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Armed conflicts

Cases concerning the Katyń massacre during World War II

Janowiec and Others v. Russia

21 October 2013 (Grand Chamber)

The case concerned complaints by relatives of victims of the 1940 Katyń massacre – the killing of several thousands of Polish prisoners of war by the Soviet secret police (NKVD) – that the Russian authorities' investigation into the massacre had been inadequate. Relying in particular on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the applicants complained that the Russian authorities had not carried out an effective investigation into the death of their relatives and had displayed a dismissive attitude to all their requests for information about their relatives' fate.

The European Court of Human Rights held that it had **no competence to examine the complaints under Article 2** (right to life) and that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. If found that it was not competent to examine the adequacy of an investigation into the events that had occurred before the adoption of the Convention in 1950. Furthermore, by the time the Convention entered into force in Russia, the death of the Polish prisoners of war had become established as a historical fact and no lingering uncertainty as to their fate – which might have given rise to a breach of Article 3 in respect of the applicants – had remained. The Court further held that Russia had **failed to comply with its obligations under Article 38** (obligation to furnish necessary facilities for examination of the case) of the Convention. It underlined that Member States were obliged to comply with its requests for evidence and found that Russia, in refusing to submit a key procedural decision which remained classified, had failed to comply with that obligation. The Russian courts had not conducted a substantive analysis of the reasons for maintaining the classified status.

Cases concerning the Turkey-Cyprus issue

Cyprus v. Turkey

10 May 2001 (Grand Chamber – principal judgment)[1]

This case related to the situation that has existed in northern Cyprus since the conduct of military operations there by Turkey in July and August 1974 and the continuing division of the territory of Cyprus. Cyprus alleged violations of the Convention by Turkey as a matter of administrative practice. It contended that Turkey was accountable for those alleged violations notwithstanding the proclamation of the "Turkish Republic of

[1]. See also, with regard to the same case, the Grand Chamber judgment of 12 May 2014 on the question of just satisfaction. In this judgment, the Court held that the passage of time since the delivery of the principal judgment on 10 May 2001 did not preclude it from examining the Cypriot Government's just satisfaction claims. It concluded that Turkey was to pay Cyprus 30,000,000 euros (EUR) in respect of the non-pecuniary damage suffered by the relatives of the missing persons, and EUR 60,000,000 in respect of the non-pecuniary damage suffered by the enclaved Greek-Cypriot residents of the Karpas peninsula. These amounts, said the Court, are to be distributed by the Cypriot Government to the individual victims under the supervision of the Committee of Ministers of the Council of Europe.

Northern Cyprus" (TRNC) in November 1983, pointing to the international community's condemnation of the establishment of the TRNC. Turkey, on the other hand, maintained that the TRNC was an independent State and that it could therefore not be held accountable under the Convention for the acts or omissions concerned.

The Court held that the facts complained of in the application fell within the jurisdiction of Turkey. It found fourteen violations of the Convention, concerning:

– *Greek-Cypriot missing persons and their relatives*: **continuing violation of Article 2** (right to life) of the Convention concerning the failure of the authorities of the Turkish State to conduct an effective investigation into the whereabouts and fate of Greek-Cypriot missing persons who disappeared in life-threatening circumstances; **continuing violation of Article 5** (right to liberty and security) concerning the failure of the Turkish authorities to conduct an effective investigation into the whereabouts and fate of the Greek-Cypriot missing persons in respect of whom there was an arguable claim that they were in Turkish custody at the time of their disappearance; and **continuing violation of Article 3** (prohibition of inhuman or degrading treatment) in that the silence of the Turkish authorities in the face of the real concerns of the relatives attained a level of severity which could only be categorised as inhuman treatment;

– *Home and property of displaced persons*: **continuing violation of Article 8** (right to respect for private and family life, home and correspondence) concerning the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus; **continuing violation of Article 1** (protection of property) **of Protocol No. 1** to the Convention concerning the fact that Greek-Cypriot owners of property in northern Cyprus were being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights; and **violation of Article 13** (right to an effective remedy) concerning the failure to provide to Greek Cypriots not residing in northern Cyprus any remedies to contest interferences with their rights under Article 8 and Article 1 of Protocol No. 1;

– *Living conditions of Greek Cypriots in Karpas region of the northern part of Cyprus*: **violation of Article 9** (freedom of thought, conscience and religion), concerning the effects of restrictions on freedom of movement which limited access to places of worship and participation in other aspects of religious life; **violation of Article 10** (freedom of expression) in so far as school-books destined for use in their primary school were subject to excessive measures of censorship; **violation of Article 1** (protection of property) **of Protocol No. 1** in that their right to the peaceful enjoyment of their possessions was not secured in case of their permanent departure from that territory and in that, in case of death, inheritance rights of relatives living in southern Cyprus were not recognised; **violation of Article 2** (right to education) **of Protocol No. 1** in so far as no appropriate secondary-school facilities were available to them; **violation of Article 3** in that the Greek Cypriots living in the Karpas area of northern Cyprus had been subjected to discrimination amounting to degrading treatment; **violation of Article 8** concerning their right to respect for their private and family life and to respect for their home; and **violation of Article 13** by reason of the absence, as a matter of practice, of remedies in respect of interferences by the authorities with their rights under Articles 3, 8, 9 and 10 of the Convention and Articles 1 and 2 of Protocol No. 1;

– *Rights of Turkish Cypriots living in northern part of Cyprus*: **violation of Article 6** (right to a fair trial), on account of the legislative practice of authorising the trial of civilians by military courts.

The Court further held that there had been **no violation** of the Convention concerning a number of complaints, including all those raised under: **Article 4** (prohibition of slavery and forced labour), **Article 11** (freedom of assembly and association), **Article 14** (prohibition of discrimination), **Article 17** (prohibition of abuse of rights) and **Article 18** (limitation on use of restrictions on rights) read in conjunction with all those provisions. As regards a number of other allegations, the Court held that it was not necessary to consider the issues raised.

Varnava and Others v. Turkey

18 September 2009 (Grand Chamber)

The applicants were relatives of nine Cypriot nationals who disappeared during Turkish military operations in northern Cyprus in July and August 1974. They alleged in particular that their relatives had disappeared after being detained by Turkish military forces and that the Turkish authorities had not accounted for them since.

