



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

Section activity reports *2006*

Registry of the European Court of Human Rights
Strasbourg, 2007

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



FIRST SECTION

ANNUAL ACTIVITY REPORT 2006

January 2007

CONTENTS

	Page
I. Introduction	1
II. Composition of the Section	2
III. Hearings.....	3
IV. Cases relinquished to the Grand Chamber	7
V. Other cases of interest.....	8
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	25
VII. Third-party intervention (Article 36 and Rule 44)	27
VIII. Statistical information	28

I. INTRODUCTION

In 2006, the Section held 40 Chamber sessions. Oral hearings were held in six cases and delegates took evidence in one case. The Section delivered 264 judgments, of which 259 concerned the merits, three concerned friendly settlements and two concerned the striking out of cases. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 581 cases and 192 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 136 applications were declared admissible;
- (b) 56 applications were declared inadmissible;
- (c) 106 applications were struck out of the list; and
- (d) 694 applications were communicated to the State concerned for observations of which 534 were communicated by the President by virtue of the new procedure instituted on 1 January 2003.

In addition, the Section held 44 Committee sessions. 5947 applications were declared inadmissible and 58 applications were struck out of the list. The total number of applications rejected by a Committee represented 97% of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 18248 applications were pending before the Section.

II. COMPOSITION OF THE SECTION

From 1 January until 31 March 2006 the Section was composed as follows :

Christos **Rozakis** (Greek), *President*,
Loukis **Loucaides** (Cypriot), *Vice-President*,
Françoise **Tulkens** (Belgian),
Peer **Lorenzen** (Danish),
Nina **Vajić** (Croatian),
Snejana **Botoucharova** (Bulgarian),
Anatoly **Kovler** (Russian),
Elisabeth **Steiner** (Austrian),
Khanlar **Hajiyev** (Azerbaijani),
Dean **Spielmann** (Luxemburger),
Sverre Erik **Jebens** (Norwegian), *Judges*,

Søren **Nielsen**, *Registrar*,
Santiago **Quesada**, *Deputy Registrar*.

The Section was recomposed as from 1 April 2006 (Rule 25 of the Rules of Court). As from 1 April 2006 the Section was composed as follows :

Christos **Rozakis** (Greek), *President*,
Loukis **Loucaides** (Cypriot), *Vice-President*,
Françoise **Tulkens** (Belgian),
Nina **Vajić** (Croatian),
Anatoly **Kovler** (Russian),
Elisabeth **Steiner** (Austrian),
Khanlar **Hajiyev** (Azerbaijani),
Dean **Spielmann** (Luxemburger),
Sverre Erik **Jebens** (Norwegian), *Judges*,

Søren **Nielsen**, *Registrar*,
Santiago **Quesada**, *Deputy Registrar*.

III. HEARINGS

Hearings were held in the following cases:

(1) no. 13178/03 Mubilanzila Mayeka & Kaniki Mitunga v. Belgium

Following a hearing on admissibility and the merits, the case was declared admissible on 26 January 2006. Judgment was delivered on 12 October 2006.

The Belgian authorities apprehended a five-year-old child at Brussels airport who was travelling from the Democratic Republic of Congo with her uncle without the necessary travel papers. The purpose of the journey was for the child, whose father had disappeared, to rejoin her mother who had obtained refugee status in Canada. The child was detained in a transit centre for adults, and a decision was taken refusing her entry into Belgium and ordering her removal. The judge held that the child's detention was incompatible with the Convention on the Rights of the Child and ordered her immediate release. The following day the child was deported to the Democratic Republic of Congo. She was accompanied to the airport by a social worker and looked after in the airplane by an in-flight attendant. No members of her family were waiting for her when she arrived.

Article 3 – The child's detention: The child, unaccompanied by her parents, had been detained for two months in a centre intended for adults, with no counselling or educational assistance from a qualified person specially mandated for that purpose. The care provided to her had been insufficient to meet her needs. Owing to her very young age, the fact that she was an illegal alien in a foreign land and the fact that she was unaccompanied by her family, the child was in an extremely vulnerable situation. However, no specific legal framework existed governing the situation of unaccompanied alien minors. The authorities, despite being in a position to prevent or remedy the situation, had failed to take adequate measures in view of their obligation to take care of the child. Her detention demonstrated a lack of humanity and amounted to inhuman treatment.

Conclusion: – violation of the child's rights (unanimously).

Article 3 – Distress and anxiety of the mother as a result of her daughter's detention: The only action taken by the Belgian authorities had been to inform the mother that her daughter had been detained and to provide her with a telephone number where she could be reached.

Conclusion: violation of the mother's rights on account of her daughter's detention (unanimously).

Article 3 – The child's deportation: The authorities had not taken steps to ensure that the child would be properly looked after before and during the

flight or on her arrival, or had regard to the real situation she was likely to encounter on her return. Her removal amounted to inhuman treatment; in deporting her, the State had violated its positive obligation to take the requisite measures and precautions. The authorities had not troubled to advise the mother of her daughter's deportation and she had learned of it only after the event.

Conclusion: violation of both applicants' rights (unanimously).

Article 8 – Both applicants had been subjected to disproportionate interference with their right to respect for their family life as a result of the child's detention and the circumstances of her deportation.

Conclusion: violation of both applicants' rights (unanimously).

Article 5(1) – The child had been detained under a law which contained no provisions specific to minors, in a centre intended for adults and thus unsuited to her extremely vulnerable situation. Her right to liberty had not been adequately protected.

Conclusion: violation of the child's rights (unanimously).

Article 5(4) – The child had been deported without regard to the fact that she had lodged an application for release, which had been granted. The application had therefore been rendered ineffective.

Conclusion: violation of the child's rights (unanimously).

(2) no. 64772/01 Leempoel & Ciné Revue v. Belgium

Following a hearing on admissibility and the merits, the case was declared admissible on 2 March 2006. Judgment was delivered on 9 November 2006.

The case concerned the withdrawal from sale and ban on distribution of an issue of the magazine Ciné Télé Revue which had published notes prepared by an investigating judge for a hearing before a parliamentary commission of inquiry.

In October 1996 the House of Representatives set up a parliamentary commission of inquiry to examine "the handling by the police and the judiciary of the investigation in the case of Dutroux, Nihoul and Others". Ms. D., the investigating judge who had headed the judicial investigation into the abduction of two girls, gave evidence to the commission on 17 and 18 December 1996. Following the second hearing the chairman of the commission asked her to hand over the preparatory file she had brought with her. The file was made available to members of the commission of inquiry, who were nonetheless obliged to consult it on the premises and were unable to make copies.

On 30 January 1997 the weekly magazine Ciné Télé Revue published an article containing lengthy extracts from the preparatory file which the judge had handed to the parliamentary commission of inquiry. The article was advertised on the front cover of the magazine by the headline "Exclusive –

A surprising attitude: how Judge D. prepared her defence – Revelations from her file”, superimposed on a photograph of the judge. The disclosures received substantial press coverage.

Article 10 – The Court found that the applicants’ conviction constituted interference with the exercise of their right to freedom of expression, that interference being prescribed by law and pursuing one of the legitimate aims listed in Article 10 § 2, namely the protection of the reputation or rights of others.

The Belgian courts had justified the withdrawal from circulation of the offending magazine on the ground that it interfered with Judge D.’s defence rights and with her right to respect for her private life, but also on the basis that the published documents were protected by the confidentiality of the parliamentary inquiry.

The Court found that it had not been unreasonable or arbitrary to consider that Judge D.’s defence rights might be affected. It observed, in particular, that parliamentary commissions of inquiry in Belgium had far-reaching powers, and that testimony given to a commission could have repercussions for the position of the person appearing before it.

The Court found that the article in question and its distribution could not be regarded as having contributed to any debate of general interest to society, and considered that the grounds given by the Belgian courts to justify the applicants’ conviction were relevant and sufficient. Noting that the interference with the applicants’ right to freedom of expression was proportionate to the aim pursued, the Court considered that such interference could be seen as “necessary in a democratic society”.

Conclusion: no violation of Article 10 (unanimously).

(3) no. 33554/03 Lykourazos v. Greece

The case was declared admissible on 13 December 2005. A hearing on the merits was held on 16 March 2006. Judgment was delivered on 15 June 2006.

The applicant was working as a lawyer when he was elected as a member of parliament in April 2000 for a four-year term. In 2001 a revision of the Constitution made all professional activity incompatible with the duties of a member of parliament, subject to certain exceptions which were to be adopted by legislative action. In the absence of implementing legislation, the rule on disqualification entered into force on 1 January 2003, with no exceptions. A constituent lodged a complaint against the applicant’s election. The applicant argued, inter alia, that the rule on disqualification could not apply in his case since he had been elected in 2000, prior to the enactment of the revision of the Constitution, and that he had practiced his profession without receiving any fees since the revision entered into force in

2003. In July 2003 the Special Supreme Court applied the constitutional revision and disqualified the applicant from holding his parliamentary seat.

Law: Article 3 of Protocol No. 1 – The applicant had been elected in accordance with the electoral system and the Constitution in force at the material time. Neither the applicant nor his electors could have imagined that his election might be called into question and considered flawed while his term of office was still in progress on the ground that simultaneously carrying on a profession was incompatible with his duties as a member of parliament. The incompatibility had not been announced prior to the elections and his disqualification during his term of office had come as a surprise both to him and his constituents. The rights guaranteed by Article 3 of Protocol No. 1 would be merely illusory if the applicant or his constituents could be arbitrarily deprived of them at any moment. In examining the applicant's election under the new Article of the Constitution which entered into force in 2003, without taking into account the fact that he had been elected in 2000 in accordance with the law, the domestic court had caused the applicant to forfeit his seat and had deprived his constituents of the candidate they had chosen freely and democratically to represent them for four years, in breach of the principle of legitimate expectation. The Government had not advanced any grounds of pressing importance to the democratic order that could have justified the immediate application of the absolute disqualification.

Conclusion: violation (unanimously).

(4) nos. 59519/00 & 8932/05 Staroszczyk & Sialkowska v. Poland

The cases concern an allegedly unfair denial of a fair hearing in civil proceedings owing to refusals, by legal aid lawyers assigned to represent the applicants for the purposes of representing them in cassation proceedings before the Supreme Court, to prepare such appeals. Under Polish law legal representation for the purposes of cassation proceedings is mandatory.

– Article 6 of the Convention

Following a hearing on admissibility and the merits, the case was declared admissible on 15 June 2006. Judgment will be delivered at a later date.

(5) no. 510/04 Tønsbergs Blad AS & Haukom v. Norway

The case concerns a complaint by a newspaper and its editor-in-chief on account of national judgments declaring certain statements published by the paper as being null and void on defamation grounds and having to pay compensation for non-pecuniary damage to an industrial leader who had been portrayed in the article as breaching residence requirements applying

to owners of certain homes in an attractive seaside holiday area. Article 10 of the Convention.

A hearing on admissibility and the merits of the case was held on 5 October 2006. Judgment will be delivered at a later date.

(6) no. 29787/03, 29810/01 Riad & Idiab v. Belgium

The applicants are Palestinians who entered Belgium in 2002 and asked for political asylum. Placed in a closed center, they obtained a judicial decision which ordered their release. Then they were transferred to the transit zone of the Brussels airport with a view to their expulsion. They obtained a judicial decision ordering the State to allow them to leave the transit zone. Establishing that these persons had no documents allowing the entry into the country, the frontier police obtained their transfer to a closed center for illegals where they stayed until they were expelled in March 2003.

– Articles 3, 5 and 8 of the Convention

The case was declared admissible on 21 September 2006. A hearing on the merits was held on 30 November 2006. Judgment will be delivered at a later date.

IV. CASES RELINQUISHED TO THE GRAND CHAMBER

The Section decided to relinquish to the Grand Chamber the following cases:

(1) no. 15472/02 Folgerø & others v. Norway

The case concerns complaints on account of refusals by the domestic authorities to grant children of non-Christian parents full exemption from a compulsory subject in religion taught at the 10 years' obligatory school in Norway (Articles 8, 9, 14 and 2 of Protocol 1). The case is at present pending before the Grand Chamber.

(2) no. 21906/04 Kafkaris v. Cyprus

The case concerns a prisoner serving a mandatory life sentence pursuant to his conviction for three counts of premeditated murder (Articles 3, 5, 7 and 14). The case is at present pending before the Grand Chamber.

(3) no. 21279/02 & 36448/02 Lindon & July v. France

The first application concerns the conviction for defamation of a writer and his editor following the publication of a novel called « the case of Jean-

Marie Le Pen » (Article 10). The second application concerns the conviction of the applicant, the publication director of the newspaper *Libération*, for defamation owing to the publication of a petition signed by contemporary authors siding with the writer and his editor (Articles 6 and 10). The cases are at present pending before the Grand Chamber.

V. OTHER CASES OF INTEREST

Of the judgments delivered and decisions adopted by the Section this year, the most interesting included the following:

(1) no. 77617/01 Mikheyev v. Russia

Facts: The applicant, a road traffic officer in the police force, and his friend F. were arrested and questioned on 10 September 1998 in relation to the disappearance of M.S., a teenage girl, whom they had given a lift in the applicant's car two days earlier. The girl was subsequently reported missing. F. testified to the police that he had seen the applicant rape and kill M.S. On 19 September 1998 the applicant was questioned at Leninskiy police station in the presence of several police officers and prosecution officials, including the deputy regional prosecutor. The applicant alleged that he was tortured to make him corroborate F.'s confession and that police officers administered electric shocks to his ears through metal clips connected by a wire to a box. He was also threatened that he would be severely beaten and that an electric current would be applied to his genitals. He complained to the deputy regional prosecutor about the ill-treatment, who allegedly took no action. Then, unable to withstand the torture, the applicant submitted that he broke free and jumped out of the window of the second floor of the police station to commit suicide. He fell on a motorbike and broke his spine. He was taken to hospital, where his mother asked a number of doctors to make a note of the burns on her son's ears in his medical records. Her request was refused. The same day, M.S. returned home unharmed, explaining that she had gone to stay with friends without telling her parents. The criminal case concerning her alleged abduction, rape and murder was consequently closed. In September 1998 a criminal investigation was opened into the applicant's fall from the police station window. The criminal proceedings were discontinued in December 1998, however, for lack of evidence. The case was subsequently reopened and closed several times. In 2005 two policemen who had participated in the questioning of the applicant on 19 September 1998 were charged. On 30 November 2005 the police officers were found guilty under the Criminal Code of abuse of official power associated with the use of violence or entailing serious consequences. The

applicant's dismissal from the police force was later annulled and he was reinstated in his post.

Law: Applicant's victim status: Despite the conviction of the police officers who had ill treated the applicant and, even though the first-instance court had recognised the fact of ill-treatment, the applicant had not been afforded any redress in this respect. Moreover, the judgment only dealt with the ill-treatment itself and did not examine the alleged flaws of the investigation, which was one of the main concerns of the applicant. Hence, the applicant's status as a victim was not affected by this judgment.

Article 3 (*concerning the effectiveness of the investigation*) - In order to be able to assess the merits of the applicant's complaints and in view of the nature of the allegations, the Court asked the Russian Government to submit copies of the criminal investigation files. The Government refused to do so, without explaining how the disclosure of the materials sought might be prejudicial for the interests of the investigation or the individuals involved. Neither did they advance any other plausible explanation for their failure to produce relevant documents and information, which were clearly in their possession. The Court therefore considered that it could draw inferences from the Government's conduct and examine the merits of the case on the basis of the applicant's arguments and existing elements in the file and the evidence given at the hearing of the District Court on 30 November 2005. In the absence of the investigation file, it was impossible for the Court to assess the quality of the investigative measures performed. However, a number of shortcomings in the investigation were noted. Moreover, it had taken seven years for the case to reach trial stage. The pre-trial investigation was closed and then re-opened more than 15 times and it was clear that during certain periods the investigative process was no more than a formality with a predictable outcome. In the light of the established shortcomings, the investigation had not been adequate or sufficiently effective, and the Government's objection on non-exhaustion of domestic remedies was thus dismissed.

Conclusion: violation (unanimously).

Article 3 (*concerning the alleged ill-treatment*) - It was not disputed that the applicant had sustained injuries by jumping out of the window of the police station. However, the parties disagreed on what had driven the applicant to attempt suicide. In view of the circumstances, the Court was prepared to accept that, while in custody, the applicant was seriously ill-treated by agents of the State, with the aim of extracting a confession or information about the offences of which he was suspected. The ill-treatment inflicted on him caused such severe physical and mental suffering that he attempted suicide, resulting in a general and permanent physical disability. The severity of the ill-treatment had amounted to torture.

Conclusion: violation (unanimously).

Article 13 - The applicant had been denied a sufficiently effective investigation in respect of the ill-treatment by the police and thereby access to any other available remedies at his disposal, including a claim for compensation.

Conclusion: violation.

Articles 34 and 38 - Concerning the non-disclosure of the materials of the investigation by the respondent Government, in view of the Court's findings under Articles 3 and 13, it was not necessary to examine these complaints separately.

(2) no. 18584/04 Hingitaq 53 v. Denmark

Facts: The applicants are over 400 individuals from the Thule District in Greenland, and Hingitaq 53, a group that represented the interests of relocated Inughuit (the Thule Tribe) and their descendants in a legal action against the Danish Government. The Thule District was incorporated into the Danish colonial area in Greenland in 1921. After World War II Denmark and the USA signed a treaty on the defence of Greenland, which was approved by the Danish Parliament in 1951. Consequently, an American air base was established amidst the applicants' hunting areas and in the vicinity of the applicants' native village site, Uummannaq (then called Thule). As part of the base an airstrip was built, together with housing and facilities intended to accommodate 4,000 people. In 1953 the US Government requested permission to expand the base to cover the whole Dundas Peninsula. The request was granted, with the consequence that the Thule Tribe was evicted and had to settle outside the defence area.

In 1996 the applicants brought a case against the Prime Minister's Office before a High Court, seeking declarations that they had the right to live in and use their native settlement in Uummannaq/Dundas in the Thule District and that they had the right to move, stay and hunt in the entire Thule District; and seeking compensation both for the Thule Tribe and individual members of the tribe. In 1999 the High Court, having found that the applicants' claims had not become time-barred, dismissed the claims in so far as a declaratory judgment had been sought, but granted compensation to the tribe and individual members.

The High Court awarded the tribe DKK 500,000 (equivalent to approximately EUR 66,000) in compensation for its eviction and loss of hunting rights in the Thule District. In addition, applicants who at the relevant time had been at least 18 years of age were granted some EUR 3,000 in compensation. Those who had been between 4 and 18 years old were granted approximately EUR 2,000 in compensation for non-pecuniary damage. In 2003 the Supreme Court unanimously upheld the High Court's judgment.

Law - Article 1 of Protocol No. 1 and Article 8 of the Convention (*interferences occurring in the 1950s*): The applicants had maintained that they had, on a continuing basis, been deprived of their homeland and hunting territories and denied the opportunity to use, peacefully enjoy, develop and control their land. The Court considered however that the interferences in the present case had consisted, firstly, in the substantial restriction of Inughuit access to hunting and fishing as a result of the establishment of the Thule Air Base in 1951 and, secondly, in the relocation of the population from their settlement in Uummannaq in May 1953. Deprivation of ownership or of another right *in rem* is in principle an instantaneous act and does not produce a continuing situation. Moreover, the Convention only governs, for each Contracting Party, facts subsequent to its entry into force with respect to that Party. As regards Denmark, the Convention entered into force in September 1953 and Protocol No. 1 in May 1954. Accordingly, the Court had no jurisdiction: incompatible *ratione temporis*.

Article 1 of Protocol No. 1 (*outcome of court proceedings 1996-2003*): In their judgments of 1999 and 2003 the Danish courts had found that both the substantial restriction of access to hunting and fishing as a result of the establishment of the Thule Air Base in 1951 and the intervention in the Uummannaq settlement and the Thule colony in connection with the decision in 1953 to move the population had to be considered acts of expropriation carried out in the public interest, which at the relevant time had been legal and valid. That had not been an arbitrary interpretation of the High Court and the Supreme Court and it was primarily for the national authorities, notably the courts, to interpret and apply domestic law.

Both the High Court and the Supreme Court had found that the applicants' claims for compensation had not become time-barred and that owing to the Danish authorities' failure in the past to examine and specify the loss suffered, the burden of proof for the loss incurred had to be eased. The courts had taken into account, on the one hand, the fact that the relocation of the population of Uummannaq had been decided and carried out in such a way and under such circumstances that it had constituted a serious interference and unlawful conduct towards them. On the other hand, in 1953 substitute housing and various other facilities had been built for the families. Eventually the Thule Tribe had been granted DKK 500,000 in compensation for its eviction and loss of hunting rights and individual applicants had been granted compensation for non-pecuniary damage. Furthermore, some time after 1985 new houses had been built in Qaanaaq instead of the original houses from the 1950s; in 1986 the US and Denmark had entered into an agreement reducing the area of the base to almost half its original size; and in 1997 the Danish Government had agreed to donate DKK 47,000,000 toward the cost of a new airport in Thule. Against this background, the Court found that the national authorities had struck a fair

balance between the proprietary interests of the persons concerned: *manifestly ill-founded*.

(3) no. 46317/99 Obnyanova & Choban v. Bulgaria

Facts: The applicants, of Roma ethnic origin, are the late Mr. Stefanov's common-law spouse and his mother. In 1993 Mr Stefanov was arrested on suspicion of having taken part in numerous thefts and burglaries. The next day, while he was being questioned he fell from a third-floor window of the police station where he was being detained. He was taken to hospital but died the following day. The only three eyewitnesses to the event were lieutenant I.C., in whose office Mr. Stefanov had been questioned, a chief sergeant as well as a further suspect. According to their statements, Mr. Stefanov, who had been handcuffed at the time, had jumped out of the window in an effort to escape. Numerous injuries were found on his Mr. Stefanov's body during his autopsy. The ensuing investigation concluded that he had voluntarily jumped out of the window and that all his injuries had been the result of his fall. The applicants contested these conclusions.

Article 2 – Mr. Stefanov's death: It was unclear whether Mr. Stefanov had jumped from the window of his own accord, whether he had been deliberately pushed, or forced into a situation where he had had no other option but to jump. It was highly improbable however that he had tried to escape, given that the window had been over 9 metres above ground level, that the ground had been covered with concrete and iron grills, and that he had been handcuffed at the time. Furthermore, there was no reason to believe that he would have committed an unprovoked suicide, or that he had been drunk. The Court noted inconsistencies in the authorities' version of the events and questioned their conclusion that all the injuries Mr. Stefanov had sustained had been caused exclusively by his fall, without the authorities having explored other hypotheses as to their possible source. In these circumstances the Government had not fully accounted for Mr. Stefanov's death and injuries during his detention.

Conclusion: violation (unanimously).

Article 2 – Alleged inadequacy of the investigation: The Court expressed reservations about the credibility of the witness statements and also noted serious omissions in the investigation. The investigation has suffered from lengthy periods of inactivity. In sum, it had lacked the requisite objectivity and thoroughness, a fact which had undermined its ability to establish the cause of Mr. Stefanov's death and injuries. It followed that the authorities had failed to conduct an effective investigation into his death.

Conclusion: violation (unanimously).

Article 3 – The Court found it unlikely that all of Mr. Stefanov's injuries, spread about his trunk, limbs and head, could have been solely the product of a fall. Furthermore, they had not been properly accounted for in the

expert medical reports. In sum, the Government had not provided a plausible explanation for Mr Stefanov's injuries which had been indicative of inhuman treatment.

Conclusion: violation (unanimously).

Article 5(1) – Since the domestic investigation had not established the facts relating to Mr. Stefanov's detention and had not gathered any documents in this respect, it was not clear on the basis of which provisions of domestic law, if any, he had been taken into custody. In such circumstances, his deprivation of liberty had been unlawful.

