in the press criticising the chief prosecutor: *violation*

Peev v. Bulgaria, no. 64209/01, no. 99

Police providing, in the absence of regulatory framework, technical assistance to an individual who wished to record his conversations with the applicant: *violation*

Van Vondel v. the Netherlands, no. 38258/03, no. 101

Failure by the domestic courts to protect the applicant's reputation in defamation proceedings following the publication of a letter accusing him of acts tantamount to a criminal offence: *violation*

Pfeifer v. Austria, no. 12556/03, no. 102

Inability to bring a paternity suit as a result of an absolute time-bar that operated despite the applicant's lack of knowledge of the relevant facts: *violation*

Phinikaridou v. Cyprus, no. 23890/02, no. 103

Private and family life

Alleged inability of members of a family to regularise their immigration status: *struck out*

Sisojeva and Others v. Latvia, no. 60654/00, no. 93

Refusal to grant artificial insemination facilities to enable a serving prisoner to father a child: *violation*

Dickson v. the United Kingdom, no. 44362/04, no. 103

Failure by the applicants, against whom deportation orders had been made, to act upon respondent Government's proposals to regularise their immigration status: *struck out*

Shevanova v. Latvia, no. 58822/00, no. 103

Kaftailova v. Latvia, no. 59643/00, no. 103

Unlawful expulsion of applicant, preventing relationship with family and new-born child: *violation*

Musa and Others v. Bulgaria, no. 61259/00, no. 93

Prohibition of long-term family visits to detained applicant and his subsequent deportation: *violation*

Estrikh v. Latvia, no. 73819/01, no. 93

Failure by the domestic authorities to comply with orders of the administrative courts setting aside concessions to work a gold mine: *violation*

Lemke v. Turkey, no. 17381/02, no. 98

Dawn raid of the applicant's home by masked and armed police officers in order to notify charges and prison administration's refusal to permit visits from his wife: *violations*

Kučera v. Slovakia, no. 48666/99, no. 99

Refusal to register the forename "Axl" even though other requests to take that name had been granted: *violation*

Johansson v. Finland, no. 10163/02, no. 100

Failure to introduce implementing legislation to enable a transsexual to undergo gender-reassignment surgery and change his gender in official documents: *violation*

L. v. Lithuania, no. 27527/03, no. 100

Ten-year residence prohibition imposed on juvenile delinquent: *violation (case referred to the Grand Chamber)*

Maslov v. Austria, no. 1638/03, no. 100

Conjecture by court hearing an application for access that the child had been abused by the applicant: *violation*

Sanchez Cardenas v. Norway, no. 12148/03, no. 101

Family life

Refusal to enforce a full adoption order by a foreign court in favour of a single woman: *violation*

Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, no. 98

Return of a child to its father in the United States under the Hague Convention on the Civil Aspects of International Child Abduction: *no violation*

Maumousseau and Washington v. France, no. 39388/05, no. 103

Remand prisoner prevented from bidding farewell to his dying father on the telephone in any meaningful way: *violation*

Lind v. Russia, no. 25664/05, no. 103

Effects of adoption of an adult by the mother's partner: *violation*

Emonet and Others v. Switzerland, no. 39051/03, no. 103

Expulsion

Lack of procedural safeguards in deportation proceedings: *violation*

Liu v. Russia, no. 42086/05, no. 103

Home

Unjustified search and seizure at lawyer's home without safeguards: *violation*

Smirnov v. Russia, no. 71362/01, no. 98

Dawn raid of the applicant's home by masked and armed police officers in order to notify charges and prison administration's refusal to permit visits from his wife: *violations*
Kučera v. Slovakia, no. 48666/99, no. 99

Correspondence

Minor disciplinary penalty for breach of requirement to conduct correspondence through prison administration: *no violation*

Puzinas v. Lithuania (no. 2), no. 63767/00, no. 93

Interception of prisoners' letters to their lawyer: *violation*

Ekinci and Akalin v. Turkey, no. 77097/01, no. 93

Monitoring of a State employee's telephone, e-mail and Internet usage without a statutory basis: *violation*

Copland v. the United Kingdom, no. 62617/00, no. 96

Refusal, on the basis of a ministerial circular, to forward a prisoner's letter to a fellow prisoner and definition of the notion of "prisoner correspondence" depending on its content: *violation*

Frérot v. France, no. 70204/01, no. 98

Lack of sufficient safeguards in a law allowing the use of secret surveillance measures: *violation*

Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria, no. 62540/00, no. 99

Police providing, in the absence of regulatory framework, technical assistance to an individual who wished to record his conversations with the applicant: *violation*

Van Vondel v. the Netherlands, no. 38258/03, no. 101

Failure to comply with procedural safeguards in search and seizure of electronic data on a lawyer's computer system: *violation*

Wieser and Bicos Beteiligungen GmbH v. Austria, no. 74336/01 no. 101

Article 9

Freedom of thought, conscience and religion

Refusal to grant full exemption from instruction in Christianity, religion and philosophy in State primary schools: *violation*

Folgerø and Others v. Norway, no. 15472/02, no. 98

Freedom of religion

Refusal of a work permit to enable a foreign national to work as an imam at a mosque: *struck out*

El Majjaoui and Stichting Toubas Moskee v. the Netherlands, no. 25525/03, no. 103

Unlawful termination of meeting organised by Jehovah's Witnesses: *violation*

Kuznetsov and Others v. Russia, no. 184/02, no. 93

Employment terminated on account of religious beliefs: *violation*

Ivanova v. Bulgaria, no. 52435/99, no. 96

Violent assault on a congregation of Jehovah's Witnesses by a group purporting to support the Orthodox Church and lack of an effective investigation: *violation*

Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia, no. 71156/01, no. 97

Authorities' refusal to register amendments to the statute of an Orthodox parish which decided to change canonical jurisdiction: *violation*

Svyato-Mykhaylivska Parafiya v. Ukraine, no. 77703/01, no. 98

Manifest religion or belief

Refusal of a work permit to enable a foreign national to work as an imam at a mosque: *struck out*

El Majjaoui and Stichting Touba Moskee v. the Netherlands, no. 25525/03, no.103

Ban on foreign evangelical pastor from exercising his ministry unlawfully imposed when his residence permit was renewed: *violation*

Perry v. Latvia, no. 30273/03, no. 102

Article 10

Freedom of expression

Author and publisher of a novel convicted for defamation of extreme right-wing party and its President, and newspaper director convicted for defamation after publishing a petition repeating the impugned passages and protesting against the aforementioned convictions: *no violation*

Lindon and Others v. France, nos. 21279/02 and 36448/02, no. 101

Conviction of a journalist for the publication of a diplomatic document on strategy classified as confidential: *no violation*

Stoll v. Switzerland, no. 69698/01, no. 103

Newspaper closure without detailed reason or identification of which published phrases threatened national security and territorial integrity: *violation*

Kommersant Moldovy v. Moldova, no. 41827/02, no. 93

Applicant ordered to pay compensation for having circulated defamatory letter: *violation*

Kwiecień v. Poland, no. 51744/99, no. 93

Conviction for publishing the declarations of an armed terrorist group in a daily newspaper: *no violation*

Falakaoğlu and Saygılı v. Turkey, nos. 22147/02 and 24972/03, no. 93

Civil defamation on account of criticism of a government-appointed expert who had made provocative statements himself: *violation*

Arbeiter v. Austria, no. 3138/04, no. 93

Injunction restraining a parent from repeating criticism he had made of schoolteachers' conduct: *violation*

Ferihumer v. Austria, no. 30547/03, no. 94

Imposition of a fine for defamatory allegation of plagiarism: *violation*

Boldea v. Romania, no. 19997/02, no. 94

Injunction restraining a newspaper from printing defamatory material purportedly based on an expert opinion when it was in fact based on a press release by political opponents: *no violation*

Standard Verlagsgesellschaft mbH v. Austria (no.2), no. 37464/02, no. 94

Orders to pay compensation and costs as a result of a newspaper article identifying a leading industrialist as being on a list of householders suspected of contravening local regulations: *violation*

Tønsbergs Blad A/S and Haukom v. Norway, no. 510/04, no. 95

Elected councillors and newspaper editor found guilty of libel and defamation for having asserted that the local council had ignored public opinion: *violation*

Lombardo and Others v. Malta, no. 7333/06, no. 96

Ban on Kurdish production of a play in municipal buildings: *violation*

Ulusoy and Others v. Turkey, no. 34797/03, no. 97

Lack of a distinction between statements of fact and value judgments in domestic law at the material time: *violation*

Gorelishvili v. Georgia, no. 12979/04, no. 98

Order requiring a magazine to issue a statement explaining that a photograph of a murdered prefect had been published without the family's consent: *no violation*

Hachette Filipacchi Associés v. France, no. 71111/01, no. 98

Convictions of journalists for using and reproducing material from a pending criminal investigation in a book: *violation*

Dupuis and Others v. France, no. 1914/02, no. 98

Conviction of a journalist for defamation in respect of an article setting out allegations by a man on trial who sought to use the press to persuade the public of his innocence: *violation*

Ormanni v. Italy, no. 30278/04, no. 99

Unlawful dismissal of a civil servant following a search of his office in apparent retaliation for a letter he had published in the press criticising the chief prosecutor: *violation*

Peev v. Bulgaria, no. 64209/01, no. 99

Refusal to revise a judgment prohibiting a television commercial from being broadcast which had previously given rise to a finding of a violation of Article 10 by the European Court of Human Rights: *violation*

VgT Verein gegen Tierfabriken Schweiz v. Switzerland, no. 32772/02, no. 101

Failure to give reasons for refusing to grant a broadcasting licence and lack of judicial review of that decision: *violation*

Glas Nadezhda EOOD and Elenkov v. Bulgaria, no. 14134/02 no. 101

Criminal conviction of a patient for defamation of a plastic surgeon following the publication in the tabloid press of articles about her case: *violation*

Kanellopoulou v. Greece, no. 28504/05, no. 101

Detention of a journalist with a view to compelling him to disclose his source of information:
violation

Voskuil v. the Netherlands, no. 64752/01, no. 102

Search and seizure operations carried out at the home and office of a journalist suspected of corruption of a European Union official: *violation*

Tillack v. Belgium, no. 20477/05, no. 102

Conviction for defamation of a mayor: *violation*

Lepojić v. Serbia, no. 13909/05, no. 102

Conviction of a lawyer for triggering a press campaign about a *sub judice* case by making statements and trial documents available: *violation*

Foglia v. Switzerland, no. 35865/04, no. 103

Freedom to impart information

Convictions of journalists for using and reproducing material from a pending criminal investigation in a book: *violation*

Dupuis and Others v. France, no. 1914/02, no. 98

Article 11

Freedom of peaceful assembly

Unlawful administrative penalty imposed for breach of rules on holding demonstrations:
violation

Mkrtchyan v. Armenia, no. 6562/03, no. 93

Dispersal of a sit-in on a public highway which prisoners' relatives had been holding on a weekly basis for more than three years: *no violation*

Çiloğlu and Others v. Turkey, no. 73333/01, no. 95

Unlawful refusal to grant permission for a march and meetings to protest against homophobia:
violation

Bączkowski and Others v. Poland, no. 1543/06, no. 97

Dispersal of a peaceful demonstration for failure to give prior notice to the police: *violation*

Bukta and Others v. Hungary, no. 25691/04, no. 99

Arbitrary ban on demonstration due to "expected outbreak of terrorist activities": *violation*

Makhmudov v. Russia, no. 35082/04, no. 99

Minority church prevented from worshipping in public: *violation*

Barankevich v. Russia, no. 10519/03, no. 99

Imposition of administrative detention on participant in a peaceful demonstration: *violation*