The Court held that there had been a **continuing violation of Article 2** (right to life) of the Convention on account of the failure of the authorities to conduct an effective investigation into the fate of the nine men who disappeared in life-threatening circumstances, a **continuing violation of 3** (prohibition of inhuman treatment) in respect of the applicants, a **continuing violation of Article 5** (right to liberty and security) by virtue of the failure of the authorities to conduct an effective investigation into the fate of two of the missing men, and **no continuing violation of Article 5** in respect of the other seven missing men.

Andreou v. Turkey

27 October 2009

This case concerned a British national shot and injured by Turkish armed forces during tensions at the United Nations buffer zone in Cyprus.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention. The use of potentially lethal force against the applicant had not been "absolutely necessary" and had not been justified by any of the exceptions permitted under Article 2 of the Convention.

Charalambous and Others v. Turkey and Emin and Others v. Cyprus

3 April 2012 (decisions on the admissibility)

The first group of applications concerned complaints raised by relatives of Greek Cypriots who went missing during the Turkish invasion in 1974. The second group of applications concerned complaints which were raised by relatives of Turkish-Cypriots who went missing during incidents of inter-communal violence in 1963-1964. The remains of the applicants' missing relatives were found due to the exhumation programme of the UN Committee of Missing Persons. Forensic reports indicate that the victims bear signs of multiple gunshots or other injuries. The applicants complained that the respective authorities had failed to carry out an effective investigation into the disappearance and killings of their relatives.

The Court declared the applications **inadmissible**. While it acknowledged that the Turkish and Cypriot Governments were under an obligation under Article 2 of the Convention to investigate the discovery of bodies of missing persons, bearing signs of violent death, it held that it was premature to find that the investigations into the deaths had been ineffective. The fact that no concrete progress had yet been made did not, in itself, disclose a lack of good will on the part of the authorities.

Cases concerning the conflict between Turkish security forces and the PKK (Workers' Party of Kurdistan)

The European Court of Human Rights has delivered around 280 judgments finding violations of the Convention which took place against the background of the fight against terrorism in the 1990s, in particular in connection with the conflict between Turkish security forces and the PKK, an illegal party. The Court found numerous violations of the Convention on account of:

- deaths of the applicants' next-of-kin as a result of excessive use of force by members of security forces;
- failure to protect the right of life of the applicants' next-of-kin;
- death and/or disappearance of the applicants' next-of-kin;
- ill-treatment;

- destruction of property and
- lack of effective domestic remedies into the applicants' complaints.

An Interim Resolution adopted by the Committee of Ministers of the Council of Europe – which supervises the execution of the Court's judgments – on 18 September 2008 welcomed a number of measures Turkey had taken to implement the Court's judgments concerning this problem. In particular, the Resolution noted: improvements of procedural safeguards in police custody and of professional training of members of security forces; new legislation restricting the use of force by then police and new legislation; and, legislation providing for compensation for pecuniary damages caused as a result of operations carried out in combating terrorism. At the same time, the Committee of Ministers urged the Turkish Government to take further outstanding general measures, in particular to ensure that the authorities carry out effective investigations into alleged abuses by members of security forces.

Key and recent judgments include:

Mentes and Others v. Turkey

28 November 1997

The applicants were four Turkish citizens of Kurdish origin from a village located in the province of Bingöl in south-east Turkey. They complained that their houses were burned during an operation by the security forces in June 1993 in the context of the conflict in south-east Turkey between the security forces and members of the PKK.

The Court, having carefully examined the evidence gathered by the European Commission of Human Rights[2], was satisfied that the facts as established by it proved beyond reasonable doubt the allegations of three of the applicants' allegations. It found in particular a **violation of Article 8** (right to respect for private and family life and the home) of the Convention with respect to those applicants.

Orhan v. Turkey

18 June 2002

The applicant, a Turkish national of Kurdish origin, complained in particular of the destruction of the village in south-east Turkey, where he lived, by State security forces in May 1994, of the detention and disappearance of his two brothers and his son, and of the inadequacy of the ensuing investigations.

The Court found in particular two **violations of Article 2** (right to life) of the Convention on account of the presumed deaths of the applicant's son and two brothers and on account of the inadequate investigations into their detention and disappearance; a **violation of Article 3** (prohibition of torture and degrading treatment or punishment) concerning the applicant; a **violation of Article 5** (right to liberty and security), concerning the applicant's son and brothers; a **violation of Article 8** (right to respect for private and family life) and of **Article 1** (protection of property) **of Protocol No. 1** concerning the applicant and his brothers; a **violation of Article 8** concerning the applicant's son; a **violation of Article 13** (right to an effective remedy) **in conjunction with Articles 2, 3, 5 and 8** of the Convention **together with Article 1 of Protocol No. 1** concerning the applicant, his brothers and son.

Er and Others v. Turkey

31 July 2012

This case concerned the disappearance in July 1995 of a Turkish family's 44-year old father and brother following a military operation in their village. The applicants alleged that their relative was arrested on 14 July 1995 following a clash between the Turkish security forces and the PKK in the village of Kurudere and taken to the local gendarmerie station. The Turkish Government submitted that the applicants' relative had not been

[2]. Together with the European Court of Human Rights and the Committee of Ministers of the Council of Europe, the European Commission of Human Rights, which sat in Strasbourg from July 1954 to October 1999, supervised Contracting States' compliance with their obligations under the European Convention on Human Rights. The Commission ceased to exist when the Court became permanent on 1st November 1998.

taken into custody on 14 July but had helped soldiers with locating landmines planted by terrorists in the area and had been released the following day. The ensuing investigation had shown that he had joined terrorists in northern Iraq.
The Court found two **violations of Article 2** (right to life and lack of an effective investigation) of the Convention concerning the disappearance and presumed death of the applicants' relative; a **violation of Article 3** (prohibition of inhuman and degrading treatment) on account of the applicants' mental suffering caused by the disappearance of their relative; a **violation of Article 5** (right to liberty and security) concerning the unlawful detention of the applicants' relative at a gendarmerie station; and, a **violation of Article 13** (right to an effective remedy).
The Court confirmed in particular that a less rigid approach was justified when examining the issue of compliance with the Court's six-month time limit (Article 35 of the Convention – admissibility criteria) in disappearance cases, not only in the context of an international armed conflict but also in the national context. Furthermore, it found that the applicants could not be criticised for waiting nine years before lodging their complaint about their relative's disappearance, as an investigation had been carried out during that period (which had come up with promising new developments) and they had done all that could be expected of them to assist the authorities.

