ANNUAL REPORT

European Court of Human Rights

2024

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

COUNCIL OF EUROPE
75
1949 - 2024
CONSEIL DE L'EUROPE

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European Court of Human Rights
Council of Europe
67075 Strasbourg Cedex
France
+ 33 (0)3 88 41 20 18
+ 33 (0)3 88 41 27 30

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Foreword

In 2024 Ukraine continued to suffer from the full-scale war waged by the Russian Federation, and our member States faced serious challenges, including those posed by conflict, migration, new technologies and climate change. It was a year in which the Strasbourg Court continued to be called upon by the peoples of Europe to defend their human rights under the European Convention on Human Rights. In such circumstances, it is vitally important that our Court is able to respond effectively and in a timely manner to those calls in the applications brought before us. I am pleased to report that our statistics for 2024 show that the reforms and strategies put in place over the past years have borne fruit.

During the year, the Court ruled on more than 36,800 applications. It delivered judgments in respect of 10,829 applications (of which 10,241 were decided by committees of three judges and more than 22,200 applications were decided by single-judge formations). The number of pending applications before the Court is still high, standing at 60,350, but it is important to note that this is a decrease of 8,100 and 14,300 compared to the end of the year figures for 2023 and 2022 respectively.

Overall, almost three quarters of our pending applications concern five States. The highest case-count country is Türkiye, with around 21,600 applications; followed by the Russian Federation with around 8,150 applications; next comes Ukraine with approximately 7,700 applications; then Romania with 3,850 and Greece with 2,600. 80% of the pending priority applications – of which there are around 13,400 – also come from these five countries (Türkiye, Ukraine, Russia, Romania and Greece).

The work begun over the last years to achieve efficiency gains, and in particular, the implementation and consolidation of our "impact" strategy continues. Combined with increased use of Committees of three judges, this has enabled our seven judge Chambers to devote more time and resources to the complex and new issues that are constantly on the increase. As a result, by the end of 2024, the number of impact cases pending before the Court fell to 181, compared with 429 in January 2023. Indeed, since January 2021, the Court has been able to complete 388 impact cases. This demonstrates the Court's ability to address these important cases as a priority. For an outline of some of the landmark judgments and decisions handed down in 2024, I refer you to the body of the report which provides a comprehensive review of the year's key cases.

MARKO BOŠNJAK
President of the European Court of Human Rights

Beyond the numbers, the year demonstrated the Court's commitment to continually refining its rules and procedures. Notable changes introduced in 2024 are the amendments to Rules 28 and 39 of the Rules of Court, as well as the change concerning the use of the Russian language. The updated Rule 28 reiterates the reasons why a judge may not sit in a given case. It also strengthens the basic procedural framework for the recusal of judges by expressly codifying the existing practice whereby parties to proceedings may request a judge does not sit. The amendments to Rule 39 are intended to clarify and codify the Court's practice and procedure in relation to interim measures. The relevant Practice Direction provides further information for Court users. Turning to the use of the Russian language; prior to the exclusion of Russia from the Council of Europe, it was possible to submit applications against any member State, in Russian, in line with Rule 34 § 2 of the Rules of Court. However, as Russia ceased to be a High Contracting Party to the Convention, and, following the decision of the Plenary Court of 16 January 2023, from 16 September 2024 the Court stopped examining new applications or interim measure requests in

the Russian language introduced against the High Contracting Parties to the Convention.

Moreover, this year, the Court continued to pursue its reflections and initiatives on judicial ethics. As we know, justice must not only be done, but it must be seen to be done, and for a modern court this includes making visible and robust the ethical standards of its judges. Therefore, on 16 December 2024, the Plenary Court decided to establish an Ethics Council which the President will be able to consult whenever he or she considers it necessary in order to give guidance to a judge seeking advice on compliance with the ethical standards in a given situation. The President may also consult the body whenever he or she considers it necessary in order to give guidance on ethical standards concerning the Court as an institution. Such consultations are in line with the Resolution on Judicial Ethics, Article 12 of which has been amended to reflect the establishment of the Ethics Council. These developments mark another important step taken by the Court, demonstrating its commitment in this domain.

I would now like to highlight one aspect of the Court's work that is particularly close to my heart: judicial dialogue.

In addition to speaking through its case-law, judicial dialogue with member States is also sustained through the many working visits that have taken place again this year, both within and outside the Member States. In 2024 the Court had the pleasure of receiving delegations from the High Courts and Supreme or Constitutional Courts of a large number of States Parties. These included delegations from the Constitutional Court of Türkiye, the Supreme Administrative Court of Sweden, the Italian Council for Fiscal Justice, the Supreme Court of Slovenia, the Supreme Court of Denmark, and the Constitutional Court of Latvia. We also received delegations of judges from the superior courts of the United Kingdom, the Supreme Court of the Netherlands, the superior courts of Spain, the superior courts of Italy, and the Constitutional Court and Supreme Court of Portugal. We were also pleased to host the annual meeting between our Court and the Court of Justice of the European Union, fostering our sustained dialogue on human rights.

During my mandate so far, I have paid official visits to Greece, Italy and the Vatican, and Poland where I have met with high representatives of the State as well as from national superior courts. I have also paid working visits to Slovenia, Ireland, Switzerland, and the United Kingdom to participate in conferences or openings of the legal year. In France, I have met with members of the Court of Cassation, the Constitutional Council and the Council of State. Further visits are planned for 2025.

Dialogue is however not confined to the High Contracting Parties to the Convention, but extends as widely as possible. We had the pleasure of exchanging views with a delegation of Canadian judges and lawyers, led by Richard Wagner, Chief Justice of Canada and judges of the superior courts of South Korea. The Court also received a visit from the African Commission on Human and Peoples' Rights.

In addition, I had the pleasure of observing the growth of the Superior Courts Network, which will soon bring together 111 member courts from 46 States. It is a remarkable achievement to have all Council of Europe Member States participating. This privileged forum for discussion enables us to debate contemporary challenges, share our expertise and contribute together with Member States to the development of law, comparative analysis and internal practices.

I hope that this foreword has inspired you to delve deeper into the 2024 Annual Report, which will take you on a detailed tour of our judicial activity, our procedural reforms and our annual statistics. It also includes the year's key events and images, details of the meetings that enable the judicial dialogue to flourish and, of course, you will be able to discover the key developments in our jurisprudence, through the cases delivered during the year.

Judicial activities

Judicial metrics: a year in review

60,350
pending applications
decrease of 12%

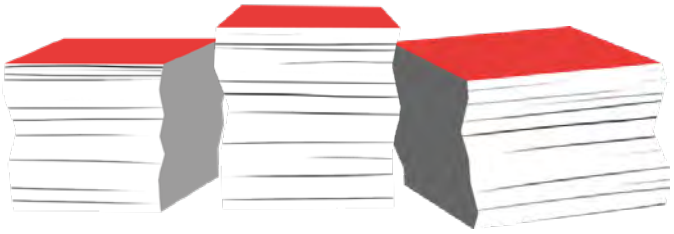
283
judgments
delivered by Chambers in respect of 579 applications

814
judgments
delivered by Committees of three judges in respect of 10,241 applications

22,210
applications
declared inadmissible or struck out by single judges

3,589
applications
declared inadmissible or struck out by Committees

189
applications
declared inadmissible or struck out by Chambers



Grand Chamber activities

5
judgments
and 2 inadmissibility decisions delivered by the Grand Chamber

7
oral hearings
held by the Grand Chamber

5
examinations
by the Panel of the Grand Chamber

4
cases
relinquished to the Grand Chamber

3
cases
referred to the Grand Chamber by the Panel

17
cases
pending at the end of the year (involving 26 applications)

The Court

16 December 2024, from left to right

- Georgios Serghides
- Alena Poláčková
- Armen Harutyunyan
- Ioannis Ktistakis
- Mattias Guyomar
- Arnfinn Bårdsen (Vice-President)
- Marko Bošnjak (President)
- Ivana Jelić (Vice-President)
- Lado Chanturia
- Faris Vehabović
- Stéphanie Mourou-Vikström
- Pauliine Koskelo
- Tim Eicke
- Marialena Tsirli (Registrar)
- Oddný Mjöll Arnardóttir
- Anne Louise Bormann
- Anna Adamska-Gallant
- María Elósegui
- Jovan Ilievski
- Úna Ní Raifeartaigh
- Darian Pavli
- Gilberto Felici
- Diana Kovatcheva
- Lorraine Schembri Orland
- Erik Wennerström
- Jolien Schukking
- Ana Maria Guerra Martins
- Saadet Yüksel
- Andreas Zünd
- Kateřina Šimáčková
- Sebastian Răduleţu
- Abel Campos (Deputy Registrar)
- Davor Derenčinović
- Lətif Hüseynov
- Alain Chablais
- Stéphane Pisani
- Peeter Roosma
- Frédéric Krenc
- Mateja Đurović
- András Jakab
- Péter Paczolay
- Mykola Gnatovskyy
- Gediminas Sagatys

Composition of the Court

As of 31 December 2024, in order of precedence, from left to right


SVN
Marko Bošnjak


NOR
Arnfinn Bårdsen


MNE
Ivana Jelić


FRA
Mattias Guyomar


GEO
Lado Chanturia


GRC
Ioannis Ktistakis


BIH
Faris Vehabović


ARM
Armen Harutyunyan


MCO
Stéphanie Mourou-Vikström


SVK
Alena Poláčková


FIN
Pauliine Koskelo


CYP
Georgios Serghides


UK
Tim Eicke


AZE
Lətif Hüseynov


MKD
Jovan Ilievski


NLD
Jolien Schukking


HUN
Péter Paczolay


ESP
María Elósegui


SMR
Gilberto Felici


ALB
Darian Pavli


SWE
Erik Wennerström


ITA
Raffaele Sabato


TUR
Saadet Yüksel


MLT
Lorraine Schembri Orland


DEU
Anja Seibert-Fohr


EST
Peeter Roosma


PRT
Ana Maria Guerra Martins


CHE
Andreas Zünd


BEL
Frédéric Krenc


MDA
Diana Sârcu


CZE
Kateřina Šimáčková


HRV
Davor Derenčinović


UKR
Mykola Gnatovskyy


ISL
Oddný Mjöll Arnardóttir


DNK
Anne Louise Bormann


ROU
Sebastian Răduleţu


BGR
Diana Kovatcheva


LTU
Gediminas Sagatys


LUX
Stéphane Pisani


IRL
Úna Ní Raifeartaigh


LIE
Alain Chablais


LVA
Artūrs Kučs


SRB
Mateja Đurović


AUT
András Jakab


POL
Anna Adamska-Gallant


GRC
Marialena Tsirli
Registrar


PRT
Abel Campos
Deputy Registrar

Composition of the Sections

As of 31 December 2024, in order of precedence

I

Ivana Jelić President
Erik Wennerström Vice-President
Marko Bošnjak
Alena Poláčková
Georgios Serghides
Raffaele Sabato
Frédéric Krenc
Alain Chablais
Artūrs Kučs
Anna Adamska-Gallant
Ilse Freiwirth Registrar
Liv Tigerstedt Deputy Registrar

II

Ioannis Ktistakis President
Peeter Roosma Vice-President
Lətif Hüseynov
Darian Pavli
Oddný Mjöll Arnardóttir
Diana Kovatcheva
Úna Ní Raifeartaigh
Mateja Đurović
Milan Blaško Registrar
Olga Chernishova Deputy Registrar

III

Arnfinn Bårdsen President
Saadet Yüksel Vice-President
Pauliine Koskelo
Jovan Ilievski
Péter Paczolay
Anja Seibert-Fohr
Davor Derenčinović
Gediminas Sagatys
Stéphane Pisani
Hasan Bakırcı Registrar
Dorothee von Arnim Deputy Registrar

IV

Lado Chanturia President
Jolien Schukking Vice-President
Faris Vehabović
Tim Eicke
Lorraine Schembri Orland
Ana Maria Guerra Martins
Anne Louise Bormann
Sebastian Răduleţu
András Jakab
Andrea Tamietti Registrar
Simeon Petrovski Deputy Registrar

V

Mattias Guyomar President
María Elósegui Vice-President
Armen Harutyunyan
Stéphanie Mourou-Vikström
Gilberto Felici
Andreas Zünd
Diana Sârcu
Kateřina Šimáčková
Mykola Gnatovskyy
Victor Soloveytchik Registrar
Martina Keller Deputy Registrar

Meet our new judges

Roll over or watch the videos

Who are you?

I'm a Professor in international law, I'm a former Ombudsman, I'm a former minister of Justice and a former Director of the National Chapter of Transparency International for Bulgaria.

What does the ECHR represent for you?

The Court is very important for the interpretation of the Convention. For bringing it in the light of the present day, for making it a living document. I think this is important. And in addition, it is important that the Court's interpretation actually brings common principles to the States, which are the ones to apply the Convention and protect the human rights.

What do you consider to be the most important ECHR case?

In my opinion, these are cases that bring the Convention forward. They are related to the interpretation of the Convention, in the present day. For example, such cases have given direction like the climate cases for example. But to me, as a judge, the most important case is the case that I have on my desk today because this is the case of a real person and his faith in looking for justice.

Diana Kovatcheva (Bulgaria)
judge of the Court since 17 April 2024

Gediminas Sagatys (Lithuania)
judge of the Court since 17 April 2024

Who are you?

For the past ten years I've been a judge of the Supreme Court of Lithuania and a part-time professor of law at the Mykolas Romeris University in Vilnius.

What does the ECHR represent for you?

For me the Court represents a precious willingness and ability of sovereign states to cooperate in the creation of the most effective, so far, international mechanism for human rights protection.

What do you consider to be the most important ECHR case?

The Court has developed a rich law having impact on the whole European continent but if I had to pick one case I would choose the case of *Marckx v. Belgium*, which served as a basis for the eradication of discrimination against children born out of wedlock.

Who are you?

I've been a member of the judiciary in Luxembourg for about fifteen years now, most recently, at the Superior Court of Justice's Court of Appeal. Before that I worked as a lawyer for a few years.

What does the ECHR represent for you?

I believe that the European Court of Human Rights represents the promise of freedom and uniformly applicable law, with minimum safeguards, for everyone who comes within its remit.

What do you consider to be the most important ECHR case?

I'd be completely incapable of giving the most important case in absolute terms, because I think there are practically as many important cases as there are citizens. One that made a lasting impression on me, because it took place while I was studying and most probably guided my career choice, was *Procola v. Luxembourg*. In just a few lines the case shapes – or rather reorganises – a State's entire system, its entire legal framework. With a few clear, precise, well-reasoned lines, it lays the foundations for a modern State governed by the rule of law.

Stéphane Pisani (Luxembourg)
judge of the Court since 13 May 2024

Úna Ní Raifeartaigh (Ireland)
judge of the Court since 4 July 2024

Who are you?

I am Úna Ní Raifeartaigh. I hope to bring four perspectives from my career experience into the Court.

The first of course is as an Irish lawyer. I'm a common lawyer as distinct from a civil lawyer.

Secondly, I was a judge in Ireland both at an appellate level and at a court of first instance, eight years in total.

Before that for twenty-three years I was a barrister, or *Avocate*, working in the courts primarily in criminal law and public law.

And I also bring in a fourth perspective which is the academic research perspective having worked in Trinity College Dublin and in the Irish Law Reform Commission.

What does the ECHR represent for you?

I always remember that the Court was established after the atrocities of Second World War and for me the Court represents the collective hope of a generation and subsequent generations to protect human rights, to stop the erosion of liberties and an ongoing determination to make sure that that erosion does not take place and undermine something which for me underpins and is essential to democracy, but also for the flourishing of human beings individually and collectively and that is human rights.

What do you consider to be the most important ECHR case?

Well, I think the case I have to choose is the very first judgment of the Court, because that is not obviously a foundation of its own, but because it involves Ireland. And that case is *Lawless v. Ireland*, which involved the indefinite deprivation of liberty and alleged violations of Articles 5 and 6 and, in fact, 7. But because of the derogation that Ireland had validly entered, it was ultimately held that there had been no breach of the obligations under the Convention.

However, I do think it is a milestone in many ways, establishing the Court's general position in respect of deprivations of liberty and the right to a fair trial. And I think it's also very interesting for me as an Irish and European citizen because it represents an intersection between something of fundamental importance to the Irish State, namely the threat of violence and existentially threatening the actual State since its foundation. It involved the deprivation of liberty of a suspected IRA member, but the intersection between those domestic concerns, very real domestic concerns, and the European perspective on human rights and therefore it's an intersection of a matter of considerable domestic concern and international human rights perspective.

Who are you?

My name is Alain Chablais, I was born and raised in Switzerland and I studied law at Fribourg University. My wife is Isabelle and together we have two adult children.

What does the ECHR represent for you?

For me, the Convention represents Europe's core values. But it's more than that. It's also an instrument that enables everyone to have their rights protected in court. So it's an invaluable asset, which we should all treasure.

What do you consider to be the most important ECHR case?

I think there are many. If I had to cite one, it would be *Howald Moor and Others v. Switzerland*, which was decided in 2014. The case concerned the right of access to a court for asbestos victims. These are people who have been exposed to asbestos for years, then develop cancer and, unfortunately, most often die.

In that case, the Court found a violation of Article 6, because those concerned couldn't have their claims examined before the courts on account of the limitation period in force.

Alain Chablais (Liechtenstein)
judge of the Court since 1 September 2024

Following the judgment, the law on statutory limitations was reformed, a compensation fund was set up and many victims received payouts. I think that response really exemplifies the Convention system: it redresses past violations, and prevents fresh violations from happening to others in the future too.

Who are you?

I served as a judge of the Constitutional Court of Latvia and as a professor of International Human Rights Law in the University of Latvia with a special interest in media law. I have also been a member of the EU Management Board of the Fundamental Rights Agency and a member of the Venice Commission.

What does the ECHR represent for you?

The European Court of Human Rights is an international court which has authority to ensure that the States respect the Convention.

I remember very much the mid-90s when my country, Latvia, ratified the Convention and the Court's case law contributed a lot to transforming our legal system and also raise awareness of human rights among national judges and politicians. Today, I would say, the Court's case law represents the minimum human rights standard we all in Europe uphold and also human rights-based approach to current issues we all face in Europe, be it war, migration or climate change.

What do you consider to be the most important ECHR case?

I think for the applicant who submits a case to the Court, his case is the most important one. And I would say all cases have significant implications. But looking more broadly, I would say these are the cases where the Court established foundational principles, like *Henderson v. the United Kingdom*, a case whose principles we still use today in Article 10 cases.

Artūrs Kučs (Latvia)
judge of the Court since 3 September 2024

Who are you?

I am Mateja Đurović and I'm the newly elected judge of the European Court of Human Rights, nominated by the Republic of Serbia.

I'm moving to Strasbourg from my position of full professor in law at the Dickson Poon School of Law, King's College London, United Kingdom.

My research interest has always been protection of weaker parties, data protection, consumer protection, access to justice, and of course as of recently, law and new technologies, in particular regulation of the artificial intelligence, which is something that has affected our lives throughout the world.

What does the ECHR represent for you?

The Court represents to me a symbol of protection of human rights, an institution that secures protection of human rights to all Europeans throughout

Mateja Đurović (Serbia)
judge of the Court since 1 September 2024

our continent, but in addition to this, an institution that develops a case-law which has impact throughout the world, so helping protection of human rights of all individuals living on our planet.

What do you consider to be the most important ECHR case?

That's a very difficult question because I really think that every single case that was decided by this court has had a very important impact, at least on an individual, but of course many of them have had a much wider effect.

But if I had to choose one, maybe I would choose one connected to my country of origin that has nominated me, the Republic of Serbia, and that is the case *Zorica Jovanović v. Serbia*.

Why this case? Well, because it deals with a very sensitive category of missing babies and something that has affected quite a few people in the Republic of Serbia, and the Court, through this case, tries to kind of resolve this issue and makes the situation to these families affected by this problem more kind of acceptable and more comfortable.

Who are you?

My name is András Jakab and I'm the newly elected judge in respect of Austria.

I'm moving to Strasbourg from my position as a full professor of Constitutional and Administrative Law at the University of Salzburg.

Previously, I have held various academic positions at different institutions, such as Pázmány University in Budapest, Hungarian Academy of Sciences, Nottingham Law School, Liverpool Law School, Centro de Estudios Políticos y Constitucionales and the Max Planck Institute in Heidelberg.

My research areas include constitutional theory, Austrian, Hungarian, British and German constitutional law, EU law and the erosion of democracy and the rule of law.

What does the ECHR represent for you?

The Court is the last line of defence for liberal democracy if national human rights protection fails.

After the Second World War, it became clear that peace in Europe can only endure if countries are liberal democracies. And for a liberal democracy, you need human rights protection. In order to guarantee this, the Court was established.

Since then, the Court has become the most respected and the most quoted human rights court in the entire world.

What do you consider to be the most important ECHR case?

There are so many landmark cases,

András Jakab (Austria)
judge of the Court since 6 November 2024

but one that really stands out for me, that's the 1979 *Sunday Times* case.

It shows the deep interconnectedness between human rights protection and democracy. It argues that for the democratic process, you need freedom of expression.

And this freedom of expression does not only mean that the press has the right to inform the public, but also the public has the right to be informed.

Since then, this understanding, the freedom of expression has influenced various national constitutional laws as well.

Who are you?

My name is Anna Adamska-Gallant. I am the judge of the European Court of Human Rights in respect of Poland. I came to the Court with a diverse professional experience.

For almost seventeen years I served as a criminal judge, eleven years in Poland and almost six years in Kosovo, also as a justice of the Supreme Court.

I conducted complex criminal trials, including in war crime cases, what required expertise in international humanitarian law.

Contact with victims of the gravest violations of human rights committed during the armed conflict inspired me to dissertation dedicated to vulnerable witnesses in criminal proceedings.

As an academic teacher I cooperate with the University of Wroclaw, where I teach criminology and security sciences.

Since 2018 my professional activity was concentrated on the European Convention on Human Rights and its constitutional dimension.

As an expert of the biggest EU project supporting judicial reform in Ukraine, I participated in building the independence and accountable judicial system in this country.

From 2021 I worked also as a lawyer, mainly in criminal and discrimination cases. It allowed me to achieve a different perspective for operation of the judicial system.

What does the ECHR represent for you?

The Court combines two dimensions. It deals with the past by administering individual justice for violations that have occurred. It shapes the future by setting the standards of human rights that should be promoted and followed.

Anna Adamska-Gallant (Poland)
judge of the Court since 16 December 2024

The Court sets the standards for democracy, rule of law and human rights. Its rulings should serve as an early warning instrument against authoritarian tendencies.

What do you consider to be the most important ECHR case?

I would indicate the case *Klimaseniorinen, Verein and Others v. Switzerland*.

The Court underlined that human rights have no time limitations and therefore they are applicable to the future generation. The full impact of this judgment is still not clear, however I find it very important.

How we work: the Registry

THE REGISTRAR

The Registrar is the head of the Registry and holds overall responsibility for its judicial and administrative activities. Elected by the Plenary Court, the Registrar works under the authority of the President of the Court. A Deputy Registrar, also elected by the Plenary Court, assists the Registrar.

JURISCONSULT DIRECTORATE

This directorate ensures the consistency of case-law and provides opinions and information, in particular to the judicial formations and the members of the Court (Rule 18B).

DIRECTORATE OF FILTERING AND SUPPORT SERVICES

This directorate ensures the consistency of procedures and working methods, the linguistic quality of the Court's documents and a streamlined, efficient and secure IT system. It further coordinates the handling of individual and inter-State applications stemming from conflicts, immigration-related applications and requests for interim measures.

THE FILTERING SECTION

Under the supervision of the Filtering Section Registrar, assisted by his or her deputies, the Filtering Section sorts applications in order to direct them to the appropriate judicial formation, and assists the Court in processing of requests for interim measures.

5 JUDICIAL SECTIONS

These sections, each of which is assisted by a Section Registrar and a Deputy Section Registrar, decide cases.

51 CASE-PROCESSING LEGAL UNITS assisted by
8 ADMINISTRATIVE SUPPORT TEAMS

These teams process the applications lodged by individuals with the Court. The lawyers prepare the files and analytical notes for the Judges, and correspond with the parties on procedural matters.

OTHER SUPPORT SECTORS OF ACTIVITY

Case management • press and public relations • visitors • human resources and logistics • finances • internal control • mail office and logistical support • archives • the library

650

staff members of the Registry

lawyers, translators, administrative and technical staff, who are staff members of the Council of Europe, the Court's parent organisation.

85 M€

budget 2024

covers Judges' remuneration, staff salaries and operational expenditure (IT, official journeys, translation, interpretation, publications, representational expenditure, legal aid, fact-finding missions, etc.). It does not include expenditure on the building and infrastructure (telephone, cabling, etc.).

260

additional human resources

In 2024, the Registry also hosted judges or prosecutors seconded by States, temporary contractors, trainees and study visitors.

Language Department in focus

30
staff members

Head of Department
team leaders-revisers
translators
language checkers
assistants

12
in French team

1 team leader-reviser
9 translators
2 language checkers

13
in English team

2 team leaders-revisers
3 translators
8 language checkers

The Language Department of the Registry of the European Court of Human Rights assists the Court's Judges and Registrars by translating and language-checking a wide range of documents pertaining to the Court's activities (**judgments**, **decisions** and **advisory opinions** at the draft and post-delivery stages; **press releases**; **legal summaries**; **case-law guides**; **internal reports** and other **administrative documents**). The translators and language checkers are all native speakers of English or French (the two official languages of the Court) and work exclusively in their mother tongue.

2024 activity

During 2024, the Language Department translated a total of 593 documents (amounting to 2,256,482 words) from English into French and 245 documents (amounting to 726,085 words) from French into English. This represents an English/French ratio of 71%:29% for translations.

Nearly all of this work has been done by the Court's in-house translators. The Registry's current policy is to outsource translations only in exceptional cases (generally, where the combination of languages involved cannot be dealt with by the Language Department's translators).