Conclusion: violation (unanimously).

Article 13 – Since there had been no effective criminal investigation, the applicants had been denied any effective remedy that might have led to the identification and punishment of those responsible for Mr. Stefanov's ill-treatment and death, and consequently any award of compensation that might have existed.

Conclusion: violation (unanimously).

Article 14 – The materials in the case file contained no concrete indication that racist attitudes had played a role in the events at issue. Nor had the applicants pointed to any such facts.

Conclusion: no violation of Article 14 (unanimously).

(4) no. 59261/00 Menesheva v. Russia

Facts: The applicant, a young woman 19 years old, claimed that the police tried to search her apartment on the night of 12 February 1999 in relation to an investigation of a murder case in which a suspect was thought to be her boyfriend. She refused to let the police enter as they had no warrant. The applicant claimed she was intimidated, physically ill-treated by the police officers and taken to a police station without being informed of the reasons of her arrest. She alleges that at the police station she was questioned about "her husband", and when she responded she had never been married, that she was beaten up and threatened during two hours. The applicant was kept in a detention cell overnight. On 14 February 1999 she was brought before an officer who, without introducing himself told her "five days" – she subsequently learnt that he had imposed on her a five days' sentence for the administrative offence of forceful resistance to the police. She was held in detention until 18 February 1999. The following day the applicant underwent a forensic examination which established she had multiples bruises, abrasions and a traumatic oedema. The applicant requested an investigation into her allegations of ill-treatment and unlawful detention, and claimed damages with the Town Court. An internal enquiry carried out by the Internal Affairs Department concluded that her allegations were unsubstantiated. The public prosecutor decided not to open criminal investigations in respect of the accused police officers. The Town Court

found that the police had acted lawfully; moreover, it dismissed the forensic report as irrelevant and held that the allegations of ill-treatment were unsubstantiated. The applicant also challenged her five day's administrative detention, but the Regional Court found that it had been lawful. In 2003, a criminal investigation into the circumstances of the applicant's arrest and her allegations of ill-treatment was opened. The Regional Court, on request of the prosecutor, found that the applicant's resistance to the police had not constituted an administrative offence and quashed the decision of 14 February 1999 in which the applicant had been convicted thereof. The investigation, which has not established the circumstances of the events, is still pending according to the Government.

Law: Article 3 (ill-treatment by the police) – Having regard to the applicant's detailed allegations, corroborated by the forensic report, and in view of the absence of any other plausible explanation as to the origin of the injuries found on the applicant upon her release from custody, the Court accepted that she had been ill-treated by the police. The existence of physical pain or suffering was attested by the medical expert and the applicant's statements. Moreover, the sequence of events demonstrated that the pain and suffering had been inflicted on her intentionally, with a view to extracting from her information concerning the murder allegedly committed by the person who was supposedly her boyfriend. At the material time the applicant was only 19 years old and, being a female confronted with several male policemen, was particularly vulnerable. The Court concluded that as a whole and having regard to its purpose and severity, the ill-treatment had amounted to torture within the meaning of Article 3.

Conclusion: violation (unanimously).

Article 3 (effectiveness of the investigation) – The applicant's requests for an investigation were filed within one month of the incident and contained a detailed account of events. However, no investigation followed. The enquiry by the Internal Department, although it resulted in some disciplinary charges, did not disclose the names of those charged or the grounds for their punishment. Hence, it could not qualify as an effective investigation. The investigation was only opened four years after the events complained of (following the proceedings before the Court), and was not satisfactory: it failed to establish the material circumstances and to address the questions put before it. In 2004, the Prosecutor General gave orders for the investigation to be resumed, but since then there has been no follow-up, and the shortfalls of the investigation have not been remedied.

Conclusion: violation (unanimously).

Article 5(1) – It was not disputed that the applicant's arrest, her overnight detention at the police station and the subsequent five days' administrative detention had amounted to deprivation of liberty. As regards the arrest and overnight detention, no records or documents concerning the date, time, name of the detainee or reasons for the detention could be found. This was a

serious failing incompatible with the requirement of lawfulness and with the very purpose of Article 5. Concerning the five days' detention on the charge of forceful resistance to the police, this decision was subsequently declared unlawful and quashed by the domestic courts. The judge who had taken the decision had exercised his authority in manifest opposition to the procedural guarantees provided for by the Convention.

Conclusion: violation (unanimously).

Article 6(1) – The administrative proceedings against the applicant could be considered to have involved the determination of a criminal charge against the applicant given that she had been deprived of her liberty for five days and locked up in the detention centre during the term of her sentence. Moreover, the purpose of the sanction imposed on the applicant was purely punitive. The Government accepted that the proceedings at issue had been defective both under domestic law and the Convention. The ruling quashing the above judgment corroborated that there had been no adversarial proceedings and that even the appearances of a trial had been neglected to the extent that the applicant did not get a chance to find out the purpose of her brief appearance before the judge.

Conclusion: violation (unanimously).

Article 13 – No effective criminal investigation could be considered to have been carried out. Consequently, any other remedy available to the applicant, including the claim for damages, had little chances of success. Indeed, as regards the applicant's action for damages, the court simply endorsed the prosecutor's opinion that the claim was unmeritorious without assessing the facts. Hence, such an action was only a theoretical and illusory remedy, not capable of affording redress to the applicant.

Conclusion: violation (unanimously).

(5) no. 43797/98 Malisiewicz-Gasior v. Poland

Facts: In 1992 Mr. Kern, then Deputy Speaker of the Sejm (Poland's Lower House of Parliament) lodged a complaint against the applicant with the Łódź regional public prosecutor, alleging that she had kidnapped his 17-year-old daughter M.K. According to the applicant, however, M.K. had run away from home accompanied by her long-term boyfriend (the applicant's son). The prosecutor instructed his deputy to take charge of the case and the latter authorised and unsuccessfully searched the applicant's flat for M.K. and drugs. The applicant's telephone was also tapped and she was briefly taken into custody on charges of kidnapping and was detained on the psychiatric ward of a prison hospital. The allegations of kidnapping received extensive media coverage in Poland. The applicant applied successfully for her case to be transferred to a prosecutor who worked outside the Łódź region. In September 1992 the new prosecutor

discontinued the criminal proceedings, finding the allegations of kidnapping to be groundless.

In 1993 the applicant decided to stand as an independent candidate in the parliamentary elections. During her campaign, she wrote two articles in a weekly, accusing Mr Kern of “abuse of power”, of having orchestrated her arrest and detention in a psychiatric cell, having had her phone tapped and her flat searched. She also described her ideas about working in the Senate (Poland’s Upper House of Parliament). Her statements were subsequently broadcast on local radio and television stations. Mr Kern then lodged a private prosecution, charging the applicant with defamation. In 1996 she was convicted, the national courts finding her comments about Mr Kern to have been both defamatory and untrue and considering that she had been acting in her own rather than the public interest.

Law: The Court observed that the applicant’s comments about Mr Kern had been made in articles published during her electoral campaign as a parliamentary candidate, in which she had also set out her political convictions and her ideas about working in the Senate. In addition, her comments had been based on personal experience, namely Mr Kern’s request for criminal proceedings to be brought against her and the events which followed.

The Court did not subscribe to the domestic courts’ view that the applicant had been acting in her own interest; the matters covered by her in her articles had concerned issues of public interest. The right to stand as a candidate in an election was of prime importance in the Convention system. The domestic courts had failed to take into account the fact that Mr Kern, being a politician, should have shown a greater degree of tolerance towards criticism. Accordingly, the domestic authorities failed to take into consideration the crucial importance of free political debate in a democratic society, particularly in the context of free elections. The defamation of a politician in the context of a heated political debate did not justify the imposition of a prison sentence. The conviction of the applicant for making, during her parliamentary campaign, press and radio statements alleging abuse of power by one of the most powerful politicians in the country must have had “a chilling effect” on the freedom of expression in public debate in general. In sum, there had been no reasonable relationship of proportionality between the measures applied by the domestic courts and the legitimate aim pursued and the authorities had failed to strike a fair balance between the relevant interests.

Conclusion: violation of Article 10 (unanimously).

(6) no. 75470/01 Sukhobokov v. Russia

Facts: The applicant brought proceedings against his local labour and social development authority, arguing that his pension should be increased.

A judgment was rendered in his favour which became final in December 1999. The judgment was not enforced due to lack of funds from the State budget. The judgment was finally quashed in September 2000 on account of the discovery of a new circumstance, namely a ministerial instruction which was issued after the judgment had entered into force and which interpreted the Pensions Law in a way different to that in the judgment.

Law: The Court reiterated that it was not open to a State authority to cite lack of funds as an excuse for not honouring a judgment debt. It was conceivable that statutory pensions regulations were liable to change and a judicial decision could not be relied on as a guarantee against such changes in the future. However, the enforcement of a final judgment awarding a pension in respect of a period preceding the judgment should be guaranteed. The Court's task in the present case was not to assess whether the quashing of the judgment as such was compatible with the Convention, but rather whether the quashing was capable of justifying the failure to enforce the judgment. Referring to its findings in a similar case (*Pravednaya v. Russia*, no. 69529/01, 18 November 2004), the Court concluded that the quashing of the judgment, which did not respect the principle of legal certainty and the applicant's "right to a court", could not be accepted as a reason to justify the non-enforcement of the judgment.

Conclusion: violation (unanimously).

(7) no. 73225/01 Fedotova v. Russia

Facts: The town court, composed of a presiding judge and two lay judges, dismissed the applicant's claims in a civil suit to which she was a party and ordered her to bear costs and expenses. The applicant appealed alleging, among other things, a breach of the requirements of the Lay Judges Act in that the sitting lay judges had not been drawn by lot and had exceeded their two weeks' service per year. The regional court dismissed the appeal, concluding that the lay judges at issue were exempted from the requirements of the Federal Lay Judges Act.

On 1 April 2004 the European Court declared Ms Fedotova's application partly admissible and she submitted her claim for just satisfaction. Shortly afterwards, an officer of the town police department questioned the applicant's representative and translator in the Court proceedings about their relationship with the applicant and formally requested them to submit evidence that they had paid taxes on the amounts disbursed by the latter.

Law: Article 6(1) – The Court noted that the parties disagreed as to whether at the relevant time the status of lay judges in question had been governed by the USSR Judiciary Act of 1981 or by the more recent Federal Lay Judges Act. The Court observed that in either case essential requirements of the procedure for selection of lay judges had not been

respected. The Court therefore concluded that the town court could not be considered as a “tribunal established by law”.

Conclusion: violation (unanimously).

Article 34 – The Court recalled that it was of the utmost importance for the effective operation of the system of individual petition instituted by Article 34 that applicants should be able to communicate freely with the Convention organs without being subjected to any form of pressure from the authorities to withdraw or modify their complaints. In the instant case it was not in dispute that the local police had summoned the applicant’s legal representative and translator for a formal interview in connection with the applicant’s claims for just satisfaction. The Government had furnished no explanation as to how the regional police had obtained the documents submitted in the framework of the Convention proceedings. There was no doubt, however, that the inquiry had been launched at the request of the Government’s representative before the Court because the Government had relied on the findings of the police inquiry in their comments on the applicant’s claim for just satisfaction.

To proceed as the Government had done in the case could very well have been interpreted by the applicant as an attempt to intimidate her. The fact that the summons had been served on the applicant’s legal representative and translator made no difference. The moves made by the Russian Government to investigate the applicant’s disbursements to her representatives, even though apparently not resulting in any criminal prosecution, had to be considered an interference with the exercise of the applicant’s right of individual petition and incompatible with the respondent State’s obligation under Article 34 of the Convention.

Conclusion: violation (unanimously).

(8) no. 55339/00 Rózański v. Poland

Facts: The applicant began living with his partner in 1990 and in 1992 they had a baby boy. In 1994 the applicant’s partner left home and left her son with the applicant. Shortly afterwards the child fell ill and was admitted to hospital. The boy’s mother then removed her son from the hospital and went into hiding with him for several months. The applicant had no more contact with the child but sought in vain to have his paternity recognised in law. In 1996 J.M., the mother’s new partner, recognised paternity of the boy and was acknowledged as his legal father.

Law: The applicant’s link with the child had a sufficient basis in fact to bring the alleged relationship within the scope of family life within the meaning of Article 8(1). Where the existence of a family tie with a child had been established, the State had to act in a manner calculated to enable that tie to be developed and legal safeguards to be created that rendered possible, as from the moment of birth, the child’s integration into his or her family. A

crucial aspect of the case was the lack of any directly accessible procedure by which the applicant could claim to have his legal paternity established – the launching of those procedures being completely at the discretion of the authorities. The Court moreover noted the absence, in domestic law, of any guidance as to the exercise of the authorities' discretionary powers for the purpose of deciding whether to challenge legal paternity established by way of a declaration made by another man. Thirdly, the Court considered the perfunctory manner in which the authorities had exercised their powers when dealing with the applicant's requests to challenge that paternity. The authorities had simply reiterated in their decisions that the mere fact that the child had been legally recognised by another man was sufficient to turn down the applicant's requests to have his biological paternity recognised. In those circumstances, the State had failed to secure to the applicant the right to respect for his family life.

Conclusion: violation (five votes to two).

(9) no. 26853/04 Popov v. Russia

Facts: In the context of a murder enquiry the applicant took part in an identification parade where he was identified by two of four schoolboys who had not been eyewitnesses to the murder. In May 2002 he was charged with murder and transferred the next day to remand prison SIZO 77/1 in Moscow. In June 2002 his lawyer filed a complaint with the prosecutor concerning the conduct of the investigation. He alleged, among other things, that the identification parade had been in breach of procedural requirements and that no steps had been taken to verify the applicant's alibi. The prosecutor's allowed the applicant's representative's motion to have examined as witnesses Mrs R. the applicant's neighbour, and Mr Kh., a carpenter working at his flat. Their testimonies, however, were never heard. In 2003 the applicant was convicted of murder and sentenced to ten years' imprisonment. Apart from the conflicting account given by the schoolboys, the court relied on other evidence such as the victim's post-mortem reports, crime scene and various other reports without, however, explaining how those items had proved the applicant's guilt.

Article 6 – In refusing to examine two defence witnesses the trial court had not considered whether their statements could have been important for the examination of the case. However, from the fact that the defence's previous motions to have them examined had been formally granted a number of times both during the preliminary investigation and the court proceedings, it followed that the domestic authorities had agreed that their statements could have been relevant. Taking into account that the applicant's conviction had been founded upon conflicting evidence against him, the domestic courts' refusal to examine the defence witnesses without any regard to the relevance of their statements had limited the defence rights

in a manner incompatible with the guarantees of a fair trial enshrined in Article 6.

Conclusion: violation of Article 6(3)(d) in conjunction with Article 6(1) (unanimously).

Article 34 – The applicant had been contacted a number of times by State officials with regard to his complaints concerning various aspects of the conditions of his detention and his allegations of having received threats from the officials of the prison administration. The Court found it unacceptable that the applicant had been contacted by officials of the very same prison administration and that such contacts, moreover, had occurred repeatedly. Such contacts had constituted illicit pressure amounting to undue interference with the applicant’s right of individual petition.

Conclusion: failure by the Government to comply with its obligations under Article 34 not to hinder the effective exercise of the right of individual petition (unanimously).

(10) no. 69481/01 Bazorkina v. Russia

Facts: The applicant, a Russian national in Ingushetia, complained on her own behalf and on behalf of her son, Mr Yandiyev. In 1999 her son had gone to Grozny, Chechnya, and she had not heard from him since. In February 2000, she had seen him being interrogated by a Russian officer in a television news programme about the capturing of the village of Alkhan-Kala. She later obtained a full copy of the recording, made by a reporter for NTV (Russian Independent TV) and CNN. At the end of the questioning the officer in charge gave instructions for the soldiers to “finish off” and “shoot” the applicant’s son.

Article 2 – *The presumed death of Mr Yandiyev:* The Court recalled that detained persons were in a vulnerable position and that the authorities were under a duty to protect them. The obligation on the authorities to account for the treatment of a detained individual was particularly stringent where that individual died or disappeared after being taken into police custody. It was undisputed that Mr Yandiyev had been detained during a counter-terrorist operation in the village of Alkhan-Kala on 2 February 2000. The Court took into account the videotape and numerous witness statements contained in the criminal investigation file confirming that he had been interrogated by a senior military officer who, at the end of the interrogation, said that he should be executed. The Court finally noted that there had been no reliable news of the applicant’s son since that date. In the absence of any plausible explanation by the Government, and taking into account that no information had come to light concerning his whereabouts for more than six years, Mr Yandiyev had to be presumed dead following his unacknowledged detention. As there had been no attempt to justify the use of lethal force in the instant case, liability was attributable to the Russian Government.

Conclusion: violation (unanimously).

The inadequacy of the investigation: The Court noted that the investigation had been opened a year and five months after the events at issue and had been plagued by inexplicable delays. Furthermore, it appeared to the Court that most of the actions necessary for solving the crime had occurred only after December 2003, when the applicant's complaint had been communicated to the Russian Government. Those delays alone had compromised the effectiveness of the investigation and could not but have had a negative impact on the prospects of arriving at the truth. The Court also noted a number of serious omissions including, in particular, the failure to identify or question some of the servicemen in charge of the detainees. Many of the omissions had been evident to the prosecutors, who had ordered certain steps to be taken. However, their instructions had either not been followed or had been followed with an unacceptable delay. In the light of those circumstances, the authorities had failed to carry out an effective criminal investigation into the circumstances surrounding the disappearance and presumed death of Mr Yandiyev.

Conclusion: violation (unanimously).

Article 3 – Concerning the applicant's complaint regarding the suffering inflicted upon her in relation to her son's disappearance, the Court noted that the applicant was Mr Yandiyev's mother, and had seen her son, on video, being questioned and led off by soldiers following remarks inferring that he would be executed. Furthermore, despite her requests, the applicant had never received any plausible explanation or information as to what became of her son following his detention. Those facts had caused her to suffer distress and anguish and the manner in which her complaints had been dealt with by the authorities could be construed as amounting to inhuman treatment.

Conclusion: violation (unanimously).

Article 5 – Although it had been established that the applicant's son had been detained on 2 February 2000 by the federal authorities, his detention had not been logged in the relevant custody records and there existed no official trace of his subsequent whereabouts or fate. That fact in itself was incompatible with the very purpose of Article 5 and enabled those responsible for an act of deprivation of liberty to conceal their involvement in a crime, to cover their tracks and to escape accountability for the fate of a detainee. Furthermore, the authorities should have been alert to the need to investigate more thoroughly and promptly the applicant's complaints that her son was detained by the security forces and taken away in life-threatening circumstances. Instead they had failed to take prompt and effective measures to safeguard Mr Yandiyev against the risk of disappearance. Moreover, as late as in December 2000 the authorities had continued to deny the involvement of federal servicemen in Mr Yandiyev's

apprehension. Accordingly, Mr Yandiyev had been held in unacknowledged detention in the complete absence of the safeguards contained in Article 5.

Conclusion: violation (unanimously).

Article 13 – In view of its findings with regard to Articles 2 and 3, the Court found that the applicant should have been able to avail herself of effective and practical remedies capable of leading to the identification and punishment of those responsible and to an award of compensation. However, as the criminal investigation had been ineffective the State had failed in its obligation under Article 13.

Conclusion: violation of Article 13 in connection with Articles 2 and 3 (unanimously).

(11) no. 32927/03 Kaja v. Greece

Facts: In February 2002 the applicant, an Albanian national, was sentenced to four years' imprisonment for drug offences. He appealed against the decision and was released. In January 2003 the Salonika Court of Appeal sentenced the applicant to three years' imprisonment in connection with a separate drug-trafficking offence, and ordered that he be deported as soon as he had served his sentence. The applicant was detained in prison. In July 2003 the Criminal Court, noting that the applicant was eligible for release having served more than half his sentence, ordered his release on condition that he left the country. The applicant was released the same day and was immediately placed in detention in a police detention centre with a view to his deportation. Notwithstanding his appeals and at least one suicide attempt (two according to the applicant), he was held in the police detention centre until October 2003, when he was transferred to prison. There was disagreement between the parties as to the conditions of the applicant's detention in the Larissa police detention centre. The applicant maintained that the detention centre was overcrowded, located in the basement and had no windows, and therefore no natural light or ventilation. He alleged that the premises were dirty and had no beds or sanitary facilities; the detainees slept on the floor, sometimes next to their excrement, and there was nowhere for them to take exercise. In addition, detainees were not fed but were obliged to purchase food from the canteen. The Greek Government denied the allegations. In January 2004 the Court of Appeal determined the aggregate length of the applicant's sentences. In February 2004 the Indictment Division of the Criminal Court ordered that he be released, on condition that he left Greece and did not return within three years. The applicant was released the same day and was deported the following day.

Law: Having regard to the observations made by its delegation following its fact finding visit to the police detention centre in the spring of 2006, the Court observed that several of the applicant's allegations had not been borne

out. It considered that the conditions in the centre were acceptable, while noting that it appeared to have been freshly painted and meticulously cleaned in connection with the visit. Nevertheless, the Court considered that the detention centre was not suitable for periods of detention as long as that of the applicant. By its very nature, it was designed to house defendants for short periods, not for a period of three months. The centre possessed certain features liable to produce feelings of isolation among detainees, with no outdoor exercise space, no in-house catering facilities and no radio or television to provide contact with the outside world. While the centre provided conditions which were acceptable for a short period of detention, it was not suited to the requirements of extended periods of imprisonment.

Conclusion: violation of Article 3 (unanimously).

(12) no. 14139/03 Bolat v. Russia

Facts: Between 1998 and 2003 the applicant, a Turkish national, lived in Russia on the basis of a long-term residence permit due to expire on 4 August 2003. In 2002 the police imposed a fine on him for residing at his friend's flat without having registered that address as his place of residence. In May 2003 the Passports and Visas Department annulled the applicant's residence permit on the ground that he had repeatedly violated residence regulations. He was ordered to leave Russia within 15 days but a town court stayed the execution of that order pending the Supreme Court's decision on his request for supervisory review.

On 7 August 2003 several officers of the Ministry of the Interior and the Federal Security Service, some of them masked, entered the applicant's flat, handcuffed him and placed him on a flight to Istanbul. The officers did not identify themselves or produce a search or deportation warrant. In October 2003 the Supreme Court of Kabardino-Balkaria set aside the police decision of 2002 as well as the town court's judgment of 2003 and discontinued the proceedings against the applicant. It noted in particular that the town court had required proof that the applicant had only been a guest at his friend's flat, such a requirement running contrary to the presumption of innocence. Moreover, the administrative charge against the applicant had been examined by a police officer with no territorial jurisdiction over the area in which the applicant's friend had been living. That fact alone had rendered the sanction unlawful. The town court subsequently ordered that the applicant's residence permit be extended for five years.

Law: Article 2 of Protocol No. 4 – There had been an interference with the applicant's right to liberty of movement in that he had been obliged, under threat of administrative sanctions, to register any change of address with the police within three days. The Supreme Court, using an extraordinary remedy, had set aside the police decision of 2002 and the subsequent judicial decisions on the grounds that the matter had been

examined by a police officer acting in excess of his powers and as the courts had shifted the burden of proof onto the applicant in breach of the principle of the presumption of innocence. The impugned measure had not therefore been in accordance with the law.

Conclusion: violation (unanimously).

Article 1 of Protocol No. 7 – Although Russian law required a judicial decision for expulsion of a foreign national, no such order had been issued for the applicant's expulsion. Indeed, he had been expelled at the time when his complaint about the annulment of his residence permit had remained under review and a stay of enforcement of his expulsion had remained in effect. It followed that the decision to expel him had not been taken in accordance with law.