Meryem Çelik and Others v. Turkey

16 April 2013
This case concerned the alleged raid of a village in the Şemdinli district of Hakkari (south-east Turkey) by Turkish security forces in July 1994. The applicants are 14 Turkish nationals of Kurdish ethnic origin who are the close relatives (wives, brothers and partners) of 13 people who had gone missing and one person who had allegedly been killed during the raid. According to the official version of events, there had been an armed clash between the security forces and the PKK in the village on the day in question, forcing the inhabitants to flee soon afterwards to Iraq. The applicants complained in particular that the Turkish security forces had been responsible for the unlawful detention, disappearance and killing/presumed death of their relatives and that the authorities' ensuing investigation into their allegations had been ineffective.
The Court found **violations of Article 2** (right to life) of the Convention on account of the disappearance and presumed death of 12 of the applicants' relatives, of the killing of one of the applicants' relatives, and of the ineffective investigation into the disappearances and killing in question. It further held that there had been a violation of **Article 5** (right to liberty and security) in respect of the unlawful detention of 13 of the applicants' relatives, and a **violation of Article 3** (prohibition of inhuman or degrading treatment) in respect of the suffering of 13 of the applicants due to the disappearance of their relatives.

Benzer and Others v. Turkey

12 November 2013
This case concerned the applicants' allegation that the Turkish military bombed their two villages by aircraft in March 1994, killing more than 30 of their close relatives, injuring some of the applicants themselves, and destroying most of the property and livestock. The Turkish Government claimed that this attack was carried out by the PKK.
The Court held that there had been a **violation of Article 2** (right to life) of the Convention on account of the deaths of 33 of the applicants' close relatives and the injuries caused to three of the applicants themselves; **a further violation of Article 2** because of the extremely inadequate investigation into the incident; **a violation of Article 3** (prohibition of inhuman or degrading treatment) because the villagers had been forced to witness the deaths of their relatives and the destruction of their homes, and the Turkish government had not provided even the minimum of humanitarian aid to deal with the aftermath of the attack; and a **failure to comply with Article 38** (obligation to provide all necessary facilities for the examination of the case) because the Turkish Government had withheld vital evidence, namely the flight log of the planes which had carried out the bombing.

Further, bearing in mind that the investigation was still pending at national level, the Court found in particular that this was an exceptional case where it was appropriate to indicate under **Article 46** (implementation of judgments) of the Convention[3] that the Turkish Government should carry out further investigative steps into the incident, with the help of the flight log, in order to identify and punish those responsible for the bombing of the applicants' two villages and prevent further impunity.

Cases concerning the Armenian-Azerbaijani conflict over Nagorno-Karabakh[4]

Chiragov and Others v. Armenia

16 June 2015 (Grand Chamber – judgment on the merits)[5]

This case concerned the complaints by six Azerbaijani refugees that they were unable to return to their homes and property in the district of Lachin, in Azerbaijan, from where they had been forced to flee in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh. The applicants complained in particular about the loss of all control over, and of all potential to use, sell, bequeath, mortgage, develop and enjoy their properties in Lachin. They also complained that their inability to return to the district of Lachin constituted a continuing violation of the right to respect for home and private and family life. Furthermore, they complained that no effective remedies had been available to them in respect of their complaints.

In the applicants' case, the Court confirmed that Armenia exercised effective control over Nagorno-Karabakh and the surrounding territories and thus had jurisdiction over the district of Lachin. Concerning their complaints, it held that there had been a **continuing violation of Article 1** (protection of property) **of Protocol No. 1** to the Convention, a **continuing violation of Article 8** (right to respect for private and family life) of the Convention, and a **continuing violation of Article 13** (right to an effective remedy) of the Convention. The Court considered in particular that there was no justification for denying the applicants access to their property without providing them with compensation. The fact that peace negotiations were ongoing did not free the Armenian Government from their duty to take other measures. The Court also noted that what was called for was a property claims mechanism which would be easily accessible to allow the applicants and others in their situation to have their property rights restored and to obtain compensation.

Sargsyan v. Azerbaidjan

16 June 2015 (Grand Chamber – judgment on the merits)[6]

This case concerned an Armenian refugee's complaint that, after having been forced to flee from his home in the Shahumyan region of Azerbaijan in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh, he had since been denied the

[3]. Under Article 46 of the Convention, the Committee of Ministers (CM), the executive arm of the Council of Europe, supervises the execution of the Court's judgments. Further information on the execution process and on the state of execution in cases pending for supervision before the CM can be found on the Internet site of the Department for the execution of judgments of the European Court of Human Rights.

[4]. Under the Soviet system of territorial administration, Nagorno-Karabakh was an autonomous province of the Azerbaijan Soviet Socialist Republic. Its population was approximately 75% ethnic Armenian and 25% ethnic Azeri. Armed hostilities started in 1988, coinciding with an Armenian demand for the incorporation of the province into Armenia. Azerbaijan became independent in 1991. In September 1991 the Nagorno-Karabakh Soviet announced the establishment of the "Nagorno-Karabakh Republic" (the "NKR") and in January 1992 the "NKR" parliament declared independence from Azerbaijan. The conflict gradually escalated into full-scale war before a ceasefire was agreed in 1994. Despite negotiations for a peaceful solution under the auspices of the Organization for Security and Co-operation in Europe (OSCE) and the Minsk Group, no political settlement of the conflict has been reached. The self-proclaimed independence of the "NKR" has not been recognised by any State or international organisation.

[5]. See also, with regard to the same case, the Grand Chamber judgment of 12 December 2017 on the question of just satisfaction.

[6]. See also, with regard to the same case, the judgment of 12 December 2017 on the question of just satisfaction.

right to return to his village and to have access to and use his property there. It was the first case in which the Court had to decide on a complaint against a State which had lost control over part of its territory as a result of war and occupation, but which at the same time was alleged to be responsible for refusing a displaced person access to property in an area remaining under its control. The applicant having died after having lodged his complaint with the European Court of Human Rights, two of his children have pursued the application on his behalf.
In the applicant's case, the Court confirmed that, although the village from which he had to flee was located in a disputed area, Azerbaijan had jurisdiction over it. Concerning the applicant's complaints, it held that there had been a **continuing violation of Article 1** (protection of property) **of Protocol No. 1** to the Convention, a **continuing violation of Article 8** (right to respect for private and family life) and a **continuing violation of Article 13** (right to an effective remedy) of the Convention. The Court considered in particular that while it was justified by safety considerations to refuse civilians access to the village, the State had a duty to take alternative measures in order to secure the applicant's rights as long as access to the property was not possible. The fact that peace negotiations were ongoing did not free the Azerbaijani Government from their duty to take other measures. The Court further noted that what was called for was a property claims mechanism which would be easily accessible to allow the applicant and others in his situation to have their property rights restored and to obtain compensation.