Work on Grand Chamber cases represents a considerable portion of the translators' overall activity, especially given that the English and French language versions of Grand Chamber judgments and decisions are equally authentic. The Department's translators assisted with the preparation of 9 Grand Chamber judgments, decisions and advisory opinions delivered in 2024. In addition, 40 Chamber judgments and decisions initially delivered in one of the official languages were translated into the other language post-delivery in 2024. These include judgments/decisions selected as key cases by the Court, Chamber judgments in cases referred to the Grand Chamber, and certain other judgments/decisions of interest from a case-law perspective.

The Department's language checkers have the task of reviewing and correcting documents drafted by non-native speakers of English or French. In 2024 they worked on 578 documents (roughly amounting to 2,262,782 words) drafted in English and 155 documents (roughly amounting to 637,280 words) drafted in French.

Lastly, designated members of the English and French language-checking teams are responsible for proofreading (editorial revision from a primarily technical perspective) of certain documents, including key cases, the case-law overview and the Court's annual report.

Use of IT solutions

One area in which the Language Department has been particularly active is that of digital technologies. For more than 20 years it has made use of computer-assisted translation (CAT), which involves the creation of translation memories containing vast numbers of "bitexts" broken down into aligned segments (including all bilingual judgments/decisions of the Court) so that any previously translated material can be easily recognised and reproduced or adapted as appropriate.

Since 2022 the Department's translators have been testing neural machine translation (NMT) software, which draws on artificial intelligence (AI) in predicting the probability of sequences of words in the target language based on patterns in the source language. The software is being "trained" to recognise the Court's specific language and is also being used in combination with the existing CAT tools to pursue the dual aims of consistency and efficiency.

NMT software is undoubtedly a useful tool, but still requires thorough specialist intervention by the Department's translators and rigorous checking of the proposed translations. By pursuing its use of the software and adapting it further to the Court's needs, the Department expects to achieve some productivity gains while nevertheless fully maintaining quality standards.

Dialogue between the Registry and the Department for the Execution of judgments of the Court

Background and purpose of the project

The aim of the project is to enhance the dialogue between the Registry of the Court and the Department for the Execution of Judgments of the Court. It was launched following the Reykjavík Declaration adopted at the fourth summit of the Heads of State and Government of the Council of Europe held on 16-17 May 2023, in which the signatories notably called for the strengthening of the institutional dialogue between the Court and the Committee of Ministers on general issues related to the execution of judgments (Appendix IV).

Expected impact

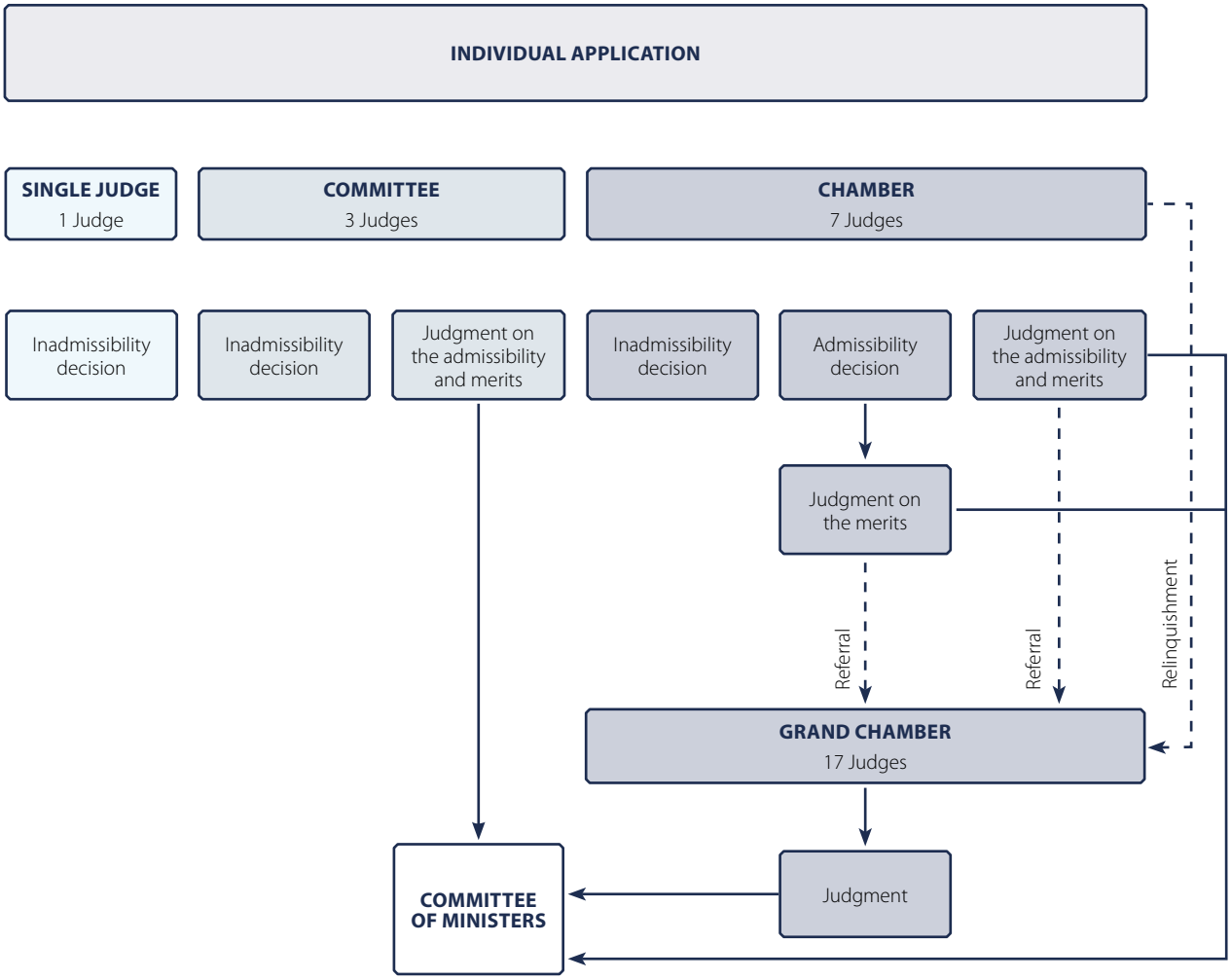
The project's expected impact is to enhance the work of both entities by promoting a holistic approach to the Convention. The project enables a regular exchange of information on issues linked to the execution of the Court's judgments, which may be of relevance to the case processing work. For instance, the Execution Department provides the Registry with quarterly updates on the most important developments in the execution process after each Committee of Ministers' Human Rights meeting (e.g. decisions adopted, cases closed).

In practice: implemented activities and tools

Since the beginning of the project in November 2023, three country meetings and three thematic meetings have been held between the two entities. The project includes other types of activities, such as

- common training on particular issues relevant to both entities;
- creation of common databases (for example, on the reopening of proceedings in the member States); and the
- development of tools, in cooperation with other entities of the Council of Europe, with a view to enhancing domestic capacity to address structural or complex problems being at the origin of numerous repetitive applications before the Court (for example, setting up of HELP Modules).

How we work: case-processing



102,659

letters and faxes

handled in total by the mail office in 2024

26,366

letters and documents

arrived *via* the *ECHR Rule 39* and secure Government sites

420

letters, faxes and emails per day

on average handled by the mail office

40

phone calls per day

on average dealt with by the Court's switchboard

Case-processing strategies

Processing of applications lodged against the Russian Federation

Since the Russian Federation ceased to be a High Contracting Party to the Convention on 16 March 2022, the Court has remained resolute in its commitment to processing applications lodged against Russia, under its residual jurisdiction. Despite the challenging circumstances, significant efforts have been made to deal with these cases, resulting in a remarkable reduction of the Russian caseload by nearly half since that date. This substantial decrease highlights the Court's dedication to ensuring visibility and accountability for human rights violations, demonstrating that State responsibility cannot be evaded where the Committee of Ministers has ended the State's membership.

The Court has devoted considerable resources to managing this ongoing work, even in the face of non-communication from the Russian Federation. A number of critically important cases have been adjudicated during this period, underscoring the Court's commitment to delivering justice. The efforts to navigate the complexities of these cases have required the Court to adapt its procedures, particularly in light of Russia's refusal to engage with the Court and the substantial challenges faced in communicating with applicants residing in Russia.

Despite these difficult circumstances, the Court has been determined to continue processing Russian cases in the most efficient way. The progress made in adjudicating thousands of cases, despite the barriers, reflects the Court's commitment to the protection of human rights. By diligently pursuing these applications and adapting its methods to the evolving context, the Court has reinforced its role as a vital institution for upholding the rule of law in Europe, demonstrating that it will continue to strive for accountability and justice, regardless of the challenges presented.

Development of IT tools

The Court is actively engaged in an exciting initiative aimed at enhancing its case-processing capabilities through the development of advanced IT tools. Currently in its early stages, this process includes the exploration of creating an online application form that would allow applicants to submit their cases using modern technology. This innovative approach has the potential to streamline the application process, making it more accessible and user-friendly for individuals wishing to apply to the Court. By leveraging technology, the Court aims to reduce administrative burdens, improve data accuracy, and facilitate faster processing times, ultimately benefiting both applicants and the Court and Registry alike.

In addition to the online application form, the Court and the Registry are investigating a range of other IT tools designed to expedite case-processing. These initiatives reflect the Court's commitment to embracing technological advancements that can enhance efficiency and effectiveness in its operations. By integrating new digital solutions, the Court aims to improve overall workflow, enabling a more responsive and timely handling of cases. As these developments unfold, they hold the promise of transforming the way the Court interacts with applicants and manages its caseload, paving the way for a more modern and effective judicial process.

Procedural reforms

Improvement to case-processing working methods and procedures

Recusal of judges

On 22 January 2024 the European Court of Human Rights published a new version of the Rules of Court, which incorporated some changes to Rule 28 on the recusal of judges. Rule 28 guarantees the rigorous implementation of the principle of judicial impartiality, which is crucial for upholding the rule of law, protecting human rights and ensuring the proper administration of justice. The updated Rule reiterates the reasons for which a judge may not sit in a particular case. It also strengthens the core procedural framework for the recusal of judges by expressly codifying the existing practice, according to which the parties to the proceedings may request recusal of a judge.

The updated Rule was accompanied by a Practice Direction on the recusal of judges, the aim of which is to further clarify the procedures provided for in Rule 28. To ensure the judicial process before the Court is as transparent and accessible as possible, a full breakdown of the different judicial formations operating within each of the five Sections, including a list of single judges designated by State, has also been published on the Court's website.

The changes to Rule 28 followed extensive consultation with the relevant stakeholders – in particular with the Contracting Parties, organisations with experience in representing applicants, and several bar associations – who submitted their written comments.

Requests for interim measures

On 28 March 2024 the Court published a revised version of the Rules of Court. This new edition incorporated amendments in respect of Rule 39 adopted by the Plenary Court and the Practice Direction on Requests for Interim Measures issued by the President of the Court in accordance with Rule 32 of the Rules of Court.

The amendments followed several decisions adopted by the Plenary Court in the context of wider procedural reforms and consultations with the relevant stakeholders, in particular with the Contracting Parties, organisations with experience in representing applicants, and bar associations, who submitted their written comments.

The newly codified version of Rule 39 makes explicit reference to the fact that interim measures are applicable in cases where there is

> an imminent risk of irreparable harm to a Convention right.

The new version also explains which decision-making bodies can be involved in the processing of requests for interim measures.

The Practice Direction is designed to provide detailed guidance as to the substantive and procedural aspects of the Court's interim-measure procedure. It is addressed to (potential) applicants, their representatives, Contracting Parties and interested stakeholders generally.

Application-lodging process

The Court is continually driven by a commitment to modernisation and improvement, particularly in its procedures and case-processing tools. This drive has been shaped by a series of challenges over the years, including a significant increase in the flow of incoming applications, the implications of Russia's cessation of membership, and the social and ecological catastrophes affecting the European continent. These evolving circumstances compel the Court and the Registry to regularly reassess and refine their working methods to ensure that they remain effective and responsive to the needs of applicants and the broader community.

One notable example of the Court's proactive response to this changing environment is the recent amendment to Rule 47 of the Rules of Court. This revision introduces a more flexible approach to the administrative requirements for lodging applications, softening certain stipulations that previously posed barriers for applicants. This increased flexibility benefits applicants by simplifying the submission process, making it more accessible, particularly for those unfamiliar with legal protocols. Additionally, for the Registry, this approach streamlines case management and reduces the likelihood of administrative delays, allowing for a more efficient processing of applications. By adapting its rules to better meet the needs of all parties involved, the Court demonstrates its ongoing dedication to enhancing access to justice in a rapidly changing world.

Conflict-related applications

Inter-State applications concerning conflicts and related individual applications

In 2024 the Court continued to process applications stemming from conflicts between a number of member States, namely:

▸ **Russia and Ukraine** ▸ **Russia and Georgia** ▸ **Armenia and Azerbaijan.**

The examination of these conflict-related inter-State cases continues to be a priority for the Court.

On 9 April 2024 the Court (Chamber) delivered its judgment in the case of *Georgia v. Russia (IV)* (application no. 39611/18).

On 25 June 2024 the Court (Grand Chamber) delivered its judgment in the case of *Ukraine v. Russia (re Crimea)* (applications nos. 20958/14 and 38334/18).

In both cases the Court decided that the question of just satisfaction was not ready for decision and therefore reserved it in whole.

Furthermore, the Court held a Grand Chamber hearing on 12 June 2024 in the case of *Ukraine and the Netherlands v. Russia* (applications nos. 8019/16, 43800/14, 28525/20 and 11055/22). The Grand Chamber's examination in this case is underway.

Including the two above-mentioned inter-State cases which are pending only for the examination of the issue of just satisfaction, there are 12 pending inter-State cases, among a total of 14 inter-State cases, which concern the above-mentioned conflicts:

- one brought by Ukraine and the Netherlands against Russia;
- three brought by Ukraine against Russia;
- four brought by Armenia against Azerbaijan;
- one brought by Armenia against Türkiye;
- two brought by Azerbaijan against Armenia; and
- one brought by Georgia against Russia.

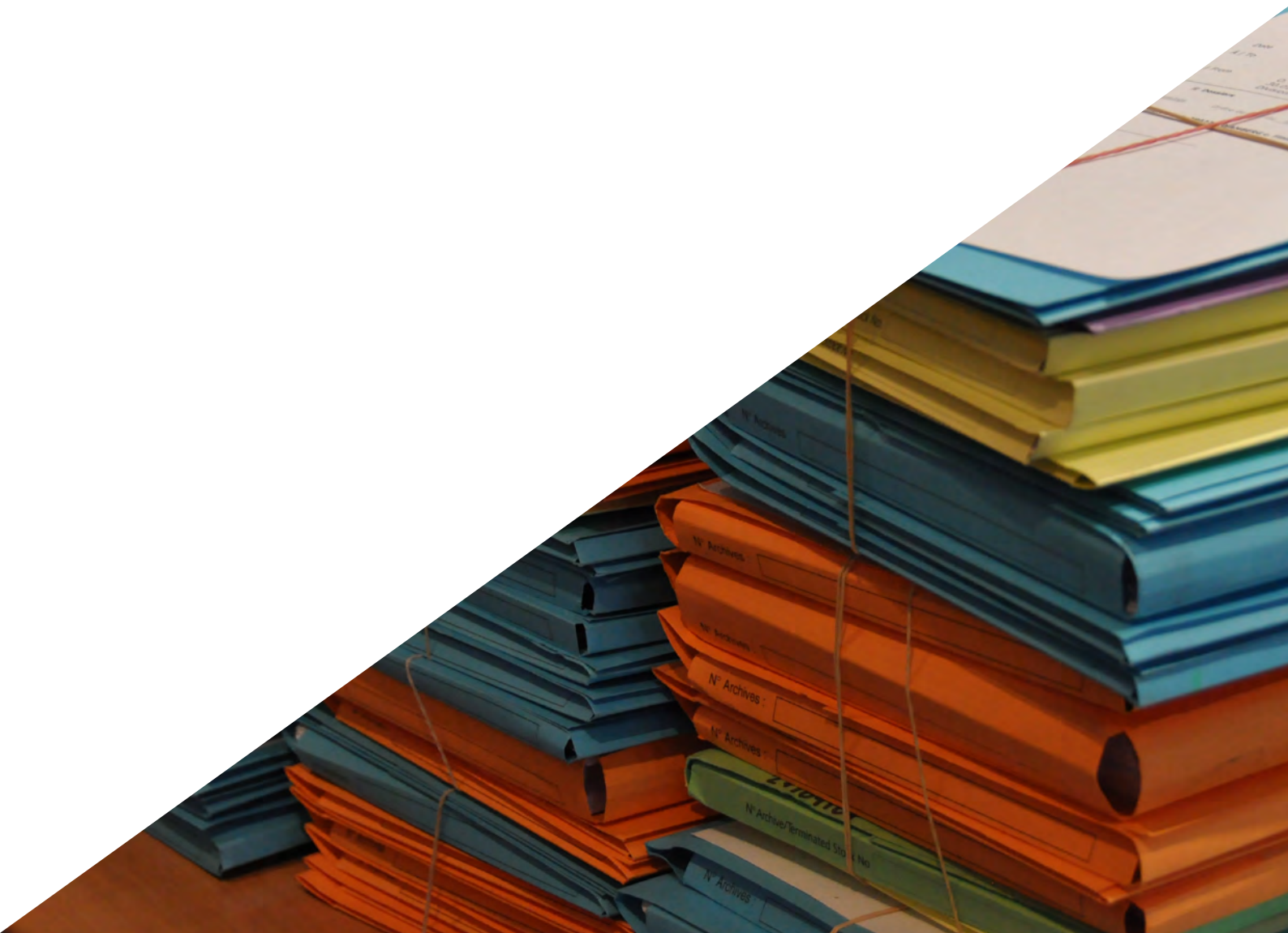
In addition to the 12 inter-State cases concerning conflicts, there are also approximately 10,500 individual applications which stem from those same conflicts. At the Registry level, these cases are handled by the Conflicts Unit. It should be mentioned that, as noted in the Copenhagen Declaration of 2018, in accordance with the Court's practice, where an inter-State case is pending, individual applications raising the same issues or deriving from the same underlying circumstances are, in principle and in so far as practicable, not decided before the overarching issues stemming from the inter-State proceedings have been determined in the inter-State case.

10,500

individual applications

which stem from the mentionned conflicts are handled by the Conflicts Unit

Statistics



Statistical overview

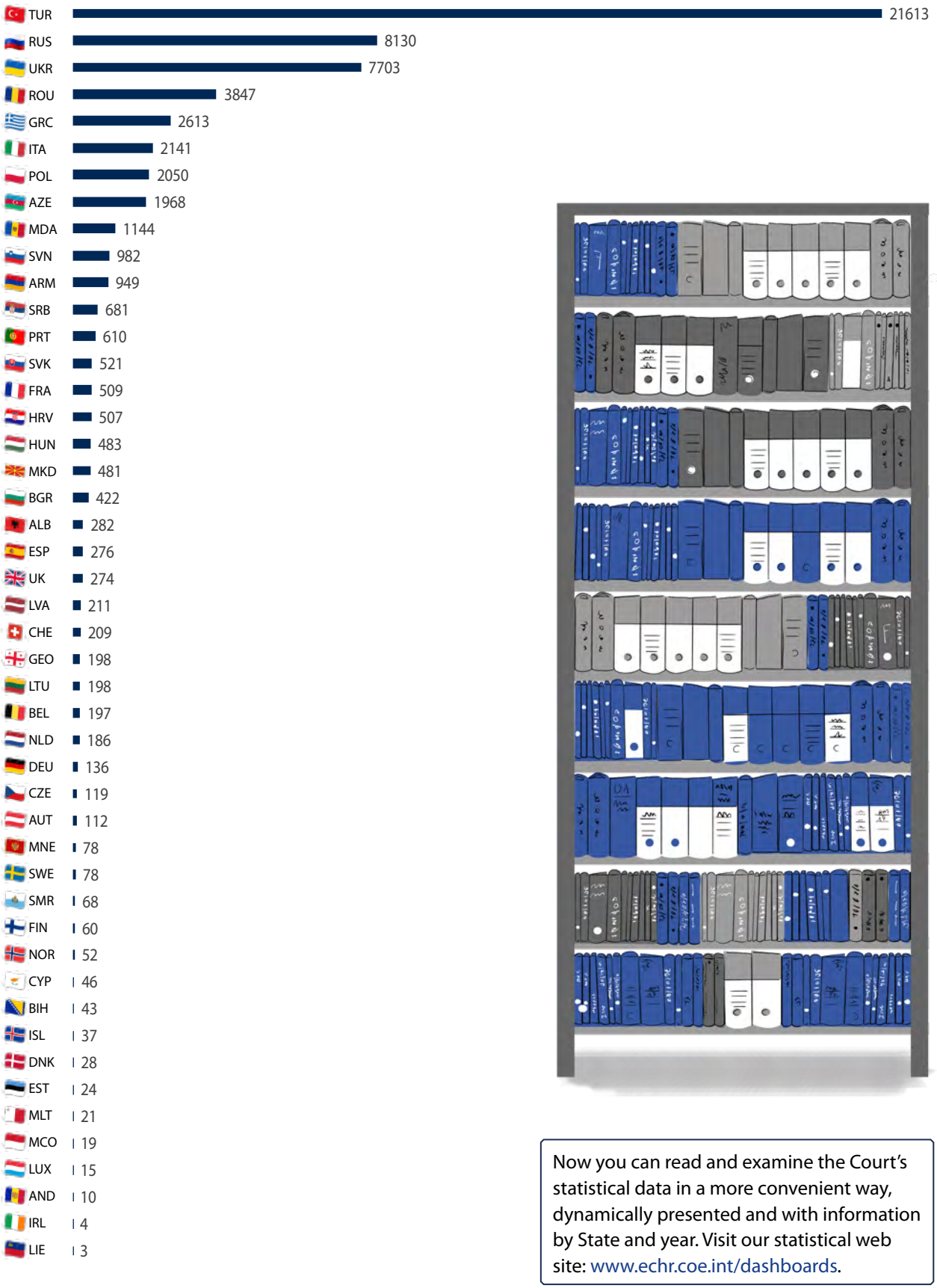
A glossary of statistical terms (Understanding the Court's statistics) and further statistics are available on www.echr.coe.int under Statistics.

	2023	**2024**	
Pending applications*	68,450	**60,350**	12% ↘
▸ Chamber and Grand Chamber	18,150	**19,250**	6% ↗
▸ Committee	46,150	**36,700**	20% ↘
▸ Single-judge	4,150	**4,400**	6% ↗

	2023	**2024**	
Allocated applications*	34,650	**28,800**	17% ↘
Communicated applications	16,623	**9,832**	41% ↘
Decided applications	38,260	**36,819**	4% ↘
▸ by judgment delivered	6,931	**10,829**	56% ↗
▸ by strike out or inadmissibility decision	31,329	**25,990**	17% ↘

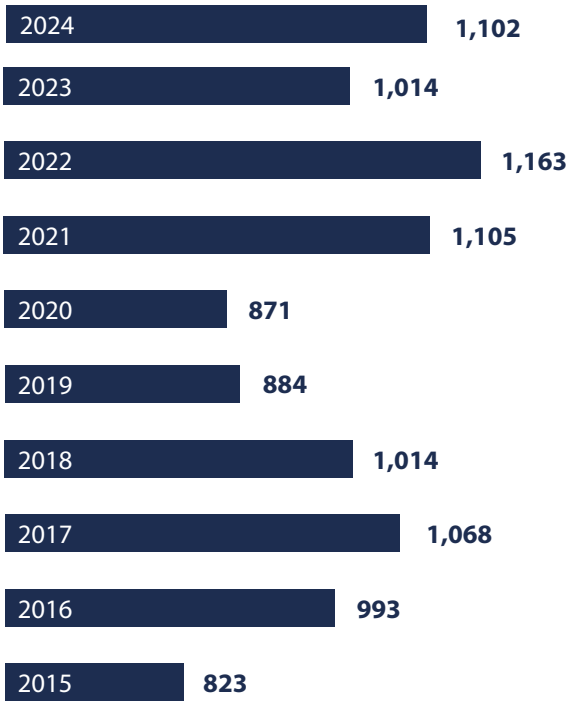
* Round figures [50] as of 31 December of the reference year.

Pending applications (by State) 2024



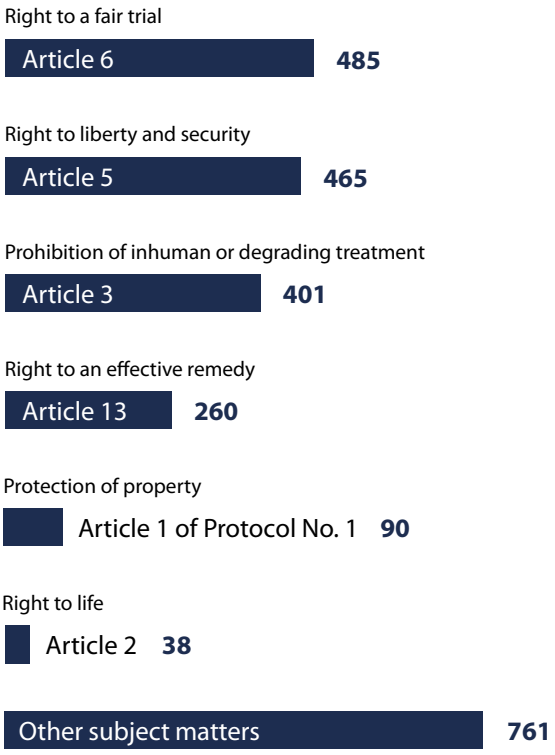
Now you can read and examine the Court's statistical data in a more convenient way, dynamically presented and with information by State and year. Visit our statistical web site: www.echr.coe.int/dashboards.