Galstyan v. Armenia, no. 26986/03, no. 102

Freedom of association

Trade union prevented from expelling a member due to the latter's membership of political party advocating views incompatible with its own: *violation*

Associated Society of Locomotive Engineers and Firemen (ASLEF) v. the United Kingdom, no. 11002/05, no. 94

Repeated delays by authorities in registering an association: *violation*

Ramazanov and Others v. Azerbaijan, no. 44363/02, no. 94

Bad-faith denial of re-registration, resulting in the applicant association's loss of legal status: *violation*

Church of Scientology of Moscow v. Russia, no. 18147/02, no. 96

Statutory ban on financing of a French political party by a foreign political party: *no violation*

Parti nationaliste basque – Organisation régionale d'Iparralde v. France, no. 71251/01, no. 98

Refusal to register association on the ground that its aims were "political" and incompatible with the Constitution: *violation*

Zhechev v. Bulgaria, no. 57045/00, no. 98

Arbitrary ban on demonstration due to "expected outbreak of terrorist activities": *violation*

Makhmudov v. Russia, no. 35082/04, no. 99

Refusal by courts to register an association on the basis of mere suspicion about the founders' real intentions and future actions: *violation*

Bekir-Ousta and Others v. Greece, no. 35151/05, no. 101

Refusal to register an association solely on the basis of a suspected anti-constitutional aim that did not appear in its statute: *violation*

Bozgan v. Romania, no. 35097/02, no. 101

Article 13

Effective remedy

Application for a stay of execution of a deportation order: *no violation*

Salah Sheekh v. the Netherlands, no. 1948/04, no. 93

No judicial review possible against an order withdrawing a residence permit on grounds of national security: *violation*

Musa and Others v. Bulgaria, no. 61259/00, no. 93

Denial of effective domestic remedy in respect of ill-treatment by the police: *violation*

Chitayev v. Russia, no. 59334/00, no. 93

Lack of a remedy with automatic suspensive effect against an order refusing an asylum-seeker held in an airport waiting area entry to French territory and requiring his removal: *violation*

Gebremedhin [Gaberamadhien] v. France, no. 25389/05, no. 96

Belated quashing of an unlawful refusal to grant permission for a march and meetings to protest against homophobia: *violation*

Bączkowski and Others v. Poland, no. 1543/06, no. 97

Low level of compensation awarded by the domestic court in a length-of-proceedings case: *no violation*

Delle Cave and Corrado v. Italy, no. 14626/03, no. 98

Lack of domestic remedy enabling a prisoner to challenge a refusal to forward correspondence: *violation*

Frérot v. France, no. 70204/01, no. 98

Complaint regarding length of criminal proceedings, and whether an effective remedy existed in Belgium: *violation*

De Clerck v. Belgium, no. 34316/02, no. 100

Applicants' inability to enforce awards of compensation by courts or administrative bodies in the absence of adequate procedures and statutory framework: *violations*

Driza v. Albania, no. 33771/02, no. 102

Ramadhi and Others v. Albania, no. 38222/02, no. 102

Article 14

Discrimination (Article 2)

Failure by the authorities to hold an effective investigation into a racist killing or to charge the attackers with a racially motivated offence: *violation*

Angelova and Iliev v. Bulgaria, no. 55523/00, no. 99

Discrimination (Article 3)

Failure to carry out an effective investigation into a racist attack on a member of the Roma community: *violation*

Šečić v. Croatia, no. 40116/02, no. 97

Discrimination (Articles 3 and 9)

Comments and attitudes of authorities on being notified of a violent assault on a congregation of Jehovah's Witnesses: *violation*

Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia, no. 71156/01, no. 97

Discrimination (Articles 3 and 13)

Law-enforcement agents' failure to investigate possible racial motives behind ill-treatment of Roma at police station, combined with their attitude during the investigation: *violation*

Cobzaru v. Romania, no. 48254/99, no. 99

Discrimination (Article 8)

Refusal to recognise as valid in domestic law a full adoption order by a foreign court: *violation*

Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, no. 98

Discrimination (Article 11)

Possibility that a municipal authority's refusal to grant permission to protest against homophobia was influenced by the mayor's publicly expressed views: *violation*

Bączkowski and Others v. Poland, no. 1543/06, no. 97

Statutory obligation for Freemasons to declare their membership when applying for regional authority posts: *violation*

Grande Oriente d'Italia di Palazzo Giustiniani v. Italy (no. 2), no. 26740/02, no. 97

Discrimination (Article 1 of Protocol No. 1)

Applicant's inability to be affiliated to the farmers' social-security scheme on account of his nationality: *violation*

Luczak v. Poland, no. 77782/01, no. 102

Difference in treatment between persons in the same position as a result of conflicting decisions of the Supreme Court: *violation*

Beian v. Romania (no. 1), no. 30658/05, no. 103

Discrimination (Article 2 of Protocol No. 1)

Placement of Roma children in "special" schools: *violation*

D.H. and Others v. the Czech Republic, no. 57325/00, no. 102

Article 34

Victim

Association of Masonic lodges complaining of statutory obligation for Freemasons to declare their membership when applying for positions of high responsibility: *victim status upheld*

Grande Oriente d'Italia di Palazzo Giustiniani v. Italy (no. 2), no. 26740/02, no. 97

Low level of compensation awarded by the domestic court in a length-of-proceedings case: *victim status upheld*

Delle Cave and Corrado v. Italy, no. 14626/03, no. 98

Association that could claim to be directly affected by a law which allows the use of secret surveillance measures: *victim status upheld*

Association for European Integration and Human Rights and Ekimdzhev v. Bulgaria, no. 62540/00, no. 99

State-owned company operating with legal and financial independence: *victim status upheld*

Islamic Republic of Iran Shipping Lines v. Turkey, no. 40998/98, no. 103

Compensation for the length of bankruptcy proceedings and the civil and political disqualifications resulting from the bankruptcy order: *inadmissible*

Aniello Esposito v. Italy, no. 35771/03, no. 102

Hinder exercise of the right of petition

Police questioning touching on an application to the Court after the applicant was interviewed on Russian television: *no violation*

Sisojeva and Others v. Latvia, no. 60654/00, no. 93

Refusal by penitentiary officials to send an application to the European Court of Human Rights on the ground of alleged non-exhaustion of domestic remedies: *violation*

Nurmagomedov v. Russia, no. 30138/02, no. 98

Lack of appropriate regulations and deficiencies in the organisation of the Government Agent's activity resulting in the State's failure to comply promptly with a Rule 39 measure: *violation*

Paladi v. Moldova, no. 39806/05, no. 99

Prosecutor-General who threatened a Bar member with criminal investigation for having made "false" human rights allegations to international organisations: *violation*

Colibaba v. Moldova, no. 29089/06, no. 101

Article 35

Article 35 § 1

Exhaustion of domestic remedies (Czech Republic)

Applicants not required by highest national court to exhaust the remedies the respondent Government alleged they should have used: *preliminary objection dismissed*

D.H. and Others v. the Czech Republic, no. 57325/00, no. 102

Exhaustion and effectiveness of domestic remedies (Italy)

Delays in payment of compensation awarded by the domestic court in a length-of-proceedings case: *objection of failure to exhaust domestic remedies (execution proceedings) dismissed*

Delle Cave and Corrado v. Italy, no. 14626/03, no. 98

Knowledge of change in the case-law of the Court of Cassation could not be assumed until six months after the relevant decision was lodged with the registry: *preliminary objection dismissed*

Provide S.r.l. v. Italy, no. 62155/00, no. 99

Effective domestic remedies (France)

Decision concerning deportation when there was a risk of treatment proscribed by Article 3, remedy with no suspensive effect: *preliminary objection dismissed*

Sultani v. France, no. 45223/05, no. 100

Remedy under the Judicature Code for breach of duty by the police: *preliminary objection dismissed*

Saoud v. France, no. 9375/02, no. 101

Effective domestic remedies (Slovenia)

Effectiveness of new domestic remedy concerning length of judicial proceedings: *inadmissible*
Grzinčič v. Slovenia, no. 26867/02, no. 97

Six-month time-limit

Date when time starts to run for the purposes of the six-month time-limit in cases of consecutive periods of pre-trial detention: *violation*

Solmaz v. Turkey, no. 27561/02, no. 93

Government's argument that no new obligation to investigate unlawful killings arose as more than six months had passed since the original investigation had ended: *preliminary objection dismissed*

Brecknell v. the United Kingdom, no. 32457/04, no. 102

Article 35 § 3

Competence *ratione temporis*

Acts of torture and death prior to date when Court acquired jurisdiction *ratione temporis*, but trial after that date: *partial jurisdiction (procedural obligations)*

Teren Aksakal v. Turkey, no. 51967/99, no. 100

Article 37

Article 37 § 1

Matter resolved

Failure by the applicants, against whom deportation orders had been made, to act upon respondent Government's proposals to regularise their immigration status: *struck out*

Shevanova v. Latvia, no. 58822/00, no. 103

Kaftailova v. Latvia, no. 59643/00, no. 103

Matter before Court resolved by successful intervening application for a work permit: *struck out*

El Majjaoui and Stichtung Touba Moskee v. the Netherlands, no. 25525/03, no. 103

Continued examination not justified

Failure by the applicants to act upon respondent Government's proposals to regularise their immigration status: *struck out*

Sisojeva and Others v. Latvia, no. 60654/00, no. 93

Burning of houses belonging to Roma villagers, and authorities' failure to prevent the attack and to carry out an adequate criminal investigation: *struck out*

Kalanyos and Others v. Romania, no. 57884/00, no. 96

Gergely v. Romania, no. 57885/00, no. 96

Applicant's failure to keep the Court informed of developments relevant to her application:
admissible case struck out

Oya Ataman v. Turkey, no. 47738/99, no. 97

Special circumstances requiring further examination

Temporary arrangements for asylum-seeker insufficient to "resolve matter": *no reason to strike out*

Salah Sheekh v. the Netherlands, no. 1948/04, no. 93

Article 38

Furnish all necessary facilities

Refusal by Government to disclose documents from ongoing investigation into the disappearance of the applicant's husband: *failure to comply with Article 38*

Baysayeva v. Russia, no. 74237/01, no. 96

Refusal by Government to disclose documents from ongoing investigation into an abduction and killing by servicemen or into allegations of harassment of the applicants: *failure to comply with Article 38*

Akhmadova and Sadulayeva v. Russia, no. 40464/02, no. 97
Bitiyeva and X v. Russia, nos. 57953/00 and 37392/03, no. 98

Refusal by Government to disclose documents from ongoing investigations into the disappearance of the applicant's relatives in Chechnya during military operations: *failure to comply with Article 38*

Kukayev v. Russia, no. 29361/02, no. 102
Khamila Isayeva v. Russia, no. 6846/02, no. 102

Article 41

Just satisfaction

Compensation for unlawful occupation and seizure of land by the State (*restitutio in integrum*)

Scordino v. Italy (no. 3), no. 43662/98, no. 95

Just satisfaction in respect of State's failure to enact implementing legislation: *State to introduce relevant legislation within set time frame or, in default, pay a specified amount in respect of pecuniary damage*

L. v. Lithuania, no. 27527/03, no. 100

Request by applicants for order requiring an immediate halt to criminal proceedings which the Court had found to be unduly protracted: *request for an injunction refused*

De Clerck v. Belgium, no. 34316/02, no. 100

Execution of judgments

Continued detention pending the outcome of criminal proceedings that have been under way for almost thirteen years: *violation to cease either by an early end to the trial or the applicant's release*

Yakişan v. Turkey, no. 11339/03, no. 95

Pecuniary damage: *no award made as it was open to the applicant to bring a civil claim in damages following a finding by the criminal court that he had in fact sustained pecuniary damage*

Paudicio v. Italy, no. 77606/01, no. 97

Indication of most appropriate form of redress (finding of a breach of Article 6 § 1): *annulment of court decision to discontinue proceedings for non-payment of its fees and resumption of the proceedings*

Mehmet and Suna Yiğit v. Turkey, no. 52658/99, no. 99

Indication of most appropriate form of redress (interference not “in accordance with the law”): *bring domestic law into line with the Convention*

Tan v. Turkey, no. 9460/03, no. 99

Article 46

Execution of judgments – General measures

Need for general measures not demonstrated in view of repeal of impugned legislation and the recommendations of the Committee of Ministers: *request dismissed*

D.H. and Others v. the Czech Republic, no. 57325/00, no. 102

General measures in order to prevent illegal occupation of land and to compensate owners for unlawful dispossession by the State.