Conclusion: violation (unanimously).

(13) no. 60272/00 Estamirov & others v. Russia

Facts: The seven applicants are Russian nationals and are all related. Until 1999 they were residents of Grozny, Chechnya. They claimed that in February 2000 five members of their family had been killed by agents of the Russian State and that no effective investigation into their deaths had been carried out.

Law: Article 2 – *Alleged inadequacy of the investigation:* The investigation had been plagued by inexplicable delays, although it was crucial in cases of deaths in contentious situations for the investigation to be prompt. Those unexplained delays not only demonstrated the authorities' failure to act on their own initiative but also constituted a breach of the obligation to exercise exemplary diligence and promptness. Moreover, a number of crucial steps had never been taken: none of the applicants, apart from one, had been questioned; they had not been granted victim status in the proceedings and had not been informed about the progress of the investigation; the investigation had not ensured sufficient public accountability and had not safeguarded the interests of the next-of-kin; the investigation had been adjourned and resumed a number of times and the supervising prosecutors repeatedly had pointed out deficiencies in the proceedings and had ordered measures to remedy them, without those instructions having been complied with. In sum, the authorities had failed to carry out an effective criminal investigation into the circumstances surrounding the deaths of the applicants' relatives.

Conclusion: violation (unanimously).

Article 2 – *Failure to protect the right to life:* The deaths of the applicant's relatives could be attributed to the Russian State and no justification had been shown for the use of lethal force by its agents.

Conclusion: violation (unanimously).

Article 13 – The criminal investigation into the killings had been ineffective and any other remedy that might have existed had been undermined.

Conclusion: violation (unanimously).

(14) no. 21753/02 Tomašić v. Croatia

Facts: Proceedings for damages which the applicant and his wife had initiated against the State were stayed under the 1996 Amendment to the Civil Obligations Act. In 2004 the Constitutional Court found violations of the applicant's rights to a hearing within a reasonable time and of access to a court. It ordered the first-instance court to give a decision in the applicant's case within a year and awarded him 4,400 Croatian kunas (some 600 euros) in compensation.

Law: The redress afforded to the applicant at domestic level had been manifestly unreasonable, amounting to some 15 % of what the European Court generally awards in similar Croatian cases. Accordingly, the applicant could still claim to be a victim of a breach of his right of access to a court. The Court had frequently found violations of that right in cases similar to the present one.

Conclusion: violation (unanimously).

VI. Rule 39 (interim measures) and Rule 41 (priority) requests

(a) Requests for interim measures pursuant to Rule 39 of the Rules of Court were granted in the following cases:

(1) no. 44009/05 Shtukurov v. Russia

The applicant suffers from a mental disorder. In 2004 the court, upon the request of his mother, deprived the applicant of legal capacity. The applicant did not participate in the proceedings and was not aware of them until November 2005. When he learned about that judgment, he tried to challenge it before the City Court with the help of a lawyer. However, shortly thereafter the applicant was committed to a hospital and was prohibited from meeting his lawyer. On 9 March 2006 the President applied Rule 39 and asked the State to give to the applicant access to his lawyer in order to assist him in the domestic proceedings.

The case has been communicated to the Government.

(2) no. 6293/04 Mirilashvili v. Russia

The applicant was arrested and then convicted on suspicion of organising the abduction of several people. The applicant presented complaints about

the lack of medical aid in the prison where he is serving his sentence and requested not to be transferred to another prison due to his health conditions. The case raises issues under Articles 3 and 6 of the Convention. On 12 May 2006 the President decided, under Rule 39, that the applicant should not be transferred to another correctional institution until further notice. The President also decided to request the Government further information.

The case is pending.

(3) no. 656/06 Nasrulloev v. Russia

In 1997 the applicant and his family left Tajikistan allegedly seeking political asylum in Russia. On an unspecified date the Tajik authorities charged the applicant with several offences including several counts of murder, robbery, and corruption. On 13 August 2003 the General Prosecutor's Office of the Republic of Tajikistan requested the applicant's extradition. He was arrested on the same day in Moscow. He has remained in custody since then, without any formal extension order. His attempts to challenge the lawfulness of his detention in Russia were unsuccessful. On 3 July 2006 the General Prosecutor's Office of the Russian Federation informed the applicant of the decision to extradite him to Tajikistan. The appeal proceedings are now pending. On 12 July 2006 the President indicated to the respondent Government not to extradite the applicant to Tajikistan until further notice. On 23 November 2006 the Rule 39 has been lifted in the light of the information provided by the parties.

The case has been communicated to the Government.

(4) no. 2947/06 Ismoilov & Others v. Russia

The application concerns the applicants' detention in Russia with a view to their extradition to Uzbekistan. The applicants fear that, if expelled to Uzbekistan, they would be subjected to torture and ill-treatment, and would face an unfair trial. On 7 August 2006 the President indicated to the respondent Government not to expel the applicants until further notice.

The case has been communicated to the Government.

(5) no. 42502/06 Muminov v. Russia

The Uzbek authorities charged the applicant with several criminal offences, including propaganda of the ideas supported by an extremist religious organisation, distribution of its materials and engaging others in the organisation's activity. His detention was ordered. The applicant who was arrested in Russia fears that, if expelled to Uzbekistan, he would be subjected to ill-treatment and would receive no fair trial. On 24 October

2006 the President indicated to the respondent Government not to expel the applicant until further notice.

The case is pending.

(6) no. 46183/06 Kamalfar v. Russia

The applicant is an Iranian national. She and her two children have been kept for past few months in the transit zone of the Sheremetyevo-2 international airport in Moscow pending their deportation to Iran, pursuant to the Russian authorities' decision. According to the applicant, if expelled, she runs the risk of being subjected to tortures or ill-treatment prohibited by Article 3 of the Convention, or even to the death penalty, given that she participated in various demonstrations in Iran, and, particularly, that she is a converted Christian. On 20 November 2006 the President indicated to the respondent Government to postpone her deportation to Iran until further notice.

The case is pending.

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 31 cases.

VII. Third-party intervention (Article 36 and Rule 44)

Leave to submit third-party comments was given by the President pursuant to Rule 44 § 2 of the Rules of Court in one case:

(1) no. 14846/05 Peca v. Greece

The case concerns criminal proceedings brought against the applicant for drug trafficking. Arrested on 11 March 2004, the applicant was convicted and sentenced at first instance to 11 years, 11 months and 12 days' imprisonment. He claims that he is innocent and complains that the appeal hearing has been scheduled for 2008. The case raises questions under Article 6 § 1 of the Convention.

The case is pending.

VIII. STATISTICAL INFORMATION

1. Results for year
2. Results by month
3. Applications pending
4. Graphic charts
 - (a) Judgments delivered
 - (b) Inadmissibility and strike-out decisions
 - (c) Admissibility decisions
 - (d) Applications communicated
 - (e) Applications pending by year of lodging
 - (f) Applications pending by State

APPENDIX 1

Judgments delivered in 2006	
Merits	259
Striking out	2
Friendly settlement	3
Just satisfaction	
Revision	
Total	264
Chamber decisions adopted in 2006	
Applications declared admissible	136
Applications declared inadmissible	56
Applications struck out of the list	106
Total	298
Committee decisions adopted in 2006	
Applications declared inadmissible	5947
Applications struck out of the list	58
Total	6005
Applications communicated in 2006	
Total	694

Total cases finalised in 2006 (judgments*, inadmissibility and strike-out decisions)	6431
---	-------------

* Not including judgments on just satisfaction and revision but including judgments which are not yet final. Some judgments dealt with a number of joined applications.

APPENDIX 2

	Chambers					Committees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	18	9	6	9	58	654	5
February	13	15	6	4	58	312	5
March	26	40	5	15	88	911	10
April	30	4	1	2	38	281	1
May	9	13	8	17	70	679	1
June	43	14	4	16	68	832	8
July	32	11	3	5	22	0	0
August	2	3	1	0	37	0	0
September	11	11	8	17	78	687	6
October	32	9	8	6	64	701	12
November	32	4	3	14	88	511	4
December	16	3	3	1	25	379	6
Total	264	136	56	106	694	5947	58

APPENDIX 3

Applications pending on 31 December 2006	
Total applications not yet examined	16984
Adjourned/Communicated for information	7
Communicated/Adjourned	0
Communicated for observations	938
Admissible	205
Judgments not yet final	114
TOTAL APPLICATIONS PENDING	18248
(Chamber: 3 383)	
(Committee: 14 865)	

APPENDIX 4

Chart 1: Judgments delivered in 2006

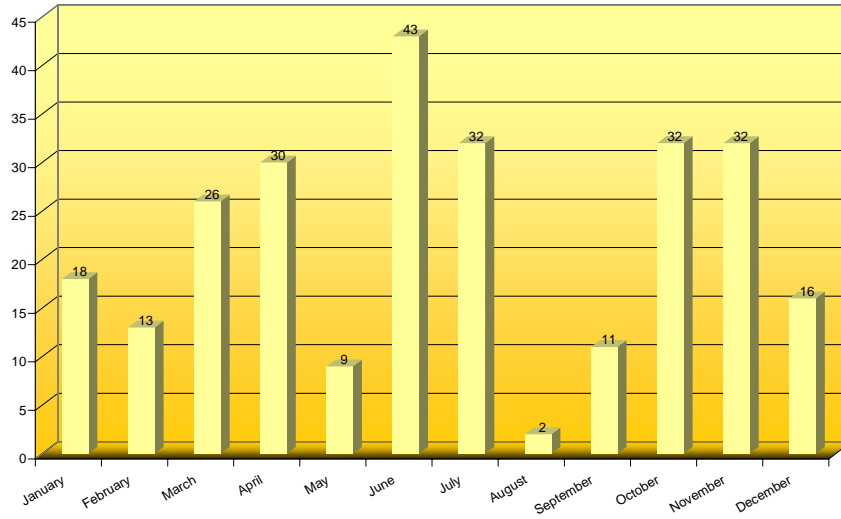
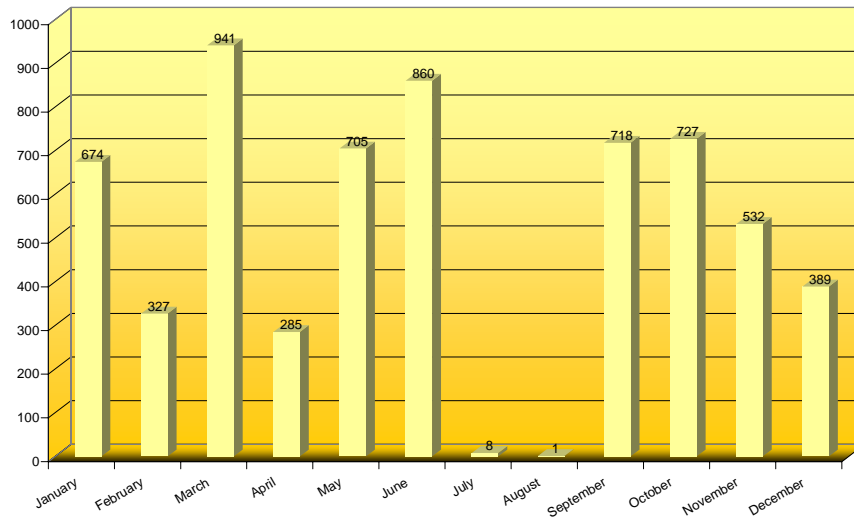


Chart 2: Inadmissibility and strike-out decisions adopted in 2006



Annual Report 2006: First Section

Chart 3: Admissibility decisions adopted in 2006

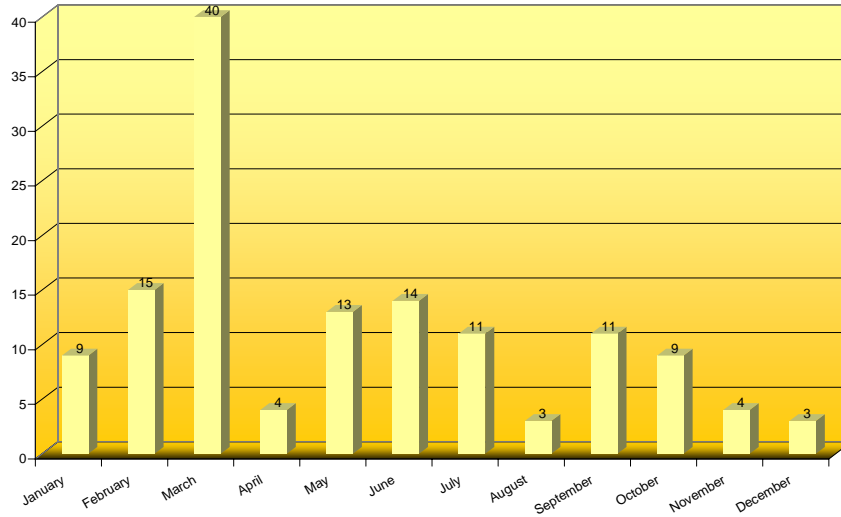


Chart 4: Applications communicated in 2006

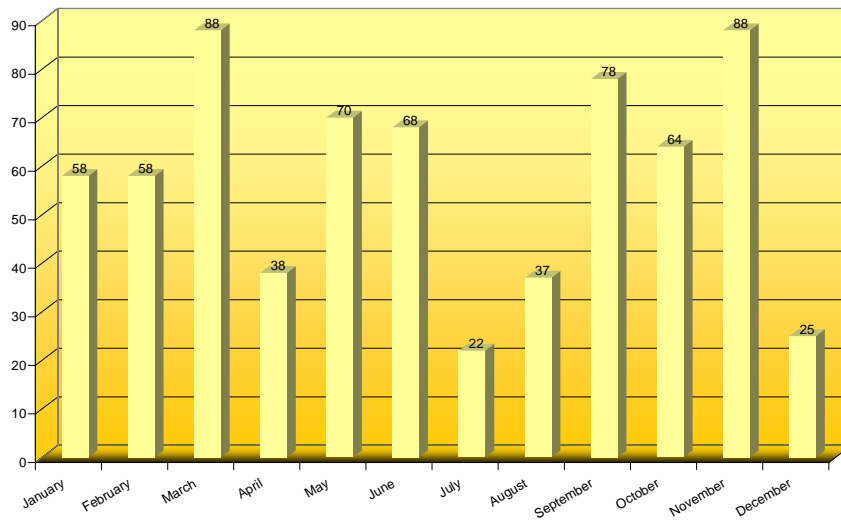


Chart 5: Applications pending on 31 December 2006 by year of lodging

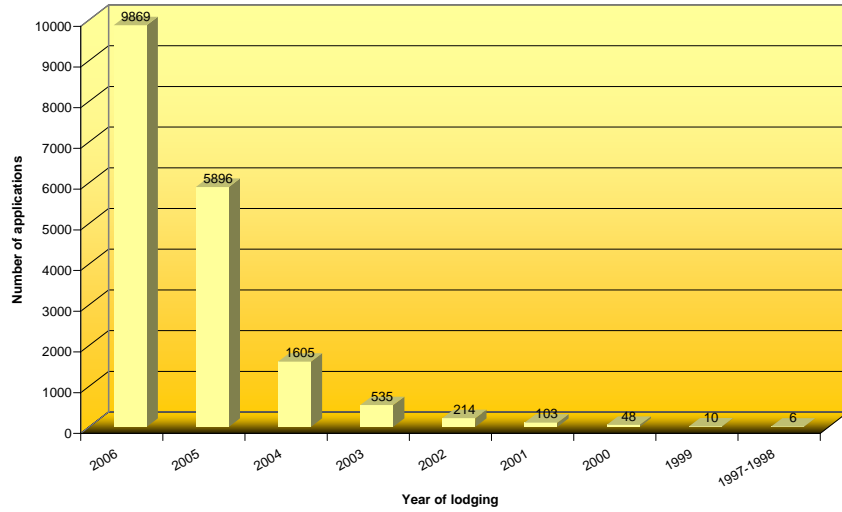
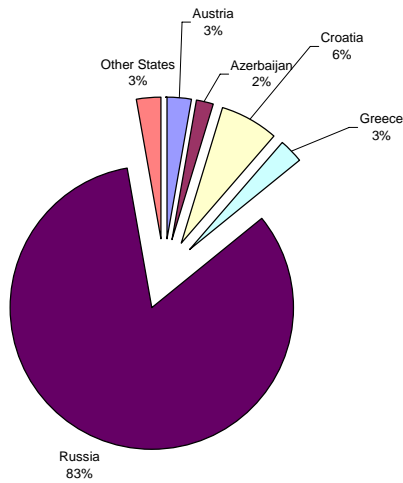


Chart 6: Applications pending on 31 December 2006 by State



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



SECOND SECTION

ANNUAL ACTIVITY REPORT 2006

January 2007

CONTENTS

	Page
I. Introduction	1
II. Compositions of the Section.....	2
III. Hearings.....	3
IV. Cases relinquished to the Grand Chamber	4
V. Other cases of interest.....	5
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	9
VII. Third-party intervention (Article 36 and Rule 44)	10
VIII. Statistical information	12

I. INTRODUCTION

In 2006, the Section held 43 Chamber sessions (including three in the framework of the Section's former composition). Oral hearings were held in six cases. The Section delivered 373 judgments (including 13 in its former composition), of which 363 concerned the merits, four concerned friendly settlements, three were strike-out judgments, two dealt with just satisfaction and one concerned revision of an earlier judgment. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 593 cases and 293 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 31 applications were declared admissible;
- (b) 128 applications were declared inadmissible;
- (c) 133 applications were struck out of the list (including one which had previously been declared admissible);
- (d) 641 applications were communicated to the State concerned for observations, of which 502 were communicated by the President.

In addition, the Section held 78 Committee sessions. 4,477 applications were declared inadmissible and 94 applications were struck out of the list. The total number of applications rejected by a Committee represented 94.60 % of the inadmissibility and strike-out decisions adopted by the Section during the year.

At the end of the year, 10,163 applications were pending before the Section.

II. COMPOSITION OF THE SECTION

Prior to 1 April 2006, the Section was composed as follows:

Jean-Paul **Costa** (French), *President*,
András **Baka** (Hungarian), *Vice-President*,
Ireneu **Cabral Barreto** (Portuguese),
Riza **Türmen** (Turkish),
Karel **Jungwiert** (Czech),
Volodymyr **Butkevych** (Ukrainian),
Mindia **Ugrekheldze** (Georgian),
Antonella **Mularoni** (San Marinese),
Elisabet **Fura-Sandström** (Swedish),
Danutė **Jočienė** (Lithuanian),
Dragoljub **Popović** (citizen of Serbia and Montenegro), *Judges*,

Sally **Dollé**, *Registrar*,
Stanley **Naismith**, *Deputy Registrar*

Following the creation of a Fifth Section with effect from 1 April 2006, the Second Section was composed as follows:

Jean-Paul **Costa** (French), *President*,
András **Baka** (Hungarian), *Vice-President*,
Ireneu **Cabral Barreto** (Portuguese),
Riza **Türmen** (Turkish),
Mindia **Ugrekheldze** (Georgian),
Antonella **Mularoni** (San Marinese),
Elisabet **Fura-Sandström** (Swedish),
Danutė **Jočienė** (Lithuanian),
Dragoljub **Popović** (citizen of Serbia), *Judges*,

Sally **Dollé**, *Registrar*,
Stanley **Naismith**, *Deputy Registrar*

III. HEARINGS

Hearings were held in the following six cases:

(1) Pedovič v. the Czech Republic, no. 27145/03

The case concerned the length of proceedings relating to a father's right of access to his child and the adequacy of the measures taken by the national authorities to enforce that right.

– Articles 6 § 1 and 8 of the Convention

A hearing on the merits was held on 14 March 2006. Judgment was delivered on 18 July 2006 (violation of Article 6 § 1, no violation of Article 8).

(2) Evaldsson and Others v. Sweden, no. 75252/01

The case concerns the imposition of a levy of 1.5% on the salaries of workers in the construction industry to provide for a wage monitoring service. That service is, however, provided by a trade union of which the applicants are not members and with whose political leanings they do not agree. They allege that the union made a profit from the service and used this to finance other activities.

– Articles 9, 10 and 11 of the Convention, and Article 1 of Protocol No. 1

The application was declared admissible on 28 March 2006. A hearing on the merits was held on 20 June 2006. Judgment will be delivered at a later date.

(3) Vincent v. France, no. 6253/03

The case concerned the conditions of detention of a paraplegic charged with (and later convicted of) abducting a seven month old baby. The applicant complained that several of the institutions in which he was held were not adapted to his physical handicap.

– Article 3 of the Convention

A hearing on admissibility and merits was held on 27 June 2006. Judgment was delivered on 24 October 2006 (violation of Article 3 on account of the inability of the applicant to move around unassisted in Fresnes prison; remainder inadmissible).

(4) Yumak and Sadak v. Turkey, no. 10226/03

The case concerned the requirement of the Turkish electoral system that a party obtain at least 10% of the national vote in order for its candidates to qualify to take up a seat in Parliament.

– Article 3 of Protocol No. 1

The application was declared partly admissible on 9 May 2006 and a hearing on the merits was held on 5 September 2006. Judgment will be delivered at a later date.

(5) Zengin v. Turkey, no. 1448/04

The case concerns a course in religious culture and ethics which is compulsory in primary and secondary schools in Turkey. The applicants, a father and his daughter, who belong to the Alevi faith, claim that such religious education, which does not include any information about their beliefs, fails to respect the father's religious convictions and breaches the right to freedom of religion, in particular because no exemption was granted to the daughter.

– Article 9 of the Convention and Article 2 of Protocol No. 1

The application was declared admissible on 6 June 2006. A hearing on the merits was held on 3 October 2006. Judgment will be delivered at a later date.

(6) L. v. Lithuania, no. 27527/03

The application concerns the alleged lack of legal regulation of transsexualism, preventing the applicant from undergoing gender reassignment surgery.

– Articles 3, 8, 12 and 14 of the Convention

The application was declared partly admissible on 6 July 2006. A hearing on the merits was held on 17 October 2006. Judgment will be delivered at a later date.

IV. CASES RELINQUISHED TO THE GRAND CHAMBER

The Section decided to relinquish to the Grand Chamber the following cases:

(1) Behrami and Behrami v. France, no. 71412/01

The case concerns the responsibility of France under Article 1 of the Convention for alleged negligence on the part of French troops participating in the international security force in Kosovo (KFOR). They allegedly failed to mark out and defuse unexploded cluster bombs dropped by NATO in 1999, one of which exploded, killing the first applicant's son and seriously injuring the second applicant's son.

The case raises issues under Article 2 of the Convention.

(2) Saramati v. France, Germany and Norway, no. 78166/01

The case concerns the pre-trial detention of the applicant by order of the international security force in Kosovo (KFOR). The applicant was subsequently convicted and sentenced.

The case raises issues under Article 5 of the Convention.

(3) E.B. v. France, no. 43546/02

The case concerns the refusal to approve the applicant as a prospective adoptive parent, allegedly on the ground that she was living in a Lesbian relationship.

The case raises issues under Articles 8 and 14 of the Convention.

(4) Ramanauskas v. Lithuania, no. 74420/01

The case concerns the alleged entrapment of the applicant, a public prosecutor, into taking a bribe.

The case raises issues under Article 6 of the Convention.

V. OTHER CASES OF INTEREST

Of the judgments delivered and decisions adopted by the Section in 2006, the most interesting included the following:

(1) Elli Poluhas Dödsbo v. Sweden, no. 61564/00

The application concerned the refusal of the authorities to allow the applicant to transfer the urn containing the ashes of her deceased husband from the cemetery where it was buried in 1963 to another location.

– Article 8 of the Convention

Judgment of 17 January 2006 – no violation of Article 8.