Delivered judgments 2015-24

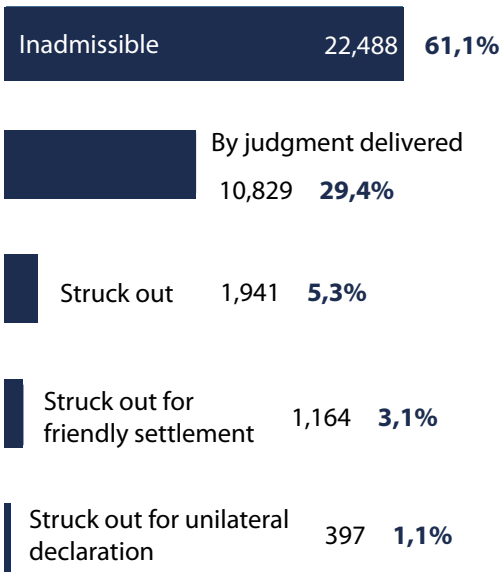


One judgment may concern more than one application.

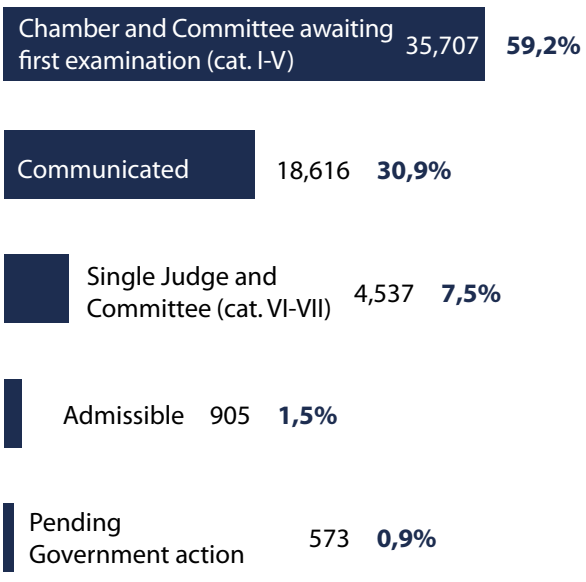
Violations by subject matter 2024



Decided applications 2024



Court's workload 2024



Allocated applications by State and by population 2022-24

	Allocated applications			Population (1,000)			Allocated/population (10,000)		
	2022	2023	2024	01.01.2022	01.01.2023	01.01.2024	2022	2023	2024
ALB	85	133	156	2,794	2,762	2,792	0.27	0.48	0.56
AND	10	6	14	80	82	85	1.43	0.73	1.65
ARM	111	147	180	2,963	2,977	2,991	0.45	0.49	0.60
AUT	254	200	189	8,979	9,105	9,159	0.25	0.22	0.21
AZE	389	438	600	10,156	10,127	10,181	0.42	0.43	0.59
BEL	1,169	1,328	383	11,618	11,743	11,832	0.13	1.13	0.32
BGR	597	486	472	6,839	6,448	6,445	0.90	0.75	0.73
BIH	407	248	81	3,234	3,441	3,417	2.39	0.72	0.24
CHE	257	280	320	8,739	8,815	8,961	0.31	0.32	0.36
CYP	43	29	53	905	921	934	0.58	0.31	0.57
CZE	309	343	308	10,517	10,828	10,901	0.32	0.32	0.28
DEU	535	450	402	83,237	84,359	83,445	0.07	0.05	0.05
DNK	97	87	65	5,873	5,933	5,961	0.11	0.15	0.11
ESP	718	421	635	47,433	48,085	48,610	0.13	0.09	0.13
EST	141	103	97	1,332	1,366	1,375	0.85	0.75	0.71
FIN	170	91	121	5,548	5,564	5,604	0.16	0.16	0.22
FRA	831	729	749	67,872	68,173	68,402	0.11	0.11	0.11
GEO	150	156	151	3,689	3,736	3,808	0.32	0.42	0.40
GRC	1,947	541	715	10,460	10,414	10,397	0.85	0.52	0.69
HRV	886	1,012	878	3,862	3,851	3,862	1.73	2.63	2.27
HUN	1,267	2,469	1,442	9,689	9,600	9,585	1.12	2.57	1.50
IRL	28	21	22	5,060	5,271	5,344	0.07	0.04	0.04
ISL	30	19	19	376	388	399	0.57	0.49	0.48
ITA	1,931	1,957	1,751	59,030	58,997	58,990	0.27	0.33	0.30
LIE	1	6	8	39	40	40	2.05	1.50	2.00
LTU	360	351	346	2,806	2,857	2,886	1.53	1.23	1.20
LUX	35	28	28	645	661	672	0.47	0.42	0.42
LVA	272	166	170	1,876	1,883	1,872	1.42	0.88	0.91
MCO	8	9	15	36	38	38	2.05	2.37	3.95
MDA	642	653	363	2,604	2,513	2,423	2.40	2.60	1.50
MKD	367	335	328	1,837	1,830	1,826	1.90	1.83	1.80
MLT	19	22	16	521	542	563	1.20	0.41	0.28
MNE	295	173	133	618	617	638	6.14	2.80	2.08
NLD	198	231	240	17 591	17 811	17 943	0.14	0.13	0.13
NOR	131	87	101	5 425	5 489	5 550	0.22	0.16	0.18
POL	2,146	1,843	2,141	37,654	36,754	36,621	0.76	0.50	0.58
PRT	335	371	348	10,352	10,517	10,640	0.25	0.35	0.33
ROU	3,302	2,821	2,527	19,042	19,055	19,064	1.55	1.48	1.33
RUS*	6,077	1,695	2,129	143,667	143,667	143,667	0.66	0.12	0.15
SMR	56	16	24	34	34	34	5.14	4.71	7.06
SRB	3,289	1,522	1,118	6,797	6,641	6,605	2.90	2.29	1.69
SVK	479	457	537	5,435	5,429	5,425	0.84	0.84	0.99
SVN	287	978	382	2,107	2,117	2,124	1.11	4.62	1.80
SWE	162	143	267	10,452	10,522	10,552	0.15	0.14	0.25
TUR	12,551	8,341	4,450	84,680	85,280	85,372	1.14	0.98	0.52
UK	240	201	478	67,509	68,683	69,138	0.03	0.03	0.07
UKR	1,914	2,531	2,832	45,246	45,246	45,246	0.82	0.56	0.63
TOTAL	**45,528**	**34,674**	**28,784**	**837,258**	**841,212**	**842,419**	**0.54**	**0.41**	**0.34**

*46 Council of Europe member States had a combined population of approximately 699 million inhabitants on 1 January 2024. The average number of applications allocated per 10,000 inhabitants (without taking into account the figures in respect of Russia) was 0,38 in 2024.

Sources on 01.01.2024: Internet sites of Eurostat (General and regional statistics: "Population on 1 January" database) and of the Population Division of the United Nations Department of Economic and Social Affairs.

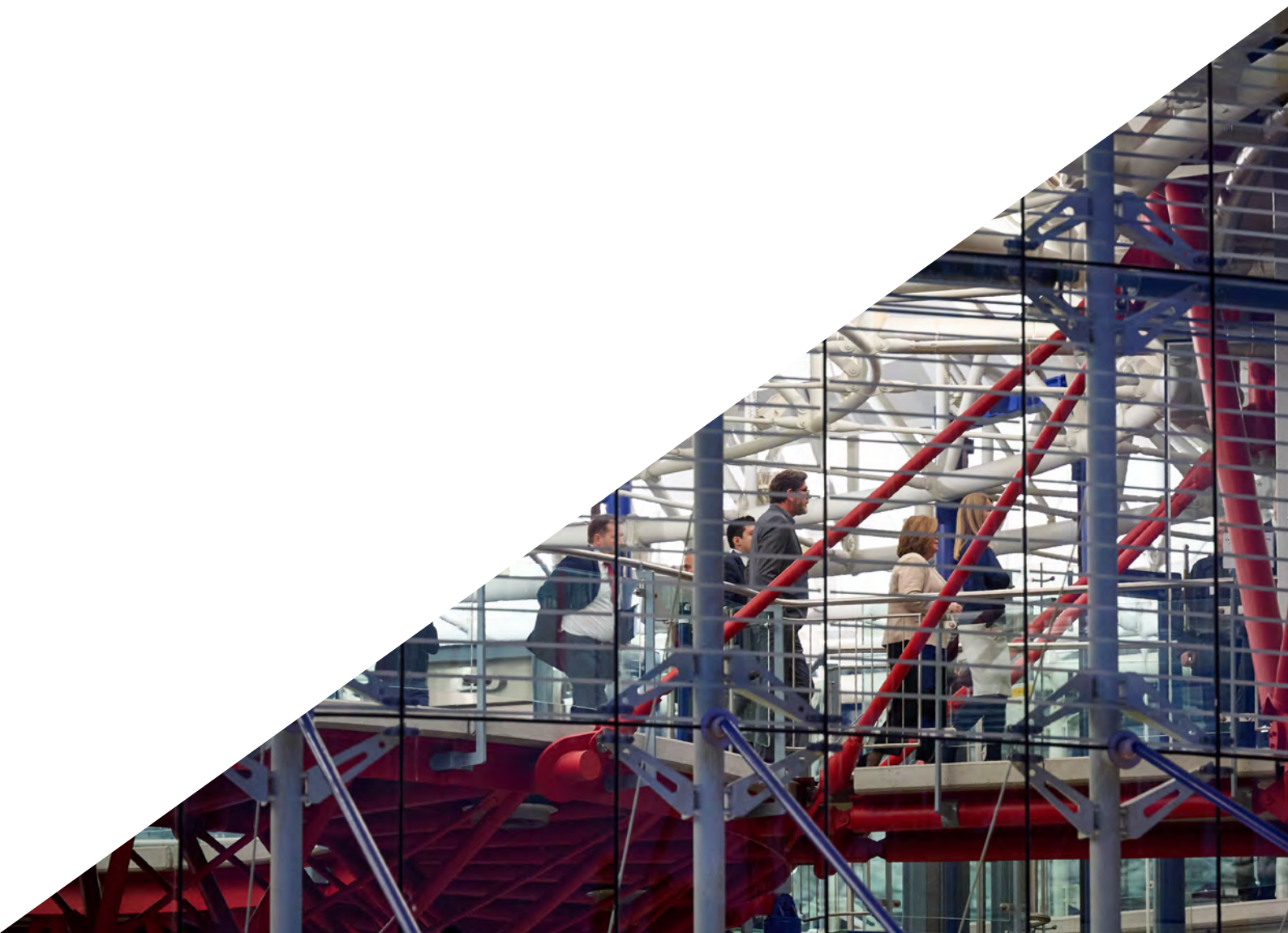
Violations by Article and by State 2024

	Total of judgments	At least one violation	No violation	Friendly settlements / striking-out	Other judgments [1]	Lack of effective investigation	Right to life	Prohibition of torture [2]	Inhuman / degrading treatment	Lack of effective investigation	Conditional violations [2]	Prohibition of slavery / forced labour	Right to liberty and security	Right to a fair trial [2]	Length of proceedings	Non-enforcement	No punishment without law	Respect for private and family life [2]	Freedom of thought, conscience, religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried / punished twice	Other Articles of the Convention
						Art. 2	Art. 2	Art. 3	Art. 3	Art. 3	Art. 2/3	Art. 4	Art. 5	Art. 6	Art. 6	Art. 6	Art. 7	Art. 8	Art. 9	Art. 10	Art. 11	Art. 12	Art. 13	Art. 14	P. 1-1	P. 1-2	P. 1-3	P. 7-4	
ALB	20	18	2												3	5	7		1							6				
AND																													
ARM	16	15	1			1	1		2	1				6	1	1	1		1	1	3			2		1				
AUT	4	2	2													1					1								
AZE	39	38	1			2	2		4	2				4	16	1	3		4	1	5	4		1		8				4
BEL	4	2	2							1				2															
BGR	15	13			2										5				2		3					6				
BIH	2	2													1				1										
CHE	9	7	2						1		1			3	2	1			2					1	1			1	
CYP	6	5	1						2					3		1			1					1					1
CZE	11	7	4											1	2				3						1				
DEU	4	2	2						1						1														
DNK	9	4	5							1									4										
ESP	6	2	4										1						1										
EST																													
FIN	2		2																										
FRA	32	12	17		3				2		1				3	1		1	1		1	1			1	1			2
GBR	3	1	1	1																	1								
GEO	18	16	2				2		2	5					4	2								2	2	1			
GRC	27	25	2			1	1		13	1				6	7		1		5					2				3	1
HRV	22	21	1			2	1		2	2					12	2			1		1					4			
HUN	51	48	2	1		1	1		16	1				21		14			4		4			12					2
IRL																													
ISL	1	1																						1			1		
ITA	58	51	6		1				4	1				2	9	4	20		3					3		22			1
LIE																													
LTU	8	6	2			1			2	3				2	3				1					1					
LUX	4	4													2						1					1			
LVA	10	8	2						1	1				3					2						2				
MCO	1	1																	1										
MDA	17	15	2				1		4	3				1	5		1		3		1			1	5	5			
MKD	10	10								1				4	4				2							1			
MLT	7	7							1					4	1									1		5			
MNE	9	9													1		8									8			
NLD	5	3	2						1	1				1					1										
NOR	1	1				1																		1					
POL	35	35							1					8	1	20			8		2	1		21					1
PRT	16	14	2						6					1		2			1		5			5					
ROU	58	49	6	3			2		30	1					1	1			12		1			1	1	1		1	
RUS	302	302				5	4	2	195	6		2	289	207	1	3	1		92	2	96	188		116	11	9	1	9	17	140
SMR	3		3																										
SRB	11	11													4	2	1		1							1			2
SVK	12	11	1						1			1	5	1	3				3					1						
SVN	3	2			1										2				4										
SWE	4		4																										
TUR	73	67	5	1		2	2		1	2	4		19	13	1				9	1	15	6				2			
UKR	158	153	2	2	1		5		52	22			80	13	51	2			10		2	1		87	3	8			3
Sub-total		1,000	90	8	8	16	22	2	344	55	6	4	465	324	114	47	2	184	6	141	201		260	27	90	1	11	21	157
TOTAL [4]		**1,102**																											

This table has been generated automatically, using the conclusions recorded in the metadata for each judgment contained in HUDOC, the Court's case-law database.

1. Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.
2. Figures in this column may include conditional violations.
3. Cases in which the Court held there would be a violation of Article 2 and/or 3 if the applicant was removed to a State where he/she was at risk.
4. Four judgments are against more than 1 State: Georgia and Russia, Republic of Moldova and Russia, Azerbaijan and Georgia, Germany and Greece.

The year in pictures



26.01 | Opening of the Judicial Year

A solemn hearing took place at the Court on 26 January 2024. During the solemn hearing Síofra O'Leary, President of the Court, and Didier Reynders, European Commissioner for Justice, addressed representatives from the highest courts of the 46 member States of the Council of Europe and from local, national and international authorities.

26.01 | Seminar – Dialogue between judges

A judicial seminar on *Revisiting subsidiarity in the age of shared responsibility* took place on 26 January 2024.

© Supreme Court of Slovakia

04.03 | Visit to the Supreme Court of the Slovak Republic

On 4 March 2024, President Síofra O'Leary paid an official visit to the Supreme Court of the Slovak Republic in Bratislava. She was accompanied by Alena Poláčková, Judge elected in respect of the Slovak Republic, and Ilse Freiwirth, Section Registrar. The delegation was welcomed by Ján Šikuta, President of the Supreme Court, and Andrea Moravčíková, Vice-President of the Supreme Court.

05.03 | Visit by the Minister for Foreign and European Affairs and Trade of Malta

On 5 March 2024, Ian Borg, Minister for Foreign and European Affairs and Trade of Malta, visited the Court and was received by President Síofra O'Leary. Lorraine Schembri Orland, Judge elected in respect of Malta, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

19.03 | Exchange of views with the European Committee of Social Rights

On 19 March 2024, President Síofra O'Leary took part in an exchange of views with the European Committee of Social Rights (ECSR) meeting in session in Strasbourg. She was accompanied by Branko Lubarda, Judge elected in respect of Serbia, and Saadet Yüksel, Judge elected in respect of Türkiye.

21.03 | Visit by a delegation of the Supreme Court of the Netherlands

On 21 March 2024 a delegation from the Supreme Court of the Netherlands, headed by its President, Dineke de Groot, paid a working visit to the Court and was received by President Síofra O'Leary. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

22.03 | Visit to the French *Conseil d'État*

On 22 March 2024 President Síofra O'Leary led a Court delegation to Paris for a meeting with the French *Conseil d'État*. The delegation was received by Didier-Roland Tabuteau, Vice-President of the *Conseil d'État*, and took part in roundtable discussions with members of the *Conseil d'État*.

22.03 | René Cassin Competition

Students from the University of Bucharest were declared the winners of the 2024 René Cassin advocacy competition for law students after beating a rival team from the Bruges College of Europe in the final round.

The final took place at the European Court of Human Rights in Strasbourg on 22 March 2024 and the jury was made up of judges of the Court, lawyers, academics and representatives of the competition's partner institutions. It was chaired by Mr François Sureau, lawyer, writer, and member of the French Academy.

12.04 | Visit by a high-level delegation of judges from the United Kingdom Superior Courts

On 12 April 2024 President Síofra O'Leary received an official visit by a high-level delegation of judges from the United Kingdom Superior Courts, composed of: The Right Honourable Lord Philip Sales, Justice of the UK Supreme Court; The Right Honourable the Baroness Carr of Walton-on-the-Hill, Lady Chief Justice of England and Wales; The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland; The Right Honourable Lord Andrew Burrows, Justice of the UK Supreme Court; The Right Honourable Lord Justice James Dingemans, Court of Appeal Judge, England and Wales; and The Right Honourable Lord Raymond Doherty, Court of Session Judge, Scotland. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

17.04 | Visit by the Minister of Justice of Latvia

On 17 April 2024, Inese Lībiņa-Egnere, Minister of Justice of Latvia, visited the Court and was received by President Síofra O'Leary. Mārtiņš Mits, Judge elected in respect of Latvia, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

18.04 | Visit by H.S.H. Hereditary Prince Alois of Liechtenstein

On 18 April 2024, His Serene Highness Hereditary Prince Alois of Liechtenstein visited the Court and was received by President Síofra O'Leary. Carlo Ranzoni, Judge elected in respect of Liechtenstein, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

18.04 | Visit by a delegation of the Constitutional Court of Latvia

On 18 April 2024 a delegation from the Constitutional Court of Latvia, headed by its President, Aldis Laviņš, paid a working visit to the Court. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

16.05 | Visit by a delegation of the Supreme Court of Denmark

On 16 May 2024 a delegation from the Supreme Court of Denmark, headed by its President, Jens Peter Christensen, paid a working visit to the Court and was received by President Síofra O'Leary. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

21-23.05 | Official visit to the Republic of Moldova

On 21-23 May 2024, President Síofra O'Leary paid an official visit to the Republic of Moldova. During the visit, she participated in the XIXth Congress of the Conference of European Constitutional Courts, in Chișinău, where she was greeted by Maia Sandu, President of the Republic of Moldova, and delivered an opening speech. She also took part in bilateral meetings with Igor Grosu, President of the Parliament, Domnica Manole, President of the Constitutional Court, and Veronica Mihailov-Moraru, Minister of Justice, and delivered a keynote speech at the National Institute of the Judiciary. President O'Leary was accompanied by Diana Sârcu, Judge elected in respect of the Republic of Moldova, and Abel Campos, Deputy Registrar of the Court.

27-31.05 | ELSA Moot Court

The team from the University of Birmingham was declared the winner of the 12th edition of the ELSA moot court competition after beating a team from the University of Maastricht in the final round.

18 university teams from 13 countries were competing to win a fictitious case related to issues such as controversy and freedom of expression from 27 to 31 May 2024.

This competition is organised jointly by the Council of Europe and the European Law Students Association (ELSA).

06-07.06 | Annual Forum of the Superior Courts Network (SCN)

The 7th SCN Forum took place on 6-7 June 2024. Attended by 96 representatives from 75 member courts, the Forum included a substantive session on the topic of *National courts and the challenge of climate change litigation* as well as a know-how session (working groups) on the topic of *Judicial communication strategies: contemporary challenges*.






12.06 | Visit by the Minister of Justice of Italy

On 12 June 2024, Carlo Nordio, Minister of Justice of Italy, visited the Court and was received by President Síofra O'Leary. Raffaele Sabato, Judge elected in respect of Italy, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

14.06 | Seminar on the articulation between the European Convention on Human Rights and European Union Law: past, present and future

On 14 June 2024 the ECHR held a half-day seminar on the articulation between the European Convention on Human Rights and European Union Law: past, present and future.

On the occasion of the seminar the Court launched a new "ECHR/EU" page on its Knowledge-Sharing platform (ECHR-KS).

17.06 | Official visit to Liechtenstein

On 17 June 2024, President Síofra O'Leary paid an official visit to Liechtenstein, accompanied by Carlo Ranzoni, Judge elected in respect of Liechtenstein, and Dorothee von Arnim, Deputy Section Registrar.

During the visit, the delegation took part in bilateral meetings with Daniel Risch, Prime Minister of the Principality of Liechtenstein and Minister of General Government Affairs and Finance, Dominique Hasler, Minister of Foreign Affairs, Education and Sport, and Graziella Marok-Wachter, Minister of Infrastructure and Justice.

13.08 | Meeting with the Minister of Justice of Slovenia

On 13 August 2024 the President of the Court, Marko Bošnjak, took part in a bilateral meeting with Andreja Katič, Minister of Justice of Slovenia, in Ljubljana. Milan Brglez, State Secretary at the Ministry of Justice, also attended the meeting.

11.09 | Annual *rentrée* of the French *Conseil d'État*

On 11 September 2024, the President of the Court, Marko Bošnjak, attended the third annual rentrée of the French *Conseil d'État*, in Paris. He was accompanied by Mattias Guyomar, Section President and Judge elected in respect of France. On the side of the conference, they held a bilateral meeting with Didier-Roland Tabuteau, Vice-President of the *Conseil d'État*.

16.09 | Visit by a delegation of the Supreme Court of Slovenia

On 16 September 2024, a delegation from the Supreme Court of Slovenia, headed by its President, Miodrag Đorđević, and its Vice-President, Marjeta Švab Širok, paid a working visit to the Court and was received by the President of the Court, Marko Bošnjak. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

19.09 | Visit to French Court of Cassation and Constitutional Council

On 19 September 2024, the President of the Court, Marko Bošnjak, paid a visit to the French Court of Cassation and to the Constitutional Council, in Paris, accompanied by Mattias Guyomar, Section President and Judge elected in respect of France, and Marialena Tsirli, Registrar of the Court. During the visit, the delegation took part in bilateral meetings with Christophe Soulard, First President of the Court of Cassation, and Laurent Fabius, President of the Constitutional Council.

© Court of Cassation

24.09 | Visit by Ivan Harbour

Human Rights Building architect Ivan Harbour paid a visit to the Court on 24 September 2024 for an on-site guided visit and talk on *Judicial architecture and technologies*.

26.09 | Visit by a delegation of the Supreme Administrative Court of Sweden

On 26 September 2024, a delegation from the Supreme Administrative Court of Sweden, headed by its President, Helena Jäderblom, paid a working visit to the Court and was received by the President of the ECHR, Marko Bošnjak. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

01.10 | Opening of the Legal Year in London

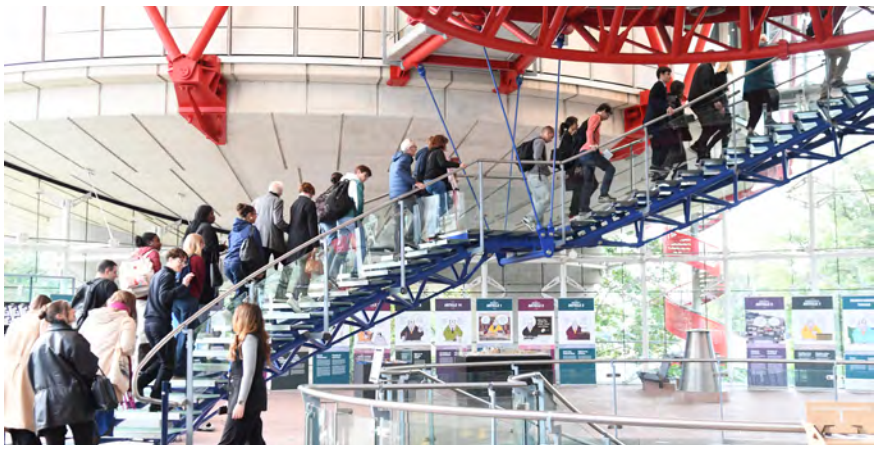
On 1 October 2024, the President of the Court, Marko Bošnjak, attended the Opening of the Legal Year ceremony in London. He was accompanied by Tim Eicke, Judge elected in respect of the United Kingdom, and Marialena Tsirli, Registrar of the Court. The delegation also held bilateral meetings with The Right Honourable Lord Hermer KC, Attorney General of the United Kingdom, and The Right Honourable Lord Reed of Allermuir, President of the Supreme Court of the United Kingdom.

02.10 | Visit by Minister of Foreign Affairs and Cooperation of Monaco

On 2 October 2024, Isabelle Berro-Amadeï, Minister of Foreign Affairs and Cooperation of Monaco, visited the Court and was received by President Marko Bošnjak. Stéphanie Mourou-Vikström, Judge elected in respect of Monaco, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

02.10 | Visit by Minister of Foreign Affairs of Lithuania

On 2 October 2024, Gabrielius Landsbergis, Minister of Foreign Affairs of Lithuania and President of the Committee of Ministers of the Council of Europe, and delegation visited the Court and were received by President Marko Bošnjak. Gediminas Sagatys, Judge elected in respect of Lithuania, and Marialena Tsirli, Registrar of the Court, also attended the meeting.



03.10 | *Nuit du droit*

On 3 October 2024, the Court hosted the 2024 edition of *La Nuit du Droit* in collaboration with the *Tribunal judiciaire de Strasbourg*.

07.10 | Formal sitting of the Court of Justice of the European Union

On 7 October 2024, the President of the Court, Marko Bošnjak, attended a formal sitting of the Court of Justice of the European Union in Luxembourg. He also held a bilateral meeting with Koen Lenaerts, President of the Court of Justice.