Scordino v. Italy (no. 3), no. 43662/98, no. 95

Indication of an appropriate form of redress (for a violation of Article 2 of Protocol No. 1): *measures to make national education system and relevant domestic law Convention compliant*

Hasan and Eylem Zengin v. Turkey, no. 1448/04, no. 101

Applicants' inability to obtain enforcement of judgments or administrative decisions for the restitution of property and/or payment of compensation owing to systemic failings in domestic legal order: *indication of appropriate statutory, administrative and budgetary measures*

Driza v. Albania, no. 33771/02, no. 102

Ramadhi and Others v. Albania, no. 38222/02, no. 102

Urgent improvement of prison conditions: *appropriate conditions of detention and adequate medical treatment for prisoners requiring special care on account of their health*

Dybeku v. Albania, no. 41153/06, no. 103

Execution of judgments – Individual measures

Request by applicants for order requiring an immediate halt to criminal proceedings which the Court had found to be unduly protracted: *application for an injunction refused*

De Clerck v. Belgium, no. 34316/02, no. 100

Enforcement of the Human Rights Chamber's decision: *transfer of the applicant to the federal pension fund and payment of 2,000 euros*

Karanović v. Bosnia and Herzegovina, no. 39462/03, no. 102

Article 1 of Protocol No. 1

Possessions

Setting aside of a trade mark registration: *Article 1 of Protocol No. 1 applicable, no violation*

Anheuser-Busch Inc. v. Portugal, no. 73049/01, no. 93

Holiday home whose destruction was only ordered several decades later after it was discovered that it had been built without planning permission: *Article 1 of Protocol No. 1 applicable*

Hamer v. Belgium, no. 21861/03, no. 102

Peaceful enjoyment of possessions

Setting aside of a trade mark registration: *Article 1 of Protocol No. 1 applicable, no violation*

Anheuser-Busch Inc. v. Portugal, no. 73049/01, no. 93

Non-payment by State of tax refund to applicant company: *violation*

Intersplav v. Ukraine, no. 803/02, no. 93

Refusal to refund election deposit: *violation*

Russian Conservative Party of Entrepreneurs and Others v. Russia, nos. 55066/00 and 55638/00, no. 93

Negation of the applicant company's claim against the State and absence of domestic procedures: *violation*

Aon Conseil et Courtage S.A. and Christian de Clarens S.A. v. France, no. 70160/01, no. 93

Inability to inherit property situated abroad due to the alleged absence of reciprocal arrangements: *violation*

Apostolidi and Others v. Turkey, no. 45628/99, no. 95

Failure by the authorities to comply with an order for the demolition of a building unlawfully erected close to the applicant's home: *violation*

Paudicio v. Italy, no. 77606/01, no. 97

Inability to comply with a final court order to deliver up possession of a building registered as private property of the State: *violation*

Hirschhorn v. Romania, no. 29294/02, no. 99

Refusal to expropriate privately owned land used as public property: *violation*

Bugajny and Others v. Poland, no. 22531/05, no. 102

Unlawful occupation and damage caused to the applicant's estate by police units involved in a military operation in Chechnya: *violation*

Khamidov v. Russia, no. 72118/01, no. 102

Applicant's inability to be affiliated to the farmers' social-security scheme on account of his nationality: *violation*

Luczak v. Poland, no. 77782/01, no. 102

Deprivation of property

Court order finally annulling, more than thirty years after their lawful acquisition, a title to properties belonging to a foundation set up by a religious minority: *violation*

Fener Rum Erkek Lisesi Vakfı v. Turkey, no. 34478/97, no. 93

Final determination of the merits of pending litigation by legislative intervention that deprived the applicants of a pre-existing "asset" forming part of their "possessions": *violation*

Aubert and Others v. France, nos. 31501/03, 31870/03, 13045/04, 13076/04, 14838/04, 17558/04, 30488/04, 45576/04 and 20389/05, no. 93

Financial obligation arising out of the imposition of a heavy fine: *violation*

Mamidakis v. Greece, no. 35533/04, no. 93

Deduction of wages from workers not belonging to any trade union to finance the workers' union's wage-monitoring activities: *violation*

Evaldsson and Others v. Sweden, no. 75252/01, no. 94

Deprivation of property pursuant to legislation aimed at compensating victims of arbitrary expropriations during the communist regime: *no violation (five applications) and violation (four applications)*

Velikovi and Others v. Bulgaria, nos. 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01 and 194/02, no. 95

Compensation for loss of title to land on which the army had placed landmines refused on grounds of twenty-year continual occupation by the State: *violation*

Ari and Others v. Turkey, no. 65508/01, no. 96

Failure to take into account all relevant factors, including the decrease in value of the unexpropriated land, when assessing the compensation payable on the expropriation of part of a farm: *violation*

Bistrović v. Croatia, no. 25774/05, no. 97

Property sold at an undervalue to the holder of the right of pre-emption, in the context of enforcement proceedings: *violation*

Kanala v. Slovakia, no. 57239/00, no. 99

Failure to take into account historic value of a building in calculation of compensation due for its expropriation: *violation*

Kozacioğlu v. Turkey, no. 2334/03, no. 99

Expropriation without compensation owing to a wide interpretation of the legislation on restitution: *violation*

Kalinova v. Bulgaria, no. 45116/98, no. 102

Transfer of land ownership to tenants and compensation determined without taking account of the market value of the land: *violation*

Urbárska Obec Trenčianske Biskupice v. Slovakia, no. 74258/01, no. 102

Control of the use of property

Loss of registered land by application of the law on adverse possession: *no violation*

J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom, no. 44302/02,
no. 100

Inability to enforce order for the restitution of a listed building because of a moratorium that had been in place for more than twelve years: *violation*

Debelianovi v. Bulgaria, no. 61951/00, no. 95

Lengthy retention of lawyer's computer attached as evidence in a criminal case: *violation*

Smirnov v. Russia, no. 71362/01, no. 98

Compulsory lease of agricultural land at a disproportionately low price: *violation*

Urbárska Obec Trenčianske Biskupice v. Slovakia, no. 74258/01, no. 102

Order for the demolition of a holiday home built in woodlands to which a ban on building applied: *no violation*

Hamer v. Belgium, no. 21861/03, no. 102

Arbitrary seizure for over a year of a ship and its cargo on suspicion of arms smuggling: *violation*

Islamic Republic of Iran Shipping Lines v. Turkey, no. 40998/98, no. 103

Article 2 of Protocol No. 1

Right to education

Refusal to grant full exemption from instruction in Christianity, religion and philosophy in State primary schools: *violation*

Folgerø and Others v. Norway, no. 15472/02, no. 98

Refusal to exempt a State school pupil whose family was of the Alevi faith from mandatory lessons on religion and morals: *violation*

Hasan and Eylem Zengin v. Turkey, no. 1448/04, no. 101

Respect for parents' religious or philosophical convictions

Refusal to exempt a State school pupil whose family was of the Alevi faith from mandatory lessons on religion and morals: *violation*

Hasan and Eylem Zengin v. Turkey, no. 1448/04, no. 101

Article 3 of Protocol No. 1

Free expression of opinion of the people

Requirement for political parties to obtain at least 10% of the vote in national elections in order to be represented in Parliament: *no violation (case referred to the Grand Chamber)*

Yumak and Sadak v. Turkey, no. 10226/03, no. 93

Choice of the legislature

Requirement for political parties to obtain at least 10% of the vote in national elections in order to be represented in Parliament: *no violation (case referred to the Grand Chamber)*

Yumak and Sadak v. Turkey, no. 10226/03, no. 93

Vote

Entire party list disqualified on account of incorrect information provided by some candidates on it: *violation*

Russian Conservative Party of Entrepreneurs and Others v. Russia, nos. 55066/00 and 55638/00, no. 93

Stand for election

Entire party list disqualified on account of incorrect information provided by some candidates on it: *violation*

Russian Conservative Party of Entrepreneurs and Others v. Russia, nos. 55066/00 and 55638/00, no. 93

Temporary limitations on the applicant's political rights following the dissolution of his party by the Constitutional Court: *violation*

Kavakçı v. Turkey, no. 71907/01, no. 96

Disqualification of election candidates because of alleged errors in information they had been required to submit on their employment status and party affiliation: *no violation/violation*

Krasnov and Skuratov v. Russia, nos. 17864/04 and 21396/04, no. 99

Ancillary penalty of removal from office imposed on member of parliament on the dissolution of his party: *violation*

Sobacı v. Turkey, no. 26733/02, no. 102

Article 2 of Protocol No. 4

Freedom to choose residence

Refusal by the authorities to register the applicant as resident at her home address: *violation*

Tatishvili v. Russia, no. 1509/02, no. 94

Freedom to leave a country

Inability to travel abroad as a result of an entry arbitrarily made in passport: *violation*

Sissanis v. Romania, no. 23468/02, no. 93

Article 4 of Protocol No. 4

Prohibition of collective expulsion of aliens

Risk of deportation on a collective flight used to deport illegal immigrants: *deportation would not constitute a violation*

Sultani v. France, no. 45223/05, no. 100

Article 2 of Protocol No. 7

Right of appeal in criminal matters

No means of challenging an order for administrative detention for contempt of court: *violation*
Zaicevs v. Latvia, no. 65022/01, no. 99

No clear and accessible right to appeal against an administrative detention sentence: *violation*
Galstyan v. Armenia, no. 26986/03, no. 102

Article 4 of Protocol No. 7

Non bis in idem

Applicant prosecuted twice for the same offence: *violation (case referred to the Grand Chamber)*

Sergey Zolotukhin v. Russia, no. 14939/03, no. 102

DECISIONS

Article 1

Responsibility of States

Decisions of the High Representative for Bosnia and Herzegovina whose authority derives from United Nations Security Council Resolutions: *inadmissible*

Berić and Others v. Bosnia and Herzegovina, nos. 36357/04, 36360/04, 38346/04, 41705/04, 45190/04, 45578/04, 45579/04, 45580/04, 91/05, 97/05, 100/05, 101/05, 1121/05, 1123/05, 1125/05, 1129/05, 1132/05, 1133/05, 1169/05, 1172/05, 1175/05, 1177/05, 1180/05, 1185/05, 20793/05 and 25496/05, no. 101

Article 2

Article 2 § 1

Life

Proposed deportation to Albania where first applicant alleged his life was at risk because of a blood feud: *inadmissible*

Elezaj and Others v. Sweden, no. 17654/05, no. 100

Doctor's failure to inform applicant that her companion had Aids: *admissible*

Colak and Others v. Germany, nos. 77144/01 and 35493/05, no. 103

Positive obligations

State's failure to warn population of a foreseen natural disaster and to protect their lives, health, homes and property: *admissible*

Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, no. 96

Article 2 § 2

Use of force

Fatal wounding of a demonstrator by a shot fired by a member of the security forces from a jeep that was under attack from a group of demonstrators: *admissible*