Cases concerning the war in Croatia

Marguš v. Croatia

27 May 2014 (Grand Chamber)
This case concerned the conviction, in 2007, of a former commander of the Croatian army of war crimes against the civilian population committed in 1991. The applicant complained in particular that his right to be tried by an impartial tribunal and to defend himself in person had been violated. He further submitted that the criminal offences of which he had been convicted were the same as those which had been the subject of proceedings against him terminated in 1997 in application of the General Amnesty Act.
The Court held that there had been **no violation of Article 6 §§ 1 and 3 (c)** (right to a fair trial) of the Convention, considering that the applicant's removal from the courtroom had not prejudiced his defence rights to a degree incompatible with that provision.
The Court further held that **Article 4** (right not to be tried or punished twice) **of Protocol No. 7** to the Convention was **not applicable** in respect of the charges relating to the offences which had been the subject of proceedings against the applicant terminated in 1997 in application of the General Amnesty Act. At the same time, it declared **inadmissible** the complaint under Article 4 of Protocol No. 7 to the Convention as regards the applicant's right not to be tried or punished twice in respect of the charges dropped by the prosecutor in January 1996. The Court found in particular that there was a growing tendency in international law to see the granting of amnesties in respect of grave breaches of human rights as unacceptable. It concluded that by bringing a new indictment against the applicant and convicting him of war crimes against the civilian population, the Croatian authorities had acted in compliance with the requirements of Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention and consistent with the recommendations of various international bodies.

Cases concerning the war in Bosnia and Herzegovina

Palić v. Bosnia and Herzegovina

15 February 2011
This case concerned the disappearance during the war in Bosnia and Herzegovina of a military commander leading one of the local forces at the time. In July 1995, after the

opposing local forces (the VRS, mostly made up of Serbs) had taken control of the area of Žepa in Bosnia and Herzegovina, he went to negotiate the terms of surrender of his forces, and disappeared. His wife attempted numerous times to find out about his fate from official sources, without success. She complained that Bosnia and Herzegovina failed to investigate the disappearance and death of her husband and that she had suffered as a result for many years.

The Court held that there had been **no violation of Article 2** (right to life), **3** (prohibition of inhuman or degrading treatment) **or 5** (right to liberty and security) of the Convention. It found that the application was admissible, as the disappearance of the applicant's husband had not been accounted for by 12 July 2002, the date when Bosnia and Herzegovina ratified the Convention. It further observed that despite the initial delays, the investigation had finally identified the remains of the applicant's husband. That had been a significant achievement in itself, given that more than 30,000 people had gone missing during the war in Bosnia and Herzegovina. The prosecution authorities had been independent, and although there had been some concern in relation to one of the members of one of the ad hoc investigative commissions that had not influenced the conduct of the ongoing criminal investigation. In addition, after a long and brutal war, Bosnia and Herzegovina had had to make choices in terms of priorities and resources.

Stichting Mothers of Srebrenica and Others v. the Netherlands

11 June 2013 (decision on the admissibility)

This case concerned the complaint by relatives of victims of the 1995 Srebrenica massacre, and by an NGO representing victims' relatives, of the Netherlands courts' decision to declare their case against the United Nations (UN) inadmissible on the ground that the UN enjoyed immunity from national courts' jurisdiction. Relying notably on Article 6 (right to a fair trial) of the Convention, the applicants alleged in particular that their right of access to court had been violated by that decision.

The Court declared the application **inadmissible** in respect of both the NGO and the individual applicants. It found that the NGO had not itself been affected by the matters complained of and could thus not claim to be a "victim" of a violation of the Convention. As regards the individual applicants, the Court rejected the complaint as manifestly ill-founded, as the granting of immunity to the UN served a legitimate purpose. It held in particular: that bringing military operations under Chapter VII of the Charter of the UN within the scope of national jurisdiction would mean allowing States to interfere with the key mission of the UN to secure international peace and security; that a civil claim did not override immunity for the sole reason that it was based on an allegation of a particularly grave violation of international law, even genocide; and, that in the circumstances the absence of alternative access to a jurisdiction did not oblige the national courts to step in.

Maktouf and Damjanović v. Bosnia and Herzegovina

18 July 2013 (Grand Chamber)

Both applicants in this case had been convicted by the Court of Bosnia and Herzegovina of war crimes committed against civilians during the 1992-1995 war. They complained in particular that a more stringent criminal law, namely the 2003 Criminal Code of Bosnia and Herzegovina, had been applied to them retroactively than that which had been applicable at the time they committed the offences – in 1992 and 1993 respectively – namely the 1976 Criminal Code of the Socialist Federal Republic of Yugoslavia.

The Court held that there had been a **violation of Article 7** (no punishment without law) of the Convention. Given the type of offences of which the applicants had been convicted (war crimes as opposed to crimes against humanity) and the degree of seriousness (neither of the applicants had been held criminally liable for any loss of life), the Court found that the applicants could have received lower sentences had the 1976 Code been applied. Since there was a real possibility that the retroactive application of the 2003 Code operated to the applicants' disadvantage in the special circumstances of this case, it held that they had not been afforded effective safeguards against the imposition of a heavier penalty.

Mustafić-Mujić and Others v. the Netherlands

30 August 2016 (decision on the admissibility)

The applicants, relatives of men killed in the Srebrenica massacre of July 1995, imputed criminal responsibility to three Netherlands servicemen who were members of the UN peacekeeping force. They complained that the Netherlands authorities had wrongly refused to investigate and prosecute the servicemen for allegedly sending their relatives to their probable death by ordering them to leave the safety of the UN peacekeepers' compound after the Bosnian Serb forces had overrun Srebrenica and its environs.

The Court declared the application **inadmissible**, finding that the Netherlands authorities had sufficiently investigated the incident and given proper consideration to the applicants' request for prosecutions. In relation to the investigation, the Court held that there had been extensive and repeated investigations by national and international authorities. There was no lingering uncertainty as regards the nature and degree of involvement of the three servicemen and it was therefore impossible to conclude that the investigations had been ineffective or inadequate. In relation to the decision not to prosecute – taken on the basis that it was unlikely that any prosecution would lead to a conviction – the Court rejected the applicants' complaints that that decision had been biased, inconsistent, excessive or unjustified by the facts.