(2) Stangu and Scutelnicu v. Romania, no. 53899/00

The application concerned the conviction of two journalists for defamation of a judge and a police officer.

– Article 10 of the Convention

Judgment of 31 January 2006 (former composition) – no violation of Article 10.

(3) Rodrigues da Silva and Hoogkamer v. the Netherlands, no. 50435/99

The application concerned the refusal of the Dutch authorities to grant a residence permit to the first applicant, a Brazilian national, following the break-up of her relationship with the second applicant, a Dutch national.

– Article 8 of the Convention

Judgment of 31 January 2006 (former composition) – violation of Article 8.

(4) Giniewski v. France, no. 64016/00

The application concerned the applicant's conviction for defamation of a religious group after he criticised a papal encyclical in a newspaper article.

– Article 10 of the Convention

Judgment of 31 January 2006 – violation of Article 10.

(5) D.H. and Others v. the Czech Republic, no. 57325/00

The application concerned an alleged discriminatory practice of placing Roma children in special schools for children with learning difficulties.

– Articles 14 of the Convention combined with Article 2 of Protocol No. 1

Judgment of 31 January 2006 – no violation of Article 14 combined with Article 2 of Protocol No. 1.

The case is now pending before the Grand Chamber.

(6) Köse and Others v. Turkey, no. 26625/02, and Kurtulmuş v. Turkey, no. 65500/01

The first application concerned a prohibition on female students wearing the Islamic headscarf in schools, except during Coran study. The second application concerned a similar prohibition affecting a university teacher.

– Article 9 of the Convention

Inadmissible (decisions of 24 January 2006).

(7) Tüm Haber Sen and Çınar v. Turkey, no. 28602/95

The application concerned the disbanding of a civil servants' union.

– Article 11 of the Convention

Judgment of 21 February 2006 – violation of Article 11.

(8) Krasniki v. the Czech Republic, no. 51277/99

The application concerned the applicant's conviction for drugs offences on the sole basis of the testimony of anonymous witnesses which had been given during the pre-trial investigation.

– Article 6 §§ 1 and 3(d) of the Convention

Judgment of 28 February 2006 – violation of Article 6 §§ 1 and 3(d).

(9) Katamadze v. Georgia, no. 69857/01

The application concerned the conviction of the applicant, a journalist, for defamation of other journalists working for a competing newspaper.

– Article 10 of the Convention

Inadmissible (decision of 14 February 2006).

(10) Sukhovetskyy v. Ukraine, no. 13716/02

The application concerned the refusal of the Central Electoral Committee to register the applicant as a parliamentary candidate, due to his failure to pay an election deposit, the amount of which was higher than his annual income.

– Article 3 of Protocol No. 1

Judgment of 28 March 2006 – no violation of Article 3 of Protocol No. 1.

(11) Léger v. France, no. 19324/02

The applicant was detained for 41 years after being sentenced to life imprisonment for the murder of a child. His applications for conditional release were unsuccessful until 2005, despite official reports favourable to his release.

– Articles 3 and 5 § 1 of the Convention

Judgment of 11 April 2006 – no violation of Articles 3 and 5 § 1.

The case is now pending before the Grand Chamber.

(12) Bompard v. France, no. 44081/02

The applicant complained that the re-drawing of constituency boundaries had an adverse effect on the results of the 2002 parliamentary elections.

– Article 3 of Protocol No. 1

Inadmissible (decision of 4 April 2006).

(13) Salem v. Portugal, no. 26844/04

The application concerned the extradition of a suspected terrorist to India.

– Articles 2, 3 and 6 of the Convention

Inadmissible (decision of 9 May 2006).

(14) Segerstedt-Wiberg and Others v. Sweden, no. 62332/00

The applicants complained that the security police kept information about them in their records and that they refused to divulge the full extent of that information. They further alleged that the use of the information had adverse effects on their careers.

– Articles 8, 10, 11 and 13 of the Convention

Judgment of 6 June 2006 – violation of Articles 8, 10 and 11 in respect of three applicants, no violation of those provisions in respect of the remaining applicant; violation of Article 13.

(15) Tremblay v. France, no. 37194/02

The applicant complained that she was unable to give up prostitution because of the level of social security contributions that she was required to pay in order to benefit from a retraining programme.

– Articles 3 and 4 of the Convention

Admissible (decision of 16 May 2006).

(16) Rivière v. France, no. 33834/03

The application concerned the continuing detention of the applicant, sentenced to life imprisonment in 1982, despite his development of a chronic mental illness, involving a risk of suicide. The applicant was informed in 1991 that he qualified for conditional release.

– Article 3 of the Convention

Judgment of 11 July 2006 – violation of Article 3 (on account of continued detention in an environment inappropriate to the applicant's psychiatric condition).

(17) Csozanski v. Sweden, no. 22318/02, and Szabo v. Sweden, no. 28578/03

The application concerned the transfer of two Hungarian nationals convicted of drugs offences in Sweden to Hungary to serve the remainder of their sentences. The applicants complained that this entailed a prolongation of their imprisonment, on account of the differences between the two States' rules on conditional release.

- Articles 5, 6 and 7 of the Convention
- Inadmissible (decision of 27 June 2006).

(18) Matijasević v. Serbia, no. 23037/04

The applicant complained that the presumption of innocence had been violated in that he had been declared guilty by a court in the context of the prolongation of his detention on remand, before his guilt had been duly established in the criminal proceedings.

- Article 6 § 2 of the Convention
- Judgment of 19 September 2006 – violation of Article 6 § 2.

(19) Okkalı v. Turkey, no. 52067/99

The application concerned the ill-treatment of a 12-year old child in police custody.

- Article 3 of the Convention
- Judgment of 17 October 2006 – violation of Article 3.

(20) Gebremedhin v. France, no. 25389/05

The application concerns the lawfulness of the applicant's detention in the transit zone of an airport while awaiting deportation to Eritrea after he had been refused entry to France.

- Article 5 § 1 of the Convention and Article 13 in conjunction with Article 3 of the Convention
- Partly admissible (decision of 10 October 2006). A hearing on the merits will be held on 16 January 2007.

(21) Földes and Földesné Hajlik v. Hungary, no. 41463/02

The application concerned, in particular, a travel prohibition which was imposed on the first applicant while criminal proceedings against him were pending, as a result of which he was unable to leave the country during a 10-year period.

- Article 2 § 2 of Protocol No. 4
- Judgment of 31 October 2006 – violation of Article 2 § 2 of Protocol No. 4 in respect of the first applicant.

(22) Demir and Baykara v. Turkey, no. 34503/97

The case concerned the disbanding of a civil servants' trade union which had not been recognised as having legal personality, and the annulment of a collective agreement which had already been applied for two years by the union and the public authorities.

- Article 11 of the Convention
- Judgment of 21 November 2006 – violation of Article 11.

(23) Apostol v. Georgia, no. 40765/02

The application concerned the competent authorities' refusal to initiate enforcement proceedings without being paid the enforcement-related expenses in advance, despite the applicant's limited means.

– Article 6 § 1 of the Convention

Judgment of 28 November 2006 – violation of Article 6 § 1.

(24) Oya Ataman v. Turkey, no. 74552/01

The application concerned the use “pepper gas” by the police to disperse demonstrators who had failed to comply with the obligation to give the authorities notification of the demonstration.

– Articles 3 and 11 of the Convention

Judgment of 5 December 2006 – no violation of Article 3, violation of Article 11.

(25) Paşa Erol and Erkan Erol v. Turkey, no. 51358/99

The application concerns the injuries caused to a nine-year old boy (the second applicant) when he stepped on an anti-personnel mine laid by the security forces, and in particular the adequacy of the measures taken by the State to protect life. The courts refused to award the victim compensation.

– Article 2 of the Convention

Judgment of 12 December 2006 – violation of Article 2 in respect of the second applicant.

VI. RULE 39 (INTERIM MEASURES) AND RULE 41 (PRIORITY) REQUESTS

- (a) Requests for interim measures pursuant to Rule 39 were granted in 15 cases, the most interesting including the following:

(1) Kordian v. Turkey, no. 6575/06

The application concerns the threatened extradition of the applicant to California, where he faces a charge of murder and a possible sentence of capital punishment.

(2) Hana v. Sweden, no. 32621/06

The application concerns the threatened deportation of a former major in Saddam Hussein's regime to Iraq, where he claims he risks being sentenced to death or killed as a result of retaliation. He has been in Sweden since 1992. He was placed in psychiatric care in 1995 after killing his wife and his permanent exclusion from Sweden was also ordered. He was released in 2004.

(3) Mamassakhlissi v. Georgia and Russia, no. 29999/04

The application concerns the conditions of detention of the applicant in the Autonomous Republic of Abkhazia.

(4) Janiashvili v. Georgia, no. 35887/05, Dolidze v. Georgia, no. 40207/05, Nozadze v. Georgia, no. 41541/05 and Davit Jash v. Georgia, no. 10799/06

These applications concern the adequacy of medical care provided for detainees.

- (b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 38 cases in 2005, including 14 of the Rule 39 cases. Most of the applications had an element of individual urgency, such as an imminent deportation, child custody litigation or access, the conditions of a prisoner's detention or an applicant's advanced age or critical state of health.

VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 44)

Leave to submit a third-party comment was given by the President pursuant to Rule 44 § 2 of the Rules of Court in five cases:

(1) Kearns v. France, no. 35991/04

The application concerns the inability of a mother to obtain the return of her abandoned child after expiry of a two-month period (Article 8 of the Convention).

The father of the child was authorised to intervene.

(2) Marchiani v. France, no. 30392/03

The application concerns, firstly, an alleged violation of the presumption of innocence on account of the terms in which the prosecuting authorities, in the context of a request for the applicant's (European) parliamentary immunity to be lifted, disclosed that the investigating judge had decided to order the applicant's detention on remand (Article 6 § 2 of the Convention), and secondly, the lawfulness of telephone tapping which was ordered the day after the applicant failed to secure re-election, although his mandate had not yet expired (Article 8 of the Convention).

The European Parliament was authorised to intervene.

(3) Association of the Jehovah's Witnesses v. France, no. 8916/05

The application concerns the refusal to recognise the applicant association as a religious association, as a result of which offerings received from its members became subject to taxation. The tax authorities sought tax arrears amounting to more than 45 million euros (Article 1 of Protocol No. 1).

Annual Report 2006: Second Section

The European Association of Jehovah's Christian Witnesses was authorised to intervene.

(5) D.H. and Others v. the Czech Republic, no. 57325/00

(see under V. (5), p. 5 above)

(4) Gebremedhin v. France, no. 25389/05

(see under V. (20), p. 8 above)

VIII. STATISTICAL INFORMATION

1. Results for the year
2. Results by month
3. Applications pending
4. Graphic charts
 - (a) Judgments delivered
 - (b) Inadmissibility and strike-out decisions
 - (c) Admissibility decisions
 - (d) Applications communicated
 - (e) Applications pending by year of lodging
 - (f) Applications pending by State

APPENDIX 1

Judgments delivered in 2006	
Merits	363
Striking out	3
Friendly settlement	4
Just satisfaction	2
Revision	1
Total	373

Chamber decisions adopted in 2006	
Applications declared admissible	31
Applications declared inadmissible	128
Applications struck out of the list	133
Total	292

Committee decisions adopted in 2006	
Applications declared inadmissible	4477
Applications struck out of the list	94
Total	4571

Applications communicated in 2006	
Total	641

Total cases finalised in 2006 (judgments*, inadmissibility and strike-out decisions)	5202
---	-------------

* Not including judgments on just satisfaction and revision but including judgments which are not yet final. Some judgments dealt with a number of joined applications.

APPENDIX 2

	Chambers					Committees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	46	10	8	29	55	424	15
February	42	2	4	15	46	506	8
March	29	8	7	11	49	604	18
April	63	0	3	4	25	293	1
May	12	5	14	12	72	563	10
June	39	1	11	5	52	359	7
July	47	1	4	2	31	78	0
August	0	1	0	1	19	112	7
September	12	0	9	27	147	446	3
October	52	3	13	12	47	487	9
November	27	0	16	12	65	424	10
December	93	0	39	3	33	181	6
Total	462	31	128	133	641	4477	94

APPENDIX 3

Applications pending on 31 December 2006	
Total applications not yet examined	10163
Adjourned/Communicated for information	160
Communicated/Adjourned	0
Communicated for observations	641
Admissible	113
Judgments not yet final	184
TOTAL APPLICATIONS PENDING	11261
(Chamber: *)	4022
(Committee: *)	7485

APPENDIX 4

Chart 1: Judgments delivered in 2006

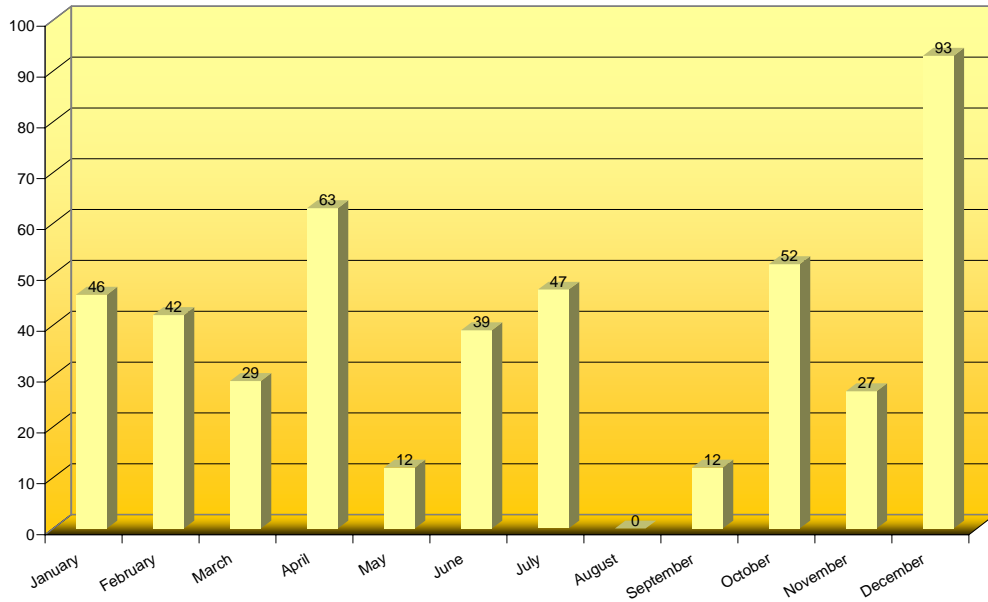


Chart 2: Inadmissibility and strike-out decisions adopted in 2006

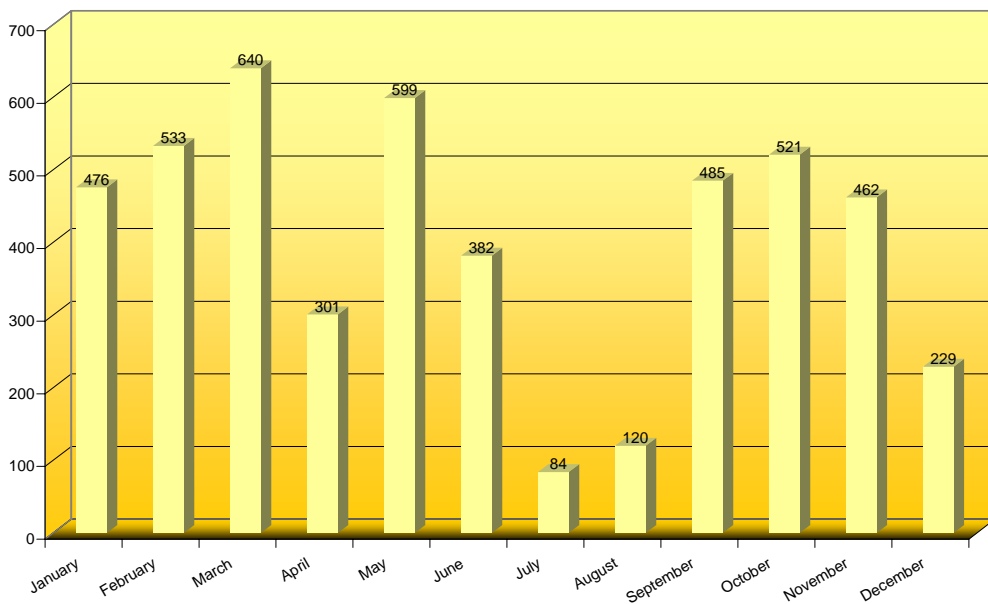


Chart 3: Admissibility decisions adopted in 2006

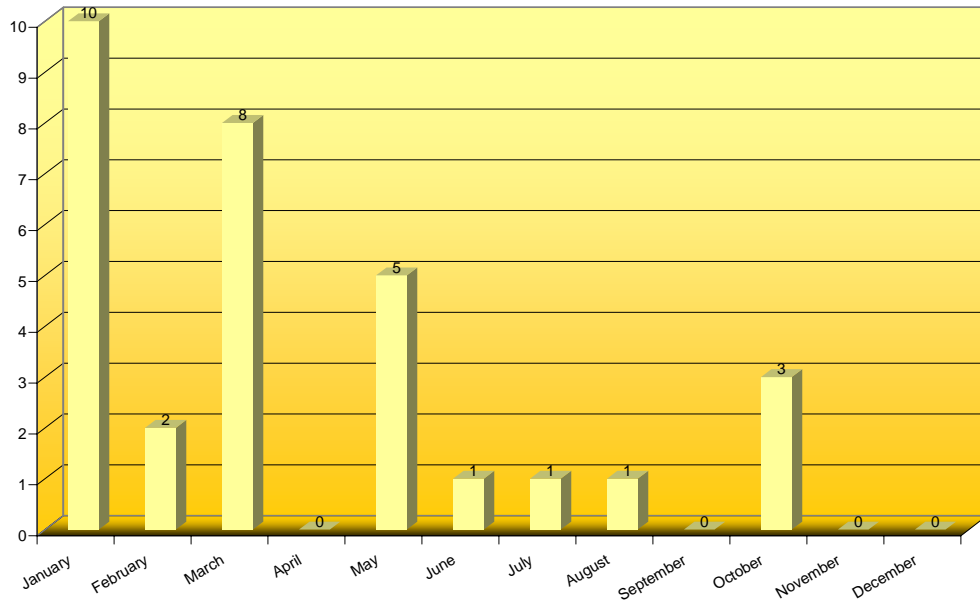


Chart 4: Applications communicated in 2006

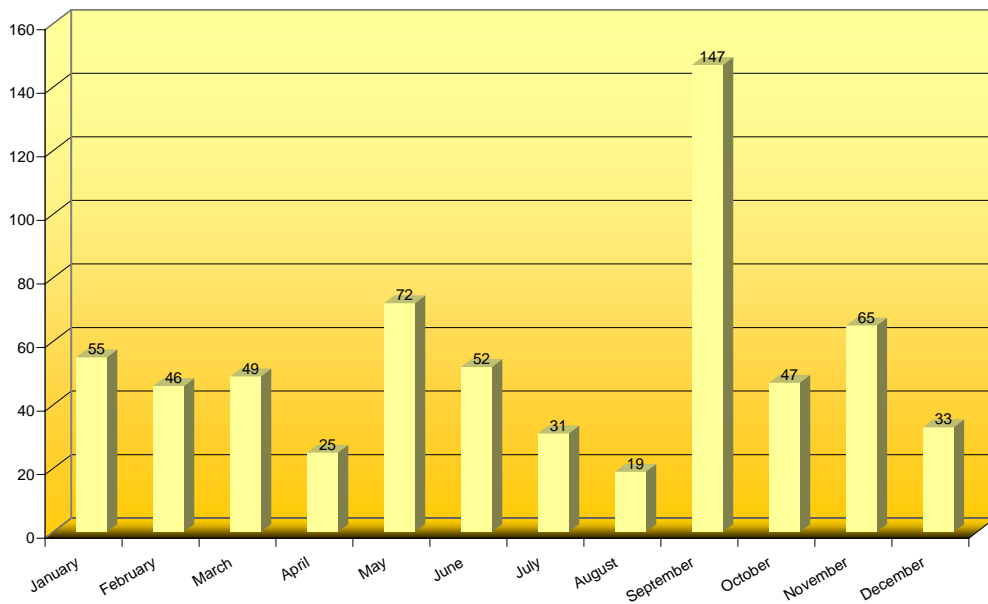


Chart 5: Applications pending on 31 December 2006 by year of lodging

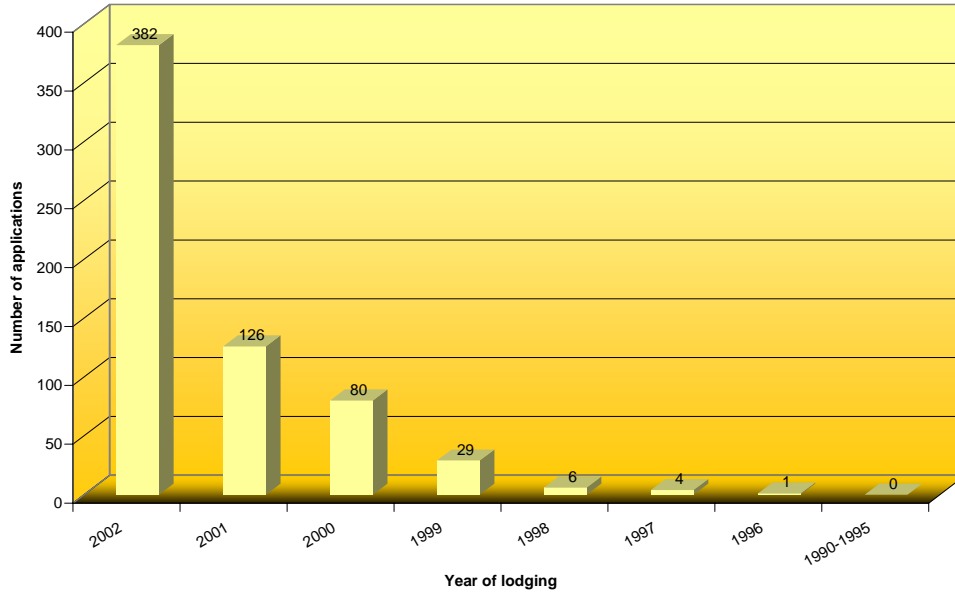
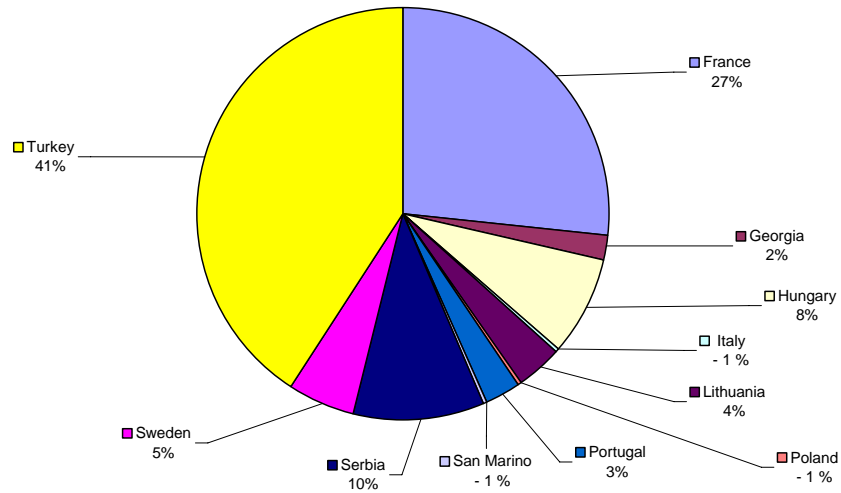


Chart 6: Applications pending on 31 December 2006 by State



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



THIRD SECTION

ANNUAL ACTIVITY REPORT 2006

January 2007

CONTENTS

	Page
I. Introduction	1
II. Composition of the Section	2
III. Hearing	3
IV. Case relinquished to the Grand Chamber	3
V. Other cases of interest.....	4
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	9
VII. Third-party intervention (Article 36 and Rule 44)	11
VIII. Statistical information	12

I. INTRODUCTION

In 2006, the Section held 42 Chamber sessions¹. An oral hearing was held in one case. The Section delivered 446 judgments², of which 434 concerned the merits, ten concerned friendly settlements and two concerned the striking out of cases. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 872 cases and 371 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 33 applications were declared admissible;
- (b) 725 applications were declared inadmissible;
- (c) 103 applications were struck out of the list; and
- (d) 873 applications were communicated to the State concerned for observations of which 795 were communicated by the President by virtue of the new procedure instituted on 1 January 2003.