Giuliani v. Italy, no. 23458/02, no. 94

Article 3

Torture

Use by police of threats of ill-treatment to obtain information and a confession from a suspected child kidnapper: *admissible*

Gäfgen v. Germany, no. 22978/05, no. 96

Inhuman or degrading treatment

Assault of prison inmates by police in training exercise and conditions of detention: *admissible*

Druzenko and Others v. Ukraine, nos. 17674/02 and 39081/02, no. 93

Conditions of detention of a terrorist suspect: *inadmissible*

Sotiropoulou v. Greece, no. 40225/02, no. 93

Fatally wounded demonstrator run over by a police vehicle: *admissible*

Giuliani v. Italy, no. 23458/02, no. 94

Order for a prisoner with a short life expectancy to serve a further two years of his sentence before becoming eligible for release on licence: *inadmissible*

Ceku v. Germany, no. 41559/06, no. 95

Repatriation of a child who had been subjected to abuse in Belarus: *inadmissible*

Giusto and Others v. Italy, no. 38972/06, no. 97

Treatment allegedly endured as “war children” born out of the Nazi “*Lebensborn*” scheme and authorities’ subsequent failure to take any remedial measures: *inadmissible*

Thiermann and Others v. Norway, no. 18712/03, no. 99

Extradition

Extradition to the United States of a Yemeni national charged with membership of terrorist associations, allegedly risking being subjected to interrogation methods amounting to torture: *inadmissible*

Al-Moayad v. Germany, no. 35865/03, no. 94

Alleged risk of being subjected to female genital mutilation in case of extradition to Nigeria: *inadmissible*

Collins and Akaziebie v. Sweden, no. 23944/05, no. 95

No immediate risk of extradition of a prisoner who swallowed a knife blade and refused to allow its removal because of a fear of ill-treatment and torture if extradited: *inadmissible*
Ghosh v. Germany, no. 24017/03, no. 98

Article 5

Article 5 § 1

Deprivation of liberty

Coercive detention of a mother for failing to comply with a foreign court order requiring her to return her children to their father: *inadmissible*
Paradis and Others v. Germany, no. 4065/04, no. 100

Article 5 § 1 (f)

Extradition

Yemeni national tricked by the United States authorities into travelling to Germany, where he was arrested in order to be extradited to the United States: *inadmissible*
Al-Moayad v. Germany, no. 35865/03, no. 94

Article 6

Article 6 § 1 (civil)

Applicability

Enforcement of a foreign court's forfeiture order: *Article 6 applicable*
Saccoccia v. Austria, no. 69917/01, no. 99

Absence of compensation for forced labour under the Nazi regime: *Article 6 inapplicable*
Associazione nazionale reduci dalla prigionia dall'internamento e dalla guerra di liberazione and Others v. Germany, no. 45563/04, no. 100

Soldier's inability to challenge decision by the military council to discharge him from service on disciplinary grounds: *Article 6 inapplicable*
Suküt v. Turkey, no. 59773/00, no. 100

Proceedings for awarding a government tender: *Article 6 inapplicable*
I.T.C. Ltd v. Malta, no. 2629/06, no. 103

Right to a court

Decision of Italian and French courts to decline jurisdiction to try the merits of a dispute concerning the performance of a contract of employment: *admissible*
Guadagnino v. Italy and France, no. 2555/03, no. 96

Access to a court

Immunity from suit of members of the Judicial Service Commission in respect of opinions expressed in the exercise of their duties: *inadmissible*

Antonio Esposito v. Italy, no. 34971/02, no. 96

Dismissal of sole ground of appeal on points of law for want of clarity owing to a failure to present the facts of the case as established by the court of appeal: *admissible*

Reklos and Davourlis v. Greece, no. 1234/05, no. 100

Fair hearing

Lack of a time-limit for challenging administrative proceedings in the courts: *inadmissible*

Millon v. France (no. 1), no. 6051/06, no. 100

Introduction of new legislation after the date of an application for the modification of an order when such application was not regarded as a preliminary to court proceedings: *inadmissible*

Phocas v. France, no. 15638/06, no. 100

Article 6 § 1 (criminal)

Applicability

Police warning to a schoolboy for indecent assault on girls at his school: *Article 6 inapplicable*

R. v. the United Kingdom, no. 33506/05, no. 93

Enforcement of a foreign court's forfeiture order: *Article 6 inapplicable*

Saccoccia v. Austria, no. 69917/01, no. 99

Fair hearing

Extradition to the United States of a person allegedly risking indefinite detention without access to a court or a lawyer: *inadmissible*

Al-Moayad v. Germany, no. 35865/03, no. 94

Conviction allegedly based on evidence obtained through threats of ill-treatment: *admissible*

Gäfgen v. Germany, no. 22978/05, no. 96

Pre-delivery leak and publication in the press of a Supreme Court judgment convicting the applicants: *inadmissible*

Saiz Oceja v. Spain, no. 74182/01, no. 97

Independent and impartial tribunal

Personal and political animosity between the applicant and the investigating judge and extensive knowledge of the facts and persons concerned in the trial gained by the investigating judge from other activities: *admissible*

Vera Fernandez-Huidobro v. Spain, no. 74181/01, no. 97

Pre-delivery leak and publication in the press of a Supreme Court judgment convicting the applicants: *inadmissible*

Saiz Oceja v. Spain, no. 74182/01, no. 97

Article 6 § 2

Presumption of innocence

Finding by *Conseil d'Etat* of a breach of disciplinary rules on the basis of the factual findings of a criminal court when dismissing charges on the ground that a prosecution was statute-barred: *inadmissible*

Moulet v. France, no. 27521/04, no. 100

Article 6 § 3

Rights of the defence

Inability of an accused to elect summary form of trial: *inadmissible*

Hany v. Italy, no. 17543/05, no. 102

Article 7

Article 7 § 1

Nullum crimen sine lege

Conviction for war crimes in relation to acts committed in 1944: *admissible*

Kononov v. Latvia, no. 36376/04, no. 103

Nulla poena sine lege

Confiscation of land and buildings by a criminal court, despite the owners' acquittal, on the ground of unlawful construction in a coastal area: *Article 7 applicable – admissible*

Sud Fondi S.r.l and Others v. Italy, no. 75909/01, no. 100

Article 7 § 2

General principles of law recognised by civilised nations

Conviction of war crimes in relation to acts committed in 1944: *admissible*

Kononov v. Latvia, no. 36376/04, no. 103

Article 8

Private life

Non-disclosure to applicant of notes kept by his bank: *inadmissible*

Smith v. the United Kingdom, no. 39658/05, no. 93

Photograph of new-born baby taken without the consent of the parents: *admissible*

Reklos and Davourlis v. Greece, no. 1234/05, no. 100

Receipt of unsolicited pornographic messages by e-mail and prosecutor's decision not to institute criminal proceedings: *interference, inadmissible*

Muscio v. Italy, no. 31358/03, no. 102

Private and family life

Impossibility of challenging in court a declaration of paternity after expiry of the statutory time-limit: *inadmissible*

Kňákal v. the Czech Republic, no. 39277/06, no. 93

Psychiatric patient's inability to change her "nearest relative": *friendly settlement*

M. v. the United Kingdom, no. 30357/03, no. 94

Ban on bringing fresh divorce proceedings within three years of the dismissal of an initial petition no longer applicable owing to the expiry of the relevant period: *inadmissible*

Karakaya v. Turkey, no. 29586/03, no. 98

Use of a chemical substance by a factory situated near a town: *admissible*

Tatar v. Romania, no. 67021/01, no. 99

Former patients prevented from photocopying medical records: *admissible*

K.H. and Others v. Slovakia, no. 32881/04, no.101

Prohibition under domestic law on the use of ova and sperm from donors for *in vitro* fertilisation: *admissible*

Haller and Others v. Austria, no. 57813/00, no. 102

Family life

Ruling by the domestic courts that applicant was not entitled to restitution of bonds pledged by her husband to a creditor: *inadmissible*

Schaefer v. Germany, no. 14379/03, no. 100

Article 9

Freedom of religion

Alleged State intervention in a leadership dispute within a church and consequential loss of property: *admissible*

Holy Synod of the Bulgarian Orthodox Church and Others v. Bulgaria, nos. 412/03 and 35677/04, no. 97

Manifest religion or beliefs

Refusal of a residence permit because of allegedly harmful religious activities: *admissible*

Perry v. Latvia, no. 30273/03, no. 93

Article 10

Freedom of expression

Disciplinary penalty on remand prisoner for contacting media without prior judicial authorisation: *inadmissible*

Sotiropoulou v. Greece, no. 40225/02, no. 93

Defamation conviction for public allegations suggesting abuse of power by the Minister of Justice: *inadmissible*

Grüner Klub IM Rathaus v. Austria, no. 13521/04, no. 94

Call-up of reserve officer revoked owing to membership of a political party suspected of disloyalty to the constitutional order: *inadmissible*

Erdel v. Germany, no. 30067/04, no. 94

Conviction for publications inciting hatred towards the Jewish people: *inadmissible*

Pavel Ivanov v. Russia, no. 35222/04, no. 94

Dismissal of municipal employee for issuing a press release that appeared to vindicate the attacks on the World Trade Centre and the Pentagon: *inadmissible*

Kern v. Germany, no. 26870/04, no. 98

Withdrawal from newspaper stands and destruction of an issue of a newspaper containing a politically sensitive article by the applicant on the instructions of the editor-in-chief of the municipally owned newspaper: *admissible*

Saliyev v. Russia, no. 35016/03, no. 100

Orders dissolving political parties on the ground that they were the political arm of a terrorist organisation and banning candidates or political groups from standing for election: *admissible*

Herri Batasuna and Batasuna v. Spain, nos. 25803/04 and 25817/04, no. 103

Dissolution of electoral groups on the ground that they were continuing the work of a previously dissolved party: *admissible*

Etxeberria and Others v. Spain, nos. 35579/03, 35613/03, 35626/03, and 35634/03, no. 103

Convictions of newspaper editors for publishing photographs of a person on the point of being arrested to serve a lengthy sentence she had just received for her part in a triple murder: *admissible*

Egeland and Hanseid v. Norway, no. 34438/04, no. 103

Article 11

Freedom of association

Orders dissolving political parties on the ground that they were the political arm of a terrorist organisation and banning candidates or political groups from standing for election: *admissible*

Herri Batasuna and Batasuna v. Spain, nos. 25803/04 and 25817/04, no. 103

Article 13

Effective remedy

Lack of effective investigation into the State's liability for the damage caused by a foreseen natural disaster: *admissible*

Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02,
no. 96

Article 14

Discrimination (Article 4 § 3 (a) of the Convention and Article 1 of Protocol No. 1)

Refusal to take work performed in prison into account in calculation of pension rights:
admissible

Stummer v. Austria, no. 37452/02, no. 101

Discrimination (Article 9)

Restriction on pastoral activity for lack of theological training applicable solely to foreign nationals: *admissible*

Perry v. Latvia, no. 30273/03, no. 93

Discrimination (Article 9 of the Convention and Article 1 of Protocol No. 1)

Obligation on taxpayer to allocate a portion of his income tax to specific beneficiaries without any right to reduce the share payable to each except in the case of the State: *inadmissible*

Carlo Spampinato v. Italy, no. 23123/04, no. 95

Discrimination (Article 1 of Protocol No. 1)

Foreign citizen refused admission to farmers' social-security scheme: *admissible*

Luczak v. Poland, no. 77782/01, no. 95

Deprivation of property despite the fact that the immovable property of non-Muslim minorities in Turkey is protected by agreements under international law: *admissible*