Cases concerning the NATO operation in former Yugoslavia

Banković and Others v. Belgium and 16 Other Contracting States

19 December 2001 (Grand Chamber – decision on the admissibility)

The application was brought by six people living in Belgrade, Serbia against 17 NATO (North Atlantic Treaty Organization) member States which are also Convention State parties. The applicants complained about the bombing by NATO, as part of its campaign of air strikes during the Kosovo conflict, of the Serbian Radio-Television headquarters in Belgrade which caused damage to the building and several deaths.

The Court declared the application **inadmissible**. It found that, while international law did not exclude a State's exercise of jurisdiction extra-territorially, jurisdiction was, as a general rule, defined and limited by the sovereign territorial rights of the other relevant States. Other bases of jurisdiction were exceptional and required special justification in the particular circumstances of each case. The Convention was a multi-lateral treaty operating in an essentially regional context and notably in the legal space of the Contracting States. The then Federal Republic of Yugoslavia clearly did not fall within that legal space. The Court was not persuaded that there was any jurisdictional link between the victims and the respondent States.

Markovic and Others v. Italy

14 December 2006 (Grand Chamber)

The application concerned an action in damages brought by the ten applicants, nationals of the former Serbia and Montenegro, before the Italian courts in respect of the deaths of their relatives as a result of air strikes on 23 April 1999 by the NATO alliance on the headquarters of Radio Televizije Srbije (RTS) in Belgrade. They alleged, relying on Article 6 (right to a fair trial) read in conjunction with Article 1 (obligation to respect human rights) of the Convention, that they were denied access to a court.

The Court held that once the applicants had brought a civil action in the Italian courts, there indisputably existed a "jurisdictional link" for the purposes of Article 1 of the Convention. However, the Court found **no violation of Article 6** (right to a fair trial) of the Convention, holding that the applicants' claims had been fairly examined in the light of the Italian legal principles applicable to the law of tort.

Behrami and Behrami v. France and Saramati v. France, Germany and Norway

31 May 2007 (Grand Chamber – decision on the admissibility)

The first case concerned the detonation of a cluster bomb in March 2000 – dropped during the 1999 NATO bombing of the then Federal Republic of Yugoslavia – found by

playing children, which killed one boy and seriously wounded another. The applicants complained, relying on Article 2 (right to life) of the Convention, that the death of one boy and the injuries of the other were attributable to the failure of the French troops of the international security force in Kosovo (KFOR) to mark and/or defuse the undetonated bombs.
The second case concerned the detention by KFOR of a man from Kosovo of Albanian origin, who was suspected of involvement with armed groups operating in the border region between Kosovo and the Former Yugoslav Republic of Macedonia and assumed to represent a threat to the security of KFOR. He complained that his detention, between July 2001 and January 2002, violated, in particular, Article 5 (right to liberty and security) of the Convention.
The Court declared the applications **inadmissible**. It found that the supervision of de-mining in Kosovo fell within the mandate of the UN Interim Administration for Kosovo (UNMIK) and the issuing of detention orders fell within the security mandate of KFOR, hence the UN, given that the UN Security Council had passed Resolution 1244 establishing UNMIK and KFOR. The UN had a legal personality separate from that of its member states and was not a Contracting Party to the Convention. Since UNMIK and KFOR relied for their effectiveness on support from member states, the Convention could not be interpreted in a manner which would subject Contracting Parties' acts or omissions to the scrutiny of the Court. To do so would be to interfere with the fulfilment of the UN's key mission to preserve peace. The Court concluded that it was not necessary to examine the question of its competence to hear complaints against France about extra-territorial acts or omissions.

Cases concerning the conflict in Chechnya

To date the European Court of Human Rights has delivered more than 250 judgments finding violations of the Convention in connection with the armed conflict in the Chechen Republic of the Russian Federation. About 60% of the applications concern enforced disappearances[7]; other issues include killing and injuries to civilians, destruction of homes and property, indiscriminate use of force, use of landmines, illegal detention, torture and inhuman conditions of detention.

The applicants most commonly refer to Articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment), 5 (right to liberty and security), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the Convention and to Article 1 (protection of property) of Protocol No. 1 to the Convention.

The first judgments were delivered by the Court in 2005 and concerned the disproportionate use of force during the military campaign in 1999-2000 (**Isayeva, Yusupova and Bazayeva v. Russia** and **Isayeva v. Russia**, judgments of 24 February 2005).

In a number of cases, State servicemen were found responsible for extra-judicial killings of the applicants' relatives (**Khashiyev and Akayeva v. Russia**, judgment of 24 February 2005; **Musayev and Others v. Russia**, judgment of 26 July 2007; **Estamirov and Others v. Russia**, judgment of 12 October 2006; **Amuyeva and Others v. Russia**, judgment of 25 November 2010).

On 2 December 2010, in the judgment **Abuyeva and Others v. Russia**, the Court concluded that in carrying out the investigation in the case, Russia had manifestly disregarded the specific findings of the Court's previous binding judgment **Isayeva v. Russia** of 24 February 2005, concerning the ineffectiveness of the same set of criminal proceedings. The Court emphasised that any measures adopted within the process of

[7]. See Overview of the Court's judgments concerning enforced disappearances in the North Caucasus, Memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights, 25 May 2016.

executing judgments must be compatible with the conclusions set out in the Court's judgment. The Court invited the Committee of Ministers of the Council of Europe to address the issue, with reference to Article 46 (binding force of judgments) of the Convention[8].

Other recent judgments include: **Esmukhambetov and Others v. Russia** (29 March 2011), which concerned a Russian military air strike on a village in Chechnya in September 1999 killing five people and destroyed houses and property; **Tashukhadzhiyev v. Russia** (25 October 2011), which concerned the disappearance of a young man in Chechnya after having been detained by a group of military servicemen in 1996; **Inderbiyeva v. Russia** and **Kadirova and Others v. Russia** (27 March 2012), which concerned the alleged killings and lack of effective investigation into the death of four civilian women during security operations by Russian servicemen in the Chechen Republic in 2000; **Umarova and Others v. Russia** (31 July 2012), which concerned the disappearance of a man, husband and father of five, and the inadequate investigation into the events surrounding it; **Gakayeva and Others v. Russia** (10 October 2013), concerning alleged abductions by Russian servicemen between 2000 and 2005 in broad daylight in various public places in Chechnya; **Petimat Ismailova and Others v. Russia** (18 September 2014), concerning the disappearance of seventeen persons between 2001 and 2006 after allegedly being arrested at their homes in Chechnya by State servicemen; **Sultygov and Others v. Russia** (9 October 2014), which concerned the disappearance of seventeen men and one woman between 2000 and 2006 after allegedly being arrested in Chechnya by Russian servicemen during security operations or at military checkpoints.