25.10 | European Convention on Human Rights and international refugee law compliant procedures at state borders

A seminar organised jointly by the Registry of the European Court of Human Rights and the UNHCR (United Nations Refugee Agency) Representation to the European Institutions in Strasbourg, on the subject *European Convention on Human Rights and international refugee law compliant procedures at state borders*, took place in the Human Rights Building on 25 October 2024.

31.10 | Celebration of 50th anniversary of Greece's ratification of the European Convention and 75th anniversary of the Council of Europe

The President of the Court, Marko Bošnjak, accompanied by Arnfinn Bårdsen, Vice-President of the Court, Mattias Guyomar and Ivana Jelić, Section Presidents, Judges Pauliine Koskelo, Ana Maria Guerra Martins, Ioannis Ktistakis and Davor Derenčinović, as well as Marialena Tsirli, Registrar of the Court, has attended a ceremony organised by the Presidency of the Hellenic Republic and the Hellenic Parliament, in Athens, on the occasion of the 50th anniversary of Greece's ratification of the European Convention on Human Rights and the 75th anniversary of the Council of Europe, in the presence of Katerina Sakellaropoulou, President of the Hellenic Republic, and Constantine An. Tassoulas, President of the Hellenic Parliament.

Photos © Presidency of the Hellenic Republic

06.11 | Visit by Deputy Prime Minister and Minister of Foreign Affairs of Montenegro

On 6 November 2024, Ervin Ibrahimović, Deputy Prime Minister and Minister of Foreign Affairs of Montenegro, visited the Court and was received by President Marko Bošnjak. Ivana Jelić, Vice-President of the Court and Judge elected in respect of Montenegro, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

08.11 | Visit by a delegation of the Constitutional Court of Türkiye

On 8 November 2024, a delegation from the Constitutional Court of Türkiye, headed by its President, Judge Kadir Özkaya, paid a working visit to the Court and was received by the President of the Court, Marko Bošnjak. During the visit the delegation took part in roundtable discussions with judges of the ECHR and members of the Registry.

14-15.11 | Official visit to the Vatican and to Italy

On 14 November 2024, the President of the Court, Marko Bošnjak, paid an official visit to the Vatican. On that occasion, he was granted an audience with His Holiness Pope Francis. During this visit, President Bošnjak met Cardinal Pietro Parolin, Secretary of State.

On 15 November 2024, the President of the Court, Marko Bošnjak, paid an official visit to Italy. On that occasion, he was received by Sergio Mattarella, President of the Republic.

President Bošnjak was accompanied by Raffaele Sabato, judge elected in respect of Italy, and Marialena Tsirli, Registrar of the Court. During this visit, the delegation also took part in bilateral meetings with the Constitutional Court and the Supreme Court of Cassation of Italy.

Photos © Vatican Press

18.11 | Visit by a delegation of the Court of Justice of the European Union

On 18 November 2024, a delegation from the Court of Justice of the European Union, headed by its President, Koen Lenaerts, paid a visit to the Court for the two Courts' annual meeting and was received by President Marko Bošnjak. During the visit the delegation took part in roundtable discussions with judges of the Court and members of the Registry.

22.11 | Trans-European moot court

Faculty-of-law students from Club Lannung from Copenhagen (Denmark) were declared the winners of the 2024 Trans-European Moot Court competition for human rights law students after beating their rivals from Club Henrik Steska from Ljubljana (Slovenia). The 11th edition of this competition, which brings together the winners of the Regional Moot Court Competition for Southeast Europe (involving law students from Albania, Bosnia and Herzegovina, Croatia, North Macedonia, Montenegro, Serbia, and Slovenia) and the winners of the Nordic Moot Court competition (involving law students from Sweden, Denmark, Norway, Finland and Iceland) took place in Strasbourg on 22 November 2024.

29.11 | Visit by delegations of Judges of the Superior Courts of Portugal

On 29 November 2024, delegations of the Constitutional and Supreme Courts of Portugal, headed by their respective Presidents, Judges José João Abrantes and João Cura Mariano, paid a working visit to the Court and were received by the President of the Court, Marko Bošnjak. During the visit the delegations took part in roundtable discussions with judges of the Court and members of the Registry.

09-10.12 | Official visit to Poland

On 9 December 2024, the President of the Court, Marko Bošnjak, paid an official visit to Poland, accompanied by Krzysztof Wojtyczek, Judge elected in respect of Poland. On that occasion, they took part in bilateral meetings with Donald Tusk, Prime Minister of Poland, Radosław Sikorski, Minister of Foreign Affairs, Adam Bodnar, Minister of Justice, and Marcin Wiącek, Commissioner for Human Rights (Ombudsman).

Photos © Polish Government

09.12 | Visit by President of the Republic of Bulgaria

On 9 December 2024, Rumen Radev, President of the Republic of Bulgaria, visited the Court and was received by Arnfinn Bårdsen and Ivana Jelić, Vice-Presidents of the Court. Diana Kovatcheva, Judge elected in respect of Bulgaria, and Marialena Tsirli, Registrar of the Court, also attended the meeting.

11-13.12 | Visit by a delegation of the African Commission on Human and Peoples' Rights

On 11-13 December 2024, a delegation from the African Commission on Human and Peoples' Rights, headed by its President, Rémy Ngoy Lumbu, paid a working visit to the Court. During the visit, the delegation took part in a roundtable discussion with Arnfinn Bårdsen, Vice-President of the Court, Judge elected in respect of Norway, and Anja Seibert-Fohr, Judge elected in respect of Germany.

Sharing Convention knowledge

The effective functioning of the Convention system requires judicial dialogue which includes the sharing of knowledge. The Court is providing national courts with a variety of tools to assist with the adjudication of Convention issues at home, thereby giving full expression to the principle of subsidiarity laid down in the Preamble to the Convention. Judicial dialogue reinforces the principle of shared responsibility, according to which it falls first and foremost to national authorities to ensure that Convention obligations are observed. An essential tool for this dialogue is the Superior Courts Network which will be celebrating its 10th anniversary in 2025. As knowledge-sharing content continues to expand on the ECHR-KS platform, the Court, with national partners, is prioritising its accessibility in additional (non-official) languages, starting with Romanian, Turkish and Ukrainian in early 2025.

Judicial dialogue

Bilateral exchanges with the Superior Courts of member States

In 2024 the Court once again actively fostered dialogue on human rights through numerous professional meetings with the superior courts. The Court welcomed a large number of delegations to the Human Rights Building, including visitors from the Supreme Court of the Netherlands, the United Kingdom Superior Courts, the Constitutional Court of Latvia, the Supreme Court of Denmark, the Supreme Court of Slovenia, the Italian Tax Justice Council, the Supreme Administrative Court of Sweden, the Constitutional Court of Türkiye, and the Constitutional and Supreme Courts of Portugal. This judicial dialogue was also enhanced by exchanges outside Strasbourg, through the numerous official visits made by President Síofra O'Leary and subsequently President Marko Bošnjak, accompanied by judges elected in respect of the countries concerned and registrars, to Council of Europe member States. In March President O'Leary led a delegation of the Court to participate in roundtable discussions with members of the French *Conseil d'État* in Paris. Also in March, President O'Leary paid an official visit to the Supreme Court of the Slovak Republic in Bratislava. The delegation was welcomed by Ján Šikuta, President of the Supreme Court, and Andrea Moravčíková, Vice-President of the Supreme Court, and roundtable discussions were held with Supreme Court judges.

In May, a delegation of the Court led by President O'Leary paid an official visit to the Republic of Moldova. While in Chișinău, she delivered the Opening Address at the XIX Congress of the Conference of European Constitutional Courts. She also took met with Igor Grosu, President of the Parliament, Domnica Manole, President of the Constitutional Court, and Veronica Mihailov-Moraru, Minister of Justice, and delivered a keynote speech at the National Institute of the Judiciary.

In June, a delegation of the Court led by President O'Leary paid an official visit to Liechtenstein. The delegation attended a conference at the University of Liechtenstein in Vaduz, where President O'Leary delivered a keynote speech and took part in a panel discussion with, among others, Hilmar Hoch, President of the Constitutional Court of Liechtenstein, on the case-law of the European Court of Human Rights and the Constitutional Court.

In September, during a visit to the French *Conseil d'État* in Paris, President Marko Bošnjak met with Didier-Roland Tabuteau, Vice-President of the *Conseil d'État*. Also in September, a delegation of the Court, led by its President Marko Bošnjak, visited the Court of Cassation and the Constitutional Council in Paris, where they met with Christophe Soulard, First President of the Court of Cassation, and Laurent Fabius, President of the Constitutional Council.

In October, President Bošnjak attended the ceremony to mark the Opening of the Legal Year in London. The delegation also met with The Right Honourable Lord Hermer KC, Attorney-General of the United Kingdom, and The Right Honourable Lord Reed of Allermuir, President of the Supreme Court of the United Kingdom. The same month, Arnfinn Bårdsen, Vice-President of the Court, representing its President, participated in a meeting in Vilnius with members of the Constitutional Court and the Supreme Administrative Court of Lithuania.

In November President Bošnjak paid an official visit to Italy; among other engagements, he took part in bilateral meetings with members of the Constitutional Court and the Supreme Court of Cassation.

Superior Courts Network

An operational-level structure for sharing Convention knowledge and know-how in a privileged space, the Superior Courts Network (SCN) remains the cornerstone of the Court's judicial dialogue. As it prepares to celebrate its 10th anniversary in 2025, SCN membership is expected to rise to 111 member courts drawn from each of the 46 member States of the Council as well as three regional observer courts: the African Court on Human and Peoples' Rights, the Court of Justice of the European Union and the Inter-American Court of Human Rights. In 2024 the network continued to welcome new members: the Constitutional Court of Austria, the Supreme Court of Justice of Austria, the Supreme Administrative Court of Bulgaria, the High Administrative Court of Croatia and the Supreme Constitutional Court of Cyprus, with the Federal Supreme Court of Switzerland to join soon. The Supreme Court of Canada will also be joining the network as an observer.

The Annual Forum in June gathered representatives from 75 member courts in 38 States, the total number of participants nearing 200. The plenary session focused on "National courts and the challenge of climate change litigation", whereas working groups discussed "Judicial communication strategies: contemporary challenges".

Under its two-way knowledge-sharing approach, the network delivered targeted case-law knowledge to its members while receiving valuable domestic-law contributions for the Court's comparative legal analysis. In 2024, SCN members provided over 330 comparative contributions in response to eight requests, demonstrating the critical role of national courts in informing the Court's analysis of member States' legislation and judicial practice. Over the years the Strasbourg Court has received nearly 1,900 such contributions and it greatly appreciates this invaluable contribution by member Courts to its work. Once the relevant ECHR judgment has been delivered, the national contributions obtained for that case are compiled and made available to member courts.

330

comparative contributions

provided by SCN members in response to eight requests in 2024

Under the Visiting Professionals Scheme (VPS) launched in 2023, 47 participants from 10 member courts benefited from visits tailored to their specific know-how needs on topics relating to case-processing, documents management and related IT systems. The VPS is financed in part by the CoE Directorate-General of Human Rights and Rule of Law.

1,900

national contributions

received over the years

The Registry also supported member courts by responding to "formal requests" for case-law information. Such assistance is limited to providing a non-analytical list of case-law references, which ensures that the requesting court has the full picture of potentially relevant case-law when deciding on a Convention matter. Finally, a total of 157 participants attended six online ECHR-KS/HUDOC training sessions. All of the aforementioned activities provide member courts with a multitude of tools for accessing, understanding and applying Convention case-law.

Annual bilateral meeting with the Court of Justice of the European Union

In 2024 the constructive and regular dialogue between the European Court of Human Rights and the Court of Justice of the European Union continued, with a view to promoting unity and common purpose in the defence of human rights, the rule of law and an effective and pluralistic democracy.

On 7 October 2024 the President of the Court, Marko Bošnjak, attended a formal sitting of the Court of Justice of the European Union (CJEU) in Luxembourg. He also had a bilateral meeting with Koen Lenaerts, President of the Court of Justice.

On 18 November 2024 a delegation from the CJEU, led by President Lenaerts, visited the Court for the annual meeting of the two Courts. The delegation was received by President Bošnjak. During the visit, members of the delegation took part in roundtable discussions with judges of the Court and Registry staff.

Exchanges with other non-European Courts/bodies

In addition to these meetings, judicial dialogue continues through exchanges with institutions from around the world. To that end, several delegations and dignitaries representing those institutions visited the Court this year, including Judge Graciela Gatti Santana, President of the United Nations International Residual Mechanism for Criminal Tribunals (January), and a delegation of Canadian judges and lawyers, led by Richard Wagner, Chief Justice of Canada (July). The Court also received a visit from a delegation of the African Commission on Human and Peoples' Rights.

Sharing knowledge

The external knowledge-sharing platform

The Court's external knowledge-sharing platform (ECHR-KS) provides detailed and contextualised case-law analysis on all of the key Convention subjects, Article by Article as well as through transversal themes such as the environment, terrorism, data protection, immigration and prisoners' rights. It also filters into the platform key commentaries, doctrine and other publications and offers links to key texts and standards from other relevant international bodies. Crucially, it is not a static system: the case-law analytical content is updated every week and, importantly, it is managed so as to expand to provide analysis on new case-law issues as they emerge.

The ECHR-KS launch in 2022 was a milestone in the project "Enhancing Subsidiarity: Support to the ECHR Knowledge-Sharing and Superior Courts Dialogue", jointly implemented by the Registry and the Council of Europe Directorate-General of Human Rights and Rule of Law. Partly funded by voluntary contributions from France, Ireland and the Human Rights Trust Fund, the Court is working actively with national partners to make this platform available in additional languages, starting with Romanian, Turkish and Ukrainian in early 2025.

In 2024, ECHR-KS content continued to expand, notably with the publication of a new ECHR-EU page, including a case-law guide on the Court's

case-law concerning European Union law. In addition, two initial factsheets were produced in cooperation with the EU Fundamental Rights Agency (FRA), highlighting the respective bodies of case-law/law on subjects where Convention and EU law interact: the European Arrest Warrant and Fundamental Rights as well as the right to be forgotten.

The Court continues to cooperate with FRA and relevant Council of Europe entities to produce European law handbooks covering both ECHR and CJEU case-law in areas such as access to justice; asylum, borders and immigration; child rights; data protection; and non-discrimination. Published in nearly all EU languages, the handbooks are intended to be practical and didactical. Several updates are currently underway and a new handbook relating to cybercrime and fundamental rights is planned for release in late 2025.

It is envisaged to publish in 2025 a number of additional Convention-related key themes on topics such as minority rights; rights of persons with disabilities; violence against women; international humanitarian law; and business and human rights.

Overview of the case-law and key cases

The Jurisconsult's annual Overview of the case-law provides valuable insight into the most important judgments and decisions delivered by the Court each year, setting out the salient aspects of the Court's findings and their relevance to the evolution of its case-law. The Overview forms part of this Annual Report and can also be downloaded from the Court's website.

In making its selection of "key cases", the Bureau of the Court identifies those judgments and decisions it considers to be of particular importance for each quarter, for example because they make a significant contribution to the development of the Court's case-law, deal with a new problem of general interest or entail a new interpretation or clarification of principles. Cases in this category will always be made available in both official languages. The selected cases are listed in the Key cases chapter and may also be found by referring to the quarterly and annual lists available on the Court's website[1] or by selecting "Key cases" in the "Importance" filter in HUDOC.

Case-law translations programme

The Registry maintains a standing invitation to courts, ministries, judicial training centres, associations of legal professionals, non-governmental organisations and other partners to share any translations to which they have the intellectual rights. A significant number of partners continue to support the Court's work and the implementation of the Convention at national level by completing and sharing translations of select judgments, decisions and advisory opinions (which are posted on HUDOC) as well as case-law guides, key themes, legal summaries, factsheets and the like (which are posted on ECHR-KS). Their inclusion in the aforementioned platforms ensures greater online availability and greater accessibility of all of this knowledge to an even wider audience. The Registry also references, on the Court's website, third-party websites or databases hosting translations of the Court's case-law, and welcomes suggestions for the inclusion of further sites of this kind.[2]

The HUDOC-ECHR case-law database

With the launch of the Romanian user interface in 2024, HUDOC-ECHR (hudoc.echr.coe.int) now exists in a total of ten languages (English, French, Armenian, Bulgarian, Georgian, Romanian, Russian, Spanish, Turkish, and Ukrainian). The largest of the eleven HUDOC sites, HUDOC-ECHR now contains over 200,000 documents. The number of visits

37,000

translations

in 34 languages other than English and French have now been made available in HUDOC-ECHR

1. Under https://ks.echr.coe.int/web/echr-ks/selection-of-key-cases.
2. For more details see Case-law translations – ECHR Case-Law – ECHR – ECHR / CEDH (coe.int).

increased by 35 % in 2024 (9,029,553 visits in 2024 compared with 6,679,867 visits in 2023).

More than 37,000 translations in 34 languages (other than English and French) have now been made available in HUDOC-ECHR (over 18% of its total content), making it a key port of call for legal professionals across Europe and beyond. The language-specific filter allows for rapid searching of these translations, including in free text.

Library

During 2024 nearly 1,100 bibliographic references were added to the library's online catalogue, bringing the number of records to more than 66,000. The catalogue, which is accessible from the library webpages on the Court's website, is an important resource for references to the secondary literature on the Convention and its case-law (commentaries, monographs, collections of articles, legal periodicals), and was consulted around 335,000 times during 2024. A selection of references drawn from the catalogue are provided to the ECHR-KS platform twice a year.

In 2024 the library expanded its collection of electronic resources. The range of electronic periodicals has increased and the number of e-books is now more significant. The library also manages subscriptions to legal databases available to the Registry.

1,100

bibliographic references

were added to the library's online catalogue

Training of legal professionals

The ECHR held training sessions for legal professionals on how the Court works and its case-law.

Through these events, the Court continued its long-standing collaboration with France's *Conseil d'État*, Court of Cassation, Bar Council of the *Conseil d'État* and the Court of Cassation, and National School for the Judiciary.

The Court also ran training for delegations from Latvia's Supreme Court and Parliament (*Saeima*), and hosted delegations of Norwegian and Danish judges.

In addition, the Court continued to work with the Vienna and Graz Courts of Appeal and the Dutch Training and Study Centre for the Judiciary. The Court's Registry maintained a dialogue with the Registry of Germany's Constitutional Court. Training was held with the Supreme Administrative Court of Luxembourg and the Office of the High Inspector of Justice of Albania. And a training event was organised with the Swiss Judicial Academy for the first time.

The Court partnered with the European Judicial Training Network to hold courses for judges and prosecutors from member states of the European Union.

It also hosted a delegation from the African Commission on Human and Peoples' Rights for a working visit, and delegations of judges from Japan.

In 2024 the Visitors' Unit ran 41 training sessions, of one to three days each, for legal professionals from 17 of the 46 member States.

General outreach

Press

The Court's Press Unit is responsible for media relations and acts as the first port of call for journalists, answering their questions, handling interview requests and issuing press releases.

Comprising five press officers and three assistants, it reports on the Court's activities by publishing weekly overviews of the following week's judgments and decisions, summaries on the day rulings are delivered and separate press releases on cases likely to attract greater media attention. It also provides regular updates on all upcoming events.

The Press Unit works in collaboration with the Court's Public Relations and Web Unit, its Visitors' Unit and the audiovisual teams in the Council of Europe's Directorate of Communications.

In 2024 308 press releases were issued in both English and French, and some were also translated into non-official languages. Eight public hearings were held, attended by radio, television and print journalists. The Press Unit also maintained the following documents over the year:

- country profiles containing key information on each of the 46 member States, such as the name of the national judge, statistics, the budget contribution, landmark judgments and pending cases;
- thematic factsheets, which are regularly updated to reflect developments in the Court's case-law and provide a succinct overview of the most relevant cases on a given topic.

More than 70 such documents are currently available in English and French. Some are also being translated into other languages with the support of the States concerned and national human rights institutions. In addition, lists of questions and answers (Q&As) are provided to the press, to help journalists quickly understand and explain the concepts underlying certain cases. These documents can be downloaded from the Court's website under Press/Press Service and are also published alongside press releases and on X (formerly Twitter). They ensure that journalists and the general public have as much relevant information as possible on particular cases.

During the year, the Press Unit also organised a media briefing, where journalists had an opportunity to meet with the President and the Registrar, and presented the Court's activities to the general public on several occasions in the Court's press room. Lastly, the team helped to ensure everything ran smoothly at the President's press conference, which was held on 25 January 2024 in the Court building and streamed live online. As part of this event, the President gave an overview of the Court's activities in 2023, presented the year's statistics and took questions from journalists.

Public relations

The focal point of the Court's communication policy is its internet site (www.echr.coe.int), which registered a total of 2,900,000 visits in 2024 (the same number compared to 2023). In 2024, the Court restructured its website to make it easier to access a wide range of information on all aspects of the Court's work.

In 2024 the Court continued to expand its multimedia activity, and published new videos on its internet site and on social media:

- 9 new videos in the "One judge, three questions" series: Diana Kovatcheva (judge elected in respect of Bulgaria), Gediminas Sagatys elected in respect of Lithuania), Stéphane Pisani (elected in respect of Luxembourg), Úna Ní Raifeartaigh (elected in respect of Ireland), Alain Chablais (elected in respect of Liechtenstein), Artūrs Kučs (elected in respect of Latvia), Mateja Đurović (elected in respect of Serbia), András Jakab (elected in respect of Austria) and Anna Adamska-Gallant (elected in respect of Poland);
- 4 new videos in the "Official visits" series: the President of Montenegro, the President of Cyprus, the Prime Minister of Liechtenstein and H.S.H. Hereditary Prince Alois of Liechtenstein;
- 3 new videos in the "About the case-law" series: Children in the case-law of the ECHR, The environment in the case-law of the ECHR and Climate change in the case-law of the ECHR.

With regard to social media: the x.com/ECHR_CEDH and YouTube accounts were updated regularly in response to current events. The number of subscribers to the X (formerly Twitter) account increased by 10% in 2024, and the YouTube account experienced an increase of 7%.

Visits

In 2024 the Visitors' Unit organised 314 information visits for 8,556 visitors from the legal community and welcomed about 12,455 visitors in total.

12,455
visitors

in total were welcomed by the Visitors' Unit

Key cases

A selection of the most important cases dealt with by the Court (also referred to as "key cases") is made quarterly by the Bureau, upon recommendation by the Jurisconsult (see Title I, Chapters II and III, of the Rules of Court about their respective roles).

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

Chamber judgments that are not yet "final" within the meaning of Article 44 of the Convention are marked "(not final)". In the event that any such judgment is accepted for referral to the Grand Chamber in accordance with Article 43, it will not be included in the present list.

For information on the manner of citing the Court's case-law, please see here.

Article 44 § 2 – Final judgments

The judgment of a Chamber shall become final

(a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or

(b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or

(c) when the panel of the Grand Chamber rejects the request to refer under Article 43.

Article 43 – Referral to the Grand Chamber

1. Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
2. A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the Protocols thereto, or a serious issue of general importance.
3. If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

Key cases: a thematic overview

RESPONSIBILITY OF STATES

ARTICLE 1

Territorial jurisdiction of Portugal established in respect of complaints by a group of young Portuguese nationals concerning the harm caused by climate change.