Ecumenical Patriarchate (Fener Rum Patrikliği) v. Turkey, no. 14340/05, no. 99

Compensation law excluding from benefits certain categories of forced labourers: *inadmissible*
Associazione nazionale reduci dalla prigionia dall'internamento e dalla guerra di liberazione

and Others v. Germany, no. 45563/04, no. 100

Refusal to grant father a child bonus in the assessment of his pension rights following introduction, with retrospective effect, of new legislation applicable solely to males: *inadmissible*

Phocas v. France, no. 15638/06, no. 100

Discrimination (Article 3 of Protocol No. 1)

Inability of Netherlands nationals resident in Aruba to vote in elections of the Netherlands parliament: *inadmissible*

Sevinger and Eman v. the Netherlands, nos. 17173/07 and 17180/07, no. 100

Article 17

Destruction of rights and freedoms

Conviction for publications inciting hatred towards the Jewish people: *inadmissible*

Pavel Ivanov v. Russia, no. 35222/04, no. 94

Article 34

Victim

Lack of victim status of an applicant whose position was to be reviewed by a court of appeal and whose extradition was not, therefore, imminent: *inadmissible*

Ghosh v. Germany, no. 24017/03, no. 98

Hinder exercise of the right of petition

Alleged pressure put on prisoners by prison authorities to withdraw their application to the Court: *admissible*

Druzenko and Others v. Ukraine, nos. 17674/02 and 39081/02, no. 93

Extradition despite the authorities having allegedly been notified that the applicant had lodged a Rule 39 request for an interim measure to be indicated by the Court: *inadmissible*

Al-Moayad v. Germany, no. 35865/03, no. 94

Article 35

Article 35 § 1

Exhaustion and effectiveness of domestic remedies (Belgium)

Unfair to require an applicant to use a remedy that had only recently been introduced into the legal system following a change in the case-law and had taken six months to acquire sufficient certainty: *preliminary objection dismissed*

Depauw v. Belgium, no. 2115/04, no. 97

Exhaustion of domestic remedies (France)

Failure to plead appropriate grounds of appeal in proceedings before the Court of Cassation: *inadmissible*

Doliner and Maitenaz v. France, no. 24113/04, no. 98

Exhaustion of domestic remedies (Turkey)

Failure of Iranian applicants to challenge a decision not to prosecute given in Turkey: *inadmissible*

Mansur Pad and Others v. Turkey, no. 60167/00, no. 99

Effective domestic remedies (Czech Republic)

Effectiveness of new domestic remedies concerning the length of judicial proceedings: *inadmissible*

Vokurka v. the Czech Republic, no. 40552/02, no. 101

Effective domestic remedies (France)

Criminal complaint and application to be joined as a civil party in respect of conditions of pre-trial detention that were incompatible with human dignity: *inadmissible*

Canali v. France, no. 26744/05, no. 100

Effective domestic remedies (Slovenia)

Effectiveness of a new compensatory remedy concerning length of judicial proceedings:
inadmissible

Žunič v. Slovenia, no. 24342/04, no. 101

Article 35 § 3

Competence *ratione personae*

Applications concerning acts carried out by KFOR and UNMIK in Kosovo under the aegis of the United Nations: *inadmissible*

Behrami v. France and Saramati v. France, Germany and Norway, nos. 71412/01 and 78166/01, no. 97

Political party not actually affected by contested elections: *inadmissible*

The Georgian Labour Party v. Georgia, no. 9103/04, no. 97

Applicants' removal from public office by a decision of the High Representative for Bosnia and Herzegovina, whose authority derives from United Nations Security Council Resolutions: *inadmissible*

Berić and Others v. Bosnia and Herzegovina, nos. 36357/04, 36360/04, 38346/04, 41705/04, 45190/04, 45578/04, 45579/04, 45580/04, 91/05, 97/05, 100/05, 101/05, 1121/05, 1123/05, 1125/05, 1129/05, 1132/05, 1133/05, 1169/05, 1172/05, 1175/05, 1177/05, 1180/05, 1185/05, 20793/05 and 25496/05, no. 101

Abuse of right of petition

Applicant using in his observations offensive expressions against Government's representative: *inadmissible*

Di Salvo v. Italy, no. 16098/05, no. 93

Applicants' reliance on forged court documents: *inadmissible*

Bagheri and Maliki v. the Netherlands, no. 30164/06, no. 97

Apology of leader of applicant party to the Court for having distorted information about the Strasbourg proceedings: *Government's objection dismissed*

The Georgian Labour Party v. Georgia, no. 9103/04, no. 97

Applicants failing to provide crucial information to the Court but disclosing contents of friendly-settlement negotiations before it: *inadmissible*

Hadrabová and Others v. the Czech Republic, no. 42165/02 and 466/03, no. 100

Article 35 § 4

Rejection of application at any stage of the proceedings

Re-examination by the Court of its own motion of a preliminary objection after it had already declared the application admissible: *application inadmissible*

Sammut and Visa Investments Ltd v. Malta, no. 27023/03, no. 101

Article 37

Article 37 § 1

Matter resolved

Ex gratia payment in respect of pecuniary and non-pecuniary damage caused to the inhabitants of a shanty town by a methane gas explosion at a refuse tip: *struck out*

Yağci and Others v. Turkey, no. 5974/02, no. 95

General measures, including the introduction of new legislation, taken by State to remedy systemic problem in domestic law: *struck out*

Wolkenberg and Others v. Poland, no. 25525/03, no. 103

Witkowska-Toboła v. Poland, no. 11208/02, no. 103

Continued examination not justified

Opinion of the guardianship judge of the deceased applicant's sole heir advising her, for her own protection, not to pursue the application: *struck out*

Benazet v. France, no. 49/03, no. 93

Applicant's rejection of Government's offer to pay compensation for compulsory resignation from the military on grounds of homosexuality: *struck out*

MacDonald v. the United Kingdom, no. 301/04, no. 94

Article 1 of Protocol No. 1

Possessions

Absence of compensation for forced labour under the Nazi regime: *inadmissible*

Associazione nazionale reduci dalla prigionia dall'internamento e dalla guerra di liberazione and Others v. Germany, no. 45563/04, no. 100

Court orders prohibiting the use and requiring the cancellation of Internet domain names that infringed third-party rights: *inadmissible*

Paeffgen GmbH (I-IV) v. Germany, nos. 25379/04, 21688/05, 21722/05 and 21770/05, no. 100

Peaceful enjoyment of possessions

Non-enforcement of a final judgment ordering annulment of a joint venture contract creating an airline company, and reimbursement of investments made: *admissible*

Unistar Ventures GmbH v. Moldova, no. 19245/03, no. 94

State's failure to warn population of a foreseen natural disaster and to protect their lives, health, homes and property: *admissible*

Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, no. 96

Annulment of original title and registration of property in the name of a foundation which had the use of the property: *admissible*

Ecumenical Patriarchate (Fener Rum Patrikliği) v. Turkey, no. 14340/05, no. 99

Deprivation of property

Extinguishment of civil claims in respect of forced labour under the Nazi regime by virtue of a law providing for a general compensation scheme: *inadmissible*

Poznanski and Others v. Germany, no. 25101/05, no. 99

Confiscation of land and buildings by a criminal court, despite the owners' acquittal, on the ground of unlawful construction in a coastal area: *admissible*

Sud Fondi S.r.l and Others v. Italy, no. 75909/01, no. 100

Control of the use of property

Absolute prohibition, without compensation, on building on land that had been designated as building land in order to protect views of a nearby ancient monument: *inadmissible*

Longobardi and Others v. Italy, no. 7670/03, no. 99

Perinelli and Others v. Italy, no. 7718/03, no. 99

Article 3 of Protocol No. 1

Free expression of opinion of the people

Alleged misadministration of electoral rolls, presidential control over electoral commissions and finalisation of country-wide vote tally without elections having been held in two districts: *admissible*

The Georgian Labour Party v. Georgia, no. 9103/04, no. 97

Irregularities in an election campaign: *inadmissible*

Partija "Jaunie Demokrāti" and Partija "Mūsu Zeme" v. Latvia, nos. 10547/07 and 34049/07, no. 102

Vote

Overseas resident denied the right to vote in national elections of his country of origin after having lived abroad for more than fifteen years: *inadmissible*

Doyle v. the United Kingdom, no. 30158/06, no. 94

Inability of Netherlands nationals resident in Aruba to vote in elections of the Netherlands parliament: *inadmissible*

Sevinger and Eman v. the Netherlands, nos. 17173/07 and 17180/07, no. 100

Stand for election

Dissolution of electoral groups on the ground that they were continuing the work of a previously dissolved party: *admissible*

Etxeberria and Others v. Spain, nos. 35579/03, 35613/03, 35626/03 and 35634/03, no. 103

Article 2 of Protocol No. 4

Freedom to choose residence

Geographical restrictions on the residence of an asylum-seeker pending a final decision on his request: *inadmissible*

Omwenyike v. Germany, no. 44294/04, no. 102

Article 1 of Protocol No. 7

Expulsion of a lawfully resident alien

Alleged inability to put case against an exclusion order imposed after refusal of leave to enter the territory: *Article 1 of Protocol No. 7 inapplicable*

Yıldırım v. Romania, no. 21186/02, no. 100

Article 3 of Protocol No. 7

Compensation

Inability to claim compensation in respect of non-pecuniary damage for wrongful conviction: *admissible*

Matveyev v. Russia, no. 26601/02, no. 94

Article 4 of Protocol No. 7

Non bis in idem

Criminal convictions for bankruptcy offences after orders had been made temporarily disqualifying the applicants from setting up companies or holding directorships: *inadmissible*

Storbråten v. Norway, no. 12277/04, no. 94

Mjelde v. Norway, no. 11143/04, no. 94

Rule 39 of the Rules of Court

Interim measures

Extradition despite the authorities having allegedly been notified that the applicant had lodged a Rule 39 request for an interim measure to be indicated by the Court: *inadmissible*

Al-Moayad v. Germany, no. 35865/03, no. 94

**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
IN 2007**

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TO THE GRAND CHAMBER
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A. Cases accepted for referral to the Grand Chamber

In 2007 the five-member panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 7 meetings (on 12 February, 26 March, 23 May, 9 July, 24 September, 12 November, and 10 December) to examine requests by the parties for cases to be referred to the Grand Chamber under Article 43 of the Convention. It considered requests concerning a total of 246 cases, 75 of which were submitted by the respective Governments (in 5 cases both the Government and the applicant submitted requests).

The panel accepted requests in the following 9 cases (concerning 11 applications):

Burden v. the United Kingdom, no. 13378/05
Demir and Baykara v. Turkey, no. 34503/97
Kovačić and Others v. Slovenia, nos. 44574/98, 45133/98 and 48316/99
Yumak and Sadak v. Turkey, no. 10226/03
Maslov v. Austria, no. 1638/03
Salduz v. Turkey, no. 36391/02
Šilih v. Slovenia, no. 71463/01
Gorou v. Greece (no. 2), no. 12686/03
Sergey Zolotukhin v. Russia, no. 14939/03

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

First Section

Bykov v. Russia, no. 4378/02

Second Section

Korbely v. Hungary, no. 9174/02

Third Section

Saadi v. Italy, no. 37201/06
Andrejeva v. Latvia, no. 55707/00

Fourth Section

A. and Others v. the United Kingdom, no. 3455/05
S. and Marper v. the United Kingdom, nos. 30562/04 and 30566/04

Guja v. Moldova, no. 14277/04
N. v. the United Kingdom, no. 26565/05

Fifth Section

The Section took no decision to relinquish cases to the Grand Chamber.