In addition, the Section held 42 Committee sessions. 4,752 applications were declared inadmissible and 86 applications were struck out of the list. The total number of applications rejected by a Committee represented 85.4% of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 15,333 applications were pending before the Section.

1. Including two sessions in its composition before 1 November 2004.

2. Including two judgments of the Third Section in its composition before 1 November 2004, of which one concerned the striking out of a case.

II. COMPOSITION OF THE SECTION

From 1 January until 31 March 2006 the Section was composed as follows:

Boštjan M. **Zupančič** (Slovenian), *President*,
John **Hedigan** (Irish), *Vice-President*,
Lucius **Cafilisch**³ (Swiss),
Corneliu **Bîrsan** (Romanian),
Margarita **Tsatsa-Nikolovska** (the former Yugoslav Republic of
Macedonia),
Vladimiro **Zagrebelky** (Italian),
Alvina **Gyulumyan** (Armenian),
Renate **Jaeger** (German),
Egbert **Myjer** (Dutch),
David Thór Björgvinsson (Icelandic),
Ineta **Ziemele** (Latvian), *Judges*,

Vincent **Berger**, *Registrar*,
Mark **Villiger**, *Deputy Registrar*

The Section was recomposed as from 1 April 2006 (Rule 25 of the Rules of Court). As from that date the Section was composed as follows:

Boštjan M. **Zupančič** (Slovenian), *President*,
John **Hedigan** (Irish), *Vice-President*,
Lucius **Cafilisch**³ (Swiss),
Corneliu **Bîrsan** (Romanian),
Vladimiro **Zagrebelky** (Italian),
Alvina **Gyulumyan** (Armenian),
Egbert **Myjer** (Dutch),
David Thór Björgvinsson (Icelandic),
Ineta **Ziemele** (Latvian),
Isabelle **Berro-Lefèvre**⁴ (Monegasque), *Judges*,

Vincent **Berger**, *Registrar*,
Mark **Villiger**⁵, *Deputy Registrar*,
Fatoş **Araci**⁶, *Deputy Registrar*.

3. Judge elected in respect of Liechtenstein until 31 August 2006.

4. As from 11 September 2006.

5. Until 31 August 2006.

6. As from 1 September 2006.

III. HEARING

A hearing was held in the following case:

**Jašar against the former Yugoslav Republic of Macedonia,
no. 69908/01**

The case concerns the applicant's complaints of ill-treatment in police custody, the absence of an effective or official investigation leading to the identification and punishment of the police officers responsible and the lack of an effective remedy.

– Articles 3 and 13 of the Convention

A hearing on the admissibility and merits was held on 19 January 2006 and after deliberations on 19 January and 11 April 2006 the case was declared admissible. Judgment will be delivered at a later date.

IV. CASE RELINQUISHED TO THE GRAND CHAMBER

The Section decided to relinquish the following case to the Grand Chamber:

**El Majjaoui & Stichting Touba Moskee v. the Netherlands,
no. 25525/03**

The case concerns the rejection of a request for a work permit filed by the second applicant (a mosque) with a view to appointing the first applicant (a Moroccan national) as its imam.

– Articles 9 and 18 of the Convention

Admissible (decision of 14 February 2006).

V. OTHER CASES OF INTEREST

Of the judgments delivered and decisions adopted by the Section this year, the following were of particular interest:

(1) İcyer v. Turkey, no. 18888/02

The application concerns the alleged refusal of the authorities to allow the applicant to gain access to his home and land in south-east Turkey.

– Articles 1, 6, 7, 8, 13, 14 and 17 of the Convention and 1 of Protocol No. 1

Inadmissible (decision of 12 January 2006).

(2) Kononov v. Latvia, no. 36376/04

The application, lodged by a former non-commissioned officer in the Soviet army, concerns the sentence of one year and eight months' imprisonment imposed on him for war crimes on account of the massacre of civilians in the village of Mazie Bati on 27 May 1944.

– Articles 3, 5, 6 § 1, 7, 13 and 18 of the Convention

Communication of the complaint under Article 7 on 26 January 2006.

(3) İzmir Savaş Karşıtları Derneği and Others v. Turkey, no. 46257/99

The application concerns the applicants' criminal conviction for authorising members of the association İzmir Savaş Karşıtları Derneği, of which they themselves were members, to travel abroad without seeking permission to leave the country from the Interior Ministry in accordance with section 43 of the Associations Act (Law no. 2908).

– Article 11 of the Convention

Judgment of 2 March 2006 – violation.

(4) Svipsta v. Latvia, no. 66820/01

The application concerns the reasons given for the pre-trial detention of the applicant, who was accused of instigating a murder, the length of her detention, the effectiveness of the judicial review of her detention and the overall length of the criminal proceedings.

– Articles 5 §§ 1, 3 and 4, and 6 § 1 of the Convention

Judgment of 9 March 2006 – violation.

(5) Albanese v. Italy, no. 77924/01

The application concerns the restrictions imposed automatically on persons declared bankrupt throughout the duration of the bankruptcy proceedings.

- Articles 8 and 13 of the Convention and 3 of Protocol No. 1
Judgment of 23 March 2006 – violation.

**(6) Hussun and Others v. Italy, no. 10171/05
Mohamed v. Italy, no. 10601/05
Salem and Others v. Italy, no. 11593/05
Midawi v. Italy, no. 17165/05**

The applicants, who arrived in Lampedusa from Libya, complain of collective expulsion and of being denied access to lawyers in order to challenge the lawfulness of the repatriation proceedings and lodge applications with the Court.

- Articles 2, 3, 6 and 13 of the Convention and 4 of Protocol No. 4
Partially admissible (decision of 11 May 2006).

(7) Chiragov and Others v. Armenia, no. 13216/05

The application concerns the loss of the applicants' alleged property in the Nagorno-Karabakh conflict in 1992. The applicants contend that Armenia is responsible under the Convention for their losses, even though Armenia ratified the Convention only in 2002, because it took *de facto* control over the area in a way which lacked (and lacks) legal validity.

- Article 1 of Protocol No. 1 and Articles 8, 13 and 14 of the Convention)
Communicated on 8 June 2006.

**(8) Salah v. the Netherlands, no. 8196/02
Baybasin v. the Netherlands, no. 13600/02**

The cases concern weekly routine strip-searches of detainees in a maximum security prison.

- Article 3 of the Convention
Judgments of 6 July 2006 – violation.

(9) Jäggi v. Switzerland, no. 58757/00

The application relates mainly to the right to respect for private life. The applicant, born in 1939 of an unknown father, made a request in 1999 for a DNA test to be carried out on the remains of his putative biological father, who died in 1976. The authorities refused the request, giving precedence to the rights of the deceased's family.

- Articles 8 and 14 of the Convention
- Judgment of 13 July 2006 – violation.

(10) Weber and Saravia v. Germany, no. 54934/00

The case concerns the provisions of the Fight against Crime Act of 28 October 1994 and the extension of the powers of the Federal Intelligence Service as regards the monitoring, recording and use of telecommunications and the transmission of obtained personal data to other authorities. The applicants, one of whom is a journalist, submitted that certain provisions of this Act interfered with their private life and their correspondence as well as with freedom of the press and that the exclusion of judicial review provided for in certain cases was in breach of the right to an effective remedy.

- Articles 8, 10 and 13 of the Convention
- Inadmissible (decision of 29 June 2006).

(11) Andrejeva v. Latvia, no. 55707/00

The application concerns the specific conditions linked to the restoration of Latvian independence and the break-up of the USSR. At issue are the arrangements for calculating the applicant's retirement pension in respect of periods worked in the former Soviet Union before Latvia regained independence.

- Articles 6 § 1 and 14 of the Convention and 1 of Protocol No. 1
- Partly admissible (decision of 11 July 2006).

**(12) Jehovah's Witnesses v. Romania, no. 63108/00
(and 14 other applications)**

An association of Jehovah's Witnesses complained that its right of access to a court had been violated by the failure to enforce a decision of the Supreme Court of Justice.

- Articles 6 § 1, 7, 9, 13 and 14 of the Convention
- Struck out (friendly settlement) (decision of 11 July 2006).

(13) Monnat v. Switzerland, no. 73604/01

The application concerns the penalty imposed on the makers of a historical documentary which was broadcast by a national television station as part of a news programme, as a result of which the television station was obliged to take measures to remedy a breach of the rules on programmes.

– Article 10 of the Convention

Judgment of 21 September 2006 – violation.

(14) Viola v. Italy, no. 45106/04

The applicant complained that the second set of criminal proceedings against him had been unfair, on the grounds that he had had to follow the appeal hearings by video link. He further complained that he had been convicted in the second set of proceedings of an offence (possessing weapons illegally) of which he had been acquitted following the first set of proceedings.

– Articles 6 of the Convention and 4 of Protocol No. 7

Judgment of 14 September 2006 – no violation.

(15) Isaak and Others v. Turkey, no. 44587/98

The application concerns the killing of a Greek-Cypriot person on 11 August 1996 during a demonstration in the “buffer zone” in the area of Dherynia, Cyprus, by Turkish or Turkish-Cypriot civilian demonstrators and Turkish or Turkish-Cypriot (“TRNC”) officers.

– Articles 2, 8 and 14 of the Convention

Admissible (decision of 28 September 2006).

(16) Giacomelli v. Italy, no. 59909/00

The case concerns the damage caused to the applicant’s environment, health and home by the operation of a toxic waste treatment plant situated 35 metres from her dwelling.

– Article 8 of the Convention

Judgment of 2 November 2006 – violation.

(17) Kovačić and Others v. Slovenia, no 44574/98⁷
Mrkonjić v. Slovenia, no. 45133/98
Golubović v Slovenia, no. 48316/99

The applications concern foreign-currency savings deposited by the applicants or their relatives with the office of a Slovenian bank in Zagreb (Croatia) before the dissolution of the Socialist Federal Republic of Yugoslavia. At that time the deposits were guaranteed by the SFRY and the applicants were unable to withdraw their savings.

– Article 1 of Protocol No. 1 taken alone and in conjunction with Article 14 of the Convention

Judgment of 6 November 2006 – struck out.

**(18) Paroisse gréco-catholique Ticvaniul Mare
v. Romania, no. 2534/02**

The case concerns the inability of the applicant parish to gain access to a court in order to recover possession of its property, and the failure to enforce a final court decision.

– Articles 6 and 9 of the Convention and 1 of Protocol No. 1, taken alone and in conjunction with Articles 14 and 13 of the Convention

Communicated on 24 October 2006.

(19) Xenides-Arestis v. Turkey, no. 46347/99⁸

The case concerns Greek-Cypriot property in the northern part of Cyprus to which the applicant was denied access.

– Articles 8 and 14 of the Convention and 1 of Protocol No. 1

Judgment of 7 December 2006 on just satisfaction.

(20) Van der Velden v. the Netherlands, no. 29514/05

The case concerns the determination and storage of the DNA profile of the applicant – a convicted prisoner – on the basis of a law which entered into force after he was convicted.

– Articles 7, 8 and 14 of the Convention

Inadmissible (decision of 7 December 2006).

7. and 8.: Third Section in its composition before 1 November 2004.

VI. RULE 39 (INTERIM MEASURES) AND RULE 41 (PRIORITY) REQUESTS

(a) Requests for interim measures pursuant to Rule 39 of the Rules of Court were granted in the following cases:

(1) Mohammadi v. the Netherlands, no. 5140/06

The case concerns an Iranian man who filed three unsuccessful requests for asylum in the Netherlands. He complained that his expulsion from the Netherlands to Iran would subject him to torture and inhuman or degrading treatment or punishment and that he did not have an effective remedy.

– Article 3 of the Convention

Rule 39 was applied from 3 February until 1 June 2006; on the latter date the case was struck out because of a Government moratorium on expulsions of Iranian Christians.

**(2) Isse Seck v. the Netherlands, no. 6781/06
Abshir Mohamed v. the Netherlands, no. 38940/06**

The cases concern Somalian asylum seekers belonging to a minority clan. Their successive asylum requests were rejected and, following convictions for a number of criminal offences in the Netherlands, exclusion orders were imposed on them.

– Article 3 of the Convention

The cases are pending.

(3) A. v. the Netherlands, no. 4900/06

The case concerns a Libyan national suspected of involvement in Islamist terrorism. The applicant was acquitted in criminal proceedings taken against him by the first-instance court. When the Netherlands Government wished to deport the applicant to Libya he lodged an application with the Court, claiming that as a known member of a certain Islamist group opposed to the Qadhafi regime he would face torture in Libya.

– Article 3 of the Convention

The case is pending.

**(4) Rafat and Galoga v. the Netherlands, no. 30693/05
Sharif v. the Netherlands, no. 44879/06**

The applicants in the first case are a family (parents and five children) of Afghan origin and Shia Muslims. The first applicant fears that he will be killed by the Taliban or the Mudjahedeen because of a number of films he

made which contained criticism of both organisations. The second case concerns an applicant who had worked as an administrative assistant for the secret police until the Mujahedeen came to power.

– Articles 2, 3, 6 and 13 of the Convention

The cases are pending.

(5) Salah v. the Netherlands, no. 35723/06

The case concerns a Tunisian national, belonging to a minority group, who worked as a teacher at a secondary school and became an active member of a teacher's association. He was arrested several times for criticism of the authorities and lost his job. He wrote three books, none of which was published. He fears political persecution if he is expelled to Tunisia.

– Articles 3 and 13 of the Convention

The case is pending.

**(6) O. v. Italy, no. 37257/06
N.S. v. Italy, no. 37201/06
M.B.S. v. Italy, 38128/06
C.B.Z. v. Italy, no. 44006/06
S. v. Italy, no. 37336/06
B. v. Italy, no. 46792/06**

The cases concern the expulsion of the applicants to Tunisia. The applicants are suspected of international terrorism.

– Articles 2, 3, 5, 6 and 13 of the Convention, 1 of Protocol No. 7 and 2 of Protocol No. 4

The cases will be dealt with by priority and are pending.

(7) Bagheri and Maliki v. the Netherlands, no. 30164/06

The case concerns the expulsion of a married couple to Iran, where the husband would allegedly be at risk, having been convicted of anti-government activities.

– Article 3 of the Convention

The case is pending.

(8) Negusse Mekonnen v. Romania, no. 19011/06

The case concerns an Ethiopian national who alleges that she runs a risk of inhuman or degrading treatment if she is expelled to Ethiopia, because of her ethnic origin and her political affiliation.

– Articles 3, 13 and 14 of the Convention

The case is pending.

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 31 applications, including pending cases in which Rule 39 was applied.

VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 44)

Leave to submit third-party comments was given pursuant to Rule 44 of the Rules of Court in the following cases:

(1) Kononov v. Latvia, no 36376/04

On 26 January 2006 to the Government of Russia.

(2) Anghelescu v. Romania, no. 77234/01

On 12 July 2006 to the couple Ștefănescu.

(3) Geraguyn Khorhurd Patgamavorakan Akumb v. Armenia, no. 11721/04

On 5 September 2006 to the Open Society Justice Initiative (OSJI).

(4) Foka v. Turkey, no. 28940/95

On 13 December 2006 to Government of the Republic of Cyprus.

VIII. STATISTICAL INFORMATION

1. Results for year
2. Results by month
3. Applications pending
4. Graphic charts
 - (a) Judgments delivered
 - (b) Inadmissibility and strike-out decisions
 - (c) Admissibility decisions
 - (d) Applications communicated
 - (e) Applications pending by year of lodging
 - (f) Applications pending by State

APPENDIX 1

Judgments delivered in 2006	
Merits	430
Striking out	2
Friendly settlement	10
Just satisfaction	4
Revision	
Total	446

Chamber decisions adopted in 2006	
Applications declared admissible	33
Applications declared inadmissible	725
Applications struck out of the list	103
Total	861

Committee decisions adopted in 2006	
Applications declared inadmissible	4752
Applications struck out of the list	86
Total	4838

Applications communicated in 2006	
Total	873

Total cases finalised in 2006 (judgments*, inadmissibility and strike-out decisions)	6108
---	-------------

* Not including judgments on just satisfaction and revision but including judgments which are not yet final. Some judgments dealt with a number of joined applications.

APPENDIX 2

	Chambers					Committees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	5	2	11	3	41	301	6
February	25	1	13	5	130	250	3
March	59	4	600	10	56	1461	11
April	89	1	3	2	30	408	1
May	12	7	11	9	65	532	11
June	65	4	55	10	119	416	5
July	45	2	3	19	8	100	1
August	7	1	3	1	150		
September	14	2	5	10	96	346	17
October	43	1	5	3	58	329	3
November	41	7	13	13	96	322	21
December	41	1	3	18	24	287	7
Total	446	33	725	103	873	4752	86

APPENDIX 3

Applications pending on 31 December 2006	
Total applications not yet examined	12 886
Adjourned/Communicated for information	606
Communicated/Adjourned	1
Communicated for observations	1 528
Admissible	143
Judgments not yet final	169
TOTAL APPLICATIONS PENDING	15 333
(Chamber: 7 686)	
(Committee: 7 647)	

APPENDIX 4

Chart 1: Judgments delivered in 2006

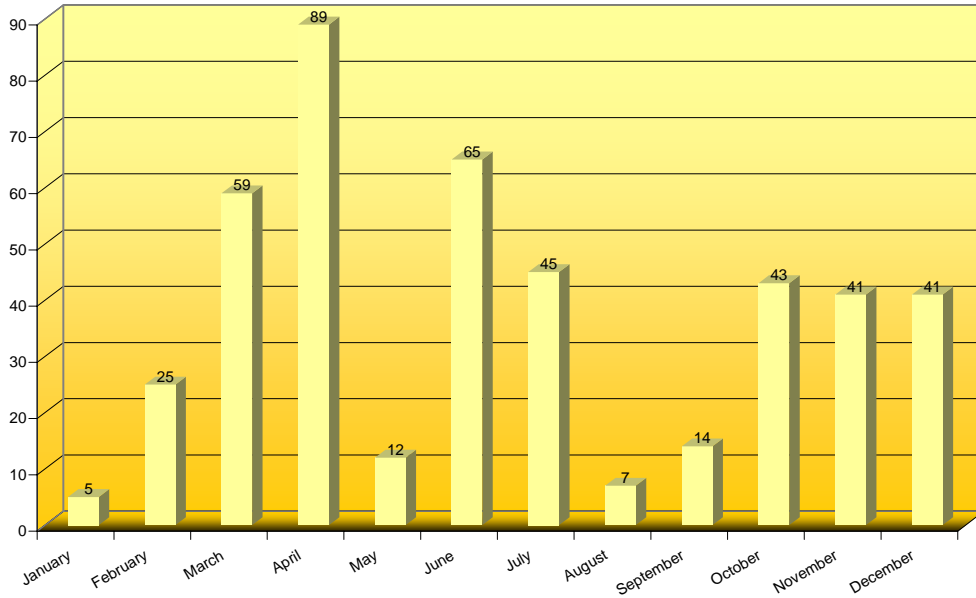
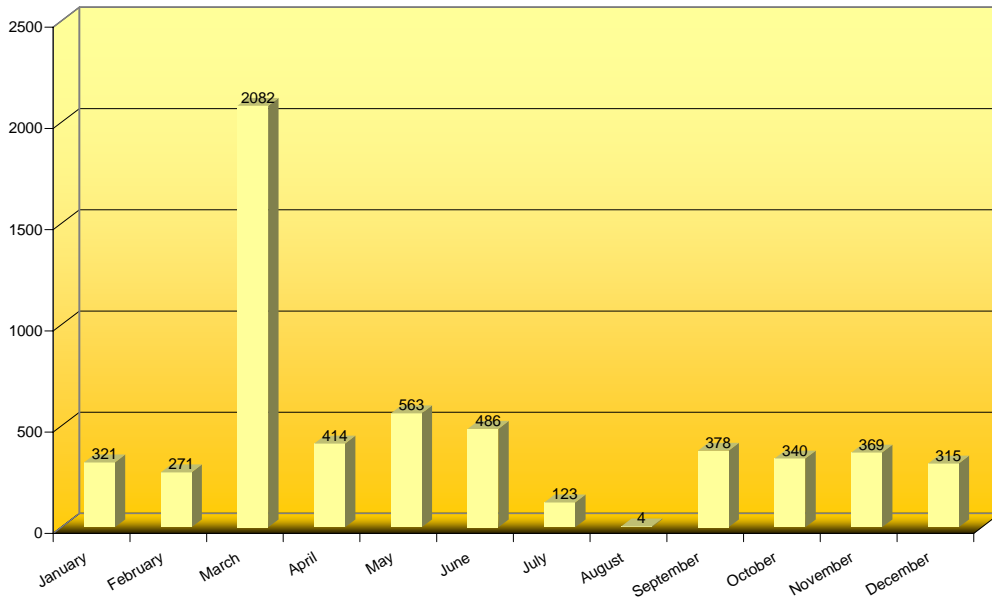