Lack of extraterritorial jurisdiction of remaining respondent States: inadmissible

***Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024**

Decision | Legal summary

JURISDICTION OF STATES

ARTICLE 1

French jurisdiction in respect of remote retrieval of EncroChat user data and French authorities' transfer of data of users located in the United Kingdom to authorities of that State pursuant to European Investigation Order

***A.L. and E.J. v. France* (dec.), nos. 44715/20 and 47930/21, 24 September 2024**

Decision | Legal summary

SERVITUDE | TRAFFICKING IN HUMAN BEINGS | FORCED LABOUR

ARTICLE 4 (POSITIVE OBLIGATIONS | EFFECTIVE INVESTIGATION)

Failure to protect irregular female migrant workers from trafficking and servitude and to investigate the crimes committed against them: violation

***F.M. and Others v. Russia*, nos. 71671/16 and 40190/18, 10 December 2024 (not final)**

Judgment | Legal summary

PROCEDURE DESCRIBED BY LAW

ARTICLE 5

Arrest and pre-trial detention of a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals despite his diplomatic immunity: violation

***Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024**

Judgment | Legal summary

DEPRIVATION OF LIBERTY

ARTICLE 5

Preventive home-curfew orders constituting a restriction of liberty issued against applicants suspected of potential participation in violent actions during the COP21 summit: inadmissible

***Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024**

Judgment | Legal summary

ACCESS TO COURT | CIVIL RIGHTS AND OBLIGATIONS

ARTICLE 6 § 1 (ADMINISTRATIVE AND CIVIL)

Lack of effective access to court in respect of applicant association's complaint concerning effective implementation of mitigation measures under domestic law: Article 6 applicable; violation

***Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024**

Judgment | Legal summary

ARTICLE 6 § 1 (CIVIL)

Complaint by victims of alleged offences participating in criminal proceedings that the investigating judge's inaction led to the time-barring of those offences and thus to the non-adjudication of their civil claims: no violation

***Fabbri and Others v. San Marino* [GC], nos. 6319/21 and 2 others, 24 September 2024**

Judgment | Legal summary

FAIR HEARING

ARTICLE 6 § 1 (CRIMINAL)

Validity of waiver of the right to legal assistance signed by the applicant while in unrecorded detention and suffering from drug withdrawal symptoms: violation

***Bogdan v. Ukraine*, no. 3016/16, 8 February 2024**

Judgment | Legal summary

PRESUMPTION OF INNOCENCE

ARTICLE 6 § 2

Refusal of compensation for a miscarriage of justice, following quashing of applicants' criminal convictions as "unsafe", for failing to meet new statutory test: no violation

***Nealon and Hallam v. the United Kingdom* [GC], nos. 32483/19 and 35049/19, 11 June 2024**

Judgment | Legal summary

DEFENCE THROUGH LEGAL ASSISTANCE

ARTICLE 6 § 3 (c)

Validity of waiver of the right to legal assistance signed by the applicant while in unrecorded detention and suffering from drug withdrawal symptoms: violation

***Bogdan v. Ukraine*, no. 3016/16, 8 February 2024**

Judgment | Legal summary

RESPECT FOR PRIVATE AND FAMILY LIFE

ARTICLE 8

Respondent State's failure to comply with positive obligation to combat climate change: Article 8 applicable; violation

***Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024**

Judgment | Legal summary

RESPECT FOR PRIVATE LIFE

ARTICLE 8

Searches of the person and house of a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals despite his diplomatic immunity: violation

***Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024**

Judgment | Legal summary

* * *

Impossibility for a terminally ill patient, suffering from an uncurable progressive neurodegenerative disease, to be assisted in dying, by virtue of a blanket and extraterritorial ban: no violation

***Dániel Karsai v. Hungary*, no. 32312/23, 13 June 2024**

Judgment | Legal summary

* * *

Applicant convicted for begging in a pedestrian street in Copenhagen and sentenced to twenty days' imprisonment: Article 8 inapplicable; inadmissible

***Dian v. Denmark* (dec.), no. 44002/22, 21 May 2024**

Decision | Legal summary

* * *

Employment-related measures imposed on health care and social health workers for refusing to get vaccinated against Covid-19: no violation

***Pasquinelli and Others v. San Marino*, no. 24622/22, 29 August 2024**

Judgment | Legal summary

* * *

Medical treatment in the form of blood transfusions administered to a Jehovah's Witness, during emergency surgery, despite her expressed refusal to undergo a blood transfusion of any kind: violation

***Pindo Mulla v. Spain* [GC], no. 15541/20, 17 September 2024**

Judgment | Legal summary

* * *

General and absolute criminal-law prohibition of the purchase of sexual services as part of a wide-ranging legislative approach to combatting prostitution and human trafficking: no violation

***M. A. and Others v. France*, nos. 63664/19 and 4 others , 25 July 2024**

Judgment | Legal summary

RESPECT FOR HOME

ARTICLE 8

Searches of the person and house of a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals despite his diplomatic immunity: violation

***Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024**

Judgment | Legal summary

POSITIVE OBLIGATIONS

ARTICLE 8

Respondent State's failure to comply with positive obligation to combat climate change: Article 8 applicable; violation

***Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024**

Judgment | Legal summary

* * *

Impossibility for a terminally ill patient, suffering from an uncurable progressive neurodegenerative disease, to be assisted in dying, by virtue of a blanket and extraterritorial ban: no violation

***Dániel Karsai v. Hungary*, no. 32312/23, 13 June 2024**

Judgment | Legal summary

FREEDOM OF RELIGION | MANIFEST RELIGION OR BELIEF

ARTICLE 9

Decrees in Flemish and Walloon Regions prohibiting animal slaughter without prior stunning, while providing for reversible stunning in ritual slaughter: no violation

***Executief van de Moslims van België and Others v. Belgium*, nos. 16760/22 and 10 others, 13 February 2024**

Judgment | Legal summary

DISCRIMINATION

ARTICLE 14

Decrees in Flemish and Walloon Regions prohibiting animal slaughter without prior stunning, while providing for reversible stunning in ritual slaughter: no violation

***Executief van de Moslims van België and Others v. Belgium*, nos. 16760/22 and 10 others, 13 February 2024**

Judgment | Legal summary

* * *

Alleged discrimination between patients dependent on life-sustaining treatment and those patients who were not, and consequently could not hasten their death by refusing such treatment: no violation

***Dániel Karsai v. Hungary*, no. 32312/23, 13 June 2024**

Judgment | Legal summary

* * *

Domestic authorities' inaction amounting to discrimination towards the applicants as women who were female migrant workers with an irregular immigration status: violation

***F.M. and Others v. Russia*, nos. 71671/16 and 40190/18, 10 December 2024 (not final)**

Judgment | Legal summary

DEROGATION IN TIME OF EMERGENCY

ARTICLE 15

Preventive home-curfew order, issued against one of the two applicants suspected of potential participation in violent actions during the COP21 summit, under state-of-emergency legislation enacted following terrorist attacks: not covered by derogation

***Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024**

Judgment | Legal summary

INTER-STATE APPLICATION

ARTICLE 33

Administrative practices by Russian authorities predominantly in Crimea resulting in multiple Convention violations

***Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024**

Judgment | Legal summary

LOCUS STANDI | VICTIM

ARTICLE 34

Victim status of individual applicants and standing (*locus standi*) of applicant association regarding climate-change complaints: inadmissible in respect of

individual applicants; standing of applicant association upheld

***Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024**

Judgment | Legal summary

VICTIM

ARTICLE 34

Victim status recognised without requiring applicants to prove facts where this would amount to compelled self-incrimination: preliminary objection dismissed

***A.L. and E.J. v. France* (dec.), nos. 44715/20 and 47930/21, 24 September 2024**

Decision | Legal summary

EXHAUSTION OF DOMESTIC REMEDIES | EFFECTIVE DOMESTIC REMEDY

ARTICLE 35 § 1

Application to the Court without pursuing any of the remedies available in the Portuguese domestic legal order concerning climate-change complaints: inadmissible

***Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024**

Decision | Legal summary

* * *

British applicants having failed to avail themselves of domestic remedy in France by which effective challenge could have been brought against data transfer pursuant to European Investigation Order issued by United Kingdom and against data retrieval measure: inadmissible

***A.L. and E.J. v. France* (dec.), nos. 44715/20 and 47930/21, 24 September 2024**

Decision | Legal summary

RATIONE PERSONAE

ARTICLE 35 § 3 (a)

Complaint by the former mayor of the municipality of Grande-Synthe of insufficient action by France to prevent climate change: inadmissible (incompatible *ratione personae*)

***Carême v. France* (dec.) [GC], no. 7189/21, 9 April 2024**

Decision | Legal summary

EXECUTION OF JUDGMENT | INDIVIDUAL MEASURES

ARTICLE 46 § 2

Respondent State to take measures to secure the safe return of prisoners transferred from Crimea to penal facilities located on the Russian Federation's territory

***Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024**

Judgment | Legal summary

PEACEFUL ENJOYMENT OF POSSESSIONS

ARTICLE 1 OF PROTOCOL No. 1 (ARTICLE 1 § 1)

Confiscation order issued by Italian authorities aimed at recovering from the Getty Museum in the US a bronze statue from the classical Greek period: no violation

***The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, 2 May 2024**

Judgment | Legal summary

GENERAL PROHIBITION OF DISCRIMINATION

ARTICLE 1 OF PROTOCOL No. 12

Maximum age of 35 for public competition to recruit police officers of lowest rank necessary to ensure and maintain functional capacity of police force: no violation

***Ferrero Quintana v. Spain*, no. 2669/19, 26 November 2024 (not final)**

Judgment | Legal summary

FREEDOM OF MOVEMENT

ARTICLE 2 OF PROTOCOL No. 4 (ARTICLE 2 § 1)

Preventive home-curfew order issued – under state-of-emergency legislation enacted following terrorist attacks – against two applicants suspected of potential participation in violent actions during the COP21 summit: no violation, violation

***Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024**

Judgment | Legal summary

Case-law overview

General issues[1]

International Humanitarian Law

Principle of "lawfulness"

The Grand Chamber judgment in the inter-State case of *Ukraine v. Russia (re Crimea)*[2] concerned numerous violations of the Convention and its Protocols in the region of Crimea during the events in the course of which the region of Crimea (including the city of Sevastopol) had been purportedly integrated into the Russian Federation, as well as of some subsequent events. The Ukrainian Government maintained that the Russian Federation was responsible for administrative practices resulting in numerous human rights violations, those practices being part of a large, interconnected campaign of political repression implemented by Russia, aimed at stifling any political opposition.

The temporal and territorial scope of application no. 20958/14 was limited to the period from 27 February 2014 to 26 August 2015 and to the territory of Crimea, whereas application no. 38334/18 had no such temporal limitations. The applicant Government had not requested adjudication of the individual cases to which it had referred but rather had requested that they be treated as evidence of an administrative practice in breach of the Convention. Accordingly, individual complaints of alleged Convention violations were outside the scope of the case.

In its decision on admissibility[3], the Grand Chamber had held that the impugned facts targeted by application no. 20958/14 fell within the "jurisdiction" of the Russian Federation within the meaning of Article 1 of the Convention; it had dismissed the respondent Government's preliminary objections, and had declared admissible the applicant Government's complaints about alleged administrative practices contrary to Articles 2, 3, 5, 6, 8, 9, 10 and 11 of the Convention, Articles 1 and 2 of Protocol No. 1, Article 2 of Protocol No. 4, as well as Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10 and 11 of the Convention and Article 2 of Protocol No. 4 to the Convention. The Grand Chamber had later held a hearing on the merits of application no. 20958/14 and on the admissibility and merits of application no. 38334/18 (regarding *inter alia* the treatment of "Ukrainian political prisoners" in Crimea, other parts of Ukraine, the Russian Federation, and Belarus).

In the present judgment, the Grand Chamber declared admissible the complaint concerning the transfer of prisoners from Crimea to Russia, which had also been raised in application no. 20958/14, notice of which had in the meantime been given to the Russian Federation, and found a violation of

1. This overview was drafted by the Directorate of the Jurisconsult and is not binding on the Court.
2. *Ukraine v. Russia (*re *Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024. See also under Article 35 (Jurisdiction to deal with cases against Russia), Article 2 (Right to life - Enforced disappearances), Article 18 (Restrictions not prescribed by the Convention) and Article 33 (Inter-State cases) below.
3. *Ukraine v. Russia (*re *Crimea)* (dec.) [GC], nos. 20958/14 and 38334/18, 16 December 2020.

the Convention and its Protocols in respect of each of the admissible complaints in that application. It also declared application no. 38334/18 partly admissible and partly inadmissible. On the merits of that application, the Grand Chamber found a violation of Articles 3, 5, 6, 7, 8, 10, and 11 of the Convention, as well as of Article 18 in conjunction with Articles 5, 6, 8, 10, and 11. It also reserved the question of just satisfaction and indicated, in accordance with Article 46 of the Convention, that the respondent State should take every measure to secure, as soon as possible, the safe return of the relevant prisoners transferred from Crimea to prisons in Russia.

The Grand Chamber judgment is novel and important as the Court laid out, for the first time, the approach to be followed to solve the general issue of "lawfulness" as required by various provisions of the Convention, in cases such as this, where a respondent State exercising "effective control" over an area outside its internationally recognised territory replaces the existing valid laws of that area with its own laws. The Court considered that its previous case-law solutions in similar situations (such as in *Loizidou v. Turkey*[4]; *Mozer v. the Republic of Moldova and Russia*[5]; *Ilaşcu and Others v. Moldova and Russia*[6]; and *Mamasakhlisi and Others v. Georgia and Russia*[7]) could not be applied in the present case as they concerned either the "law" of internationally unrecognised entities not reflecting any legal and judicial tradition compatible with the Convention, or the continued application of a pre-existing domestic law valid in the area in question. By contrast, the present case concerned the application in Crimea of the law of the Russian Federation (or the "law" of the local authorities, as its derivative) which completely replaced the previously applicable and valid Ukrainian law after the date of signature of the "Accession Treaty" between Russia and the "Republic of Crimea". As the facts of the present case fell within the scope of both the Convention and international humanitarian law (IHL), and since the Court was called upon to interpret the Convention in the light of the relevant provisions of IHL, the general issue of "lawfulness" was solved by reference to the latter. As it had already done in the admissibility decision, the Court reiterated that it did not have jurisdiction to define Crimea's status under international law and that that issue was outside the scope of the case. However, it referred to the rules of IHL defining the obligations of an occupying State (The Hague Regulations of 1907[8] and the Fourth Geneva Convention of 1949[9]), which clearly provided that there was an obligation to maintain the laws in force in the "occupied" territory and to not modify, suspend or replace them with the "occupier's" own legislation, unless in the following three exceptional situations: (i) the need of the occupying power to remove any direct threat to its own security; (ii) the duty of the occupying power to discharge its duties under the Geneva Convention; or (iii) the necessity to ensure the "orderly government" of the occupied territory. As it had not been proven that any of those exceptional situations existed, the Court concluded that Russian law in Crimea could not be regarded as "law" within the meaning of the Convention and any administrative practice based on that law was not "lawful" or "in accordance with the law". The same was true in respect of the acts of the "Russian courts" operating in Crimea after 18 March 2014 (the date of signature of the "Accession Treaty"), as those "courts" could not be regarded as "established by law" for the purposes of Article 6 § 1 of the Convention.

4. *Loizidou v. Turkey* (merits), 18 December 1996, *Reports of Judgments and Decisions* 1996-VI.
5. *Mozer v. the Republic of Moldova and Russia* [GC], no. 11138/10, 23 February 2016.
6. *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, ECHR 2004-VII.
7. *Mamasakhlisi and Others v. Georgia and Russia*, nos. 29999/04 and 41424/04, 7 March 2023.
8. Convention (IV) respecting the Laws and Customs of War on Land and its Annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907.
9. Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

Jurisdiction and admissibility

Jurisdiction of States (Article 1)

The Grand Chamber decision in *Duarte Agostinho and Others v. Portugal and 32 Others*[10] concerned the positive obligations of a Contracting State in the area of climate-change mitigation, as well as the admissibility of the related complaints.

The application had been lodged by several Portuguese nationals living in Portugal, without their having had attempted to make use of any domestic legal remedies. The applicants alleged a violation of several Articles of the Convention given the existing and future impacts of climate change, imputable to their home country and to thirty-two other States, specifically concerning heatwaves, wildfires and smoke from wildfires, which affected their lives, well-being, mental health and the amenities of their homes.

The Court declared the application inadmissible. It held that the applicants did fall under the jurisdiction of Portugal (the territorial ground) but not under the jurisdiction of any of the other respondent States, none of the grounds for extraterritorial jurisdiction defined by the case-law of the Court being applicable in the circumstances of the case (in respect of Ukraine the application had been expressly withdrawn and therefore struck out from the list of cases). As to Portugal, it was found that the applicants had failed to exhaust domestic remedies despite the existence of a comprehensive system of prima facie effective legal avenues in the national legal order.

The Grand Chamber decision is noteworthy in that:

(i) The Court examined, for the first time, the applicability of its case-law on extraterritorial jurisdiction to complaints regarding climate change. As it was clear that the applicants' complaints did not correspond to any of the circumstances which in earlier cases had given rise to a finding of extraterritorial jurisdiction under Article 1 of the Convention, the Court examined whether there were valid grounds for developing the existing case-law on extraterritorial jurisdiction on the basis of a number of "exceptional circumstances" and "special features" put forward by the applicants. Noting the specific characteristics of climate-change cases as explained in the judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*[11] and the arguments raised by the applicants, the Court nevertheless concluded that those elements could not in themselves serve as a basis for creating, by way of judicial interpretation, a novel ground for extraterritorial jurisdiction or as a justification for expanding the existing ones. It rejected the applicants' argument that the jurisdiction of a State should depend on the content of its positive obligations given the gravity of the impact of climate change on Convention rights and expressly refused to extend the Contracting Parties' extraterritorial jurisdiction based on a proposed criterion of "control over the applicants' Convention interests" in the field of climate change, for the reason that this would lead to an untenable level of uncertainty for States and entail an unlimited expansion of the States' Convention responsibilities towards persons practically anywhere in the world. The Court also

10. *Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024. See also under Article 34 (Victim status and *Locus standi*) and Article 35 § 1 (Exhaustion of domestic remedies) below.

11. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024.

rejected the applicants' argument that the extra-territorial jurisdiction of other EU Member States might stem from the fact that they also enjoyed EU citizenship through their Portuguese nationality.

(ii) Regarding the alleged jurisdiction of the respondent States other than the applicants' territorial state (Portugal), the Court refused the invitation by the applicants to apply the "*exceptional circumstances*" ground mentioned in *M.N. and Others v. Belgium*[12], specifying that, in the latter case, it had not established the existence of extra-territorial jurisdiction of the respondent State nor had it intended to define a distinct jurisdictional test, the assessment of any "exceptional circumstances" being ultimately one of effective authority or control over the applicants, in line with the established case-law.

Admissibility (Articles 34 and 35)

Victim status and *Locus standi* in climate change cases (Article 34)

The Grand Chamber judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*[13] and the decisions in *Duarte Agostinho and Others v. Portugal and 32 Others*[14] and *Carême v. France*[15] concerned the same core issue, namely, the positive obligations of a Contracting State in the area of climate-change mitigation and the admissibility of the related complaints.

In the first case (*Verein KlimaSeniorinnen Schweiz and Others,* cited above), a Swiss association of elderly women concerned about the consequences of global warming on their living conditions and health and four individual women complained that the domestic authorities were not taking sufficient action to mitigate the effects of climate change. Their action before the superior Swiss courts had been dismissed as they had not been deemed sufficiently and directly affected by the alleged failings. The second case (*Duarte Agostinho and Others*, cited above) had been lodged by several Portuguese nationals who lived in Portugal, without their having had attempted to use any domestic legal remedies, and who alleged a violation of several Articles of the Convention given the existing and future impacts of climate change, imputable to their home country and to thirty-two other States, specifically concerning heatwaves, wildfires and smoke from wildfires, which had affected their lives, well-being, mental health and the amenities of their homes. The applicant in the third case (*Carême*, cited above) was the former mayor of a French municipality, Grande-Synthe, who alleged that France had failed to take sufficient steps to mitigate climate change and that that failure had entailed a violation of his rights under Articles 2 and 8 of the Convention, owing, in particular, to the risk of climate-change-induced flooding to which the respective municipality would be exposed in the future.

The principles developed by the Grand Chamber led to different conclusions in each case. In *Verein KlimaSeniorinnen Schweiz and Others* (cited above), the Court found that the four individual applicants did not fulfil the victim-status criteria for the purposes of Article 34 of the Convention. As to the association, the Court held that the special feature of climate change as a common concern of humankind and the need to promote intergenerational burden-sharing rendered it appropriate to make allowance for recourse to legal action by associations in the context of climate change. However, in order to observe the exclusion of general public-interest complaints (*actio popularis*) under the Convention, an association had to comply with a number of conditions outlined in the judgment, conditions which were found to have been met in the present case.

Conversely, the Court declared the two remaining applications inadmissible. In *Duarte Agostinho and Others* (cited above) it held that the applicants

12. *M.N. and Others v. Belgium* (dec.) [GC], no. 3599/18, § 113, 5 May 2020.

13. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024. See also under Article 6 § 1 (Access to a court) and Article 8 (Positive obligations) below.

14. *Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024. See also under Article 1 (Jurisdiction of States) above and Article 35 § 1 (Exhaustion of domestic remedies) below.

15. *Carême v. France* (dec.) [GC], no. 7189/21, 9 April 2024.

did fall under the jurisdiction of Portugal (the territorial ground) but not under the jurisdiction of any other of the respondent States, none of the grounds for extraterritorial jurisdiction defined by the case-law of the Court being applicable in the circumstances of the case (in respect of Ukraine the application had been expressly withdrawn and therefore struck out from the list of cases). As to Portugal, it was found that the applicants had failed to exhaust domestic remedies despite the existence of a comprehensive system of prima facie effective legal avenues in the national legal order. In the third case, *Carême* (cited above), the applicant's complaints were found to be incompatible *ratione personae* with the Convention, as the applicant had left Grande-Synthe and did not have any property or other relevant link to it. In addition, Article 34 of the Convention did not allow him to lodge an application on behalf of the municipality in his capacity as its former (or even current) mayor.

The Grand Chamber judgment and decisions indicate numerous case-law developments. Thus, in *Verein KlimaSeniorinnen Schweiz and Others* (cited above):

(i) The Court introduced a new concept of "intergenerational burden-sharing" in its case-law relating to climate change. It noted that, while the legal obligations arising for States under the Convention extended to those individuals currently alive, it was clear that future generations were likely to bear an increasingly severe burden of the consequences of the present failures and omissions to combat climate change. Intergenerational burden-sharing thus took on particular importance in that context. By their commitment to the United Nations Framework Convention on Climate Change the State Parties had undertaken the obligation to protect the climate system for the benefit of present and future generations of humankind.

The Court referred to "intergenerational burden-sharing" as a factor for recognising recourse to legal action by associations and, more specifically, for their standing before the Court in the context of climate change. In particular, given the special feature of climate change as a common concern of humankind and the urgency of combating its adverse effects, the Court considered it appropriate, in that specific context, to acknowledge the importance of recognising legal action by associations for the purpose of seeking the protection of the human rights of not only those actually affected, but also of those at risk of being affected, by the adverse effects of climate change, instead of exclusively relying on proceedings brought by each individual on his or her own behalf.

(ii) The Court emphasised the necessity to make, and to maintain, the distinction between the victim status of individuals and the legal standing (*locus standi*) of associations who were acting on behalf of persons whose Convention rights were alleged to have been violated.

(a) As to victim status under Article 34 of the Convention in the context of complaints concerning climate change, the Court saw no reason to call into question the principle that an association could not rely on health considerations or nuisances and problems associated with climate change which could only be encountered by natural persons. As to the latter acting as individual applicants, the Court held that they needed to show that they were personally and directly affected by governmental action or inaction in the light of two key criteria: (a) high intensity of exposure of the applicant to the adverse effects of climate change; and (b) a pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm. The Court emphasised that the threshold for establishing victim status in climate change cases had to be especially high, the Convention not admitting general public-interest complaints (*actio popularis*). Whether an applicant met that threshold in a particular case would depend on a careful assessment of the concrete circumstances of the case such as the prevailing local conditions and individual specificities and vulnerabilities. The Court's assessment would also include, but not necessarily be limited to, considerations relating to: the nature and scope of the applicant's Convention complaint; the actuality/remoteness and/or probability of the adverse effects of climate change in time; the specific impact on the applicant's life, health or well-being; the magnitude and duration of the harmful effects; the scope of the risk (localised or general); and the nature of the applicant's vulnerability.

(b) As to the legal standing (*locus standi*) of associations, the Court considered that the specific considerations relating to climate change weighed in favour of recognising the possibility for associations, subject to certain conditions, to have standing before the Court to represent the individuals whose rights were, or would allegedly be, affected. The Court set down the following criteria for an association to be recognised as having *locus standi* to lodge an application about an alleged failure by a Contracting State to take adequate measures to protect individuals against the adverse effects of

climate change: (a) it had to be lawfully established in the jurisdiction concerned or have standing to act there; (b) it had to be able to demonstrate that it pursued a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members or other affected individuals within the jurisdiction concerned, whether limited to or including collective action for the protection of those rights against the threats arising from climate change; and (c) it had to be able to demonstrate that it could be regarded as genuinely qualified and representative to act on behalf of members or other affected individuals within the jurisdiction who were subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention, having due regard to such factors as the purpose for which the association had been established, that it was of a non-profit character, the nature and extent of its activities within the relevant jurisdiction, its membership and representativeness, its principles and transparency of governance and whether on the whole, in the particular circumstances of a case, the grant of such standing was in the interests of the proper administration of justice. The Court also specified that the standing of an association would not be subject to a separate requirement of showing that those on whose behalf the case had been brought would themselves have met the victim-status requirements for individuals in the climate-change context (see as summarised in the previous point).

Conversely, in the third case, *Carême* (cited above), applying the general principles on the victim status of natural persons in the context of complaints under Articles 2 and 8 concerning climate change as defined in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (cited above) and summarised above, the Court stressed the need to strictly delineate the *actio popularis* protection – not permitted in the Convention system – from situations where there was indeed a pressing need to ensure an applicant's individual protection from the harm which the effects of climate change might have on the enjoyment of their human rights. The applicant in the present case did not fulfil the victim status criteria, irrespective of the status he relied on, namely that of a citizen or former resident of Grande-Synthe. Moreover, and as to the applicant's argument that he had complained to the Court as the former mayor of Grande-Synthe, the Court referred to its well-established case-law according to which decentralised authorities that exercised public functions, regardless of their autonomy *vis-à-vis* the central organs – which applied to regional and local authorities including municipalities – were considered to be "governmental organisations" with no standing to apply to the Court under Article 34 of the Convention.

Exhaustion of domestic remedies (Article 35 § 1)

The Grand Chamber decision in *Duarte Agostinho and Others v. Portugal and 32 Others*[16] concerned the positive obligations of a Contracting State in the area of climate-change mitigation, as well as the admissibility of the related complaints.

The application had been lodged by several Portuguese nationals who lived in Portugal, without their having had attempted to use any domestic legal remedies. The applicants alleged a violation of several Articles of the Convention given the existing and future impacts of climate change, imputable to their home country and to thirty-two other States, specifically concerning heatwaves, wildfires and smoke from wildfires, which affected their lives, well-being, mental health and the amenities of their homes.

The Court declared the application inadmissible. It held that the applicants did fall under the jurisdiction of Portugal (the territorial ground) but not under the jurisdiction of any other of the respondent States, none of the grounds for extra-territorial jurisdiction defined by the case-law of the Court being apllicable in the cicumstances of the case (in respect of Ukraine the application had been expressly withdrawn and therefore struck out from the list of cases). As to Portugal, it was found that the applicants had failed to exhaust domestic remedies despite the existence of a comprehensive system of prima facae effetive legal avenues in the national legal order.

The Grand Chamber decision is noteworthy in that the Court found it difficult to accept the applicants' vision of subsidiarity according to which it

16. *Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024. See also under Article 1 (Jurisdication of States) and Article 34 (Victim status and *Locus standi*) above.

should have ruled on the issue of climate change before the opportunity had been given to the courts of the respondent States to do so. That stood in sharp contrast to the principle of subsidiarity underpinning the Convention system as a whole, and, most specifically, the rule of exhaustion of domestic remedies. The Court was not a court of first instance; it did not have the capacity, nor was it appropriate to its function as an international court, to adjudicate on large numbers of cases which required the finding of basic facts which should, as a matter of principle and effective practice, be the domain of domestic jurisdictions.