XII. STATISTICAL INFORMATION

STATISTICAL INFORMATION

New presentation of the Court's statistics

In recent years, and up until 1 January 2008, the Court has given an overall figure for the number of applications pending before it, including applications at the pre-judicial stage. These are applications which are not ready for decision because the file is not complete and which have therefore not yet been allocated to a judicial formation. Since a significant percentage of these uncompleted applications are disposed of administratively because the applicant fails to submit the properly completed application form and/or necessary supporting documentation within the prescribed time-limit, the Court now considers that it should give a figure which more accurately reflects its true judicial activity.

According to the old presentation, the total number of new applications in 2007 was 54,000 (estimation), of which 41,700 were allocated to a decision body. Under the new presentation it is the second figure (*allocated applications*) that will appear as the statistic for the volume of new applications.

Similarly, under the old presentation, on 31 December 2007 there were a total of 103,850 applications pending, of which some 79,000 were pending before a decision body. Under the new presentation, only the second figure (*pending allocated applications*) will be given for pending cases.

For the purposes of comparison, the figures given in previous years for applications allocated to, or pending before a decision body should be used.

The figure for pre-judicial applications will appear as a separate statistic since the processing of these files does represent a certain amount of work for the Registry.

The attached tables adopt the new presentation.

Events in total (2006-2007)

1. Applications allocated to a judicial formation (Committee/Chamber [round figures (50)])	2007	2006	+/-
Applications allocated	41,700	39,350	6%

2. Interim procedural events	2007	2006	+/-
Applications communicated to respondent Government	3,440	3,217	7%
Applications declared admissible	1,621	1,634	-1%
– in separate decision	181	266	-32%
– in judgment on merits	1,440	1,368	5%

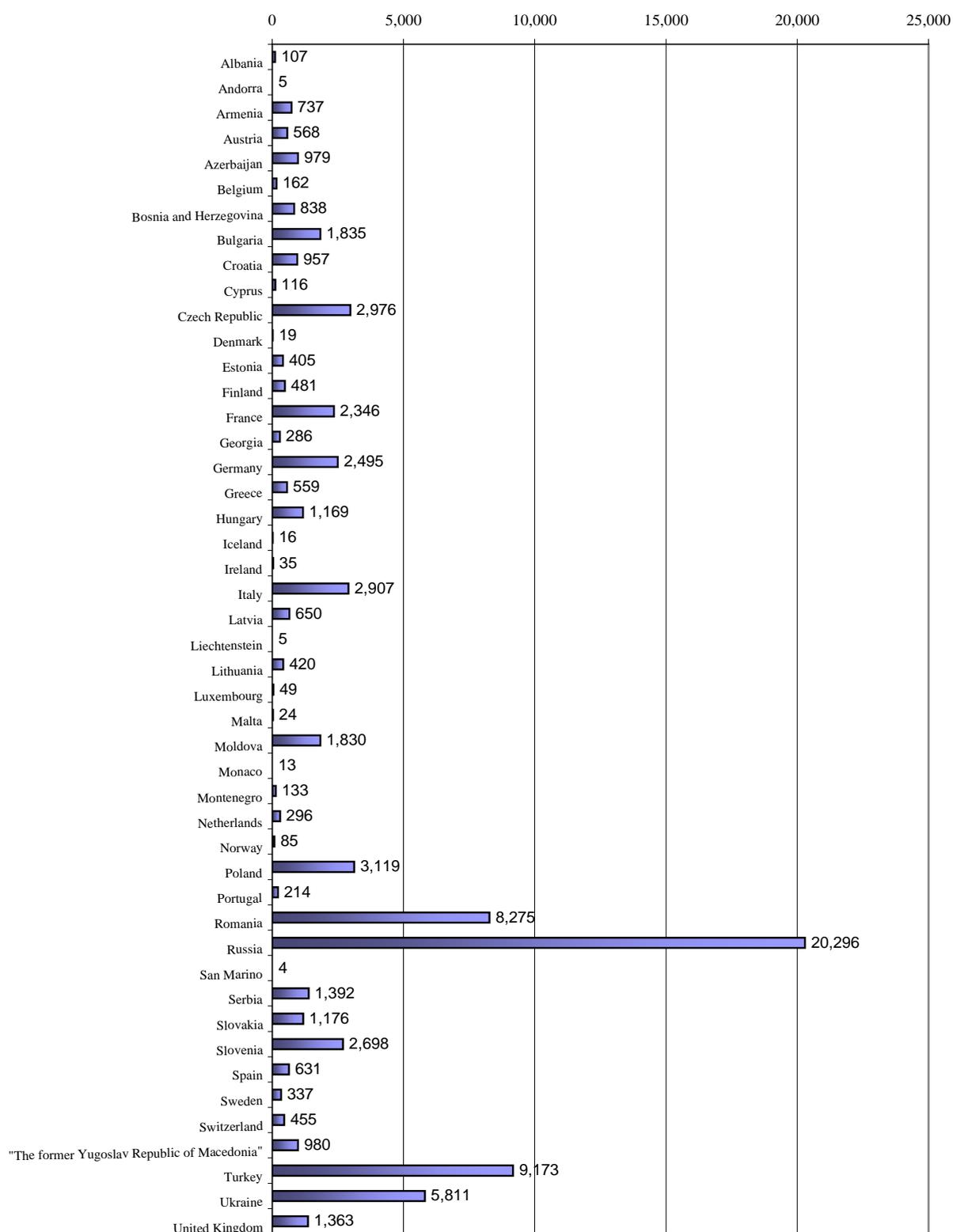
3. Applications disposed of	2007	2006	+/-
By decision or judgment ¹	28,792	29,878	-4%
– by judgment	1,735	1,719	1%
– by decision (inadmissible/struck out)	27,057	28,159	-4%

4. Pending applications [round figures (50)]	31/12/2007	1/1/2007	+/-
Applications pending before a judicial formation	79,400	66,500	19%
– Chamber (7 judges)	27,950	22,950	22%
– Committee (3 judges)	51,450	43,550	18%

5. Pre-judicial applications [round figures (50)]	31/12/2007	1/1/2007	+/-
Applications at pre-judicial stage	24,450	23,400	4%
Applications disposed of administratively (applications not pursued – files destroyed)	13,413	12,274	9%

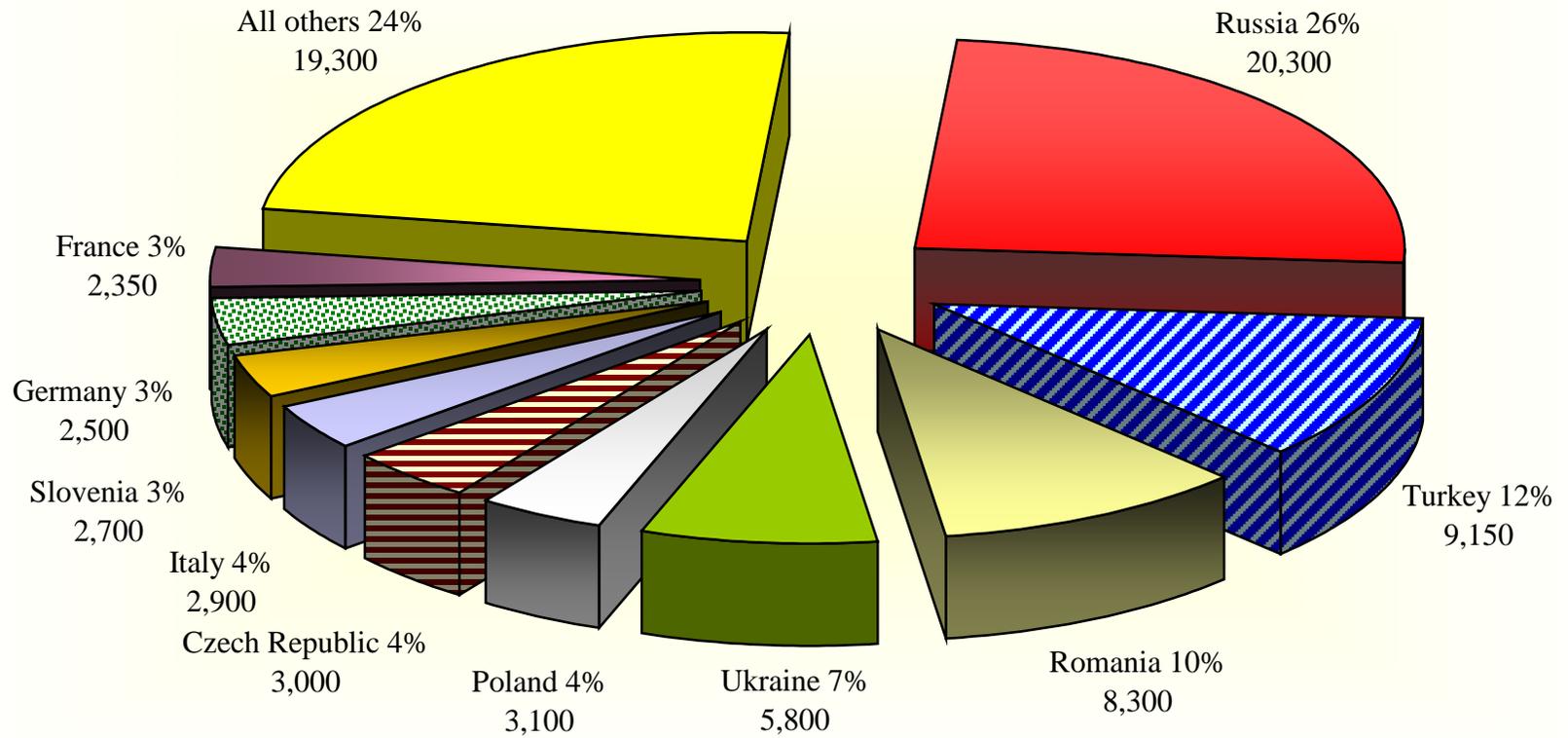
1. A judgment or decision may concern more than one application.

Allocated cases pending on 31 December 2007, by respondent State



Total: 79,427 applications pending before a decision body

Allocated Cases Pending on 31 December 2007



Applications processed in 2007

Applications processed in 2007	Section I	Section II	Section III	Section IV	Section V	Grand Chamber	Total
Applications in which judgments were delivered	366	451	299	363	239	17	1,735
Applications declared inadmissible (Chamber/Grand Chamber)	50	144	87	77	132	1	491
Applications struck out (Chamber/Grand Chamber)	133	134	108	296	92	1	764
Applications declared inadmissible or struck out (Committee)	5,806	3,469	5,018	5,121	6,388		25,802
Total	6,355	4,198	5,512	5,857	6,851	19	28,792
Applications communicated ¹	736	919	823	550	412		3,440
Applications declared admissible in a separate decision	60	23	12	15	71		181
Judgments delivered	337	340	271	328	212	15	1,503
Interim measures (Rule 39) granted	11	20	56	166	9		262
Interim measures (Rule 39) refused	56	76	149	244	40		565
Interim measures (Rule 39) refused – falling outside the scope	8	8	237	45	7		305

1. Including applications communicated for information. Applications may concern several States.

Events in total, by respondent State (2007)

State	Applications allocated to a decision body	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Albania	54	22	12	5	6	–
Andorra	4	3	–	–	–	–
Armenia	614	44	26	5	5	–
Austria	329	272	28	18	23	–
Azerbaijan	708	84	27	8	7	–
Belgium	124	105	3	12	15	1
Bosnia and Herzegovina	708	254	16	5	3	–
Bulgaria	821	586	103	86	53	–
Croatia	557	745	54	28	31	1
Cyprus	63	27	6	4	7	–
Czech Republic	808	1,080	47	6	11	–
Denmark	45	72	7	1	2	1
Estonia	154	127	7	1	3	–
Finland	269	253	20	7	26	1
France	1,552	1,549	124	35	48	–
Georgia	162	40	46	11	8	–
Germany	1,485	1,685	43	14	12	1
Greece	384	298	99	58	65	–
Hungary	528	323	43	24	24	–
Iceland	9	6	2	2	2	–
Ireland	45	40	6	–	–	–
Italy	1,350	796	251	57	67	–
Latvia	235	208	42	6	12	–
Liechtenstein	5	3	–	–	–	–