In its judgment in the case of **Aslakhanova and Others v. Russia** of 18 December 2012, concerning the complaints brought by 16 applicants, the Court found that *the non-investigation of disappearances that have occurred between 1999 and 2006 in Russia's North Caucasus was a systemic problem*, for which there was no effective remedy at national level.

The Court outlined two types of **general measures to be taken by Russia** to address those problems: to alleviate the continuing suffering of the victims' families; and, to remedy the structural deficiencies of the criminal proceedings. A corresponding strategy was to be prepared by Russia without delay and to be submitted to the Committee of Ministers for the supervision of its implementation. At the same time, the Court decided not to adjourn the examination of similar cases pending before it.

The judgment in the case of **Turluyeva v. Russia** of 20 June 2013 concerned the disappearance of a young man in October 2009 after last having been seen at the premises of a police regiment in Grozny. The Court found three **violations of Article 2** (right to life) of the Convention, on account of the young man's presumed death, on account of the State's failure to protect his life, and on account of the failure to conduct an effective investigation into his disappearance.

The Court underlined that the Russian authorities were sufficiently aware of the gravity of the problem of enforced disappearances in the North Caucasus and its life-threatening implications, and that they had lately taken a number of steps to make investigations of this type of crime more efficient. It therefore found, in particular, that the authorities should have taken, but had failed to take, appropriate measures to protect the life of the applicant's son once they had learned of his disappearance.

The judgment in the case of **Abdulkhanov and Others v. Russia** of 3 October 2013 concerned a Russian military strike on a village in Chechnya in February 2000, which killed 18 of the applicants' relatives.

For the first time in a case concerning the armed conflict in Chechnya, the Russian Government acknowledged that there had been a violation of Article 2 (right to life),

[8]. See footnote 3 above.

both as regards the use of lethal force and as regards the authorities' obligation to investigate its circumstances.

The Court observed that the parties did not dispute that the applicants and their close relatives had become victims of the use of lethal force and that no investigation capable of establishing the circumstances had taken place. Those considerations were sufficient to conclude that there had been a **violation of Article 2** (right to life) of the Convention, both in its substantive and in its procedural aspect.

The Court further found that where, as in the applicants' case, a criminal investigation into the use of lethal force had been ineffective, the effectiveness of any other remedy was undermined. There had accordingly been a **violation of** the applicants' right to an effective remedy under **Article 13** (right to an effective remedy) of the Convention.

The judgment in the case of **Pitsayeva and Others v. Russia** of 9 January 2014 concerned the disappearances of 36 men after they were abducted in Chechnya by groups of armed men, in a manner resembling a security operation, between 2000 and 2006.

In this case the Court confirmed its conclusion in previous cases that the situation resulted from a systemic problem of non-investigation of such crimes, for which there was no effective remedy at national level.

The Court held in the present case that there had been a **violation of Article 2** (right to life) of the Convention, both on account of the disappearance of the applicants' relatives who were to be presumed dead and on account of the inadequacy of the investigation into the abductions; a **violation of Article 3** (prohibition of inhuman or degrading treatment) in respect of the applicants on account of their relatives' disappearance and the authorities' response to their suffering; a **violation of Article 5** (right to liberty and security) on account of the unlawful detention of the applicants' relatives; and a **violation of Article 13** (right to an effective remedy) of the Convention.

Cases concerning the ISAF operation in Afghanistan

Pending application

Hanan v. Germany (no. 4871/16)

Application communicated to the German Government on 2 September 2016

This case concerns an airstrike ordered by a Colonel of the German armed forces, acting in the framework of an UN mission (ISAF – International Security Assistance Force), that killed up to 142 persons, among whom the two sons of the applicant, approximately 12 and 8 years old respectively. The applicant alleges that the investigation into the airstrike was not effective and that he had no effective domestic remedy at his disposal to challenge the decision to discontinue the investigation.

The Court gave notice of the application to the German Government and put questions to the parties under Articles 2 (right to life) and 13 (right to an effective remedy) of the Convention.

Cases concerning the international military operations in Iraq

Al-Saadoon & Mufdhi v. the United Kingdom

2 March 2010

The applicants are two Sunni Muslims from southern Iraq and former senior officials of the Ba'ath party, who were accused of involvement in the murder of two British soldiers shortly after the invasion of Iraq in 2003. They complained that the British authorities transferred them to Iraqi custody on 31 December 2008 and that they were at real risk of being subjected to an unfair trial followed by execution by hanging.

In its admissibility decision of 30 June 2009, the Court considered that the United Kingdom authorities had had total and exclusive control, first through the exercise of

military force and then by law, over the detention facilities in which the applicants were held. The Court found that the applicants had been within the UK's jurisdiction and had remained so until their physical transfer to the custody of the Iraqi authorities on 31 December 2008.
In its judgment of 2 March 2010, the Court found a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, concluding that the applicants' transfer to Iraqi custody had subjected them to inhuman treatment. In particular, it observed that the Iraqi authorities had not given any binding assurance that they would not execute the applicants. The Court further found a **violation of Article 13** (right to an effective remedy) **and Article 34** (right to individual petition) of the Convention, holding that the British Government had not taken steps to comply with the Court's indication not to transfer the applicants to Iraqi custody. Lastly, under **Article 46** (binding force and execution of judgments) of the Convention[9], the Court requested the UK Government to take all possible steps to obtain assurance from Iraqi authorities that the applicants would not be subjected to death penalty.

Al-Skeini and Others v. the United Kingdom

7 July 2011 (Grand Chamber)
This case concerned the deaths of the applicants' six close relatives in Basrah in 2003 while the UK was an occupying power: three of the victims were shot dead or shot and fatally wounded by British soldiers; one was shot and fatally wounded during an exchange of fire between a British patrol and unknown gunmen; one was beaten by British soldiers and then forced into a river, where he drowned; and one died at a British military base, with 93 injuries identified on his body.
The Court held that, in the exceptional circumstances deriving from the United Kingdom's assumption of authority for the maintenance of security in South East Iraq from 1 May 2003 to 28 June 2004, the United Kingdom had jurisdiction under Article 1 (obligation to respect human rights) of the Convention in respect of civilians killed during security operations carried out by UK soldiers in Basrah. It found that there had been a failure to conduct an independent and effective investigation into the deaths of the relatives of five of the six applicants, in **violation of Article 2** (right to life) of the Convention.