Jurisdiction to deal with cases against Russia

The Grand Chamber judgment in the inter-State case of *Ukraine v. Russia (re Crimea)*[17] concerned numerous violations of the Convention and its Protocols in the region of Crimea during the events in the course of which the region of Crimea (including the city of Sevastopol) had been purportedly integrated into the Russian Federation, as well as of some subsequent events. The Ukrainian Government maintained that the Russian Federation was responsible for administrative practices resulting in numerous human rights violations, those practices being part of a large, interconnected campaign of political repression implemented by Russia, aimed at stifling any political opposition.

The temporal and territorial scope of application no. 20958/14 was limited to the period from 27 February 2014 to 26 August 2015 and to the territory of Crimea, whereas application no. 38334/18 had no such temporal limitations. The applicant Government had not requested adjudication of the individual cases to which it had referred but rather had requested that they be treated as evidence of an administrative practice in breach of the Convention. Accordingly, individual complaints of alleged Convention violations were outside the scope of the case.

In its decision on admissibility[18], the Grand Chamber had held that the impugned facts targeted by application no. 20958/14 fell within the "jurisdiction" of the Russian Federation within the meaning of Article 1 of the Convention, it had dismissed the respondent Government's preliminary objections, and had declared admissible the applicant Government's complaints about alleged administrative practices contrary to Articles 2, 3, 5, 6, 8, 9, 10 and 11 of the Convention, Articles 1 and 2 of Protocol No. 1, Article 2 of Protocol No. 4, as well as Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10 and 11 of the Convention and Article 2 of Protocol No. 4 to the Convention. The Grand Chamber had later held a hearing on the merits of application no. 20958/14 and on the admissibility and merits of application no. 38334/18 (regarding *inter alia* the treatment of "Ukrainian political prisoners" in Crimea, other parts of Ukraine, the Russian Federation, and Belarus).

In the present judgment, the Grand Chamber declared admissible the complaint concerning the transfer of prisoners from Crimea to Russia, which had also been raised in application no. 20958/14, notice of which had in the meantime been given to the Russian Federation, and found a violation of the Convention and its Protocols in respect of each of the admissible complaints in that application. It also declared the application no. 38334/18 partly admissible and partly inadmissible. On the merits of that application, the Grand Chamber found a violation of Articles 3, 5, 6, 7, 8, 10, and 11 of the Convention, as well as of Article 18 in conjunction with Articles 5, 6, 8, 10, and 11. It also reserved the question of just satisfaction and indicated, in accordance with Article 46 of the Convention, that the respondent State should take every measure to secure, as soon as possible, the safe return of the relevant prisoners transferred from Crimea to prisons in Russia.

The Grand Chamber judgment is important in that the Court restated the principles regarding its own jurisdiction applicable when dealing with individual cases against the Russian Federation, which had recently been defined by a Chamber in *Pivkina and Others v. Russia*[19]. The acts or omissions in question might (i) occur up until the termination date of 16 September 2022, when Russia had

17. *Ukraine v. Russia (*re *Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024. See also under International Humanitarian Law (Principle of "lawfulness") above and under Article 2 (Right to life - Enforced disappearances), Article 18 (Restrictions not prescribed by the Convention) and Article 33 (Inter-State cases) below.

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

19. *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 Others, §§ 46-54, 6 June 2023.

ceased to be a Contracting Party to the Convention; (ii) occur after the termination date; or (iii) span the termination date. Whereas for the first category the Court had jurisdiction to deal with the respective complaints, any application concerning acts and omissions from the second category was incompatible *ratione personae* with the provisions of the Convention. With respect to the third category, the Court reiterated that, in order to establish its temporal jurisdiction, it was essential to identify, in each specific case, the exact time of the alleged interference, considering both the impugned facts and the scope of the Convention right alleged to have been violated. In cases where the interference had occurred before the termination date but the failure to remedy it had occurred after that date, it was the date of the interference that had to be retained for determining the Court's temporal jurisdiction. Thus, concerning application no. 38334/18, the Court established, also with respect to the administrative practices, that it had jurisdiction beyond the termination date in respect of a detention which had started before that date on account of the continuous effect of the detention order.

"Core" rights

Right to life (Article 2)

Enforced disappearances

The Grand Chamber judgment in the inter-State case of *Ukraine v. Russia (re Crimea)*[20] concerned numerous violations of the Convention and its Protocols in the region of Crimea during the events in the course of which the region of Crimea (including the city of Sevastopol) had been purportedly integrated into the Russian Federation, as well as of some subsequent events. The Ukrainian Government maintained that the Russian Federation was responsible for administrative practices resulting in numerous human rights violations, those practices being part of a large, interconnected campaign of political repression implemented by Russia, aimed at stifling any political opposition.

The temporal and territorial scope of application no. 20958/14 was limited to the period of 27 February 2014 to 26 August 2015 and to the territory of Crimea, whereas application no. 38334/18 had no such temporal limitations. The applicant Government had not requested adjudication of the individual cases to which it had referred but had rather requested that they be treated as evidence of an administrative practice in breach of the Convention. Accordingly, individual complaints of alleged Convention violations were outside the scope of the case.

In its decision on admissibility[21], the Grand Chamber had held that the impugned facts targeted by application no. 20958/14 fell within the "jurisdiction" of the Russian Federation within the meaning of Article 1 of the Convention; it had dismissed the respondent Government's preliminary objections, and had declared admissible the applicant Government's complaints about alleged administrative practices contrary to Articles 2, 3, 5, 6, 8, 9, 10 and 11 of the Convention, Articles 1 and 2 of Protocol No. 1, Article 2 of Protocol No. 4, as well as Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10 and 11 of the Convention and Article 2 of Protocol No. 4 to the Convention. The Grand Chamber had later held a hearing on the merits of application no. 20958/14 and on the admissibility and merits of application no. 38334/18 (regarding, *inter alia,* the treatment of "Ukrainian political prisoners" in Crimea, other parts of Ukraine, the Russian Federation, and Belarus).

In the present judgment, the Grand Chamber declared admissible the complaint concerning the transfer of prisoners from Crimea to Russia, which had also been raised in application no. 20958/14, notice of which had in the meantime been given to the Russian Federation, and found a violation of the Convention and its Protocols in respect of each of the admissible complaints in that application. It also declared the application no. 38334/18 partly admissible and partly inadmissible. On the merits

20. *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024. See also under International Humanitarian Law (Principle of "lawfulness") and Article 35 (Jurisdiction to deal with cases against Russia) above and under Article 18 (Restrictions not prescribed by the Convention) and Article 33 (Inter-State cases) below.

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

of that application, the Grand Chamber found a violation of Articles 3, 5, 6, 7, 8, 10, and 11 of the Convention, as well as of Article 18 in conjunction with Articles 5, 6, 8, 10, and 11. It also reserved the question of just satisfaction and indicated, in accordance with Article 46 of the Convention, that the respondent State should take every measure to secure, as soon as possible, the safe return of the relevant prisoners transferred from Crimea to prisons in Russia.

The Grand Chamber judgment is important as the Court held that, when determining the existence of an administrative practice of enforced disappearances contrary to Article 2 of the Convention, the overall examination should not be confined only to those individuals who had ultimately remained unaccounted for. Even though the presumption of death applied only to those individuals, the Court considered that the following factors were of particular importance in the overall context of a large number of instances of irregular deprivation of liberty and the relatively short period during which the abductions had taken place: the abductions had been perpetrated by persons whose acts had entailed the responsibility of the respondent State; the fact that the victims had been predominantly pro-Ukrainian activists, journalists and Crimean Tatars who had been perceived as opponents to the events that had unfolded in Crimea at the time; the fact that the abductions had followed a particular pattern and had been used as a means to intimidate and persecute such individuals in the enforcement of a global strategy of the respondent State to suppress the existing opposition in Crimea to the Russian "occupation". In the present case, there had been forty-three documented cases of disappearances but only eight of those abducted were still missing and their whereabouts and fate remained unknown; most of the individuals concerned had been released soon after they had gone missing. Nevertheless, the Court considered that there had been "sufficiently numerous" instances of abduction to amount to a pattern or system ("repetition of acts") which was itself life-threatening to engage the applicability of Article 2 as regards that administrative practice. Moreover, the respondent State's prosecuting authorities had systematically refused to carry out an effective investigation into credible allegations of enforced disappearance.

Prohibition of slavery and forced labour (Article 4)

Positive obligations

The judgment in the case of *F.M. and Others v. Russia*[22] concerned the State's failure to protect female migrant workers in an irregular situation from human trafficking and servitude and to investigate the crimes committed against them.

The applicants were several women who had been brought to Russia from their home countries (Kazakhstan and Uzbekistan) and exploited in convenience stores for periods ranging from six months to ten years. Their identity documents had been seized and they had been forced to perform unpaid hard work for abnormally excessive hours, without respite or days off. No employment contracts had been signed, and the applicants' status as foreign migrant workers had not been regularised. They had been confined in the stores under close surveillance in appalling conditions and had been subjected to violence (beatings resulting in serious injuries, rapes, forced pregnancies, forced abortion, and the removal of children born in captivity). The applicants had eventually managed to escape or had been released. In response to criminal complaints lodged by the applicants with the help of NGOs, the domestic authorities had conducted preliminary inquiries which had resulted in decisions not to open a criminal investigation.

The applicants complained that the authorities had failed to protect them from trafficking, exploitation and violence and, in particular, had failed to adopt an adequate legislative framework, to take operational measures and to conduct an effective criminal investigation. The Court found that the applicants had been victims of cross-border trafficking and servitude and that the respond-

22. *F.M. and Others v. Russia*, nos. 71671/16 and 40190/18, 10 December 2024. See also under Article 14 (Prohibition of discrimination) below.

ent State had failed to fulfil its positive (substantive and procedural) obligations to protect them, contrary to Article 4 of the Convention.

(i) The judgment is noteworthy as it is the first in which the Court has acknowledged "servitude" outside of a domestic context. In particular, the Court defined the treatment to which the applicants had been subjected as "cross-border trafficking in human beings" and "servitude". As to the former, it referred to the international definition of human trafficking[23], finding ample evidence to conclude that all three constituent elements of that crime ("action", "means", and "purpose") had been present. As to "purpose", the applicants had been "at the least" subjected to "forced labour" and, in addition, they had been obliged to live in their employers' property without any opportunity to alter their situation, feeling that it had been permanent and unlikely to change. That had also amounted to "servitude" within the meaning of Article 4 (compare *Siliadin v. France*[24], and *C.N. and V. v. France*[25], both concerning *domestic* servitude).

(ii) Two other elements of the judgment can be highlighted:

(a) The Court identified, it would appear for the first time, a violation of all three positive obligations under Article 4 (legislative and administrative framework; adequate operational measures to protect; and effective investigation (compare *Siliadin v. France* (cited above, § 148) and *S.M. v. Croatia*[26], concerning the criminal-law framework and effectiveness of the investigation);

(b) The Court emphasised the need to implement, in domestic criminal law, the international definition of human trafficking, noting the provisions of the updated legislative guide on the Palermo Protocol to the effect that consent to intended exploitation should not be used to defend or excuse the crime and has no bearing on whether or not trafficking in persons has occurred, and that the consent of a child is irrelevant as children are considered to lack capacity to consent.

Right to liberty and security (Article 5)

Lawful arrest or detention (Article 5 § 1)

The judgment in *Aydın Sefa Akay v. Türkiye*[27] concerned the arrest and pre-trial detention of a judge of an international court who, by virtue of the statute of that court, enjoyed diplomatic immunity, and the searches of his house and person.

The applicant, a Turkish national and a career diplomat, was a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals ("the Mechanism") and had been working remotely on a case from his home in Istanbul. Shortly after the 2016 attempted military *coup d'état* in Türkiye a criminal investigation had been opened against employees of the Ministry of Foreign Affairs suspected of being involved in an armed terrorist organisation, FETÖ/PDY (considered by the authorities to be behind the coup attempt). In the course of that investigation, the applicant had been arrested, subjected to a body search and placed in pre-trial detention. The police had also conducted a search of his house and seized, *inter alia*, computers, mobile phones and two books allegedly proving the applicant's connection with FETÖ/PDY. The applicant had been found guilty of being a member of an armed terrorist organisation and sentenced to seven years and six months' imprisonment. Throughout the criminal proceedings, he had repeatedly and unsuccessfully claimed diplomatic immunity as a judge of the Mechanism (Article 29 of the Statute of the Mechanism adopted by Security Council Resolution 1966 (2010)). Despite a *note verbale* from the UN Office of Legal Affairs and an order by the President of the Mechanism to

23. Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)..

24. *Siliadin v. France*, no. 73316/01, §§ 120 and 129, ECHR 2005-VII.

25. *C.N. and V. v. France*, no. 67724/09, §§ 79 and 94, 11 October 2012.

26. *S.M. v. Croatia* [GC], no. 60561/14, § 346, 25 June 2020.

27. *Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024. See also under Article 8 (Private life and home) and Article 15 (Derogation in time of emergency) below.

cease all legal proceedings against the applicant and ensure his release, the Turkish authorities and courts had relied on the Statute, the Convention on the Privileges and Immunities of the UN and the Vienna Convention on Diplomatic Relations, to conclude that the applicant had not enjoyed absolute immunity but only functional immunity limited to acts performed within the scope of his functions as a judge and that, in any event, he could not assert immunity before the authorities of the State which he represented or of which he was a national. That interpretation had ultimately been confirmed by the Constitutional Court.

The Court found a violation of Article 5 § 1 of the Convention. It considered that the domestic courts' interpretation of the applicant's diplomatic immunity had not been foreseeable nor in keeping with the requirements of the principle of legal certainty under Article 5 § 1, as the ordinary reading of the relevant international treaty provisions, officially confirmed by the President of the Mechanism (acting on behalf of the Secretary General of the UN) and the UN Office of Legal Affairs, made it safe to consider that the applicant did in fact enjoy full diplomatic immunity including when working remotely in accordance with the framework for the operation of the Mechanism. Moreover, the legal uncertainty had been aggravated by the considerable delay in assessing his diplomatic immunity. Lastly, the Court held that the applicant's pre-trial detention could not be justified under Article 15 of the Convention (notice had been given by Türkiye under that provision). Finally, the Court dismissed the applicant's request, under Article 46 of the Convention, for his immediate release.

The judgment is noteworthy for a number of reasons. In particular the Court:

– found, for the first time, that the principles defined in its case-law about the independence of the national judiciary, an independent guarantor of justice and the rule of law, must apply *mutatis mutandis to* international judges and courts, their independence being equally a *conditio sine qua non* for the proper administration of justice;

– found it did not have jurisdiction to pass formal judgment on the applicant's diplomatic immunity as such, exploring rather whether the domestic courts' stance met the requirements of foreseeability and legal certainty for the purposes of Article 5 § 1 of the Convention. In that regard, the Court emphasised that, in general, the principle of legal certainty could be compromised if domestic courts introduced exceptions in their case-law which ran counter to the wording of the applicable statutory provisions or adopted an extensive interpretation negating procedural safeguards afforded by law to protect members of the judiciary from interference. The Court found that the applicant appeared to have been entitled to full diplomatic immunity, including the inviolability of his person and private residence and being shielded from any form of arrest or detention, under international law;

– held that the issue of the diplomatic immunity of an arrested person had to be assessed swiftly and thoroughly, any undue delay being incompatible with Article 5 § 1 because it rendered futile any protection that might be afforded by virtue of that immunity;

– declared, for the purposes of immunity, that the scope of privileges and immunities of a diplomatic envoy wass not fully transposable to a judge of an international court since the ultimate aim in the latter context was to protect the independence of the judiciary including *vis-à-vis* their State of nationality.

Procedural rights

Right to a fair hearing in civil proceedings (Article 6 § 1)

Access to a court

The Grand Chamber judgment in *Fabbri and Others v. San Marino*[28] concerned the non-adjudication of civil claims in criminal proceedings, owing to the inaction of the investigating authorities, and leading to the alleged offences becoming time-barred.

The applicants were injured parties in two unrelated sets of criminal proceedings. The investigating judge assigned to their cases had not taken any investigative steps whatsoever and the charges had became time-barred and the criminal cases discontinued.

The applicants complained under Article 6 § 1 of the Convention that, owing to the authorities' inaction, their right of access to a court had been breached as their civil claims had not been adjudicated in the criminal proceedings. As to the first two applicants, the Grand Chamber found that, since they had failed to ask for the formal status of "civil party" in accordance with the domestic law, they had not demonstrated the importance they had attached to securing their right to financial reparation for any damage sustained: the proceedings in respect of those two applicants had not thus involved the determination of a "civil right" so that Article 6 did not apply in their case (inadmissible as incompatible *ratione materiae*). Conversely, the third applicant (a minor at the material time) had made such a formal request (a declaration lodged by his mother on his behalf): in addition, the criminal proceedings had affected the civil component because a request to join the proceedings as a civil party impeded the introduction or pursuance of any civil proceedings in parallel, until the criminal proceedings had come to an end and therefore they prevailed over any civil proceedings. Article 6 was thus applicable to the proceedings in the third applicant's case. On the merits, the Grand Chamber found no violation of Article 6 § 1 in respect of the third applicant. The authorities had not committed any procedural irregularity in discontinuing the case but there had been a dysfunction in the domestic system (inaction of the investigating authorities which had led to around 800 cases being discontinued). However, neither that applicant himself, nor his parents on his behalf, had pursued his interests diligently, bringing the civil claim very late in the course of the proceedings. He could have initiated separate civil proceedings, either at the time of the alleged offence, or after its discontinuance, that latter avenue still being open at the moment of the examination of the case by the Grand Chamber. In those circumstances, the Court concluded that the very essence of the third applicant's right had not been impaired such that it could not be said that he had been denied access to a court for the determination of his civil rights.

The judgment is important in that the Grand Chamber clarified the relevant criteria, allowing for a coherent and calibrated approach to both the

28. *Fabbri and Others v. San Marino* [GC], nos. 6319/21 and 2 others, 24 September 2024.

applicability and the merits of Article 6 as regards civil claims for damages lodged within the framework of criminal proceedings.

(i) As to the applicability of Article 6 § 1, while neither Article 6 § 1 nor any other Convention provision could be interpreted as compelling Contracting Parties to enable civil claims to be made in criminal proceedings, if a State provides for such a possibility (which the comparative material shows is the case in most Contracting Parties), the following requirements must be met for Article 6 § 1 to apply in its civil limb:

(a) the applicant must have a substantive civil right (such as compensation for damage sustained) recognised under domestic law;

(b) the domestic legislator must have endowed the victim of a criminal offence with a procedural right of action to pursue that civil right, and at the relevant stage of, the judicial criminal proceedings complained of;

(c) the victim of an alleged crime must have clearly demonstrated the importance he or she attached to securing the civil right at issue notwithstanding the fact that criminal courts might have jurisdiction, by relying on that right via the appropriate channel, in accordance with the tenets of the domestic legal framework. In particular:

– where domestic law provided for a formal status of "civil party" in criminal proceedings, Article 6 would apply only if, and from the time when, the applicant had lodged a formal request to obtain such status, even if it had not yet been decided upon;

– in domestic systems having more flexible and less formalistic approaches, Article 6 would apply if, and from the moment when, the applicant's pursuance of a civil right had been made clear, in the light of the tenets of that domestic system;

– nevertheless, the Court may still consider that the steps undertaken by an applicant to rely on and/or pursue the civil right at issue were prima facie invalid procedurally or substantively, or that it had been inappropriate or even abusive for the applicant to have attempted to bring such claims through the criminal avenue, such as would be the case, for example, if the matter at issue was merely of a civil nature, or if statutory limitation periods or any relevant time-limits applicable at that stage had already expired;

(d) the civil right being pursued in the criminal proceedings should not have been actively (in other words, proceedings were not suspended) pursued in parallel, before some other court, and must not have been decided or settled elsewhere;

(e) the criminal proceedings should be decisive for the civil right in issue (they should affect the civil component) and that requirement could be considered as met, for example, in the following situations:

– there was an obligation on the judge to determine the civil claim, in whole or in part, or the judge has done so in practice;

– criminal proceedings prevailed over any civil proceedings, either in the sense that those criminal proceedings would bring to an end or suspend any already pending civil proceedings (or disallow an applicant from introducing and pursuing any civil proceedings in parallel); or in the sense that the determination of the civil claim was bound by the findings in the criminal proceedings.

(ii) As to the merits of an access to court complaint in the framework of criminal proceedings:

(a) as a rule, the discontinuance of criminal proceedings meaning that a civil claim could not be determined therein, did not result in a violation of the right of access to a court if it were based on lawful grounds which were applied neither arbitrarily nor unreasonably, and if the applicant had had *ab initio* an alternative avenue of redress capable of determining the civil claim at issue;

(b) however, in the exceptional circumstances that the lawful discontinuance had been the result of a serious dysfunction of the domestic system (such as, for example, the authorities' total inaction), the Court, after having assessed the applicant's behaviour, might be called upon to examine the availability of any other avenue open to him or her, so as to determine whether the very essence of the right had been impaired. In particular:

– if the discontinuance was only partly the result of a serious dysfunction of the domestic system and if the applicant had contributed to that outcome (for example, by means of inaction, negligence, or bad faith), it suffices that he or she had another avenue of redress, either *ab initio* or after the discontinuance, to find that the essence of the right had not been impaired (that being without prejudice to any complaint concerning the length of proceedings, which would be subject to a separate examination according to the relevant criteria defined by the Court's case-law);

– exceptionally, when the serious dysfunction of the domestic system had been the sole or decisive reason leading to the discontinuance, it would be open to the Court to find that the applicant had a legitimate expectation of having those claims determined through that avenue irrespective of any other available remedy *ab initio*, and that, on

the specific facts before it, it would not have been reasonable to expect him or her to pursue any available civil remedy after the discontinuance. In that case, the Court would conclude that the State had failed to satisfy its obligation to provide the applicant with effective access to a court as the very essence of that right had been impaired.

Access to a court in climate change cases

The Grand Chamber judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*[29] concerned the positive obligations of a Contracting State in the area of climate-change mitigation and the admissibility of the related complaints.

The applicants, a Swiss association of elderly women concerned about the consequences of global warming on their living conditions and health, and four individual women, complained that the domestic authorities were not taking sufficient action to mitigate the effects of climate change. Their action before the superior Swiss courts had been dismissed as they had not been deemed sufficiently and directly affected by the alleged failings.

The Court found that Article 6 § 1 of the Convention was applicable to the applicant association's complaint, in so far as it concerned the effective implementation of the mitigation measures under existing law, and that that provision had been violated.

Regarding Article 6 § 1 (civil) of the Convention, the judgment is important as the Court noted that, while the general principles concerning the applicability of that provision prevailed in the present climate change context, their application might need to take into account the specificities of climate change litigation. The Court highlighted, in particular, the role of legal cases brought by associations in the climate-change context as a means through which the Convention rights of those affected by climate change, including those at a distinct representational disadvantage, could be defended and through which they could seek to obtain adequate corrective action for alleged failures and omissions on the part of the authorities. Furthermore, in the light of the principles of shared responsibility and subsidiarity, the Court emphasised the key role which domestic courts played in climate-change litigation and highlighted the importance of access to justice in that field.

Presumption of innocence (Article 6 § 2)

The Grand Chamber judgment in *Nealon and Hallam v. the United Kingdom*[30] concerned the refusal to award compensation for a miscarriage of justice, following the quashing of the applicants' criminal convictions as "unsafe".

The case was a follow-up to *Allen v. the United Kingdom*[31]. The criminal convictions of both applicants had been quashed by the Court of Appeal (Criminal Division) on the grounds that they were "unsafe", in the light of new evidence which had emerged. The applicants then applied for compensation for "a miscarriage of justice" (section 133(1) of the Criminal Justice Act 1998, "the Act"). The initial statutory test under section 133(1) had required that a new or newly discovered fact showed beyond reasonable doubt that there had been a miscarriage of justice (without giving a statutory definition of that term). Following the Grand Chamber's judgment in *Allen* (cited above) in 2014, the Act had been amended to insert a new section 133(1ZA) which defined a "miscarriage of justice" as occurring "if and only if a new or newly discovered fact shows beyond reasonable doubt that the person did not commit the offence". The applicants' applications had been refused by the Secretary of State for Justice ("the Justice Secretary") as they did not satisfy that test.

The applicants complained under Article 6 § 2 of the Convention that the rejection of their compensation claims had breached their right to be presumed innocent. The Grand Chamber found that the link between the outcome of the criminal

29. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024. See also under Article 34 (Victim status and *Locus standi*) above and under Article 8 (Positive obligations) below.

30. *Nealon and Hallam v. the United Kingdom* [GC], nos. 32483/19 and 35049/19, 11 June 2024.

31. *Allen v. the United Kingdom* [GC], no. 25424/09, ECHR 2013.

proceedings and the subsequent compensation proceedings was sufficient to render Article 6 § 2 applicable (as it had done in *Allen* (cited above, §§ 106-08), but that there had been no violation of that Article. The analysis carried out by the Justice Secretary had focused solely on the specific nature and effect of the new or newly discovered fact resulting in the quashing of the conviction, and the refusal of compensation had not imputed criminal guilt to the applicants by reflecting an opinion that they were guilty, to the criminal standard, of committing the criminal offence nor had it suggested that the criminal proceedings should have been determined differently.

The Grand Chamber judgment is important in several respects.

(i) As to the applicability of Article 6 § 2, the Court considered that, even if a decision-maker's focus in compensation proceedings was on the impact of the new or newly discovered fact on the applicant's acquittal or discontinuance, rather than on his or her guilt or innocence in general, that was enough to declare that Article applicable if the decision-maker was also required to engage in an evaluation of the evidence in the criminal file.