Events in total, by respondent State (2007) (continued)

State	Applications allocated to a decision body	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Lithuania	227	208	6	4	5	1
Luxembourg	32	26	6	4	7	–
Malta	17	3	4	2	1	–
Moldova	887	201	73	63	60	–
Monaco	10	1	1	–	–	–
Montenegro	93	–	–	–	–	–
Netherlands	365	335	11	4	10	–
Norway	62	70	4	6	5	–
Poland	4,211	3,963	324	112	111	–
Portugal	133	169	32	32	10	–
Romania	3,171	2,536	401	91	93	1
Russia	9,497	4,364	515	181	192	9
San Marino	1	1	2	–	1	–
Serbia	1,061	528	26	20	14	–
Slovakia	347	286	59	19	23	–
Slovenia	1,012	159	142	13	15	–
Spain	309	408	7	13	5	–
Sweden	360	370	27	4	7	1
Switzerland	236	165	17	6	7	–
“The former Yugoslav Republic of Macedonia”	454	60	24	14	17	–
Turkey	2,830	1,573	560	387	331	3
Ukraine	4,502	2,606	157	240	109	–
United Kingdom	886	403	30	13	50	40
Total	41,716	27,057	3,440	1,621	1,503	60

Events in total, by respondent State (1 November 1998-31 December 2007)

State	Applications allocated to a decision body	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Albania	204	97	40	9	10	–
Andorra	26	21	2	2	3	1
Armenia	992	253	60	7	5	–
Austria	2,627	2,247	298	174	164	16
Azerbaijan	1,491	506	63	16	10	–
Belgium	1,121	923	148	101	82	8
Bosnia and Herzegovina	1,359	520	54	7	4	–
Bulgaria	5,021	3,135	460	234	169	3
Croatia	4,095	3,030	333	131	132	26
Cyprus	368	229	85	37	42	3
Czech Republic	7,294	4,285	459	129	128	7
Denmark	605	605	59	23	21	10
Estonia	1,027	612	33	15	15	1
Finland	1,846	1,471	169	91	90	7
France	13,110	10,549	1,041	625	588	40
Georgia	480	180	101	22	18	–
Germany	10,143	7,830	244	83	88	4
Greece	2,528	1,708	578	353	366	17
Hungary	3,067	1,882	224	116	116	4
Iceland	60	47	10	8	8	2
Ireland	292	267	20	12	12	1
Italy	9,900	6,332	2,661	1,674	1,714	324
Latvia	1,509	839	135	35	30	1
Liechtenstein	26	20	3	3	4	–

Events in total, by respondent State (1 November 1998-31 December 2007) (continued)

State	Applications allocated to a decision body	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Lithuania	2,464	2,021	112	50	35	4
Luxembourg	193	146	37	19	19	1
Malta	74	41	25	16	16	–
Moldova	2,969	1,043	349	155	105	–
Monaco	15	2	1	–	–	–
Montenegro	134	–	1	–	–	–
Netherlands	2,717	2,475	179	61	70	8
Norway	473	408	33	23	15	–
Poland	27,988	25,285	1,213	489	489	32
Portugal	1,329	1,039	259	183	141	53
Romania	18,406	10,090	1,086	283	279	14
Russia	46,685	26,137	1,755	534	397	9
San Marino	22	20	12	8	11	1
Serbia	2,729	1,334	71	21	15	–
Slovakia	3,227	2,001	359	152	150	18
Slovenia	3,838	988	459	214	210	1
Spain	4,176	3,640	493	51	37	1
Sweden	2,823	2,571	155	41	42	15
Switzerland	1,850	1,470	76	37	41	2
“The former Yugoslav Republic of Macedonia”	1,352	350	99	34	31	1
Turkey	21,240	12,136	3,942	1,887	1,641	186
Ukraine	17,322	11,315	1,110	550	372	1
United Kingdom	6,771	5,645	964	316	256	70
Total	237,988	157,745	20,070	9,031	8,191	892

Violations by Article and by country (2007)

2007	Judgments finding at least one violation					Other Articles of the Convention														Right not to be tried or punished							
	Total number of judgments	Judgments finding one violation	Judgments finding at least one violation	Friendly settlements	Other judgments*	Right to life – deprivation of life	Lack of effective investigation	Inhuman or degrading treatment	Lack of effective investigation	Prohibition of torture	Right to liberty and security	Prohibition of slavery/forced labour	Right to a fair trial	No punishment without law	Freedom of religion and belief	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right to be tried or punished	Right to be tried or punished	Right to be tried or punished
	Total	Total	Total	Total	Total	2	2	3	3	3	4	5	6	6	7	8	9	10	11	12	13	14	P1-1	P1-2	P1-3	P7-4	
Albania	6	5			1					1			5	2							4		3				
Andorra	0																										
Armenia	5	5											4						2								1
Austria	23	20	3							1			3	8		4		5			4						
Azerbaijan	7	7							1	1	1		3						2		2		2				
Belgium	15	14			1							1	2	10					1			2					
Bosnia and Herzegovina	3	3											2			1								1			
Bulgaria	53	51			2	1	2			4	2		19	6	19	5	1	2	2		17	1	5				
Croatia	31	29	1	1						2	1			10	14						1	1	4				
Cyprus	7	7												6	2						1		1				
Czech Republic	11	9	1		1							3	1	3		6						1					
Denmark	2		1	1																							
Estonia	3	3											1	2								1					
Finland	26	16	8	2									8	9		1						1					
France	48	39	8		1	1				1			2	26	6		2		2			4		3			
Georgia	8	4	4							1	1		1	1				1	1				1				
Germany	12	7	4	1									2	1	5		1					1					
Greece	65	61	2		2	2	2			2	2		1	14	38				3	1		5	1	4			
Hungary	24	24									1				22					1		1					
Iceland	2	2											2														
Ireland	0																										
Italy	67	58	1		8								1	10	25		24		1			17	1	8		2	2
Latvia	12	8	2	2									6	1	2		2	1	1								1
Liechtenstein	0																										
Lithuania	5	3	1	1									1	2		1											

Violations by Article and by country (2007) (continued)

2007	Judgments finding at least					Other Articles of the Convention														Right not to be tried or punished twice							
	Total number of judgments	Judgments finding one violation	Friendly settlements	Other judgments*	Lack of effective investigation	Inhuman or degrading treatment	Lack of effective investigation	Prohibition of torture	Right to liberty and security	Prohibition of slavery/forced labour	Right to a fair trial	No punishment without law	Right to respect for family life	Freedom of thought, religion and conscience	Freedom of expression	Freedom of association	Right to an effective remedy and Right to marry	Prohibition of discrimination	Protection of property	Right to education	P1-1	P1-2	P1-3	P7-4			
Luxembourg	7	6	1									3	2		1		1		1	1	1						
Malta	1	1															1										
Moldova	60	59			1			1	10	4		27	34	2		3	1	7		12		29			4		
Monaco	0																										
Montenegro	0																										
Netherlands	10	5	1	1	3		2		1			1	1		1		1										
Norway	5	5											1	1		1		1						1			
Poland	111	101	9		1				1	1		47	10	35		13		2	1		5	2	3				
Portugal	10	9	1										4				2						3				
Romania	93	88	1	3	1				2	3		1	41	8	1	2		1	1		1	2	55		1		
Russia	192	175	6	11		13	13	1	25	2		47	127	11		6	1	5	3		23		114		2	1	10
San Marino	1				1																						
Serbia	14	14											3	8		4		2			8		4				
Slovakia	23	22	1			1						6	2	14		4					2		2				
Slovenia	15	14	1				1						1	13							11						
Spain	5	2	3										2														
Sweden	7	5		2										4									1				
Switzerland	7	6	1									2	1		1		2										
"The former Yugoslav Republic of Macedonia"	17	16		1						1			4	11													
Turkey	331	319	7	4	1	3	11	8	23	16		95	99	67		5		26	5		25		58	1	4		
Ukraine	109	108	1						6	2		3	66	34			1				19		43				
United Kingdom	50	19	7	24			5					1	3	1		2			1						6		
Sub-total	1,503	1,349	76	55	23	21	36	11	81	37	0	266	503	384	1	92	6	66	20	0	168	17	344	2	8	1	19
Total			1,503																								

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

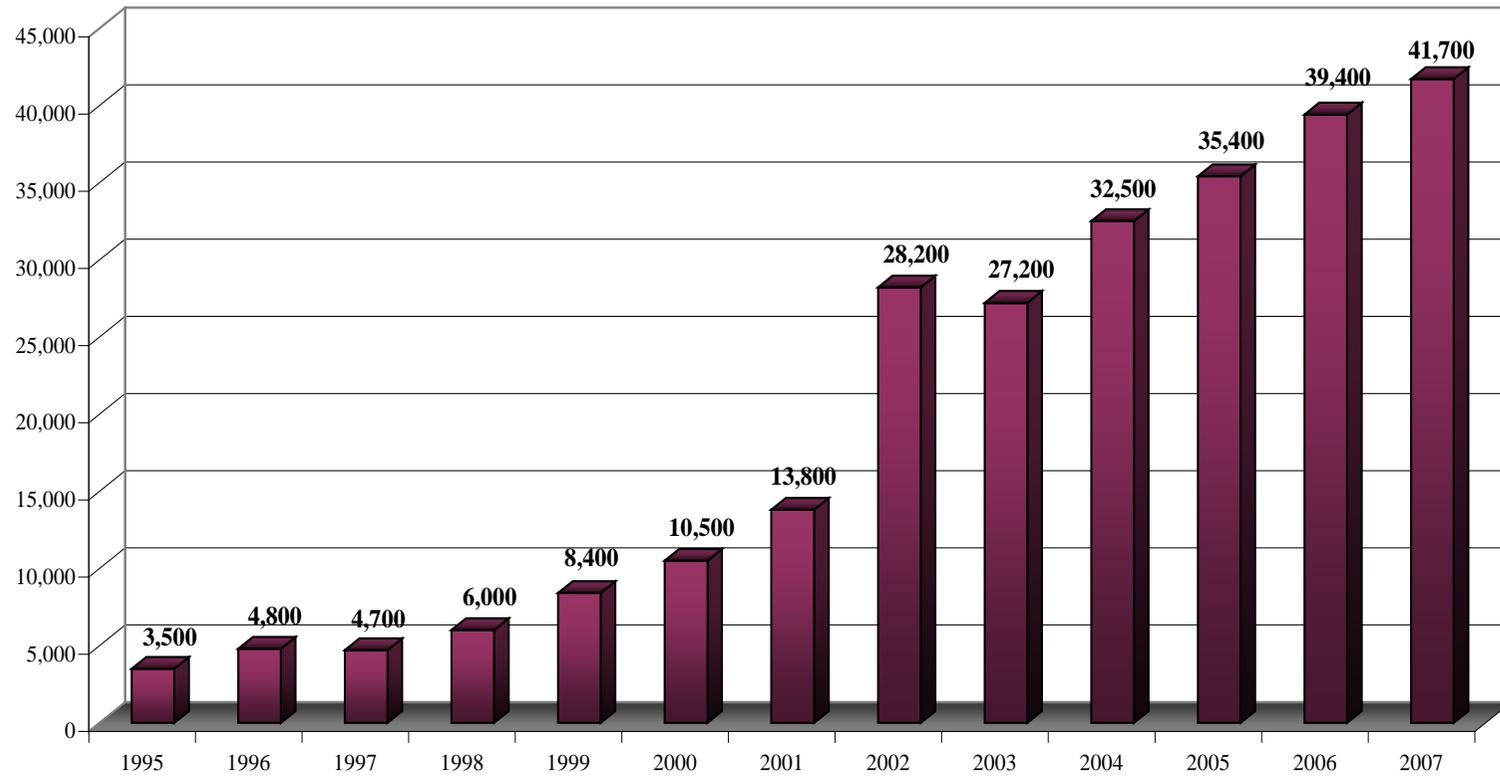
Violations by Article and by country (1999-2007) (continued)

