



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

Press Conference

Speech by Síofra O'Leary

Strasbourg, 25 January 2024

Ladies and Gentlemen,

I would like to extend a warm welcome, on behalf of the Court, to all those, whether journalists or not, who have joined us this morning in the Human Rights Building, and to all those who are following online. My thanks also for the questions submitted in advance of this morning's press conference.

With me this morning on the podium are the Registrar of the Court, Marialena Tsirli, the Deputy Registrar, Abel Campos, as well as the Jurisconsult of the Court, Anna Austin.

Members of my Private Office, Stefano Piedimonte Bodini and Rachael Kondak, will liaise with those of you who are participating remotely when we come to the questions and answers.

Both they and other members of the Private Office and the registry, have invested considerably in the preparation of the Annual Report and this morning's event and I would like to express my own gratitude and that of all the Court's Judges in their regard.

The Court has, for many years, published its Annual Report and met with the press on the eve of the opening of the Judicial Year, which takes place on the last Friday of January. This year is no exception.

Tomorrow evening's Solemn Hearing, which will be attended by 170 Judges and high judicial officers from across the 46 Member States of the Council of Europe, as well as other dignitaries, will be preceded by a high-level judicial seminar focusing on one of the cornerstones of the Convention system, namely the principle of subsidiarity.

Whether in legal or layman's terms, it is important to emphasise that the machinery of protection established by the European Convention on Human Rights is subsidiary to your national systems. While the Court's role is to supervise, as a matter of last resort, the implementation by Contracting States of their obligations under the Convention, the primary responsibility for ensuring that the fundamental rights and freedoms enshrined in the Convention are respected and protected at domestic level lies with national authorities and ultimately with national courts.

National judges are called on to interpret and apply the Convention and to ensure that it prevails over rules and practices which are incompatible with it. In the words of one of my predecessors, "the more they do so, the less [the Strasbourg] Court will have to intervene, other than to act as a final rampart, as [the Convention's] founding fathers intended".¹

¹ See President J.-P. Costa, [Dialogue between Judges 2010](#).

I should add that, at the Solemn Hearing tomorrow evening, we will be pleased to welcome the EU Commissioner for Justice, Mr Didier Reynders, to deliver the keynote speech. His presence highlights the strong, necessary and continuing bonds between the Council of Europe and the EU in defence of democracy, human rights and the rule of law.

Sadly, we open the judicial year as war continues to be waged on Europe's Eastern borders and after a year of further displacement, destruction and suffering.

In 2023 the Court made considerable advances in the processing of pending Inter-State cases relating to the conflict in Ukraine. A hearing on the merits was held in December in *Ukraine v. Russia (Crimea)*². Preparation for a hearing on the admissibility and merits of three cases relating to events in Eastern Ukraine from 2014 until 2022 and the downing of Malaysia airlines flight MH17³ remains scheduled for the first part of this year to the extent possible.

Before presenting the 2023 statistics, let me also give you a brief taste of some of the events which have marked the past year.

Prior to the 4th historic summit of Council of Europe Heads of State and Government held in Reykjavik in May, the Plenary Court, composed of all 46 Judges, set out the challenges currently facing the Convention system and the Court itself. We emphasised why, in the present context, legal, political and material support for both is more than ever essential.

In the ensuing Reykjavik Declaration, the Heads of State and Government reaffirmed their commitment to the Convention and the Court as the ultimate guarantors of human rights in Europe. In addition, provision for more sustainable resources to enable the Court to exercise its judicial functions effectively and to deal with our workload expeditiously was promised. Those resources later followed in the budgetary round which concluded last November.

2023 was also a year of milestones and anniversaries – 75 years since the adoption of the Universal Declaration of Human Rights in Paris, 70 years since the entry into force of the Convention itself and 25 years since the establishment of the permanent Court as you know it today. I refer you to the Annual Report for further details in relation to these and other milestones.

Turning to our statistical presentation of last year's judicial work, those of you who are present in the room have been given a USB key containing the provisional Annual Report, the statistics and a set of photos which are free of copyright. Those who are following us remotely will be able to download the report and the statistics from the Court's website at the end of the press conference.

By the end of 2023, the number of applications pending, although high (68,450), has significantly decreased, compared to the close of 2022 (74,650).

Of the 38,260 applications dealt with in 2023, 6,931 gave rise to a judgment; a 66 % increase on 2022.

Committees of three Judges adopted judgments in respect of 6,386 applications, while Single-judge formations dealt with 25,834 applications. 16,623 new applications were communicated to respondent States, representing a 144 % increase on the previous year.

² *Ukraine v. Russia (re Crimea) (dec.)* [GC], nos. 20958/14 and 38334/18, 16 December 2020.

³ *Ukraine and the Netherlands v. Russia* (8019/16, 43800/14, 28525/20, 11055/22.)

75% of pending applications concern the same five States as those listed in the Annual Report for 2022, namely Türkiye (23,400 applications), the Russian Federation (12,450), Ukraine (8,750), Romania (4,150) and Italy (2,750).

When compared to the figures for 2022 you will notice a drop of almost 5,000 and 1,000 respectively in applications pending against the Russian Federation and Italy.

As regards the Russian Federation, as explained at last year's press conference, we invested significant time and effort at the end of 2022 to ensure that we could continue to exercise our residual jurisdiction in Russian cases, while not undermining our ability to deal with the remainder of our case-load. Following Russia's cessation of membership of the Council of Europe, it is no longer a High Contracting Party to the Convention, but it remains a respondent State in thousands of applications.