Chart 2: Inadmissibility and strike-out decisions adopted in 2006



Annual Report 2006: Third Section

Chart 3: Admissibility decisions adopted in 2006

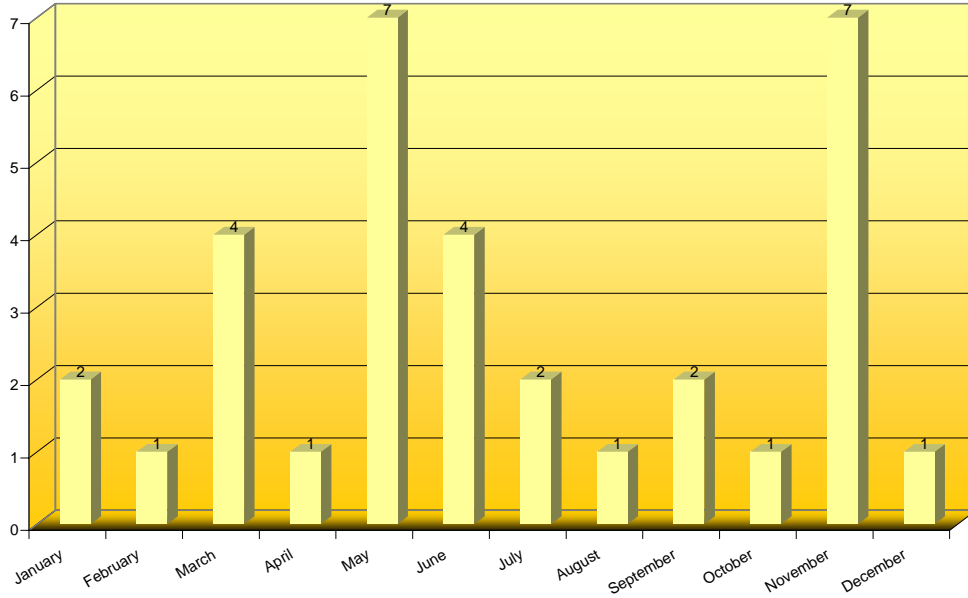


Chart 4: Applications communicated in 2006

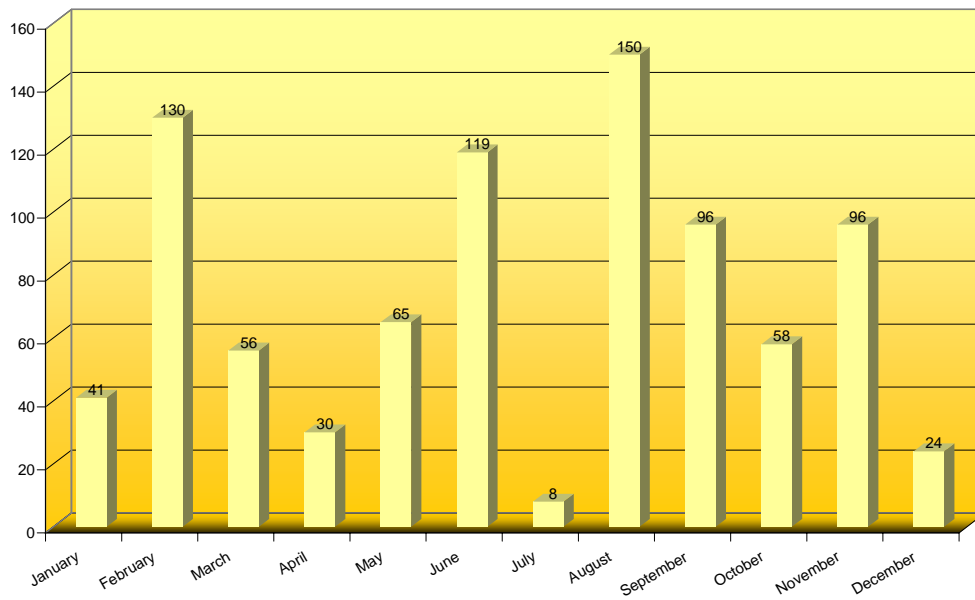


Chart 5: Applications pending on 31 December 2006 by year of lodging

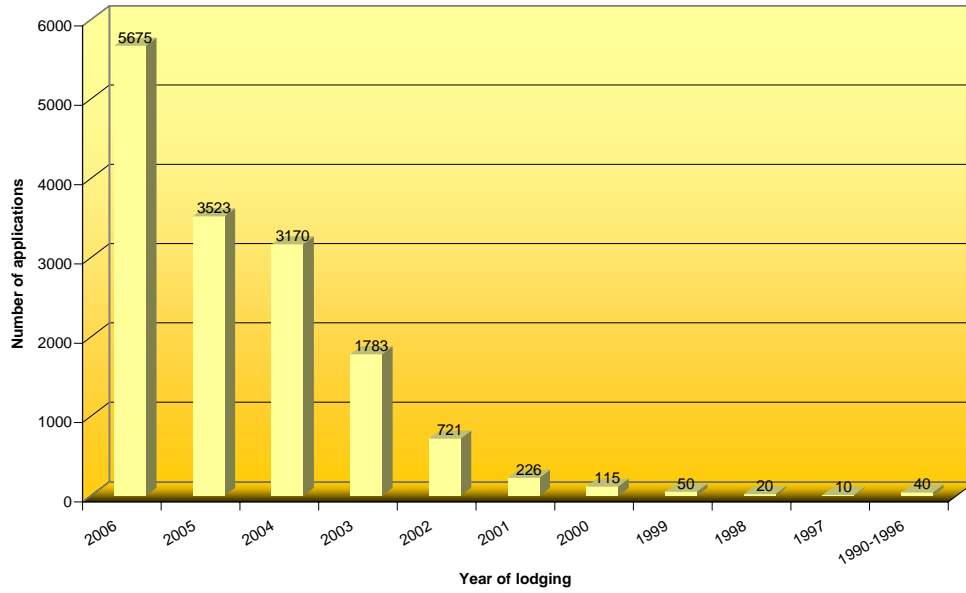
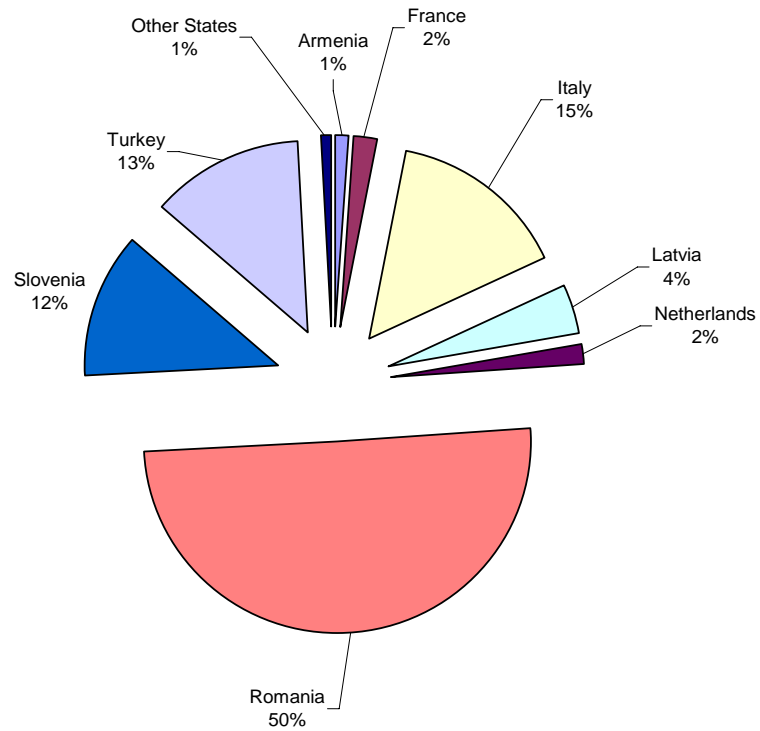


Chart 6: Applications pending on 31 December 2006 by State



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



FOURTH SECTION

ANNUAL ACTIVITY REPORT 2006

January 2007

CONTENTS

	Page
I. Introduction	1
II. Composition of the Section	2
III. Hearings.....	3
IV. Cases relinquished to the Grand Chamber	5
V. Interesting judgments and decisions/Other cases of interest.....	7
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	15
VII. Third-party intervention (Article 36 and Rule 44)	18
VIII. Statistical information	20

I. INTRODUCTION

In 2006, the Section held 40 Chamber sessions. Oral hearings were held in four cases. The Section delivered 293 judgments (including two in a former composition), of which 281 concerned the merits and 8 concerned friendly settlements. Article 29 § 3 of the Convention (combined examination of admissibility and merits) was applied in 480 cases and 236 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 48 applications were declared admissible;
- (b) 146 applications were declared inadmissible;
- (c) 88 applications were struck out of the list; and
- (d) 542 applications were communicated to the State concerned for observations of which 396 were communicated by the President by virtue of the above-mentioned Article 29 § 3 procedure.

In addition, the Section held 54 Committee sessions. 7,431 applications were declared inadmissible and 115 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.99% of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 7,407 applications were pending before the Section.

II. COMPOSITION OF THE SECTION

Sir Nicolas **Bratza** (British), *President*,
Josep **Casadevall** (Andorran), *Vice-President*,
Luzius **Wildhaber** (Swiss), from 1 January 2006-31 March 2006
Giovanni **Bonello** (Maltese),
Matti **Pellonpää** (Finnish),
Rait **Maruste** (Estonian), from 1 January 2006 -31 March 2006
Kristaq **Traja** (Albanian),
Stanislav **Pavlovschi** (Moldovan),
Lech **Garlicki** (Polish),
Javier **Borrego Borrego** (Spanish), from 1 January 2006 -31 March 2006
Ljiljana **Mijović** (citizen of Bosnia and Herzegovina),
Ján **Šikuta** (Slovakian), *Judges*,

Michael **O'Boyle**, *Registrar*,
Françoise **Elens-Passos**, *Deputy Registrar*.

COMPOSITION OF THE SECTION FROM 31 MARCH 2006

Sir Nicolas **Bratza** (British), *President*,
Josep **Casadevall** (Andorran), *Vice-President*,
Giovanni **Bonello** (Maltese),
Matti **Pellonpää** (Finnish),
Kristaq **Traja** (Albanian),
Stanislav **Pavlovschi** (Moldovan),
Lech **Garlicki** (Polish),
Ljiljana **Mijović** (citizen of Bosnia and Herzegovina),
Ján **Šikuta** (Slovakian), *Judges*,

Lawrence **Early**, *Registrar*,
Françoise **Elens-Passos**, *Deputy Registrar*.

III. HEARINGS

Hearings were held in the following cases:

(5) Tysiac v. Poland, no. 5410/03

The applicant suffered for many years from severe myopia and requested a certificate authorising the termination of her pregnancy. The request was refused on the ground that although the retina might detach itself as a result of pregnancy, it was not certain and there were no medical grounds for performing a therapeutic abortion. The applicant was therefore unable to have her pregnancy terminated. Following the delivery of her child, the applicant's eyesight deteriorated considerably as a result of what was diagnosed as a retinal haemorrhage. The applicant lodged a criminal complaint against a doctor R.D. who had refused to terminate the pregnancy, but the investigation was discontinued by the district prosecutor on the ground that there was no causal link between the doctor's decision and the deterioration of the applicant's eyesight. Moreover, no disciplinary action was taken against the doctor.

The applicant, who is raising her three children alone, is now registered as significantly disabled and on that account receives a monthly pension equivalent to 140 euros. She cannot see objects more than 1.5 metres away and fears that she will eventually become blind.

– Articles 3, 8, 13 and 14 of the Convention

Admissible (decision of 7 February 2006). A hearing on the admissibility and merits was held on 7 February 2006. Judgment will be delivered at a later date.

(6) Manole and others v. Moldova, no. 13936/02

The case concerns the alleged practice of censorship of journalists at the only television and radio station with nation-wide coverage. The applicants claim that no opposition party has been given air-time and all reporting which does not follow the Government line has been banned. Certain words and phrases and references to certain historical periods have also been prohibited. The news crew failed to broadcast the uncensored evening news bulletin as it was interrupted after a few minutes and replaced with a documentary film. Staff of the company decided to go on a passive strike. A state of emergency was introduced at the company and military troops were moved onto its premises. The leaders of the strike movement were gradually dismissed from their positions and subjected to disciplinary sanctions.

– Article 10 of the Convention

Admissible (decision of 26 September 2006). A hearing on the admissibility and merits was held on 7 March 2006. Judgment will be delivered at a later date.

(7) Burden and Burden v. the United Kingdom, no. 13378/05

The applicants, two elderly sisters, live in the house they inherited from their parents, where they have lived together all their lives. Each sister has made a will leaving all the property to the other sister. They complain that when one of them dies, the survivor will face a heavy inheritance tax bill, unlike the survivor of a marriage or a civil partnership. The applicants claim that the failure to exempt the survivor from the payment of inheritance tax on the property is discriminatory.

– Article 1 of Protocol No. 1 taken in conjunction Article 14 of the Convention

Admissible and judgment (21 November 2006). A hearing on the admissibility and merits was held on 12 September 2006.

(8) Giuliani v. Italy, no. 23458/02

The applicants claim that the death of their son/brother (C.) was due to the use of excessive force by security forces during a G8 Summit demonstration in Genoa. C. together with other demonstrators had attacked a jeep which had become separated from a squad of *carabinieri* who had had to retreat under a hail of missiles. Two shots were fired by one of the *carabinieri* trapped in the jeep, one of which killed the applicant's son. The jeep inadvertently ran over C.'s body when the *carabinieri* were making their escape.

The criminal proceedings against the *carabinieri* were discontinued. The evidence pointed to self-defence and to the fact that the fatal shot had been fired upwards but the bullet had hit a stone or a piece of rubble thrown by the mob and was deflected downward hitting C. in the head.

– Articles 2, 3, 6 and 13 of the Convention

A hearing on the admissibility and merits was held on 5 December 2006. A decision on admissibility and, if appropriate, a judgment will be delivered at a later date.

IV. CASES RELINQUISHED TO THE GRAND CHAMBER

The Section decided to relinquish to the Grand Chamber the following cases:

(1) Vilho Eskelinen and others v. Finland, no. 63235/00

The applicants all worked for the Sonkajärvi District Police. Under a collective agreement of 1986, they were entitled to a special allowance for working in a remote area. When that allowance was withdrawn in 1988, they were given individual wage supplements to make up the difference. On 1 November 1990, after being moved to another duty police station far from their homes, the applicants lost their individual wage supplements. They maintained that the provincial police command had promised them compensation.

On 3 July 1991 the Ministry of Finance refused a request for authorisation to pay each applicant a monthly individual wage supplement. The applicants subsequently lodged an application for compensation, which was rejected.

The applicants appealed, asking for an oral hearing to prove, among other things, that they had been promised compensation. Their appeal was rejected. The applicants appealed again, requesting an oral hearing and emphasising that allowances had been granted to other police personnel in similar circumstances. On 27 April 2000 the Supreme Administrative Court found that the applicants had no statutory right to the individual wage supplements and that it was unnecessary to hold a hearing, given that the alleged promises made by the provincial police command had no bearing on the case.

The applicants complain about the excessive length of the proceedings, the lack of an oral hearing and discriminatory treatment.

– Articles 6, 13 and 14 in conjunction with Article 1 Protocol No. 1 to the Convention

Admissible (Section IV decision of 29 November 2005).

(2) Jussila v. Finland, no. 73053/01

In 1998 the Tax Office asked the applicant to submit his observations regarding alleged errors in his value-added tax (VAT) declarations for the fiscal years 1994 and 1995.

On 9 July 1998 the Tax Office found that the applicant was, among other things, obliged to pay tax surcharges amounting to 10% of the reassessed tax liability. The additional tax surcharges levied on the applicant totalled

1,836 Finnish Marks. The tax surcharges were based on the fact that the applicant's VAT declarations in 1994-1995 were regarded as incomplete.

The applicant appealed. On 13 June 2000 the Administrative Court held that an oral hearing was manifestly unnecessary in the matter because both parties had submitted to it all the necessary information in writing. It also rejected the applicant's claims.

- Article 6 § 1 of the Convention
Admissible (Section IV decision of 9 November 2004).

(3) McKay v. the United Kingdom, no. 543/03

The applicant was arrested on suspicion of robbery. He was brought before the magistrates' court two days after his arrest, when he applied for release on bail. A police officer gave evidence to the court that the robbery was not connected with terrorism, but the resident magistrate nevertheless refused the applicant's request, on the ground that robbery was a scheduled offence under the Terrorism Act 2000 and he lacked power to order release. The applicant's bail request was heard and granted by the High Court four days after his arrest. The applicant complained of a breach of Article 5 as there was no automatic bail hearing before the magistrates' court following his arrest and that the magistrates' court lacked the power to hear a request for his release on bail.

- Article 5 § 3) of the Convention
Admissible (Section IV decision 30 November 2004).

**(4) O'Halloran v. the United Kingdom, no. 15809/02
Francis v. the United Kingdom, no. 25624/02**

The applicants are the owners of cars which were caught exceeding the speed limit. Each applicant received a notice of intention to prosecute the driver and was requested to furnish the name and address of the driver at the relevant of time or to provide information which would lead to the driver's identification. Failure to provide information was a criminal offence under section 172 of the Road Traffic Act 1988. The first applicant confirmed that he was the driver and was convicted of speeding on the basis of that admission. The second applicant refused to supply the information requested and was convicted of failing to comply with the obligation under section 172.

- (Articles 6 §§ 1 and 2) of the Convention
Admissible (Section IV decision of 25 October 2005).

(5) Dickson v. the United Kingdom, no. 44362/04

The first applicant is serving a life sentence for murder: his earliest release date is 2009. He met and married the second applicant, who was born in 1958, in prison and they wish to have a child together by artificial insemination. The State has refused facilities. The applicants complained about the refusal of access to artificial insemination facilities, relying on Articles 8 and 12 of the Convention.

Priority was granted to the case pursuant to Rule 41.

– Articles 8 and 12 of the Convention

Judgment of 18 April 2006 – no violation

(6) Stoll v. Switzerland, no. 69698/01

The applicant, a journalist, was convicted and fined for having published two articles concerning a leaked confidential Foreign Ministry strategy paper dealing with compensation for victims of the Holocaust with reference to assets on Swiss bank accounts.

– Article 10 of the Convention

Judgment of 25 April 2006 – violation of Article 10 of the Convention

V. INTERESTING JUDGMENTS AND DECISIONS/OTHER CASES OF INTEREST

Of the judgments delivered and decisions adopted by the Section this year, the most interesting included the following:

(1) Murillo Saldias and others v Spain, no. 76973/01

Members of the applicants' families were among the victims when a campsite in Spain was flooded causing 87 deaths. The applicants, some of whom had been injured, during the catastrophe, complain of gross negligence by the authorities which had been warned in an official report of the dangers of the location of the camp. A subsequent criminal investigation against local officials involved in the granting of planning permission was discontinued on the ground that there was no case to answer. Some of the applicants had joined the criminal proceedings as civil parties. The first applicant received substantial compensation after bringing an administrative-law action.

– Articles 2, 6 § 1 and 13 of the Convention

Inadmissible (decision of 28 November 2006).

(2) Evans v. UK, no 6339/05

The applicant, before having an operation to have her ovaries removed to prevent the spread of cancer, had her last eggs used to create six embryos with the sperm of her partner. Both had signed consent forms which gave each other the right to withdraw their consent prior to implantation. The resulting embryos were stored by a private clinic in the United Kingdom. She subsequently sought to have the embryos implanted as this represented her only chance to bear a child to which she is genetically related. Following the breakdown of the relationship with the applicant, her partner withdrew his consent to this procedure. The Human Fertilisation and Embryology Act 1990, entitles her former partner to refuse to permit the embryos to be implanted and the clinic is required to destroy them. Rule 39 was applied requesting the Government to take measures to ensure that the embryos were preserved until the determination of the present proceedings. Priority was granted to the case pursuant to Rule 41.

– Articles 2, 8 and 14 of the Convention

A hearing on the admissibility and merits was held on 27 September 2005.

Judgment of 7 March 2006 – no violation.

(3) Hussein v. the United Kingdom, no. 23276/04

The applicant complained about his arrest, detention and transfer to the Iraqi authorities and about his ongoing trial and its outcome.

– Articles 2, 3, 5 and 6 in conjunction with Article 1 of Protocols Nos .6 and 13 to the Convention

Inadmissible (decision of 14 March 2006).

(4) Valico Srl v. Italy, no 70074/01

The applicant company was fined as they were responsible for building a hotel which did not comply with the regional authorities' stipulations. The building encroached on public land thereby gaining an additional 958 square metres. The fine by an administrative authority and subject to subsequent judicial control amounted to the value of the hotel (1.4 million euros).

– Article 1 of Protocol No 1 and Articles 6 and 7 of the Convention

Inadmissible (decision of 21 March 2006).

(5) Erdogan and others v. Turkey, no 19807/92

The applicants' relatives were killed during a police raid. They claimed that no attempt was made to arrest their relatives and that the intention had been to kill them. They further complained about the inadequacy of the

investigations into the killings since the police officers involved were later acquitted.

– Articles 2, 6 and 13 of the Convention

Judgment of 25 April 2006 – violation of Articles 2 and 13 of the Convention.

(6) Ergin v. Turkey (no.6), no. 47533/99

This case concerns the conviction of the applicant, the editor of a daily newspaper and a civilian, by a military tribunal (General Staff Court) for an article he published about military service.

– Articles 6 § 1 and Article 10 of the Convention

Judgment of 4 May 2006 – violation of Article 6 § 1 and Article 10 of the Convention.

(7) Grant v. the United Kingdom, no. 32570/03

The applicant is a post-operative male-to-female transsexual. She applied for a State pension to start on 22 December 1997, her 60th birthday. On 31 October 1997 her application was refused on the ground that she would only be entitled to a State pension when she reached 65, the retirement age applicable to men. She appealed unsuccessfully.

– Articles 8 and 14 of the Convention and Article 1 of Protocol No. 1

Judgment of 23 May 2006 – violation of Article 8 of the Convention

(8) McBride v. the United Kingdom, no 1396/06

The applicant's son was shot dead in Northern Ireland by two soldiers. They were sentenced to life imprisonment but after serving only 6 years of their sentence they were returned to their unit.

– Articles 2 and 14 of the Convention

Inadmissible (decision of 9 May 2006).

(9) Wós v. Poland, no. 22860/02

The case concerns the payment of compensation to Second World War victims of persecution and forced labour. The compensation was paid by a Foundation out of a fund set up pursuant to a bilateral treaty between Poland and Germany and financed by the latter. The applicant complained that the Foundation's decision partly refusing to grant him compensation was unfair and that the Foundation's decisions cannot be appealed against to any other competent body. The domestic courts found in effect that the Foundation was not a public authority and that, as entitlement to receive a benefit from the Foundation did not fall within the scope of civil law, claims concerning entitlement could not be raised before a civil court

– Article 6 § 1 of the Convention

Judgment of 8 June 2006 – violation of Article 6 § 1 of the Convention.

(10) Zarb Adami v. Malta, no. 17209/02

The applicant was called to serve as a juror, but failed to appear. He was therefore sentenced by a court to pay a fine in respect of his non-appearance. He alleged that he had been the victim of discrimination on grounds of sex as the percentage of females requested to perform the duty of jury service was negligible. He claimed that the burden of jury service fell predominantly on males as well as on persons who had previously served as jurors.

– Articles 4 § 3, 6 and 14 of the Convention

Judgment of 20 June 2006 – violation of Article 14 of the Convention read in conjunction with Article 4 § 3 (d).

(11) Matyjek v. Poland, no. 38184/03

The case concerns lustration proceedings brought against the applicant, a member of parliament, which resulted in his temporary disqualification from, among other things, public office. The applicant had been found by a court to have submitted an untrue lustration declaration because he had collaborated with the State's secret services during the communist era. The applicant complained about the fairness of the proceedings.

– Article 6 of the Convention

Admissible (decision of 30 May 2006).

(12) Saadi v. the United Kingdom, no. 13229/03

The applicant, an Iraqi national, fled his country of origin and arrived at London Heathrow Airport on 30 December 2000, where he immediately claimed asylum and was granted “temporary admission”. On 2 January 2001, on reporting to the immigration authorities, he was detained and transferred to a reception centre used for asylum-seekers who were not likely to abscond and who could be dealt with under a “fast track” procedure. On 5 January 2001 the applicant’s representative telephoned the Chief Immigration Officer and was told that the reason for the detention was that the applicant was an Iraqi who met the criteria for detention at the centre in question. His asylum claim was initially refused on 8 January 2001 and he was formally refused leave to enter the United Kingdom. He was released the next day. He appealed against the Home Office decision and was subsequently granted asylum. He applied in vain for permission for judicial review of his detention.

– Article 5 §§ 1 (f) and 2 of the Convention

Judgment of 11 July 2006 – violation of Article 5 § 2 of the Convention.

(13) Boicenco v. Moldova, no. 41088/05

The applicant was ill-treated by police officers following his arrest and lost consciousness. He had to be hospitalised in a prison hospital. He complained that the medical treatment administered to him was inadequate and that an independent doctor and his lawyers were refused access to him. His requests for transfer from the prison to a hospital were refused. His detention was prolonged on several occasions, unlawfully according to the applicant. No criminal proceedings were brought against the police officers who had allegedly ill-treated him.

– Articles 3, 5 §§ 1 and 3 and Article 34 of the Convention

Judgment of 11 July 2006 – violation of Article 3, Article 5 §§ 1 and 3 and Article 34 of the Convention.