1999-2007	Total number of judgments					Other Articles of the Convention																							
	Total	Judgments finding at least one violation	Friendly settlements/striking out judgments	Judgments finding at least one violation	Other judgments*	2	2	3	3	3	4	5	6	6	7	8	9	10	11	12	13	14	P1-1	P1-2	P1-3	P7-4			
Luxembourg	19	17	1	1			1						4	10		3		2	1			3	1	1					
Malta	16	15	1									6	2	4		1		1					2	3					
Moldova	105	101		1	3			4	20	6		38	63	4		5	2	10	1			16		53			8		
Monaco	0																												
Montenegro	0																												
Netherlands	70	41	13	12	4		3	1	7			7	7	5		11		3				1	2						
Norway	15	13	2										7	1		1		4						1					
Poland	489	419	28	39	3		1		2	1		155	27	245		42		7	1			14	2	11			2		
Portugal	141	83	2	54	2							2	7	59		3		5					1	10					
Romania	279	240	8	21	10			1	5	8		9	170	21	1	15		4	2			3	4	151			5		
Russia	399	372	13	11	3	22	23	8	46	5		89	242	58		14	2	8	5			46	1	215	1	2	1	24	
San Marino	11	8		2	1								7	2			1							1					
Serbia	15	15											4	8		4		2				8		4					
Slovakia	151	126	5	19	1	1						14	11	97		7		5				13	1	4					
Slovenia	210	202	6	2			1		2	1		2	1	198		1						187							
Spain	37	26	9	1	1					1		2	11	6	1	3		1									1		
Sweden	42	18	6	18		1			1			1	6	9		1		1	1			2		4					
Switzerland	41	33	6	2			1					7	10	4		6		6											
"The former Yugoslav Republic of Macedonia"	31	27	2	2						1			4	20								2		2					
Turkey	1,641	1,395	33	202	11	53	100	17	114	24		276	453	194	4	33	1	149	23			168	2	411	3	5		26	
Ukraine	372	366	3	2	1	1	2	1	18	4		8	266	66		11	3	3				81		185		1	3		
United Kindgom	256	160	35	57	4	1	12		6			40	64	18		35		2	2	3	22	10	2		3		1		
Sub-total		6,749	354	965	129	91	156	34	277	70	1	931	2,064	2,947	11	382	19	271	59	3	810	66	1,423	5	29	4	100		
Total		8,194**																											

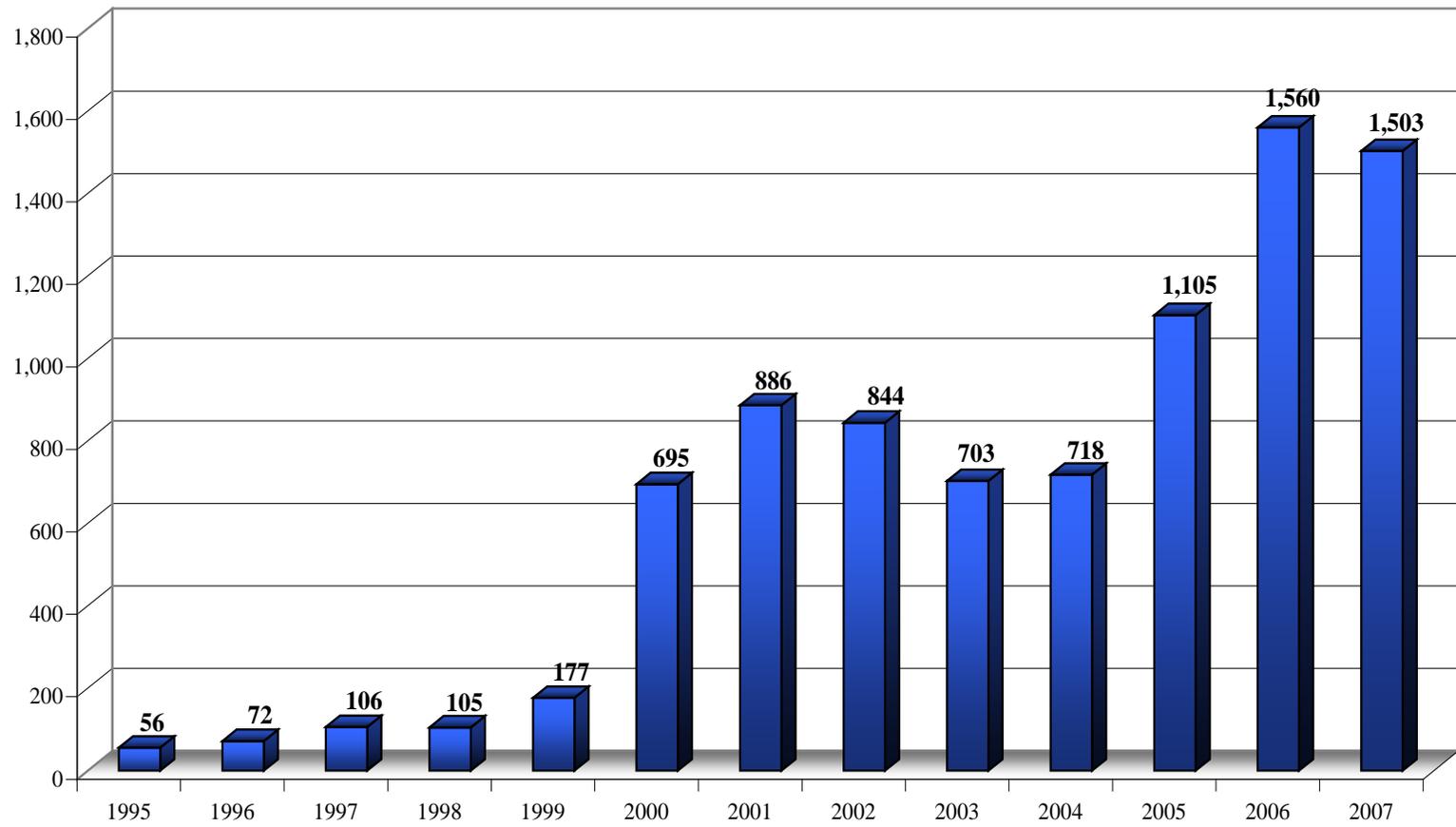
* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

** Including three judgments which concern two countries: Moldova and Russia, Georgia and Russia, and Romania and Hungary.

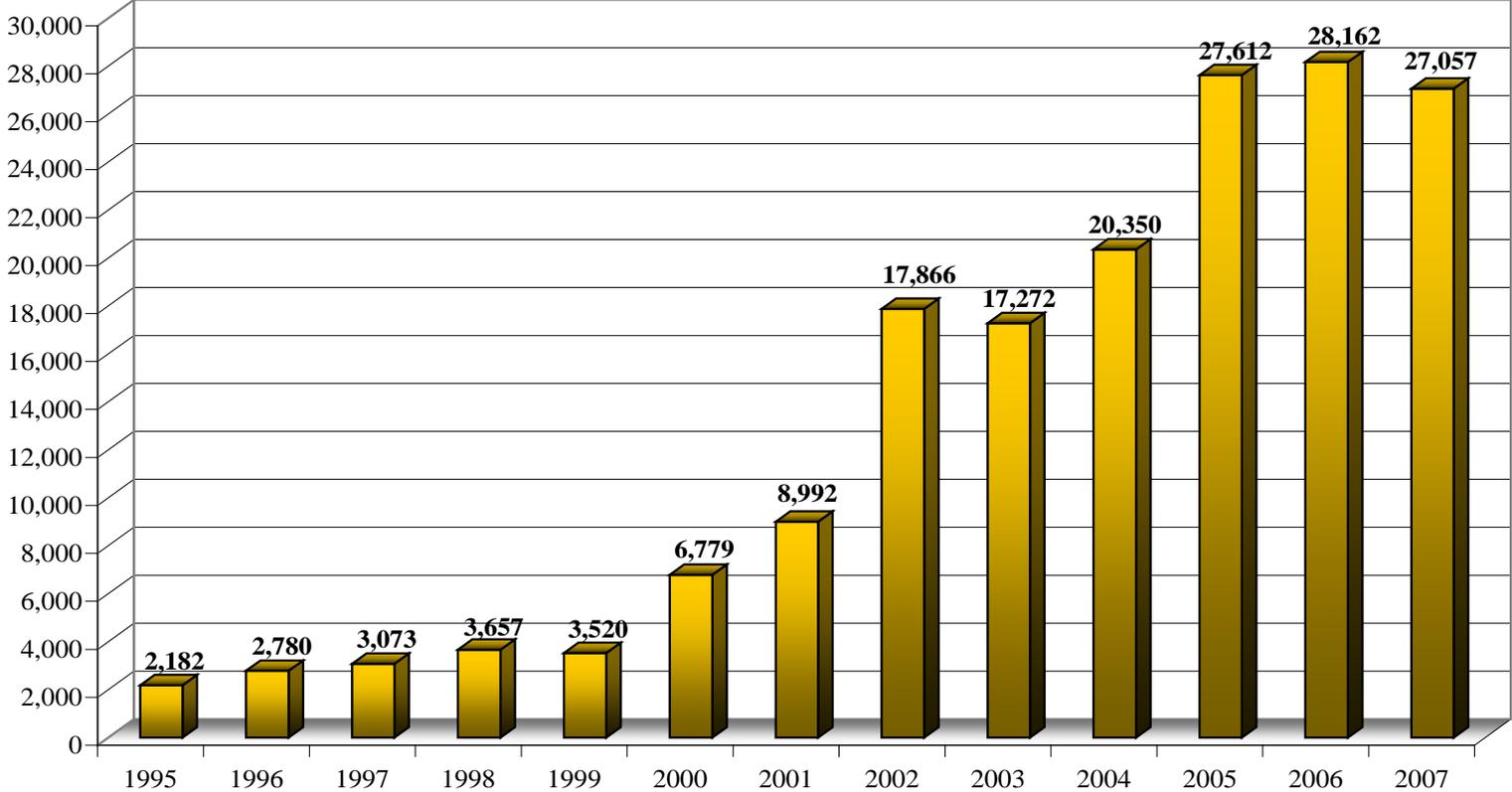
Applications allocated to a decision body (1995-2007)



Judgments (1995-2007)



Applications declared inadmissible or struck out (1995-2007)



Events in total (1955-2007)

	1955 - 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Applications allocated to a decision body	39,047	5,981	8,400	10,482	13,845	28,214	27,189	32,512	35,402	39,373	41,700	282,145
Applications declared inadmissible or struck out of the list	28,959	3,658	3,520	6,776	8,989	17,868	17,272	20,350	27,612	28,160	24,067	187,231
Applications declared admissible	4,161	762	731	1,086	739	578	753	830	1,036	1,634	1,621	13,931
Judgments delivered by the Court	732	105	177	695	889	844	703	718	1,105	1,560	1,503	9,031