Al-Jedda v. the United Kingdom

7 July 2011 (Grand Chamber)
This case concerned the internment of an Iraqi civilian for more than three years (2004-2007) in a detention centre in Basrah, run by British forces.
The Court found that the applicant's internment was attributable to the United Kingdom and that, while interned, he fell within the jurisdiction of the United Kingdom for the purposes of Article 1 (obligation to respect human rights) of the Convention. It further found a **violation of Article 5 § 1** (right to liberty and security) of the Convention, holding in particular that neither of the relevant UN resolutions explicitly or implicitly required the United Kingdom to place an individual whom its authorities considered to constitute a risk to the security of Iraq into indefinite detention without charge.

Pritchard v. the United Kingdom

18 March 2014 (strike-out decision)
This case concerned the fatal shooting of a soldier of the Territorial Army (the volunteer part of the UK reserve force) serving in Iraq. The complaint was lodged by his father, who alleged that the United Kingdom authorities had failed to carry out a full and independent investigation into his son's death.
The Court took note of the **friendly settlement** reached between the parties. Being satisfied that the settlement was based on respect for human rights as defined in the Convention and its Protocols and finding no reasons to justify a continued examination of

[9]. See footnote 3 above.

the application, it decided to **strike** it **out of** its **list of cases** in accordance with Article 37 (striking out applications) of the Convention

Hassan v. the United Kingdom

16 September 2014 (Grand Chamber)

This case concerned the capture of the applicant's brother by British armed forces and his detention at Camp Bucca in Iraq (close to Um Qasr). The applicant alleged in particular that his brother had been arrested and detained by British forces in Iraq and and that his dead body, bearing marks of torture and execution, had subsequently been found in unexplained circumstances. He also complained that the arrest and detention had been arbitrary and unlawful and lacking in procedural safeguards. He lastly complained that the British authorities had failed to carry out an investigation into the circumstances of his brother's detention, ill-treatment and death.

The case concerned the acts of British armed forces in Iraq, extra-territorial jurisdiction and the application of the European Convention of Human Rights in the context of an international armed conflict. In particular, this was the first case in which a contracting State had requested the Court to disapply its obligations under Article 5 (right to liberty and security) of the Convention or in some other way to interpret them in the light of powers of detention available to it under international humanitarian law.

In the present case, the Court held that the applicant's brother had been **within the jurisdiction of the United Kingdom** between the time of his arrest by British troops, in April 2003, until his release from the bus that had taken him from Camp Bucca under military escort to a drop-off point, in May 2003.

The Court further held that there had been **no violation of Article 5 §§ 1, 2, 3 or 4 (right to liberty and security)** of the Convention as concerned the actual capture and detention of the applicant's brother. It decided in particular that international humanitarian law and the European Convention both provided safeguards from arbitrary detention in time of armed conflict and that the grounds of permitted deprivation of liberty set out in Article 5 should be accommodated, as far as possible, with the taking of prisoners of war and the detention of civilians who pose a risk to security under the Third and Fourth Geneva Conventions. It further found that, in the present case, there had been legitimate grounds under international law for capturing and detaining the applicant's brother, who had been found by British troops, armed and on the roof of his brother's house, where other weapons and documents of a military intelligence value had been retrieved. Moreover, following his admission to Camp Bucca, he had been subjected to a screening process, which established that he was a civilian who did not pose a threat to security and led to his being cleared for release. The applicant's brother's capture and detention had not therefore been arbitrary.

The Court lastly declared **inadmissible**, for lack of evidence, the applicant's complaints under Article 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the Convention concerning the alleged ill-treatment and death of his brother.

Jaloud v. the Netherlands

20 November 2014

This case concerned the investigation by the Netherlands authorities into the circumstances surrounding the death of an Iraqi civilian (the applicant's son) who died of gunshot wounds in Iraq in April 2004 in an incident involving Netherlands Royal Army personnel. The applicant complained that the investigation into the shooting of his son had neither been sufficiently independent nor effective.

The Court established that the complaint about the investigation into the incident – which had occurred in an area under the command of an officer of the armed forces of the United Kingdom – fell **within the jurisdiction of the Netherlands** within the meaning of Article 1 (obligation to respect human rights) of the Convention. It noted in particular that the Netherlands had retained full command over its military personnel in Iraq.

The Court further held that there had been a **violation of Article 2** (right to life) of the Convention under its procedural limb, as regards the failure of the Netherlands

authorities to carry out an effective investigation into the death of the applicant's son. The Court came to the conclusion that the investigation had been characterised by serious shortcomings, which had made it ineffective. In particular, records of key witness statements had not been submitted to the judicial authorities; no precautions against collusion had been taken before questioning the Netherlands Army officer who had fired at the car carrying the victim; and the autopsy of the victim's body had been inadequate. The Court recognised that the Netherlands military and investigators, being engaged in a foreign country in the aftermath of hostilities, had worked in difficult conditions. Nevertheless, the shortcomings in the investigation, which had seriously impaired its effectiveness, could not be considered inevitable, even in those conditions.

Inter-State case concerning the Georgia-Russia issue

Application pending before the Grand Chamber

Georgia v. Russia (II) (no. 38263/08)

13 December 2011 (decision on the admissibility) – Relinquishment of jurisdiction in favour of the Grand Chamber in April 2012

The case concerns the armed conflict between Georgia and the Russian Federation in August 2008 and its aftermath. It raises issues under Articles 2 (right to life), 3 (prohibition of torture, inhuman and degrading treatment), 5 (right to liberty and security), 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the Convention, under Articles 1 (protection of property) and 2 (right to education) of Protocol No. 1, as well as under Article 2 (freedom of movement) of Protocol No. 4 to the Convention.

Georgia alleges in particular that Russian forces and/or the separatist forces they controlled carried out indiscriminate and disproportionate attacks against civilians and their property in different parts of Georgia, including Abkhazia and South Ossetia. Russia denies Georgia's allegations, describing them as baseless and unconfirmed by any admissible evidence.

A Chamber hearing was held on 22 September 2011.

The Court declared the application admissible by a decision of 13 December 2011.

On 3 April 2012, the Chamber relinquished jurisdiction in favour of the Grand Chamber.

In June 2016 a delegation of seven Judges of the Court took evidence from witnesses in Strasbourg (see press release of 17 June 2016).