(14) D. v. Ireland, no. 26499/02

The applicant had been carrying two foetuses, one of which was dead and the other suffering from a fatal foetal abnormality (Trisomy 18). It was accepted that such a foetus would survive no longer than 6 days when born. When she discovered this, she was 18 weeks pregnant. Unable to obtain an abortion in Ireland, she travelled to the United Kingdom where the abortion was performed. The applicant did not seek a remedy before the Irish courts since she considered a remedy would have offered no prospects of success or would have led to her identity being disclosed. The applicant complained

about the lack of abortion services in Ireland in the case of lethal foetal abnormality.

- Articles 1, 3, 8, 10, 13 and 14 of the Convention
- Inadmissible (decision of 27 June 2006).

(15) H.M. v. Turkey, no. 34494/97

The case concerns the allegedly illegal search of the applicant's home by State agents and the authorities' failure to investigate properly his complaint in that connection.

- Article 8 of the Convention
- Judgment of 8 August 2006 – violation of Article 8 of the Convention

(16) Kolk v. Estonia, no. 23052/04
Kislyiy v. Estonia, no. 24018/04

The applicants were convicted of crimes against humanity (participation in mass deportation of civilian populations). They complained that they had been punished on the basis of a retroactive application of criminal law

- Article 7 of the Convention
- Inadmissible (decision of 7 January 2006).

(17) Wainwright v. the United Kingdom, no. 12350/04

The applicants, a mother and her son who suffers from cerebral palsy, were strip-searched as a condition of being allowed to visit their relative in prison. The procedures for carrying out strip-searches were disregarded, for example they were not given prior information about the nature and scope of the strip-search, and thus they had no opportunity to withhold their consent. The first applicant was visible through a window when being strip-searched. The applicants failed in their civil action against the prison officers as there was no general tort of invasion of privacy. The second applicant received compensation for battery.

- Article 3, 8 and 13 of the Convention
- Judgment of 26 September 2006 – violation of Articles 8 and 13 of the Convention.

(18) Fleri Soler and Camilleri v. Malta, no. 35349/05

The case concerns the requisition in 1941 of the applicants' father's building under war-time legislation and the imposition of a forced lease of indefinite duration. The building has been occupied by the Government ever since and is used for government offices. The applicants receive approximately EUR 817 per year in rent from the Government.

– Article 1 of Protocol No. 1 to the Convention

Judgment of 26 September 2006 – violation of Article 1 of Protocol No. 1 to the Convention.

(19) Quark Fishing Ltd. v. the United Kingdom, no. 15305/06

The applicant company was refused a fishing licence to allow it to fish in the coastal waters of the South Georgia and Sandwich Islands, a British Overseas Territory to which the Convention had been extended by virtue of a (former) Article 56 declaration. The applicant's civil action, in which he relied on Article 1 of Protocol No. 1 to the Convention, failed because the United Kingdom had not made a declaration extending the application of Protocol No. 1 to the territory in question.

– Article 1 of Protocol No. 1 to the Convention

Inadmissible (decision of 19 September 2006).

(20) Turek v. Slovakia, no. 57986/00

The applicant, a civil servant, quit his job after a negative security certificate had been issued against him. According to the certificate, the applicant had been registered as a collaborator of the former State Security Agency. He unsuccessfully sought a judicial ruling declaring that his registration as a collaborator had been wrongful. The applicant contested the length and fairness of the proceedings since he was denied access to information to enable him to prove that the State's interference with his rights was contrary to the applicable rules.

– Article 6 § 1 and Article 8 of the Convention

Judgment of 14 February 2006 – violation of Article 6 § 1 and Article 8 of the Convention.

(21) Skibinscy v. Poland, no. 52589/99

In 1991 and 1992 the applicants received initial planning approval to build on their land. In 1994 changes were made to the 1979 local development plan for the area, providing for a major roadway to be built in the vicinity of their plots, which were to be expropriated in due course. However, it was not envisaged to provide financing for the construction until at least 2010. The applicants' subsequent requests to obtain definitive construction permits were refused. The 1979 local development plan expired on 31 December 2003 and no new plan was adopted thereafter.

The applicants complained that they have not been able to use their plot for construction purposes for the last 20 years and under domestic legislation were not entitled to any compensation for the interference with their ownership.

– Article 1 of Protocol No. 1 to the Convention

Judgment of 14 November 2006 – violation of Article 1 of Protocol No. 1 to the Convention.

(22) Z. and T. v. the United Kingdom, no. 27034/05

The case concerned the proposed expulsion of the applicants, Christians, to Pakistan. The applicants complained that if returned to Pakistan they would be under fear of attack and would not be able to live openly and freely as Christians. They also complained that their return to Pakistan would prevent them from living in the United Kingdom with their parents, brothers and sister.

– Articles 8 and 9 of the Convention
Inadmissible (decision of 28 February 2006).

(23) Puig Panella v. Spain, no. 1483/02

The applicant was convicted of various offences connected with an attack on an army barracks in the 1980s. His conviction was eventually quashed by the Constitutional Court on the grounds that the evidence against him had not been produced in open court. He had been detained for 5 years and sought compensation in respect of that period. The Ministry of Justice informed him that he was ineligible for compensation since he had not been able to show that he had not been involved in the criminal offence. Moreover, his criminal record still contained the conviction that had been quashed.

– Article 6 § 2 of the Convention
Judgment of 25 April 2006 - violation of Article 6 § 2 of the Convention.

(24) Oferta Plus SRL v. Moldova, no. 14385/04

The applicant company was awarded substantial damages under a final court judgment. The prosecutor successfully obtained the revision of the judgment and the award was quashed. Criminal proceedings were brought against the applicant's chief executive officer in respect of suspected embezzlement in connection with the original award of damages. He was detained. The applicant company was also investigated. The chief executive officer was separated from the applicant company's lawyer by a glass partition in the detention centre and was unable to communicate freely with him, in particular as regards the filing of the applicant company's claim under Article 41 of the Convention. He was later released.

- Articles 6 § 1 and 34 of the Convention and Article 1 of Protocol No. 1 to the Convention

Judgment of 19 December 2006 - violation of Articles 6 § 1 and 34 of the Convention and Article 1 of Protocol No. 1 to the Convention.

VI. RULE 39 (INTERIM MEASURES) AND RULE 41 (PRIORITY) REQUESTS

(a) Requests for interim measures pursuant to Rule 39 of the Rules of Court were granted in the following cases:

(1) Mussenero v. the United Kingdom, no. 19677/06

The applicant claims that she would be at risk if returned because she is from a Muslim family and has had lesbian relationships during the currency of her marriage. She is HIV positive. In March 2005 her CD count was as low as 9 cells/mm³. In February 2006 it was 290. She also states that removal may cause her medical situation to deteriorate.

– Article 3 of the Convention

The case is pending.

(2) Nnyanzi v. the United Kingdom, no. 21878/06

The applicant complains that she would be at risk if returned to Uganda as she is the daughter of a Ugandan opposition politician who has been detained without trial on charges of treason since September 1998. She also states that her removal would be a disproportionate interference with her right to respect for her private and family life.

– Articles 3, 5 and 8 of the Convention

The case is pending.

(3) Moudanga v. the United Kingdom, no. 25087/06

The applicant is a national of the Republic of Congo suffering from AIDS. He alleges that if he is deported from the United Kingdom to the Congo he would not receive adequate medical treatment there. His wife and stepchildren live in the United Kingdom.

– Articles 2, 3 and 8 of the Convention

The case is pending.

(4) Baghbadrani v. the United Kingdom, no. 31013/06

The applicant complains that if he were to be sent back to Iran he would be in danger of being ill-treated and tortured and possibly executed. His wife and children have returned to Iran.

– Articles 2 and 3 of the Convention

The case is pending.

(5) G. v. Finland, no. 23247/06

The applicant, a Chinese national, claimed to be a member of an illegal organisation who was wanted by the authorities in China. Rule 39 was applied on 12 June 2006. Subsequently, the Administrative Court in Finland heard the applicant and found contradictions in his evidence and his statements regarding the alleged risk to which he claimed to be exposed. The Court discontinued the Rule 39 measure on 26 September 2006.

The case is pending.

(6) Mamandi v. Finland, no. 34009/06

The applicant claimed that he would be at risk if returned to Iran as he claimed to be an active member of the Democratic Party of Iranian Kurdistan. Rule 39 was applied in August. It was discontinued in September since it was found that the applicant had not substantiated his claims that the Iranian authorities would take a special interest in him if he were to be deported to Iran.

The case is pending.

(7) Medin v. the United Kingdom, no. 45936/06

The applicant, an Eritrean national, complains that he would be at risk if returned to Eritrea as he had left Eritrea illegally.

– Articles 2 and 3 of the Convention

The case is pending

(8) Sulimau v. Finland, no. 48736/06

The applicant was a former security officer for the intelligence services in the KGB. In September 1995, he decided to resign for political reasons and joined the opposition party, the United Civil Party. He complains that he would be at risk if returned to Belarus owing to his activities within the opposition.

– Articles 3 and 6 of the Convention

The case is pending

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 28 cases, including:

(1) Osman and others v. The United Kingdom, no. 12698/06

The case concerns four sisters, now aged from 26 to 16, who fled with their family from Somali in 1992 due to the civil war. The family was split up. The mother succeeded in reaching the United Kingdom where she was granted leave to remain on humanitarian grounds in 1994. She has been trying to obtain the entry of the four girls, who eventually were united as a group in Nairobi where they live, without legal status, in very poor conditions. Entry clearance was eventually refused as they could only partially be maintained without recourse to public funds.

– Article 8 of the Convention

The case is pending.

(2) Furlepa v. Poland, no. 62101/00

The applicant complains of a violation of her right to respect for private life and home on account of a nuisance caused by an illegally constructed car repair garage situated on an adjacent plot. She submits that it caused environmental pollution and had a detrimental effect on her health.

– Article 8 of the Convention

The case is pending.

(3) Catan and 27 others v. Moldova and Russia, no. 43370/04

The case concerns alleged harassment of the applicants (parents, schoolchildren and teachers) by the authorities of Transdnistria on account of the applicants' language and ethnicity, culminating in the closing of schools using the Latin script.

– Articles 3, 8 and 14 and Article 2 of Protocol No. 1 of the Convention

The case is pending.

VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 44)

Leave to submit third-party comments was given by the President pursuant to Rule 44 § 2 of the Rules of Court in the following cases:

(1) Vrioni and others v. Albania, no. 2141/03

The case concerns the annulment of a final judgment.

– Article 6 and Article 1 of Protocol No. 1 to the Convention

Third party: Mr O. Glozheni, an Albanian national, opposing party in the proceedings before the national courts.

The case is pending.

(2) S. v. the United Kingdom, no. 30562/04

(3) Marper v. the United Kingdom, no. 30566/04

The case concerns the retention of fingerprints and DNA samples and records, pursuant to recent legislation. The applicants, whose fingerprints and DNA samples were taken, were charged but later acquitted. Following their acquittal they requested the destruction of the samples but the police refused.

– Articles 8 and 14 of the Convention

Third party: Liberty

The cases are pending.

(4) A. and others v. the United Kingdom, no. 3455/05

The case concerns the applicants' detention under special anti-terrorist legislation and raises issues concerning the United Kingdom's derogation under Article 15 of the Convention, which the House of Lords in the domestic proceedings found to be disproportionate and discriminatory. This did not however lead to the men's immediate release or to the withdrawal of the derogation in question. All 11 individuals were eventually released or released on bail following the lodging of their application with the Court.

– Article 5 § 1 of the Convention

Third party: Liberty

The case is pending.

(5) Matyjek v. Poland, no. 38184/03

Lustration proceedings resulting in the applicant's (a politician) disqualification from, among other things, public office.

– Article 6 of the Convention

Admissible (decision of 30 May 2006).

Third party: Helsinki Foundation for Human Rights

The case is pending.

(6) Shelley v. the United Kingdom, no. 23800/06

The case concerns the applicant prisoner's complaints of the failure of the prison authorities to safeguard his health by providing a system of needle exchange, which facility is provided in the community at large and recognised as the most effective way of preventing the transmission of disease.

– Article 8 of the Convention

Third party:

– Irish Penal Reform Trust and the Canadian HIV/AIDS Legal Network;

– National AIDS Trust, supported by the Prison Reform Trust.

The case is pending.

VIII. STATISTICAL INFORMATION

1. Results for year
2. Results by month
3. Applications pending
4. Graphic charts
 - (a) Judgments delivered
 - (b) Inadmissibility and strike-out decisions
 - (c) Admissibility decisions
 - (d) Applications communicated
 - (e) Applications pending by year of lodging
 - (f) Applications pending by State

APPENDIX 1

Judgments delivered in 2006	
Merits	281
Striking out	1
Friendly settlement	8
Just satisfaction	3
Revision	0
Total	293

Chamber decisions adopted in 2006	
Applications declared admissible	48
Applications declared inadmissible	146
Applications struck out of the list	88
Total	282

Committee decisions adopted in 2006	
Applications declared inadmissible	7431
Applications struck out of the list	115
Total	7546

Applications communicated in 2006	
Total	542

Total cases finalised in 2006 (judgments*, inadmissibility and strike-out decisions)	8070
---	-------------

APPENDIX 2

	Chambers					Committees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	23	11	17	7	42	786	11
February	16	5	10	3	73	232	4
March	13	8	15	11	60	847	17
April	20	3	15	3	22	285	1
May	27	6	37	13	35	931	12
June	29	3	17	9	33	776	11
July	13	0	3	5	26	376	7
August	21	0	1	1	14	404	7
September	14	6	7	13	68	868	15
October	56	0	10	7	72	561	6
November	20	3	10	9	54	753	19
December	41	3	4	7	43	612	5
Total	293	48	146	88	542	7431	115

APPENDIX 3

Applications pending on 31 December 2006	
Total applications not yet examined	5628
Adjourned/Communicated for information	365
Communicated for observations	1124
Admissible	145
Judgments not yet final	145
TOTAL APPLICATIONS PENDING	7407
(Chamber: 3274)	
(Committee: 4133)	

APPENDIX 4

Chart 1: Judgments delivered in 2006

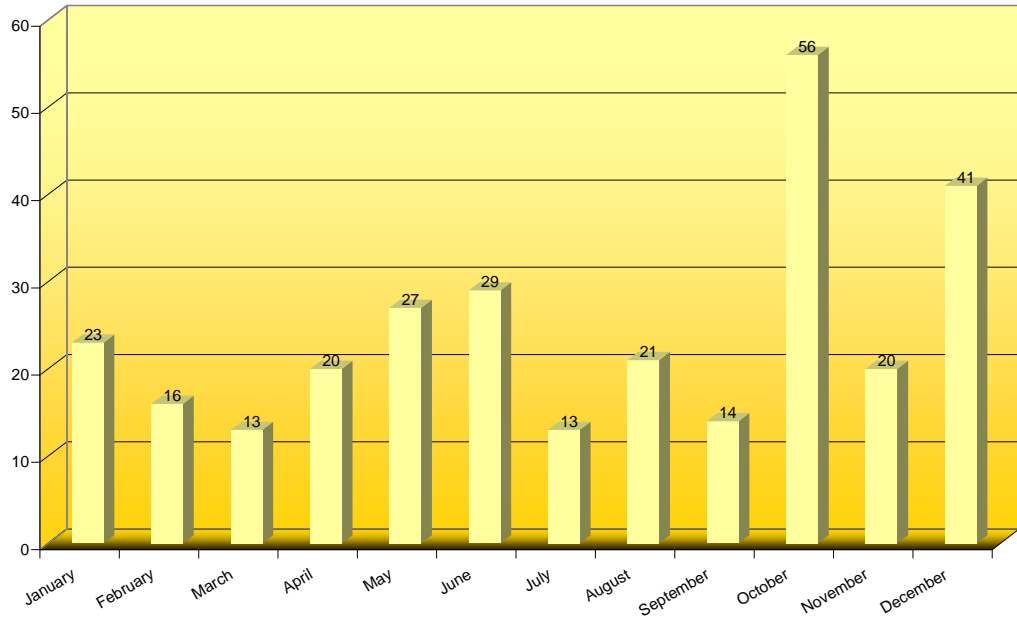


Chart 2: Inadmissibility and strike-out decisions adopted in 2006

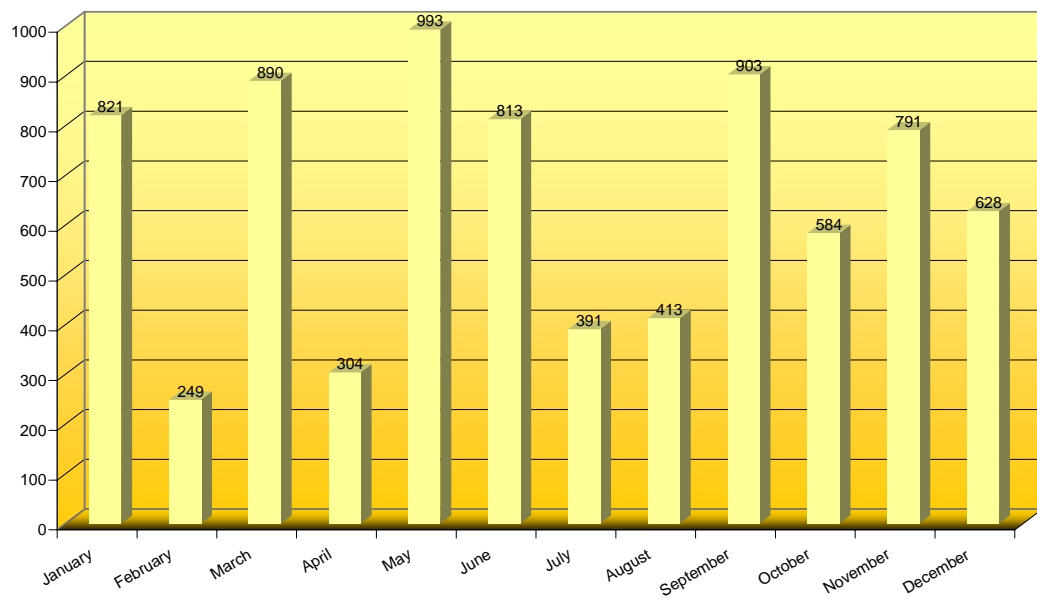


Chart 3: Admissibility decisions adopted in 2006

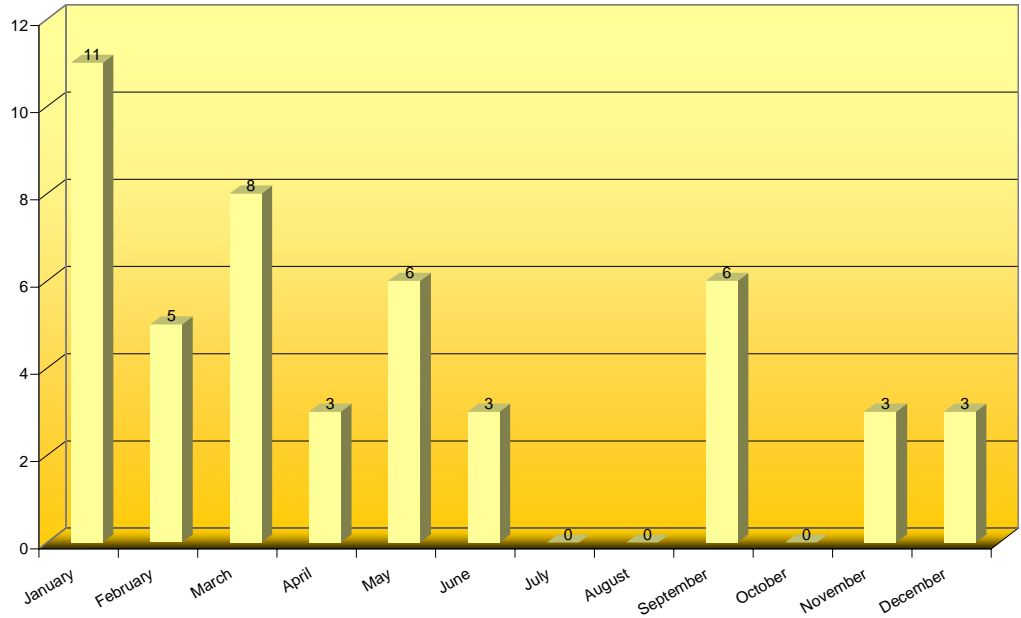


Chart 4: Applications communicated in 2006

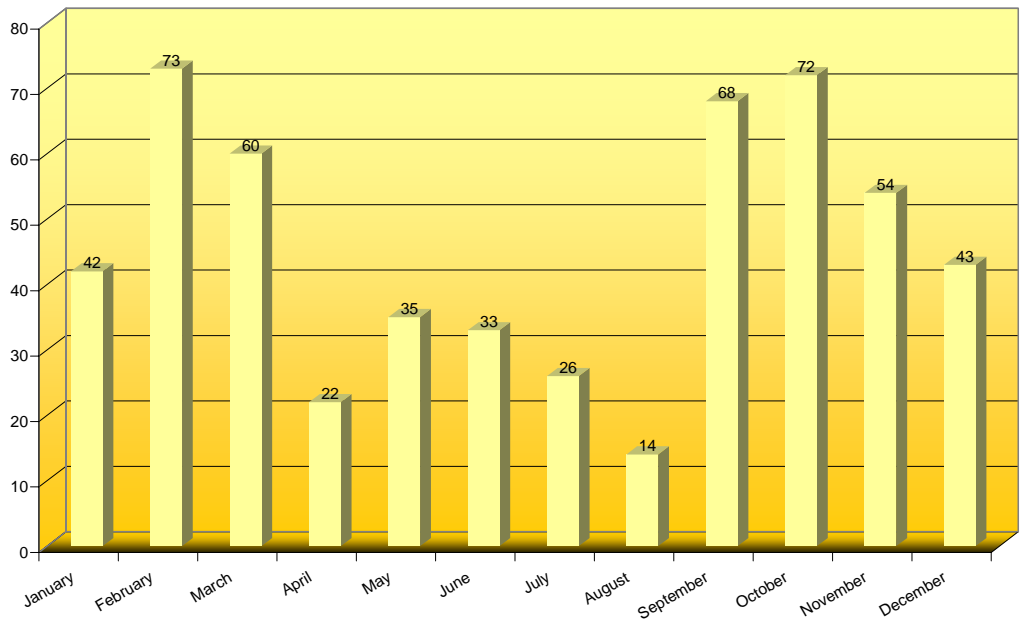


Chart 5: Applications pending on 31 December 2006 by year of lodging

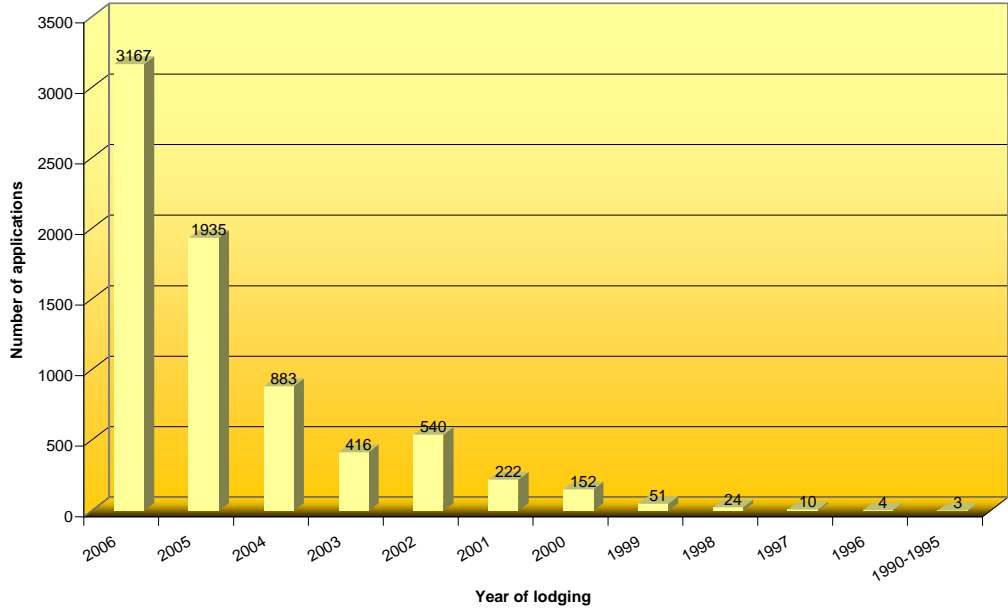
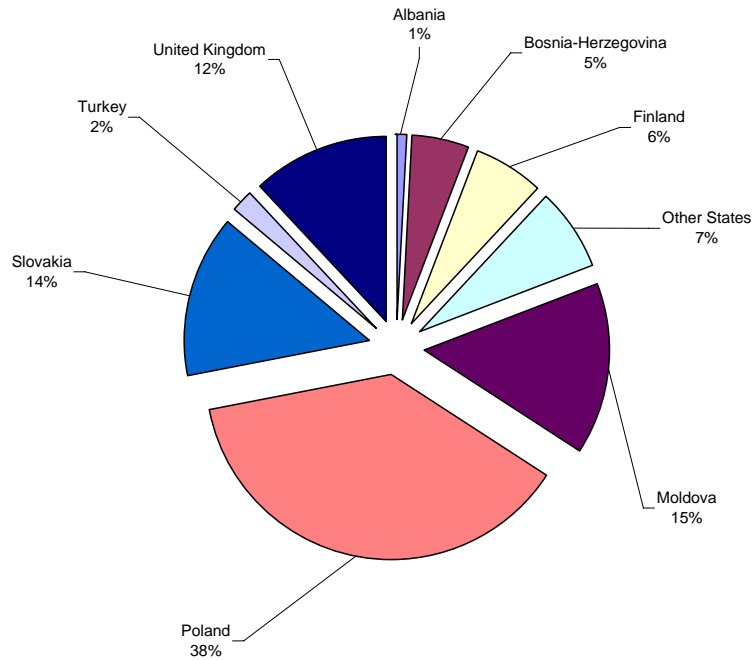


Chart 6: Applications pending on 31 December 2006 by State



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



FIFTH SECTION

ANNUAL ACTIVITY REPORT 2006

January 2007

CONTENTS

	Page
I. Introduction	1
II. Composition of the Section	2
III. Hearings.....	2
IV. Cases relinquished to the Grand Chamber	2
V. Interesting judgments and decisions.....	2
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	6
VII. Third-party intervention (Article 36 and Rule 44)	7
VIII. Statistical information	7

I. INTRODUCTION

The newly constituted Fifth Section which started to work on 1 April 2006 held 28 Chamber sessions. No oral hearings were held. The Section delivered 164 (173) judgments, of which 163 (172) concerned the merits and one concerned a friendly settlement. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 437 cases and 145 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 19 applications were declared admissible;
- (b) 72 applications were declared inadmissible;
- (c) 82 applications were struck out of the list; and
- (d) 453 applications were communicated to the State concerned for observations of which 396 were communicated by the President by virtue of the new procedure instituted on 1 January 2003.