(ii) Specifically concerning the reimbursement of legal costs and claims for compensation by former accused persons, the Court expressly declared what had been tacitly admitted in *Allen*, namely, that it was no longer necessary or desirable to maintain the distinction between acquittals and discontinuances of proceedings, affording a higher level of protection to persons who had been acquitted by a final judgment (developed in the Court's case-law following the judgment in *Sekanina v. Austria*[32]). It considered that, while at first glance a discontinuance might not appear to have the same exonerating effect as an acquittal, on closer inspection the reality was far more nuanced: criminal proceedings might be discontinued because there was simply not enough evidence to prosecute; on the other hand, if there was ample evidence to prosecute or even to convict, discontinuance or acquittal might be on a pure technicality. Moreover, the significance of a discontinuance might vary between individual cases and also between different legal systems. The Court also noted that the distinction between a discontinuance and a final acquittal on the merits had not been applied with respect to other categories of similar cases, namely involving civil compensation claims lodged by victims and cases concerning disciplinary proceedings. Consequently, the Court ruled that henceforth, regardless of the nature of the subsequent linked proceedings, and regardless of whether the criminal proceedings had ended in an acquittal or a discontinuance, the decisions and reasoning of the domestic decision-makers in those subsequent linked proceedings would violate Article 6 § 2 if they amounted to the imputation of criminal liability to an applicant, that was, reflected an opinion that he or she was guilty to the criminal standard of the commission of a criminal offence.

(iii) The Court emphasised that Article 6 § 2, as such, did not guarantee a person whose criminal conviction had been quashed a right to compensation; that Article 3 of Protocol No. 7 did not constitute a form of *lex specialis* excluding the application of Article 6 § 2 to claims for compensation for a miscarriage of justice; that it could not be interpreted as creating a right to such compensation against Contracting States that had not ratified Protocol No. 7; and that Article 3 of Protocol No. 7 did not define "miscarriage of justice", leaving that definition to each Contracting State.

(iv) The Court clarified that Article 6 § 2 in its wider aspect – going beyond the boundaries of given criminal proceedings and protecting legally innocent individuals from being treated by public officials and authorities as though they were guilty of an offence - protected innocence in the eyes of the law (i.e., not being guilty to the criminal standard) and not a presumption of factual innocence. Therefore, in cases involving a refusal of compensation for a miscarriage of justice, such a refusal would breach Article 6 § 2 only if it actually imputed criminal liability to the applicant. In particular, to find in the negative that it could not be shown to the very high standard of proof of beyond reasonable doubt that an applicant had not committed an offence – by reference to a new or newly discovered fact or otherwise – was not tantamount to a positive finding that he or she had not committed the offence.

32. *Sekanina v. Austria*, 25 August 1993, Series A no. 226-A.

Defence rights (Article 6 § 3)

Defence through legal assistance (Article 6 § 3 (c))

The judgment in *Bogdan v. Ukraine*[33] concerned the validity of a waiver of the right to a lawyer signed by a person addicted to drugs and suffering from withdrawal symptoms.

The applicant had been invited to the police station to be questioned on suspicion of burglary. He had written and signed a note stating that he was waiving his right to a lawyer and that that decision was not as a result of any financial hardship. Later the same day an investigator had conducted an on-site reconstruction of the event, in which the applicant had participated. The day after, he was formally arrested. Several weeks later, a local addiction treatment centre informed the investigating authority that the applicant was suffering from a mental disorder, owing to opioid and amphetamine addiction. However, even before that information had come to light, while the applicant had been in police custody, an ambulance had been called for him eleven times as a result of his severe symptoms of drug withdrawal. When the case had come to trial, the applicant had been assigned a legal aid lawyer at his own request. At the end of the trial, he had been found guilty of theft aggravated by burglary and sentenced to six years' imprisonment. The conviction had been based primarily on evidence gathered in the absence of a lawyer, despite the applicant's objection that his waiver of the right to counsel had been signed in the absence of a lawyer and that both the waiver and the on-site reconstruction had taken place while he was suffering from withdrawal symptoms. The petition for extraordinary review of the judgment was rejected on the grounds that, in the specific circumstances of the case, the waiver had been valid under domestic law.

The Court found a violation of Article 6 §§ 1 and 3 (c) of the Convention. It assessed the overall fairness of the proceedings in the light of the criteria defined by its case law (*Ibrahim and Others v. the United Kingdom*[34] and *Beuze v. Belgium*[35]) and concluded that the domestic courts had failed to sufficiently address the key issues in the case, namely the applicant's mental state during the on-site reconstruction, the validity of his waiver of the right to a lawyer, and the impact of that waiver on the fairness of the trial as a whole. Among the additional factors taken into account by the Court was that the applicant had been in unrecorded detention when he had signed the waiver and that domestic law in principle excluded the acceptance of waivers from persons suffering from mental disorders owing to addiction.

The judgment is noteworthy in that the Court declared, for the first time, that drug withdrawal symptoms constituted a form of vulnerability which might, in principle, cast doubt on the validity of a waiver of the right to a lawyer and which imposed upon the domestic courts a duty to establish, in a convincing manner, whether, despite that vulnerability, the waiver of legal assistance had been voluntary and valid in the specific circumstances of each case.

33. *Bogdan v. Ukraine*, no. 3016/16, 8 February 2024.
34. *Ibrahim and Others v. the United Kingdom* [GC], nos. 50541/08 and 3 others, § 274, 13 September 2016.
35. *Beuze v. Belgium* [GC], no. 71409/10, § 150, 9 November 2018.

Other rights and freedoms

Right to respect for one's private and family life, home and correspondence (Article 8)

Positive obligations regarding the mitigation of the effects of climate change

The Grand Chamber judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*[36] concerned the positive obligations of a Contracting State in the area of climate-change mitigation and the admissibility of the related complaints.

The applicants, a Swiss association of elderly women concerned about the consequences of global warming on their living conditions and health, and four individual women, complained that the domestic authorities were not taking sufficient action to mitigate the effects of climate change. Their action before the superior Swiss courts had been dismissed as they were not deemed sufficiently and directly affected by the alleged failings.

The Court found that the four individual applicants did not fulfil the victim-status criteria for the purposes of Article 34 of the Convention. As to the association, the Court held that the special feature of climate change as a common concern of humankind and the need to promote intergenerational burden-sharing rendered it appropriate to make allowance for recourse to legal action by associations in the context of climate change. However, in order to observe the exclusion of general public-interest complaints (*actio popularis*) under the Convention, an association had to comply with a number of conditions outlined in the judgment, conditions which were found to have been met in the present case. The Court also held that Article 8 was applicable to the case as it encompassed a right of individuals to effective protection by State authorities from the serious adverse effects of climate change on their lives, health, well-being and quality of life. Finding that Switzerland had failed to comply with its positive obligations under Article 8 by not acting in time and in an appropriate manner to devise and implement relevant legislation and other measures, it concluded that there had consequently been a violation of Article 8 of the Convention.

The Court emphasised that it could deal with human rights issues arising as a result of climate change only within the limits of the exercise of its competence under Article 19 of the Convention. Measures designed to combat climate change and its adverse effects required legislative action both in terms of the policy framework and in various sectoral fields. Such action necessarily depended on democratic decision-making. The remit of domestic courts and of the Court was complementary to those democratic processes.

36. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024. See also under Article 34 (Victim status and *Locus standi*) and Article 6 § 1 (Access to a court) above.

The Court also noted that, in recent times, there had been an evolution of scientific knowledge, social and political attitudes and legal standards concerning the necessity of protecting the environment, including in the context of climate change. Environmental degradation had created, and was capable of creating, serious and potentially irreversible adverse effects on the enjoyment of human rights. Given the material at its disposal, the Court proceeded with its assessment by taking it as a matter of fact that there were sufficiently reliable indications that anthropogenic climate change existed, that it posed a serious current and future threat to the enjoyment of human rights guaranteed under the Convention, that States were aware of it and capable of taking measures to effectively address it and that the relevant risks were projected to be lower if the rise in temperature was limited to 1.5 °C above pre-industrial levels.

(i) The Court introduced a new concept of "intergenerational burden-sharing" in its case-law relating to climate change. It noted that, while the legal obligations arising for States under the Convention extended to those individuals currently alive, it was clear that future generations were likely to bear an increasingly severe burden of the consequences of the present failures and omissions to combat climate change. Intergenerational burden-sharing thus took on particular importance in that context. By their commitment to the *United Nations Framework Convention on Climate Change*, the State Parties had undertaken the obligation to protect the climate system for the benefit of present and future generations of humankind.

The Court referred to "intergenerational burden-sharing" as a factor for recognising recourse to legal action by associations and, more specifically, for their standing before the Court in the context of climate change. In particular, given the special feature of climate change as a common concern for humankind and the urgency of combating its adverse effects, the Court considered it appropriate, in that specific context, to acknowledge the importance of recognising legal action by associations for the purpose of seeking the protection of the human rights of not only those actually affected, but also of those at risk of being affected, by the adverse effects of climate change, instead of exclusively relying on proceedings brought by each individual on his or her own behalf.

(ii) The Court also specified the conditions under which Articles 2 and 8 of the Convention applied to complaints of State action or inaction in the context of climate change. For Article 2 to apply, it had to be determined that there was a "real and imminent" risk to life, understood as referring to a serious, genuine and sufficiently ascertainable threat to life of a specific applicant, containing an element of material and temporal proximity of the threat to the impugned harm. As to Article 8, the Court declared, for the first time, that it had to be seen as encompassing a right for individuals to effective protection by State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life. However, whether Article 8 rights were indeed at stake and whether that provision applied in each case was subject to similar criteria to those set out above concerning the victim status of individuals or the standing of associations and the Court would always answer that question on a case-by-case basis.

(iii) As to the margin of appreciation applicable in the climate change context, the Court drew a distinction between the scope of the margin as regards, on the one hand, the State's commitment to the necessity of combating climate change and its adverse effects and the setting of the requisite aims and objectives in that respect and, on the other hand, the choice of means designed to achieve them. As to the former, the nature and gravity of the threat and the general consensus as to the stakes involved in ensuring the overarching goal of effective climate protection called for a reduced margin of appreciation for the States. As to the latter, namely the choice of means, the margin of appreciation had to be wide.

(iv) The Court defined, for the first time, the scope of the positive obligations binding the States under Article 8 in the context of climate change. For that purpose, it distinguished three types of measures: mitigation measures, adaptation measures, and procedural safeguards, all being, in principle, required for the assessment of whether the State remained within its margin of appreciation. Concerning the *mitigation* measures, the Court would examine whether the competent domestic authorities, be it at the legislative, executive or judicial level, had had due regard to the need to: (a) adopt general measures specifying a target timeline for achieving carbon neutrality in line with the overarching goal for national and/or global climate-change mitigation commitments; (b) set out intermediate carbon emissions reduction targets and pathways that were deemed capable, in principle, of meeting the overall national reduction goals within the relevant time frames; (c) provide evidence showing whether they had duly com-

plied, or were in the process of complying, with the relevant targets; (d) keep those targets updated with due diligence and based on the best available evidence; and (e) act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures. The Court's assessment of whether the above requirements had been met would, in principle, be of an overall nature, meaning that a shortcoming in one particular respect alone would not necessarily entail a finding of a violation. Furthermore, the above-noted mitigation measures had to be supplemented by *adaptation* measures aimed at alleviating the most severe or imminent consequences of climate change: they had to be put in place and effectively applied in accordance with the best available evidence and consistent with the general structure of the State's positive obligations in this context. Finally, the following two types of *procedural* safeguards were to be taken into account: (a) the relevant information and especially the conclusions of relevant studies held by public authorities had to be made available to the public and, in particular, to those who might be affected by the regulations and measures in question or the absence thereof; and (b) there had to be procedures through which the views of the public could be taken into account in the decision-making process.

(v) As to the individual and general measures under Article 46 of the Convention, the Court considered that it was unable to make sufficiently detailed or prescriptive indications, owing to the complexity and the nature of the issues involved. It therefore left it to the Committee of Ministers to supervise, on the basis of the information provided by the respondent State, the adoption of measures aimed at ensuring that the domestic authorities had complied with Convention requirements, as clarified in the judgment.

Private life: applicability

The decision in *Dian v. Denmark*[37] concerned the applicability of Article 8 of the Convention to begging.

The applicant, a Romanian national, had been found guilty of begging in a pedestrian street in Copenhagen. He had been sentenced to twenty days' imprisonment (that sentence had taken into account his previous conviction for begging) and the money found on his person had been confiscated.

The Court concluded that Article 8 of the Convention did not apply to the facts of the case and that the complaint was therefore incompatible *ratione materiae* with the Convention.

The decision is important in that it circumscribes the scope of the judgment in *Lacatus v. Switzerland*[38], applying the principles and criteria set out in that judgment to the particular circumstances of the case and, in contrast to *Lacatus* (cited above), concluding that Article 8 was not applicable.

(i) The Court clarified that it had not previously concluded that there was a right to beg, as such, under Article 8 of the Convention. It explained that, if a person's economic and social situation was so inhuman and precarious that his or her human dignity had been severely compromised and if begging was a means for him or her to rise above that situation, then the right to call on others for assistance through begging went to the very essence of the rights protected by Article 8 of the Convention. Those specific circumstances would be determined on a case-by-case basis.

(ii) The Court further found that the burden of proof, as to the existence of a precarious and vulnerable situation, lay with the applicant.

(iii) The Court examined the two criteria developed in *Lacatus* (cited above), namely the gravity of the applicant's economic and social situation and the extent of the ban on begging. The Court found, firstly, that the applicant had not really depended on begging to ensure his survival or to protect his human dignity (the Court noted, *inter alia*, that he had been able to travel several times between Romania and Denmark, had income from selling newspapers and collecting bottles as well as through begging, and that he had sent money to Romania regularly, where he also had a house). The Court was thus not convinced that the applicant lacked sufficient means of subsistence or that begging had been his only option to ensure his own survival or that, by the act of begging, he had adopted a particular way of life in order to rise above an inhumane and precarious situation and

37. *Dian v. Denmark* (dec.), no. 44002/22, 21 May 2024.

38. *Lacatus v. Switzerland*, no. 14065/15, 19 January 2021.

thus protect his human dignity. Secondly, the ban in question had not been absolute but had been limited to some designated places and areas. The circumstances of the present case were not therefore such as to trigger the applicability of Article 8 of the Convention.

Private life

The judgment in *Dániel Karsai v. Hungary*[39] concerned an absolute ban on assisted suicide.

The applicant suffered from amyotrophic lateral sclerosis (an uncurable progressive neurodegenerative disease). Before the Court, he alleged a violation of his right to respect for private life, enshrined in Article 8 of the Convention, because of his inability to avail himself of assisted suicide or voluntary euthanasia (hereinafter collectively referred to as "physician-assisted dying" or "PAD"), such practices being illegal and subject to criminal liability under Hungarian law. He also claimed to be a victim of discrimination prohibited by Article 14 of the Convention, because the law did not provide him with the option to hasten his death, while providing it to terminally ill patients on life support who could benefit from a refusal or withdrawal of life-sustaining intervention ("RWI", which was allowed in Hungary or in the majority of other Contracting States).

The Court found no violation of Article 8. It concluded that, given the very complex and sensitive ethical nature of the issue at stake and the lack of a European consensus in this area (while there was a growing trend towards the legalisation of PAD, the majority of member States continued to prohibit and prosecute any assistance for suicide, including PAD), the Hungarian authorities had not overstepped their wide margin of appreciation in balancing, on the one hand, the applicant's right to personal autonomy guaranteed by Article 8 and, on the other, the interest in, *inter alia*, protecting the lives of vulnerable individuals at risk of abuse and the morals of society with regard to the value of human life. The Court also found no violation of Article 14, considering that the difference in treatment of the two respective groups of terminally ill patients was objectively and reasonably justified.

The judgment is noteworthy for the following reasons:

(i) The Court reaffirmed its conclusion in the case of *Mortier v. Belgium*[40], according to which Article 2 could not be interpreted as *per se* prohibiting a conditional decriminalisation of any form of PAD, provided that such decriminalisation was accompanied by appropriate and sufficient safeguards to prevent abuse and to thus secure respect for the right to life. It was, in the first place, for the national authorities to assess whether PAD could be provided within their jurisdiction in compliance with that requirement.

(ii) The Court examined the applicant's complaint under Article 8 in the light of both the negative and positive obligations of the respondent State, considering them to be intertwined, without clearly separating them in the specific circumstances of the case. More emphasis was placed on the positive obligation with respect to the provision of PAD at home and on the negative obligation when considering the prohibition which applied to access to PAD abroad, even if the Court noted that the latter could not be entirely separated from the positive aspect.

(iii) The Court focused on the deep ethical and societal implications of PAD, agreeing that the impugned criminal ban pursued the legitimate aims of, *inter alia*, protecting the lives of vulnerable individuals at risk of abuse, maintaining the medical profession's ethical integrity and protecting the morals of society as a whole with regard to the meaning and value of human life;

(iv) The Court refused to admit that the existential suffering of a terminally ill patient could, as such, create an obligation for the State under Article 8 to legalise PAD;

(v) The Court emphasised that the heightened state of vulnerability of a terminally ill patient warranted a fundamentally humane approach, necessarily including palliative care which was guided by compassion and high medical standards;

(vi) The Court did not consider that criminal liability for an act of assisted suicide committed abroad, a practice that was not unusual among the Contracting States, would make the alleged interference disproportionate; and

(vii) The Court emphasised that, unlike PAD, RWI was inherently connected to the right to free and informed consent to medical interventions,

39. *Dániel Karsai v. Hungary*, no. 32312/23, 13 June 2024.
40. *Mortier v. Belgium*, no. 78017/17, §§ 137-41, 4 October 2022.

widely recognised in Europe, endorsed by the medical profession, and expressly guaranteed by the Oviedo Convention of 1997[41].

The Grand Chamber judgment in *Pindo Mulla v. Spain*[42] concerned the decision-making procedure to ensure respect for personal autonomy in the medical context.

The applicant, an Ecuadorian national, was a Jehovah's Witness. Given her religious beliefs, she had signed, at various times, documents (an advance medical directive accessible through a national register, a continuing power of attorney and an informed consent document) confirming her refusal of blood transfusions in all healthcare situations. Despite those documents, she had received blood transfusions during emergency surgery, performed to save her life. The doctors had acted pursuant to a judicial decision authorising them to take all surgical measures necessary to safeguard her life and physical integrity. That decision had been based on scarce information made available to a duty judge by fax from the relevant doctors, as they had awaited the applicant's transfer from a hospital in which she had initially received treatment and following their telephone exchange with a physician on board the ambulance transporting the applicant. The information essentially related to the applicant's faith, the gravity of her health condition and her having verbally rejected all types of treatment. The applicant's subsequent attempts to have the duty judge's decision set aside in court proceedings had been rejected.

The applicant complained under Articles 8 and 9 of the Convention that being given blood transfusions, despite her previously express refusal of such treatment, had violated her right to respect for her private life and to freedom of conscience and religion. The Court considered the case from the standpoint of Article 8, read in the light of Article 9, and found a violation of that provision.

The judgment is noteworthy in that the Court considered, for the first time, how the State's obligations - on the one hand, to safeguard the lives and physical integrity of patients and, on the other, to respect the personal autonomy of patients - were to be reconciled in an emergency situation. The Court drew on general case-law principles as to the duties of the State in the public health sphere and relied on relevant provisions of the Oviedo Convention, ratified by Spain. In particular:

(i) The applicant had chosen to challenge the decision of the duty judge before the domestic courts, since she saw that decision as the 'legal harm' that had been done to her. Having been argued on that basis domestically, the Court found that the decision of the duty judge should be considered to be the interference about which the applicant complained.

(ii) The Court defined the scope of its assessment of the necessity of the interference as focusing on the operation of the decision-making process in the case, with due regard to the legal and factual context in which the interference had occurred. In that connection, the Court emphasised that:

(a) in the ordinary health care context, a competent adult patient had the right to refuse, freely and consciously, medical treatment notwithstanding the very serious, even fatal, consequences that such a decision might have;

(b) in an emergency situation, where the right to life would also be in play along with an individual's right to decide autonomously on medical treatment: firstly, a decision to refuse life-saving treatment had to be made freely and autonomously by a person with the requisite legal capacity who was conscious of the implications of such a decision; secondly, it had also to be ensured that such a decision – the existence of which had to be known to the medical personnel – was applicable in the circumstances, in the sense that it was clear, specific and unambiguous in refusing treatment and represented the current position of the patient on the matter; and lastly, where doubts existed regarding any of those said aspects, "reasonable efforts" ought to be made to dispel those doubts or uncertainty surrounding the refusal of treatment and, where despite such efforts it was impossible to establish to the extent necessary the patient's will, it was the duty to protect such a patient's life by providing essential care, that should prevail; and

(c) the Contracting States had considerable discretion as regards advance medical directives and similar instruments in the medical sphere. Whether to give binding legal effect to such instruments, and the related formal and practical modalities, came within their margin of appreciation.

(iii) On the facts of the case, the Court observed that a well-developed domestic framework for

41. Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETC No. 164).

42. *Pindo Mulla v. Spain* [GC], no. 15541/20, 17 September 2024.

ensuring that respect for patient autonomy had been in place and the applicant had relied on that framework to make clear her refusal of blood transfusions.

However, its practical operation and implementation had proved deficient. In particular, it remained unexplained why the doctors in the receiving hospital had seemingly not been informed about the applicant's written refusal of blood transfusions (in particular, her advance medical directive), with the result that the information submitted by them to the duty judge had been incomplete. In the Court's view, the absence of that information had had a determinative effect on the decision-making in relation to the applicant's care and could only be regarded as a significant one. That information had also been inaccurate inasmuch as it had been stated that the applicant had been rejecting "all types of treatment" and that her refusal had been "verbal". As a result, the duty judge had been left with an inadequate factual basis on which to take a decision. Whilst clearly addressing the importance of protecting the right to life, that decision had considered to a lesser extent the importance of respecting the patient's right to decide autonomously on medical treatment. The Court noted with concern that the relevant decision had not adverted at all to the issue whether the applicant still retained sufficient capacity to be able to decide, in the required form and in the time still available, on the treatment that she would accept or not. In effect, the decision had transferred the power to decide, as from the moment it had been given, from the applicant to the doctors without her knowledge. Moreover, neither the question of the omission of essential information concerning the documenting of the applicant's wishes, nor the one concerning her decision-making capacity at the relevant time, had been addressed in an adequate manner in the subsequent proceedings which the applicant had brought in an attempt to have the duty judge's decision reviewed.

The Court therefore concluded that the domestic legal system, and more specifically the decision-making process, as it had operated in this case, had not afforded sufficient respect for the applicant's personal autonomy, which she had wished to exercise to observe her religion.

The judgment in the case of *M.A. and Others v. France*[43], concerned the Law of 13 April 2016 "to strengthen the fight against the prostitution system and provide support to prostituted individuals" and Articles 611-1 and 225-12- 1 of the Criminal Code.

The applicants, who had habitually engaged in prostitution in a lawful manner, complained about the creation of the offence of purchasing sexual relations, including between consenting adults in a private location. Four of the two hundred and sixty-one applicants had brought proceedings before the courts, but without success. In particular, the Constitutional Council, to which a request for a preliminary ruling on constitutionality ("QPC") had been referred, had examined the provisions of the Criminal Code in question in the light of the right to respect for private life, the right to personal autonomy and the right to sexual freedom. The *Conseil d'État* had found, having regard to the public-interest aims that they pursued, that those provisions had not amounted to an excessive interference with the right to respect for private life under Article 8 of the Convention.

Before the Court, the applicants had relied on Articles 2, 3 and 8 of the Convention. The Court considered it more appropriate to examine the complaints under Article 8, with a view to addressing the complex phenomenon as a whole. After reviewing the applicants' arguments in detail and the comprehensive framework introduced by the contested legislation, it held that there had been no violation of Article 8, noting in particular that the legislature's choice had been intended to bring about far-reaching societal changes, the effects of which would become fully apparent only over time, that the French authorities had struck a fair balance between the competing interests at stake, and that the respondent State had not overstepped its margin of appreciation.

The judgment is noteworthy in that the Court examined, for the first time, whether a legislative choice made by a Member State in relation to the legal framework governing prostitution within its territory was compatible with Article 8 of the Convention. In particular, the Court defined the scope of the State's margin of appreciation in that area, which raised highly sensitive moral and

43. *M.A. and Others v. France*, no. 63664/19 and 4 others, 25 July 2024.

ethical questions and gave rise to different, often conflicting, views; it assessed the proportionality of the measure in question and ruled on the balance struck at national level between the interests at stake, in the context of a long and in-depth process that had led to enactment of the particular text by the French legislature.

Several points are worth highlighting:

(i) The Court considered that the creation of the offence of purchasing sexual relations amounted to an interference with the applicants' right to respect for their private life, and with their right to personal autonomy and sexual freedom, given that the law in question created a situation which affected them directly (*M.A. and Others v. France*).[44]

(ii) The Court accepted the various legitimate aims referred to by the respondent Government, reiterating that it had already found prostitution to be incompatible with the rights and dignity of the human person where that activity was forced (*V.T. v. France*[45]), and had emphasised the importance of combatting prostitution and human-trafficking networks, and the obligation on State parties to the Convention to protect victims (see, in particular, *Rantsev v. Cyprus and Russia*[46] and *S.M. v. Croatia*[47]).

(iii) The Court had regard to the degree of consensus at European and international level. It noted that there was no common ground, either among the member States of the Council of Europe, or even within the various international organisations examining the issue, on how best to approach prostitution. It noted that recourse to the general and absolute criminalisation of the purchase of sexual acts as a means of combatting human trafficking was currently the subject of heated debate, giving rise to wide differences of opinion at both European and international level, without a clear position emerging. Accordingly, the Court considered that in this area the respondent State had to be afforded a wide margin of appreciation, which was, however, not unlimited.

(iv) The Court emphasised that the criminalisation of the purchase of sexual relations was part of a comprehensive approach intended to combat prostitution, provided for in a law enacted at the close of a long and complex legislative process. It noted that the parliamentary reports had revealed differences between the various viewpoints and positions in the area, that the phenomenon of prostitution was diverse, complex and evolving, and that none of the public policies adopted to date in the other States had been immune to controversy. Conscious of the difficulties and differing opinions, the French legislature had therefore made a choice which resulted from careful parliamentary scrutiny of all the cultural, social, political and legal aspects of the set of measures put in place to regulate an eminently complex phenomenon, which raised highly sensitive moral and ethical issues (compare *Animal Defenders International v. the United Kingdom*[48]).