On 23 May 2018 the Grand Chamber held a hearing in the case.

Cases concerning the Ukraine-Russia issue

Ukraine v. Russia (III)

1 September 2015 (decision – strike-out)

This case concerned the deprivation of liberty and the alleged ill-treatment of a Ukrainian national belonging to the Crimean Tatars ethnic group, in the context of criminal proceedings conducted against him by the Russian authorities.

The Court **decided to strike** the application **out of** its **list of cases** after the Government of Ukraine had informed it that they did not wish to pursue the application, given that an individual application (no. 49522/14) concerning the same subject matter was pending before the Court.

Lisnyy and Others v. Ukraine and Russia

5 July 2016 (decision on the admissibility)

This case essentially concerned three Ukrainian nationals' complaints about the shelling of their homes during the hostilities in Eastern Ukraine from the beginning of April 2014 onwards.

The Court declared the applications **inadmissible** as being manifestly ill-founded. Despite the fact that the Court in certain exceptional circumstances beyond the

applicants' control – such as in this case where there is a situation of ongoing conflict – did take a more lenient approach as to the evidence to be submitted to it in support of individual applications, it found that the applicants in the present case, having essentially only submitted their passports as evidence, had not sufficiently substantiated their complaints. In this case the Court also reiterated that, generally, if an applicant did not produce any evidence in support of their cases, such as titles to property or of residence, his or her complaints were bound to fail.

Pending applications

Inter-State applications

There are currently five inter-State applications lodged by Ukraine against Russia pending before the Court.

Ukraine v. Russia (no. 20958/14), Ukraine v. Russia (IV) (no. 42410/15), Ukraine v. Russia (V) (no. 8019/16) and Ukraine v. Russia (VI) (no. 70856/16)

Relinquishment to the Grand Chamber in May 2018

These cases concern Ukraine's allegations of violations of the European Convention on Human Rights by Russia and armed groups which Russia allegedly controls[10]. The applications were made under several Articles, including Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment), Article 5 (right to liberty and security), Article 6 (right to a fair trial) of the Convention.

In May 2018 the Court Chamber dealing with these four inter-State applications has decided to relinquish jurisdiction over the cases in favour of the Grand Chamber.

Ukraine v. Russia (II) (no. 43800/14)

Application communicated to the Russian Government in May 2018

This case concerns the alleged abduction of three groups of children in Eastern Ukraine and their temporary transfer to Russia on three occasions between June and August 2014.

Notice of the application was given to the Government of Russia on 20 November 2014.

Individual applications

Savchenko v. Russia (no. 50171/14)

Application communicated to the Russian Government on 31 March 2015

This application was lodged by a servicewoman of the Ukrainian Air Force who was captured in June 2014 by armed formations operating near Luhansk in Eastern Ukraine and subsequently detained by the Russian authorities on suspicion of murder and illegal crossing of the Russian border.

On 31 March 2015 the Court decided to give notice of the case to the Russian Government and invited them to submit written observations on the admissibility and merits of the complaints under Article 5 (right to liberty and security) of the Convention

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[10]. ***Ukraine v. Russia*** **(no. 20958/14)**: lodged on 13 March 2014, concerns the events leading up to and following the assumption of control by the Russian Federation over the Crimean peninsula from March 2014 and subsequent developments in Eastern Ukraine up to the beginning of September 2014. Notice of the application was given to the Government of Russia on 20 November 2014.

°°°***Ukraine v. Russia (IV)*** **(no. 42410/15)**: lodged on 27 August 2015, concerns the events in Crimea and Eastern Ukraine mainly as from September 2014. Notice of the application was given to the Government of Russia on 29 September 2015.

°°°On 9 February 2016 the Court decided, with a view of making the processing of the case more efficient, to divide the first inter-State application according to geographical criteria – all the complaints related to the events in Crimea up to September 2014 are currently registered under the application **no. 20958/14**, ***Ukraine v. Russia***; the complaints concerning the events in Eastern Ukraine up to September 2014 are now registered under the application **no. 8019/16**, ***Ukraine v. Russia (V)***.

°°°The same rule was applied in respect of the application **no. 42410/15**, ***Ukraine v. Russia (IV)***. Following the Court's decision of 25 November 2016 all the complaints related to the events in Crimea from September 2014 onwards are currently registered under the case **no. 42410/15**, ***Ukraine v. Russia (IV)***; the complaints concerning the events in Eastern Ukraine from September 2014 are now registered under the application **no. 70856/16**, ***Ukraine v. Russia (VI)***.

related to the applicant's deprivation of liberty in the period from 30 June to 30 August 2014.

Ioppa v. Ukraine and three other applications (nos. 73776/14, 973/15, 4407/15 and 4412/15)

Applications communicated to the Ukrainian Government on 5 July 2016

The applicants in this case, relatives of passengers of Malaysian Airlines MH17 flight who died in the crash of the flight on 17 July 2014, claim that the Ukrainian authorities failed to protect their relatives' life by not completely closing the airspace above the ongoing armed conflict.

The Court gave notice of the applications to the Ukrainian Government and put questions to the parties under Articles 2 (right to life) and 35 (admissibility criteria) of the Convention.

Related individual applications

In addition to the inter-State applications, there are currently approximatively 4,300 individual applications apparently related to the events in Crimea or the hostilities in Eastern Ukraine pending before the Court. They have been lodged against both Ukraine and Russia or exclusively against one of those States (see, for further details, the press releases of 26 November 2014 (link), 13 April 2015 (link), and 1 October 2015 (link)).

In more than 200 cases, interim measures[11] under Rule 39 of the Rules of Court have been applied inviting the respective Government/s – of Russia and/or Ukraine – to ensure respect for the Convention rights of people deprived of liberty or people whose whereabouts are unknown.

The Court further communicated to the Governments of both Russia and Ukraine five individual applications which concern the death, alleged death, or disappearance of the applicants' relatives in eastern Ukraine. In those applications the applicants allege breaches of Articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment), 5 (right to liberty and security), 8 (right to respect for private life), 10 (freedom of expression) and 13 (right to an effective remedy) of the Convention.

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[11]. These are measures adopted as part of the procedure before the Court, under Rule 39 of the Rules of Court, at the request of a party or of any other person concerned, or of the Court's own motion, in the interests of the parties or of the proper conduct of the proceedings. The Court will only issue an interim measure where, having reviewed all the relevant information, it considers that there is a real risk of serious, irreversible harm if the measure is not applied. See also the factsheet on "Interim measures".