Due to the work of dedicated Committees established across all five Sections, judgments or decisions have been adopted in respect of 5,300 applications and 9,400 applications have been communicated to the Russian Federation over the last twelve months.

In addition, Chambers composed of 7 Judges continue to adopt important judgments and decisions in more complex and high profile cases. For example, in *Pivkina and Others v. Russia* (dec.)⁴ the Court defined further the scope of its continued jurisdiction in Russian cases. In *Glukhin v. Russia*⁵ it examined the use of highly intrusive facial recognition technology in administrative proceedings following the applicant's involvement in a peaceful demonstration. In *Nepomnyashchiy and Others v. Russia*⁶, a Chamber found a violation of Article 8 read in conjunction with Article 14 due to the authorities' failure to comply with the obligation to protect members of the LGBTI community from homophobic statements by State officials.

As regards Italy, the drop reflects greater use of Committee formations and greater recourse to the friendly settlement procedure.

2023 was marked by a 48% decrease in the number of pending applications assigned to a Chamber (18,150) and a corresponding increase of 33% in the number of applications pending before Committees (46,150). This shift in judicial work from 3 to 7 Judge formations is intentional. It seeks to ensure that the Court's precious and limited resources are focused on the cases which most require them, with lighter and less costly procedures used for cases which are repetitive or in relation to which the case-law is well-established.

2023 a été également une année marquée par des réformes procédurales.

En mars 2023, une nouvelle instruction pratique sur les tierces interventions a été publiée. Elle vise à clarifier la procédure, notamment en ce qui concerne les délais pour présenter des observations écrites, le contenu et la portée de ces observations, et la manière dont la Cour les utilise lors de l'examen des affaires.

⁴ *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, 6 June 2023.

⁵ *Glukhin v. Russia*, no. 11519/20, 4 July 2023.

⁶ *Nepomnyashchiy et autres c. Russie*, n^{os} 39954/09 et 3465/17, 30 mai 2023.

En octobre, en capitalisant sur ces premières cinq années d'expérience depuis l'entrée en vigueur du Protocole n° 16 à la Convention, la Cour a mis à jour les lignes directrices en matière d'avis consultatifs destinées aux juridictions nationales.

Toujours en octobre, nous avons publié une version révisée de l'article 44F sur le traitement des documents hautement sensibles.

En ce qui concerne l'article 28 du Règlement de la Cour, qui régit l'importante question du retrait d'un juge d'une formation judiciaire ou sa récusation à la demande de l'une des parties, après avoir consulté les États membres et la société civile, la Cour a publié une version révisée de l'article 28. Une nouvelle instruction pratique a également été publiée le 22 janvier dernier.

Je m'adresse ce matin à un parterre de journalistes et je peux d'ores et déjà anticiper quelques questions sur les mesures provisoires adoptées en vertu de l'article 39 du règlement de la Cour, qui ont continué à faire des titres dans la presse de certains pays en 2023.

Je tiens à rappeler que, dans le système de la Convention, les mesures provisoires s'appliquent dans des circonstances *exceptionnelles*, lorsqu'il existe un risque imminent de dommage irréparable.

Ces mesures revêtent une importance fondamentale pour éviter des situations irréversibles qui empêcheraient les juridictions nationales et/ou la Cour de procéder dans de bonnes conditions à un examen de griefs de violation de la Convention et, le cas échéant, d'assurer aux requérants la jouissance pratique et effective des droits conventionnels qu'ils invoquent.

La Cour peut indiquer des mesures provisoires jusqu'à nouvel ordre, ou pour une durée limitée, en fonction des circonstances de l'affaire dont elle est saisie. Les parties à la procédure peuvent inviter la Cour à reconsidérer sa décision d'indiquer des mesures provisoires ou former une nouvelle demande d'indication de mesures lorsque leur demande initiale a été rejetée et que les circonstances ont changé.

En juin et en novembre, la Cour plénière a adopté un certain nombre de décisions qui visent à préciser et à codifier sa pratique existante en matière de mesures provisoires.

La consultation sur la codification de la pratique relative à l'article 39 est en cours et une instruction pratique actualisée sera publiée une fois la procédure de réforme aboutie.

Par ailleurs, je tiens à souligner que, depuis le 1^{er} décembre, la Cour indique désormais l'identité des juges qui rendent des décisions sur les demandes de mesures provisoires, une mesure qui va dans le sens d'une plus grande transparence et qui était demandée par les États membres.

Avant de conclure, j'aimerais dire un dernier mot sur l'un des aspects les plus importants de l'activité de la Cour : son dialogue avec les cours supérieures des États membres, qui est aujourd'hui plus fertile que jamais.

Pour ne citer que les rencontres qui ont eu lieu ici à Strasbourg, nous avons reçu notamment les présidents de la Cour constitutionnelle et de la Cour de cassation arméniennes, le président de la Cour suprême azerbaïdjanaise, le président de la Cour administrative suprême polonaise et le président de la Cour constitutionnelle hongroise. Des délégations judiciaires plus nombreuses d'Albanie, d'Azerbaïdjan, de la République tchèque, de Pologne, de Norvège, d'Espagne, de Hongrie,

de Slovénie et de Suède ont participé à des tables rondes et à des ateliers avec des juges et des agents du greffe.

Ces rencontres jouent un rôle essentiel dans le système conventionnel qui est fondé, comme je disais avant, sur la responsabilité partagée et sur le principe de subsidiarité.

Je vous remercie pour votre attention et je suis ravie de pouvoir maintenant répondre à vos questions, tout en respectant les contraintes qui s'imposent en vertu de mon statut de juge et de Présidente de la Cour.