In addition, the Section held 29 Committee sessions. 3,509 applications were declared inadmissible and 41 applications were struck out of the list. The total number of applications rejected by a Committee represented 95.8 % of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 13,798 applications were pending before the Section.

II. COMPOSITION OF THE SECTION

Peer **Lorenzen** (Danish), *President*,
Snejana **Botoucharova** (Bulgarian), *Vice-President*,
Luzius **Wildhaber** (Swiss),
Karel **Jungwiert** (Czech),
Volodymyr H. **Butkevych** (Ukrainian),
Margarita **Tsatsa-Nikolovska** (citizen of “the Former Yugoslav Republic of Macedonia”),
Rait **Maruste** (Estonian),
Javier **Borrego-Borrego** (Spanish),
Renate **Jaeger** (German),
Mark **Villiger** (Swiss)⁹, *judges*,

Claudia **Westerdiek**, *Registrar*,
Stephen **Phillips**, *Deputy Registrar*.

III. HEARINGS

No hearings were held in 2006.

IV. CASES RELINQUISHED TO THE GRAND CHAMBER

The Section did not relinquish any cases to the Grand Chamber.

V. INTERESTING JUDGMENTS AND DECISIONS

Of the judgments delivered and decisions adopted by the Section this year, the most interesting included the following:

9. Elected as the Judge in respect of Liechtenstein as from 1.09.2006.

(1) Custers, Deveaux and Turk v. Denmark, nos. 11843/03, 11847/03 and 11849/03

Greenpeace activists were found guilty of trespassing on a military defence area on Greenland allegedly in the absence of legal authority or any demarcation of the zone.

- Complaints under Article 7 of the Convention
Partly admissible (decision of 9 May 2006).

(2) Estate of Kresten Filtenborg Mortensen v. Denmark, no. 1338/03

DNA testing was performed on an exhumed corpse for the purpose of establishing affiliation (complaints brought on behalf of the deceased's estate).

- Article 8 of the Convention
Inadmissible (decision of 15 May 2006).

(3) Lederer v. Germany, no. 6213/03

The applicant, a lawyer, was disbarred upon appointment to public office with tenure.

- Article 14 of the Convention and Article 1 of Protocol No. 1
Inadmissible (decision of 22 May 2006).

(4) Riener v. Bulgaria, no. 46343/99

The applicant was issued with a travel ban because of unpaid taxes and her request to renounce her Bulgarian citizenship was refused.

- Articles 8 and 13 of the Convention and Article 2 of Protocol No. 4
Judgment of 23 May 2006 – violation of Article 2 of Protocol No. 4 (travel ban); not necessary to examine separately under Article 8 (travel ban); violations of Article 13 of the Convention in conjunction with Article 8 of the Convention and Article 2 of Protocol No. 4 (travel ban); no violation of Articles 8 and 13 (citizenship).

(5) Hansen and Others v. Denmark, no. 26194/03

At the end of lengthy civil proceedings, the applicant was exempted from procedural costs.

- Article 6 § 1 of the Convention
Inadmissible (decision of 29 May 2006) as the exemption constituted adequate redress (no victim).

(6) Bianchi v. Switzerland, no. 7548/04

The case concerned a second international abduction of a child from the Italian father by the child's mother.

- Article 8 of the Convention
Judgment of 22 June 2006 – violation of Article 8.

(7) Panteleyenko v. Ukraine, no. 11901/02

The case concerned the questions of lawfulness of a search of the applicant's offices and of the disclosure of psychiatric information.

- Articles 6 § 2, 8 and 13 of the Convention
Judgment of 29 June 2006 – violation of Articles 6 § 2, 8 and 13.

(8) Olaechea Cahuas v. Spain, no. 24668/03

In 2003 the applicant, a Peruvian national resident in the United Kingdom and a presumed member of the “Shining Path” organisation (*Sendero Luminoso*), was arrested during a brief visit to Spain under an international arrest warrant issued by the Peruvian authorities. His extradition was authorised. The Spanish authorities did not comply with the Court's indication not to extradite the applicant.

- Articles 3, 5, 6 § 1 and 34 of the Convention
Judgment of 10 August 2006 – violation of Article 34 and no violation of Articles 3, 5 and 6 § 1.

(9) Grässer v. Germany, no. 66491/01

The applicant's civil proceedings against State authorities terminated after 28 years. The Federal Constitutional Court allowed the applicant's complaint about the excessive length but could not afford redress.

- Article 6 of the Convention
Judgment of 5 October 2006 – violation of Article 6.

(10) Sapunarescu v. Germany, no. 22007/03

The applicant and his defence counsel could not examine in person the main witness for the prosecution as the authorities had prohibited him from testifying in court.

- Articles 5, 6, 8 and 14 of the Convention
Inadmissible (decision of 11 September 2006).

(11) Konrad and Others v. Germany, no. 35504/03

The applicants' request to grant their children exemption from compulsory primary school attendance for religious reasons was refused on the grounds that children need to integrate into and have a first experience of society, and in order to avoid parallel societies.

- Articles 8, 9 and 14 of the Convention and Article 2 of Protocol 1
Inadmissible (decision of 11 September 2006).

(12) Youb Saoudi v. Spain, no. 22871/06

The applicant, tried for terrorism *in absentia*, was extradited to Algeria following governmental assurances excluding capital punishment and a full-life life sentence of imprisonment. A Rule 39 indication had been made in the case.

- Articles 2 and 3 of the Convention and Article 1 of Protocol No. 6
Inadmissible (decision of 18 September 2006).

(13) Dogmoch v. Germany, no. 26315/03

Assets belonging to the applicant were attached in the context of criminal investigations against third persons in order to safeguard claims of aggrieved parties.

- Articles 6 §§1 and 3 (d) of the Convention
Inadmissible (decision of 18 September 2006).

(14) Wallova and Walla v. the Czech Republic, no. 23848/04

Children from a large family were taken into care on the ground that the family's housing was inadequate.

- Article 8 of the Convention
Judgment of 26 October 2006 – violation of Article 8.

(15) Chraidi v. Germany, no. 65655/01

The applicant, a stateless person, was kept in detention on remand for a period of five years and six months in the context of international terrorism.

- Article 5 § 3 of the Convention
Judgment of 26 October 2006 – no violation of Article 5 § 3.

(16) Tarariyeva v. Russia, no 4353/03

The applicant's son died in custody of a perforated ulcer as a result of inadequate medical assistance and the Russian authorities failed to determine the cause of death and to bring those responsible to account. The

case further concerned the son's handcuffing in a civilian hospital and the conditions of his transport from that hospital to the prison hospital.

- Articles 2, 3 and 13 of the Convention

Judgment of 14 December 2006 – violations of Articles 2 and 3, no separate issue under Article 13, no hindrance of the right of individual petition.

VI. RULE 39 (INTERIM MEASURES) AND RULE 41 (PRIORITY) REQUESTS

(a) Requests for interim measures pursuant to Rule 39 of the Rules of Court were granted in 4 cases:

(1) Yakovenko v. Ukraine, no. 15825/06

The applicant was allegedly ill-treated by the police during his initial detention in police custody and detained in inhuman and degrading conditions during his pre-trial detention.

(Articles 3, 5 § 3, 6 § 3 (d) and 13).

The case is pending.

(2) Youb Saoudi v. Spain, no. 22871/06

See above.

(3) Baryshev v. Ukraine, no. 17363/06

The applicant allegedly did not receive adequate medical treatment and was detained in very poor conditions during his detention on remand.

(Articles 3, 5 §§ 1(c), 3 and 4 of the Convention).

The case is pending.

(4) Novik v. Ukraine, no. 48068/06

The applicant was to be extradited to Belarus on suspicion of aggravated fraud.

(Articles 3 and 6 § 1 of the Convention).

The case is pending.

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 36 cases.

VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 44)

Leave to submit third-party comments was given by the President pursuant to Rule 44 § 2 of the Rules of Court in the following case:

Gajic v. Germany, no. 31446/02

The applicant, a national of Serbia and Montenegro, fled Kosovo in June 1999. His apartment in Prizren was subsequently used by German KFOR units without paying rent. Leave was given to PRAXIS.

VIII. STATISTICAL INFORMATION

1. Results for the year
2. Results by month
3. Applications pending
4. Graphs and charts
 - (a) Judgments delivered
 - (b) Inadmissibility and strike-out decisions
 - (c) Admissibility decisions
 - (d) Applications communicated
 - (e) Applications pending by year of lodging
 - (f) Applications pending by State

APPENDIX 1

Judgments delivered in 2006	
Merits	163
Striking out	0
Friendly settlement	1
Just satisfaction	0
Revision	0
Total	164

Chamber decisions adopted in 2006	
Applications declared admissible	19
Applications declared inadmissible	72
Applications struck out of the list	82
Total	173

Committee decisions adopted in 2006	
Applications declared inadmissible	3,509
Applications struck out of the list	41
Total	3,550

Applications communicated in 2006	
Total	453

Total cases finalised in 2006 (judgments [*] , inadmissibility and strike-out decisions)	3,868
--	--------------

* Not including judgments on just satisfaction and revision but including judgments which are not yet final. Some judgments dealt with a number of joined applications.

APPENDIX 2

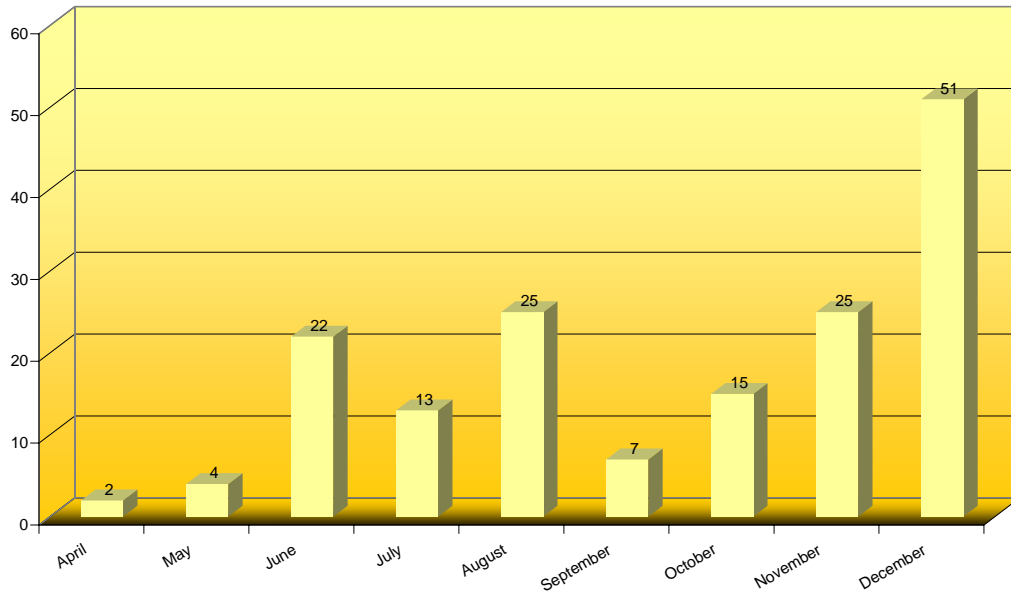
	Chambers					Committees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
April	2	0	1	1	37	126	1
May	4	10	11	19	72	572	15
June	22	0	6	20	26	402	3
July	13	1	6	5	11	299	4
August	25	2	2	5	6	0	0
September	7	2	13	11	41	779	7
October	15	4	15	2	162	579	4
November	25	0	12	9	65	352	2
December	51	0	6	10	33	400	5
Total	164	19	72	82	453	3,509	41

APPENDIX 3

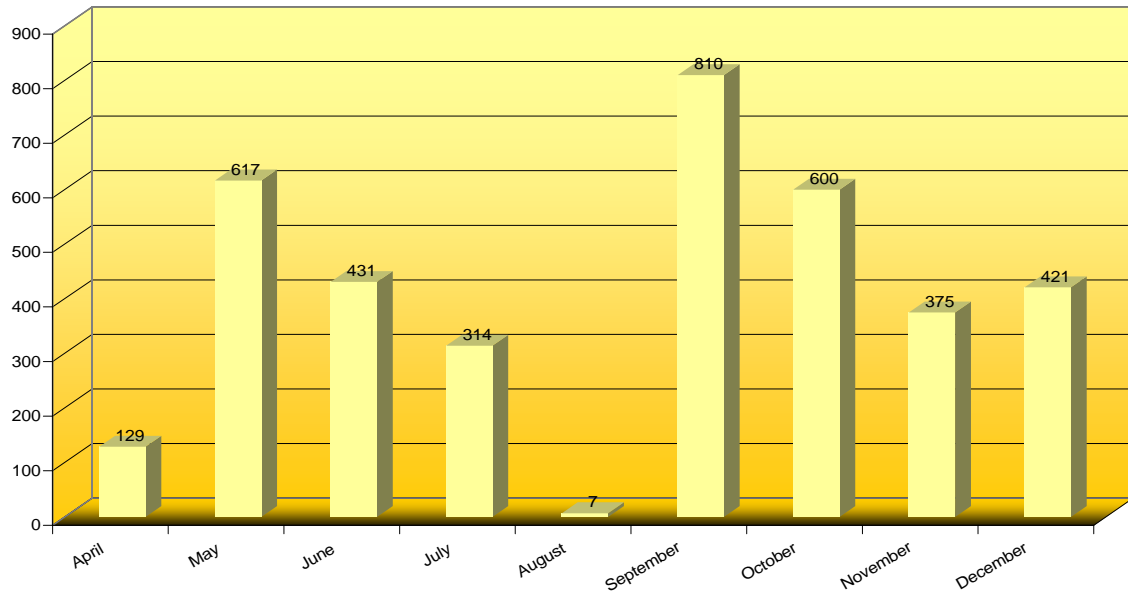
Applications pending on 31 December 2006	
Total applications not yet examined	12,606
Adjourned/Communicated for information	12
Communicated/Adjourned	0
Communicated for observations	998
Admissible	72
Judgments not yet final	110
TOTAL APPLICATIONS PENDING	13,798
(Chamber: 4,498)	
(Committee: 9,300)	

APPENDIX 4

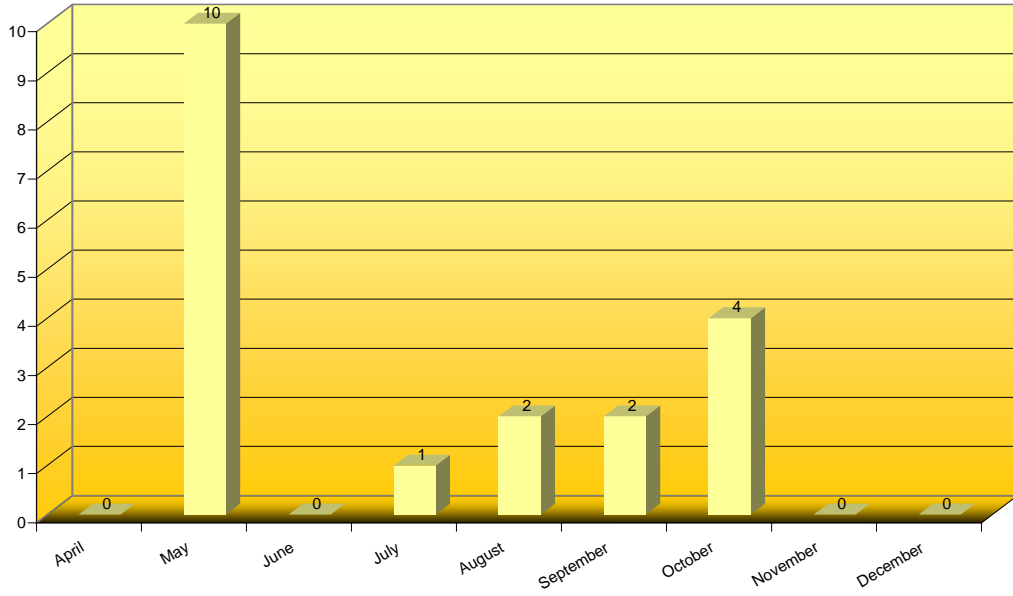
**Chart 1: Judgments delivered in 2006
(April to December)**



**Chart 2: Inadmissibility and strike-out decisions adopted in 2006
(April to December)**



**Chart 3: Admissibility decisions adopted in 2006
(April to December)**



**Chart 4: Applications communicated in 2006
(April to December)**

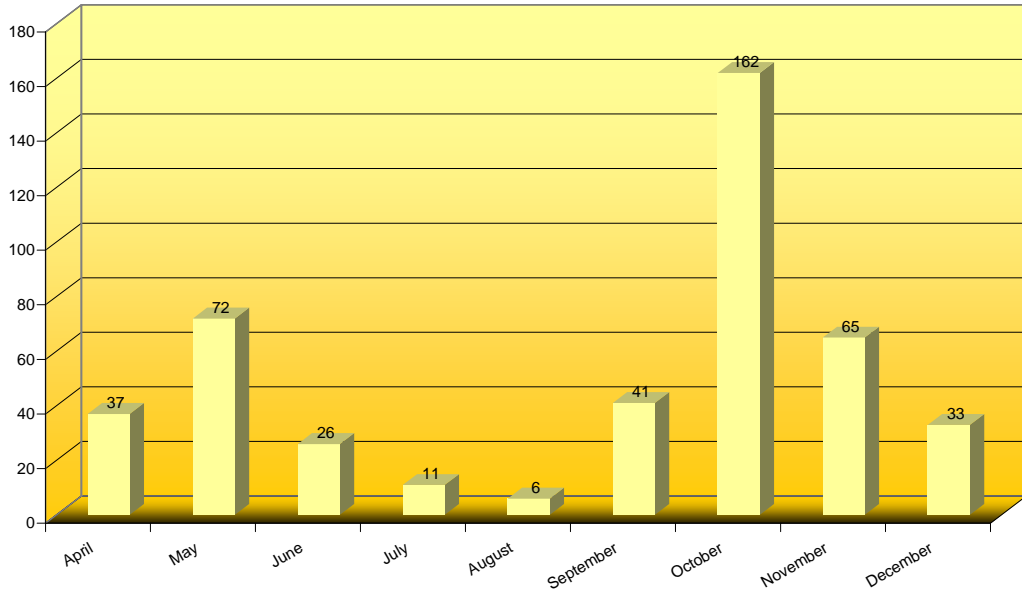


Chart 5: Applications pending on 31 December 2006 by year of lodging

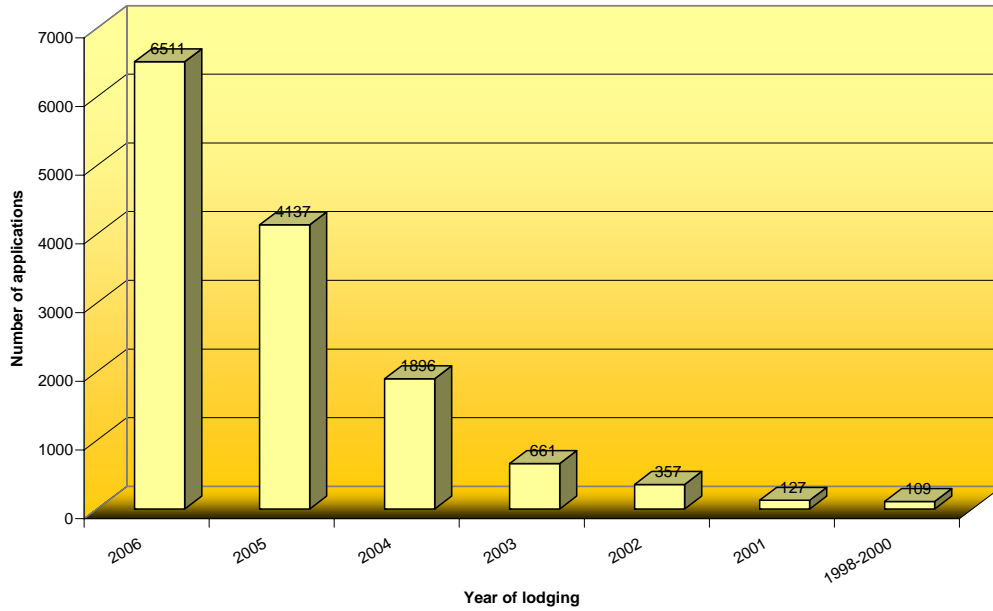


Chart 6: Applications pending on 31 December 2006 by State