(v) In the particular context, the Court relied, in particular, on the following principles: (a) in matters of general policy, on which opinions within a democratic society could reasonably differ widely, the role of the domestic policy-maker was to be given special weight (*S.A.S. v. France*[49]). This was especially important when a social question was at issue (for example, *Y v. France*[50] and *Baret and Caballero v. France*[51]); (b) it was not the Court's task to substitute its own assessment for that of the competent national authorities in deciding on the most appropriate policy for regulating the practice of prostitution. Rather, the Court examined whether, in striking the particular balance that they had, the French authorities had remained within their wide margin of appreciation in this area (*S.H. and Others v. Austria*[52] and *Vavřička and Others v. the Czech Republic*[53]).

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44. *M.A. and Others v. France* (dec.), nos. 63664/19 and 4 others, 27 June 2023.
45. *V.T. v. France*, no. 37194/02, § 25, 11 September 2007.
46. *Rantsev v. Cyprus and Russia*, no. 25965/04, §§ 283-88, ECHR 2010 (extracts).
47. *S.M. v. Croatia* [GC], no. 60561/14, § 306, 25 June 2020.
48. *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, ECHR 2013 (extracts).
49. *S.A.S. v. France* [GC], no. 43835/11, §§ 129 and 154, ECHR 2014 (extracts).
50. *Y v. France*, no. 76888/17, § 74, 31 January 2023.
51. *Baret and Caballero v. France* , nos. 22296/20 and 37138/20, § 84, 14 September 2023.
52. *S.H. and Others v. Austria* [GC], no. 57813/00, § 106, ECHR 2011.
53. *Vavřička and Others v. the Czech Republic* [GC], no. 47621/13 and 5 Others, § 310, 8 April 2021.

Private life and home

The judgment in *Aydın Sefa Akay v. Türkiye*[54] concerned the arrest and pre-trial detention of a judge of an international court who, by virtue of the statute of that court, enjoyed diplomatic immunity, and the searches of his house and person.

The applicant, a Turkish national and a career diplomat, was a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals ("the Mechanism") and had been working remotely on a case from his home in Istanbul. Shortly after the 2016 attempted military *coup d'état* in Türkiye a criminal investigation had been opened against employees of the Ministry of Foreign Affairs suspected of being involved in an armed terrorist organisation, FETÖ/PDY (considered by the authorities to be behind the coup attempt). In the course of that investigation, the applicant had been arrested, subjected to a body search and placed in pre-trial detention. The police had also conducted a search of his house and seized, *inter alia*, computers, mobile phones and two books allegedly proving the applicant's connection with FETÖ/PDY. The applicant had been found guilty of being a member of an armed terrorist organisation and sentenced to seven years and six months' imprisonment. Throughout the criminal proceedings, he had repeatedly and unsuccessfully claimed diplomatic immunity as a judge of the Mechanism (Article 29 of the Statute of the Mechanism adopted by Security Council Resolution 1966 (2010)). Despite a *note verbale* from the UN Office of Legal Affairs and an order by the President of the Mechanism to cease all legal proceedings against the applicant and ensure his release, the Turkish authorities and courts had relied on that Statute, the Convention on the Privileges and Immunities of the UN and the Vienna Convention on Diplomatic Relations, to conclude that the applicant had not enjoyed absolute immunity but only functional immunity limited to acts performed within the scope of his functions as a judge and that, in any event, he could not assert immunity before the authorities of the State which he represented or of which he was a national. That interpretation had ultimately been confirmed by the Constitutional Court.

The Court found a violation of both Article 5 § 1 and Article 8 of the Convention. It considered that the domestic courts' interpretation of the applicant's diplomatic immunity had not been foreseeable nor in keeping with the requirements of the principle of legal certainty, as the ordinary reading of the relevant international treaty provisions, officially confirmed by the President of the Mechanism (acting on behalf of the Secretary General of the UN) and the UN Office of Legal Affairs, had made it safe to consider that the applicant did in fact enjoy full diplomatic immunity including when working remotely in accordance with the framework for the operation of the Mechanism. Moreover, the legal uncertainty had been aggravated by the considerable delay in assessing his diplomatic immunity. The Court therefore found that the interference with the applicant's rights had lacked a proper legal basis. Lastly, the Court held that the interference with the applicant's rights under Article 8 could not be justified under Article 15 of the Convention (notice had been given by Türkiye under that provision).

The judgment is noteworthy for a number of reasons:

(i) The Court found, for the first time, that the principles defined in its case-law about the independence of the national judiciary, an independent guarantor of justice and the rule of law, had to apply *mutatis mutandis* to international judges and courts, their independence being equally a *conditio sine qua non* for the proper administration of justice.

(ii) The Court held that it did not have jurisdiction to pass formal judgment on the applicant's diplomatic immunity as such, exploring rather whether the domestic courts' stance had met the requirements of foreseeability and legal certainty for the purposes of Article 8 § 2 of the Convention. In that regard, the Court emphasised that, in general, the principle of legal certainty might be compromised if domestic courts introduced exceptions into their case-law which ran counter to the wording of the applicable statutory provisions or adopted an extensive interpretation negating procedural safeguards afforded by law to protect members of the judiciary from interference.

(iii) The Court found that the applicant appeared to have been entitled to full diplomatic immunity, including the inviolability of his person and private residence and being shielded from any form of arrest or detention, under international law;

54. *Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024. See also under Article 5 § 1 (Lawful arrest or detention) above and under Article 15 (Derogation in time of emergency) below.

(iv) The Court declared that, for the purposes of immunity, the scope of privileges and immunities of a diplomatic envoy was not fully transposable to a judge of an international court since the ultimate aim in the latter context was to protect the independence of the judiciary including *vis-à-vis* their State of nationality.

Freedom of thought, conscience and religion (Article 9)

Freedom of religion

The judgment in *Executief van de Moslims van België and Others v. Belgium*[55] concerned the obligation of prior stunning of animals in the context of ritual slaughter.

The Belgian law on animal protection and welfare had initially provided, except in cases of *force majeure* or necessity, that a vertebrate could not be put to death without having been anaesthetised or stunned; however, that requirement had not applied to forms of slaughter prescribed by religious rites. Then in 2017 and 2018 respectively, the Flemish Region and Walloon Region amended the provisions in question and removed the religious exemption from the law. However, they replaced it by an obligation to use a different method for ritual slaughter, namely that of reversible non-lethal stunning. The religious exemption continued to apply in the Region of Bruxelles-Capitale because the local Parliament had rejected a proposal to abolish it. The Belgian Constitutional Court, hearing challenges to the relevant Walloon and Flemish decrees, put several questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling. In a judgment of 17 December 2020[56], that court found that the relevant provisions of EU law, including Article 10 of the Charter of Fundamental Rights concerning freedom of thought, conscience and religion, did not preclude national legislation requiring a process of reversible non-lethal stunning. The Constitutional Court subsequently confirmed the constitutionality of the decrees, finding that the complaints relying on freedom of religion and the principles of equality and non-discrimination were unfounded.

The applicants before the Court were Belgian Muslim organisations and several Muslim or Jewish Belgian nationals who claimed to be victims of an interference with their freedom of religion. They also complained of discrimination. The Court found that those applicants who lived in the Bruxelles-Capitale Region, where the decrees in question did not apply, lacked standing and their complaints were inadmissible. On the merits, it accepted that there had been an interference with the applicants' freedom of religion under Article 9 but considered that it had pursued the legitimate aim of "public morals", which encompassed animal welfare. Having regard to the margin of appreciation afforded to the State in such matters, and the quality and substance of the parliamentary debate, together with the two-tier judicial review (CJEU and Constitutional Court), together with the fact that the applicants could still procure meat from animals slaughtered according to Muslim and Jewish precepts without being stunned, whether from the Brussels region or abroad, the Court found that the interference was not disproportionate. Lastly it held that there had been no discrimination prohibited by Article 14 of the Convention.

The judgment is noteworthy for the following reasons:

(i) As to the facts, this was the first case to be examined by the Court in which the question of religious exemptions from an obligation of prior stunning of animals had formed the gravamen of the complaints under Article 9 (unlike in the case of *Cha'are Shalom Ve Tsedek v. France*[57], which had concerned a denial of a permit authorising ritual slaughter in line with the strict practices of an Orthodox Jewish association and where that question had arisen only indirectly).

(ii) The Court explained that the "living instrument" doctrine, which guided the interpretation of the Convention, concerned not only the rights

55. *Executief van de Moslims van België and Others v. Belgium*, nos. 16760/22 and 8 others, 13 February 2024.

56. Judgment of the Court of Justice of the European Union of 17 December 2020 in *Centraal Israëlitisch Consistorie van België and Others*, C-336/19, EU:C:2020:1031.

57. *Cha'are Shalom Ve Tsedek v. France* [GC], no. 27417/95, ECHR 2000-VII.

and freedoms that were guaranteed but also the grounds justifying any restrictions that might be relied upon, having regard to the developments in society and norms since the Convention had been drafted.

(iii) The Court stated for the first time that animal welfare could be attached to "public morals", one of the exhaustively enumerated legitimate aims under Article 9 of the Convention. To reach that conclusion it first relied on the increasing significance of animal welfare considerations in Europe and, more specifically, in the two Belgian regions concerned, and secondly on the fact that it had found in a previous case that prevention of animal suffering could justify interference with an Article 11 right (freedom of assembly and association) on the basis of the protection of morals (*Friend and Others v. the United Kingdom*[58], concerning fox hunting). The Court explained that the protection of public morals, within the meaning of Article 9 § 2, could not be understood as only concerning the protection of human dignity in inter-personal relations; even though the Convention secured, under Article 1, its rights and freedoms in respect of people only, it could be interpreted as promoting the absolute observance of rights and freedoms without regard to animal suffering.

(iv) The Court also acknowledges in its judgment that, unlike EU law, which saw animal welfare as an objective of general interest (Article 13 of the Treaty on the Functioning of the European Union), its protection was not expressly provided for under the Convention. In that type of case, therefore, to examine the proportionality of an interference it was not a matter of weighing in the balance two rights of equal value in the light of the Convention but of assessing whether the interference was justified in its principle and whether it was proportionate in terms of protecting public morals, having regard to the authorities' margin of appreciation, which could not be narrow in scope.

Prohibition of discrimination Article 14)

Article 14 taken in conjunction with Article 2

The judgment in the case of *F.M. and Others v. Russia*[59] concerned the State's failure to protect female migrant workers in an irregular situation from human trafficking and servitude and to investigate the crimes committed against them.

The applicants were several women who had been brought to Russia from their home countries (Kazakhstan and Uzbekistan) and exploited in convenience stores for periods ranging from six months to ten years. Their identity documents had been seized and they had been forced to perform unpaid hard work for abnormally excessive hours, without respite or days off. No employment contracts had been signed, and the applicants' status as foreign migrant workers had not been regularised. They had been confined in the stores under close surveillance in appalling conditions and had been subjected to violence (beatings resulting in serious injuries, rapes, forced pregnancies, forced abortion, and the removal of children born in captivity). The applicants had eventually managed to escape or had been released. In response to criminal complaints lodged by the applicants with the help of NGOs, the domestic authorities had conducted preliminary inquiries which had resulted in decisions not to open a criminal investigation.

The applicants complained that the authorities had failed to protect them from trafficking, exploitation and violence and, in particular, had failed to adopt an adequate legislative framework, to take operational measures and to conduct an effective criminal investigation. The Court found that the applicants had been victims of cross-border trafficking and servitude and that the respondent State had failed to fulfil its positive (substantive and procedural) obligations to protect them contrary to Article 4 of the Convention. The Court also found a violation of Article 14 (in conjunction with Article 4) as the authorities' inaction had reflected a discriminatory attitude towards the applicants as women who were foreign workers with an irregular immigration status.

58. *Friend and Others v. the United Kingdom* (dec.), nos. 16072/06 and 27809/08, § 50, 24 November 2009.

59. *F.M. and Others v. Russia*, nos. 71671/16 and 40190/18, 10 December 2024 (not final). See also under Article 4 (Prohibition of slavery and forced labour) above.

The judgment is noteworthy as the Court applied substantially the same principles applied under Article 14 in conjunction with Articles 2 and 3 regarding gender-based domestic violence (see, *Volodina v. Russia*[60], and *Tkhelidze v. Georgia*[61]) to find, it would also appear for the first time, a violation of Article 14 combined with Article 4 of the Convention. The domestic authorities' inaction in honouring their positive obligations under Article 4 had amounted to repeatedly condoning trafficking, labour exploitation and the related gender-based violence and had reflected a discriminatory attitude towards the applicants as women who were foreign workers with an irregular immigration status.

General prohibition of discrimination (Article 1 of Protocol No. 12)

The judgment in *Ferrero Quintana v. Spain*[62] concerned the imposition of an age limit of 35 for a public competition to fill several positions in the police force (*Ertzaintza*) of the Autonomous Community of the Basque Country.

The applicant, who had been provisionally authorised to take part in that competition even though he was over the age-limit in question, had successfully completed the various tests but had been not recruited on account of his age.

Before the Court, the applicant had argued that the medical examinations and physical aptitude tests he had undergone had confirmed that he was physically able to hold the position in question and that he had therefore been the subject of discrimination on grounds of age, which constituted a violation of Article 1 of Protocol No. 12. The Court found that the applicant had been in an analogous situation to individuals under the age of 35 wishing to take part in the same competition and that he had therefore been treated differently on the ground of his age, which constituted "other status" within the meaning of the Article relied on. However, in view of the wide margin of appreciation the national authorities enjoyed in establishing the rules of admission to public-sector employment (which included admission to employment in police forces), that difference in treatment pursued a legitimate aim and was justified. As to the purpose of the impugned measure, the Court noted that its aim had not been to exclude him but rather to ensure the proper functioning of the police force in question. In that connection, the Court referred to the judgment of the Court of Justice of the European Union (CJEU) in the *Salaberria Sorondo* case[63] which concerned a different candidate taking part in the same competition as that complained of in the present case and found that the concern to ensure the operational capacity and proper functioning of police services constituted a legitimate objective within the meaning of Article 4(1) of directive 2000/78/CE, which established a general framework for equal treatment in employment and occupation within the European Union. As to whether the justification provided had been objective and reasonable, the Court recognised that the reasons put forward by the national authorities, in particular the need to ensure and maintain the long-term functional capacity of the autonomous police force, had been relevant and sufficient, and that the impugned measure had not gone beyond what had been necessary to achieve the aim set out above. Since the margin of appreciation afforded to States in that area had not been overstepped, there had been no violation of Article 1 of Protocol No. 12. The judgment is noteworthy because it provided important clarification as to the manner in which the prohibition of discrimination was to be applied to differences in treatment on grounds of age with regard to admission to public-sector employment in general and to positions as a police officer in particular.

(i) The Court confirmed its finding that age might constitute "other status" for the purposes of Article 14 of the Convention (and therefore also of Article 1 of Protocol No. 12) although it had not, to date, suggested that discrimination on grounds of age should be equated with other "suspect" grounds of discrimination (see *Carvalho Pinto de Sousa Morais v. Portugal*[64]). In general, the Court

60. *Volodina v. Russia*, no. 41261/17, §§ 109-14, 9 July 2019.
61. *Tkhelidze v. Georgia*, no. 33056/17, §§ 51 and 60, 8 July 2021.
62. *Ferrero Quintana v. Spain*, no. 2669/19, 26 November 2024 (not final).
63. Judgment of the Court of Justice of the European Union of 15 November 2016 in the case of *Salaberria Sorondo,* C-258/15, EU:C:2016:873.
64. *Carvalho Pinto de Sousa Morais v. Portugal*, no. 17484/15, § 45, 25 July 2017.

clarified that that not all differences in treatment on grounds of age could be regarded as invidious kinds of discrimination (contrast *Timichev v. Russia*[65], where the issue had been racial discrimination); nor did they all have the same relative importance for the individual interest at stake. With regard to the particular circumstances of the case, the Court emphasised two factors: first, the applicant was not a member of a vulnerable group; second, he had taken part in a competition in order to become a public-sector employee, not to assert a fundamental right explicitly recognised by the Convention. In those circumstances, the Court afforded the State a wide margin of appreciation in such matters.

(ii) The Court accepted that age was a relevant factor in determining a person's physical aptitude. The duties of officers of the police force in question were not administrative in nature, but operational or executive, requiring particular physical aptitude. Thus, physical shortcomings that interfered with the performance of those duties were liable to have significant consequences not only for the police officers themselves and for third parties, but also for the maintenance of public order. The Court concluded that possessing certain physical capacities could be regarded as an essential and decisive professional requirement for the performance of the police duties to which the applicant had sought admission.

(iii) As to alleged discrimination on the ground of age with regard to admission to a position requiring particularly robust physical capabilities, the Court took the view that the question whether someone possessed such capabilities had to be assessed dynamically, taking into consideration the years of service the officer would be required to complete after recruitment, and not in a static manner, solely at the time of the recruitment competition. It was therefore legitimate that the State might wish to ensure that these physical capabilities were maintained for a maximum number of years of service.

(iv) The Court also accepted the Government's argument as to the need to ensure a balanced age distribution within the police and thereby avoid a situation where there was a very high concentration of staff in the upper age brackets, as this factor had a considerable impact on the operational nature of a police force. In other words, it might be appropriate, by way of measures such as the one in question, to ensure that a sufficient number of "young" officers were present to carry out tasks involving greater physical exertion. In general, such questions of internal organisation fell within the Contracting States' margin of appreciation.

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

Enjoyment of possessions

The judgment in *The J. Paul Getty Trust and Others v. Italy*[66] concerned a confiscation order to recover a cultural object legally belonging to a Contracting State but illegally purchased and exported to a non-Contracting State.

In 1964 Italian fishermen in the Adriatic Sea had discovered a bronze statue known as "Victorious Youth" (also referred to as the "Athlete of Fano" or the "Lysippus of Fano") dating back to the Classical Greek period. It had ultimately been bought by the J. Paul Getty Trust ("the Trust"), a non-profit legal entity registered in the United States of America ("the US"). The statue had been taken to the US and put on display in a museum. Since 1977 the Italian authorities had made several unsuccessful attempts to recover the statue. In 2007 enforcement proceedings had been initiated in Italy, resulting in a confiscation order. The Court of Cassation held that the statue was part of Italy's cultural heritage protected by Italian law and rightfully belonging to the Italian State; it had been unlawfully exported from Italy and then purchased by the Trust without due diligence in inquiring into its origins; and, in those circumstances and in accordance with the case-law of the Constitutional Court, a confiscation order could be issued against a person not involved in the criminal offence even if there had been no criminal conviction and even if the relevant offence had become statute-barred, provided that a "lack of vigilance" could be ascertained. A

65. *Timichev v. Russia*, nos. 55762/00 and 55974/00, § 56, ECHR 2005-XII.
66. *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, 2 May 2024.

procedure of recognition and enforcement of the confiscation measure, which had been initiated in the US at the request of the Italian authorities, was still pending in its first phase. Before the Court, the applicants (the Trust and fourteen members of its board of trustees) alleged a violation of their right to peaceful enjoyment of possessions guaranteed by Article 1 of Protocol No. 1.

The Court found that the Trust – unlike the individual trustees – could claim to be a "victim" of the alleged violation. On the merits, it held that Italy had not overstepped its margin of appreciation and that there had been no violation of Article 1 of Protocol No. 1. In that connection the Court took into account the State's wide margin of discretion as to the "general interest" concerning the preservation of cultural heritage, the strong consensus in international and European law with regard to the need to protect cultural objects from unlawful exportation and to return them to their country of origin, the Trust's own negligent conduct, as well as the very exceptional legal vacuum in which the domestic authorities had found themselves at the material time.

The judgment is noteworthy in several respects, both in terms of the reasoning and the result.

(i) Adopting the approach used in extradition cases (*Stephens v. Malta (no. 1)*[67]; *Toniolo v. San Marino and Italy*[68]; *Vasiliciuc v. the Republic of Moldova*[69]; and *Gilanov v. the Republic of Moldova*[70]), the Court defined a general principle applicable to international legal and judicial cooperation. An act initiated by a requesting State on the basis of its own domestic law and followed up by the requested State in response to its treaty obligations could be attributed to the requesting State even if the act had been, or was intended to be, executed by the requested State. The confiscation order, to be executed in the US, could therefore be attributed to Italy.

(ii) While the autonomous meaning of the term "possessions", within the meaning of Article 1 of Protocol No. 1, was not limited to ownership, it was also not necessarily applicable to any type of "possession" (as understood in civil law). That assessment was to be carried out on a case-by-case basis establishing the existence of a genuine proprietary interest on the basis of criteria such as the duration of possession and recognition of the possessor's standing before the domestic courts.

(iii) Given the specificity and complexity of the legal situation in question – the protection of cultural heritage and the recovery of an unlawfully exported cultural object through a measure implying a dispute over the ownership rights of the current possessor – the Court found it unnecessary to rule on whether the alleged interference fell under either of the two special clauses of Article 1 of Protocol No. 1 ("deprivation of possessions" or "control of the use of property"), since the general rule enshrined in the first sentence of that Article was certainly applicable.

(iv) Finally and importantly, in assessing the lawfulness and proportionality of the impugned measure, the Court directly relied on the global legal context and, notably, on the evolution of international law in the field of the protection of cultural objects. Accordingly, it considered that the lack of a time-limit for actions aimed at recovering stolen or unlawfully exported cultural objects could not, of itself, lead to the conclusion that the interference in question was unforeseeable or arbitrary: on the contrary, it appeared to be a distinctive feature of several States (including within the Council of Europe) and might be justified by the need to give the domestic authorities considerable latitude in this particular area. Furthermore, one of the crucial factors to determine whether the respondent State had acted within its margin of appreciation was the fact that, initially, its authorities had to operate in a legal vacuum as there were no binding international legal instruments in force at the time when the object had been purchased and exported by the Trust which would have allowed the Italian authorities to recover it or, at the very least, to obtain the full cooperation of the foreign domestic authorities. In that regard, the Court stressed that, nowadays in a similar scenario, the domestic authorities would be under a duty to strictly comply with the time-limits and procedures laid down in any applicable provisions of international treaties and EU law.

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67. *Stephens v. Malta (no. 1)*, no. 11956/07, §§ 50-54, 21 April 2009.
68. *Toniolo v. San Marino and Italy*, no. 44853/10, § 56, 26 June 2012.
69. *Vasiliciuc v. the Republic of Moldova*, no. 15944/11, §§ 21-25, 2 May 2017.
70. *Gilanov v. the Republic of Moldova* no. 44719/10, §§ 41-44, 13 September 2022.

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

Freedom of movement

The judgment in *Domenjoud v. France*[71] concerned home-curfew measures taken in the context of a state of emergency declared in France in response to terrorist attacks on 13 November 2015, following which France had exercised its right of derogation under Article 15 of the Convention.

The applicants were two brothers who had been placed under home curfew for sixteen days by order of the Minister of the Interior. The orders had been based on "white note" memos from the intelligence services, indicating that (i) the applicants had belonged to radical far-left political groups, (ii) they had been involved in violent acts in the past, and (iii) there was a risk that they would take part in "highly violent protest activities" in the context of the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change ("COP21"), which had been set to start in Paris some days later. The measures had included obligations for the applicants to report three times a day to a police station and not to leave their homes at night. The applicants had lodged various appeals against the home-curfew measures with the administrative courts but had been unsuccessful. In particular, a preliminary question on constitutionality (*question prioritaire de constitutionnalité*) had been referred to the Constitutional Council, which had found that the placement under home curfew, as provided for in the Law of 3 April 1955 on states of emergency and applied in the present case, had amounted neither to a deprivation of liberty nor to a disproportionate interference with freedom of movement.

Before the Court, the applicants alleged that there had been a violation of Article 5 of the Convention and Article 2 of Protocol No. 4. The Court found that Article 5 did not apply to the measures in issue and that the related complaint was therefore incompatible *ratione materiae* with the Convention. Under Article 2 of Protocol No. 4, however, it found no violation of that provision in respect of the first applicant, but a violation in respect of the second. It considered that his placement under home curfew had not fully met the substantive and procedural requirements of that provision, nor had the measure been covered by the French derogation under Article 15 of the Convention.

The judgment is noteworthy for the following reasons.

(i) Regarding the foreseeability of the legal basis of a measure restricting freedom and applied in the context of a state of emergency, the Court was called upon for the first time to examine a situation where an individual measure had been ordered for reasons that differed from those justifying the general state of emergency (in the present case, the threat of Islamist terrorism). In that regard, the judgment was a development on the cases *Pagerie v. France*[72] and *Fanouni v. France*[73] where the link had been clear and evident. In the present case, the Court specified that a state-of-emergency law could not be used by the domestic authorities to adopt measures restricting freedoms where they had no link to the circumstances that had justified the enactment of that legislation. However, it accepted that in an emergency situation the domestic authorities might be obliged to make operational choices in order to meet the full range of their responsibilities. There could therefore be an indirect link between the aim pursued when declaring a state of emergency, and the justification for measures taken on the basis thereof, provided that the link was strong enough to eliminate any possibility of abuse. In addition, the Court sought to ensure that that protection against arbitrariness had been effective in the circumstances of the present case, and in particular that the existence of an adequate link between the measures and the framework of the state of emergency had been reviewed.

(ii) The judgment confirmed the findings in *Pagerie* and *Fanouni* (cited above, §§ 206-07 and §§ 60-61, respectively) with regard to the principles governing how administrative courts should take into account "white notes" – unsigned and often undated memos containing neither the name of the person who had drafted them nor the sources

71. *Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024. See also under Article 15 (Derogation in time of emergency) below.
72. *Pagerie v. France*, no. 24203/16, §§ 178-91, 19 January 2023.
73. *Fanouni v. France*, no. 31185/18, §§ 49-51, 15 June 2023

of their information. The Court did not exclude the use of such documents but emphasised the need for adequate procedural safeguards. In the present case, it found appropriate the safeguards generally provided for in domestic law, namely that, firstly, such memos had to be subject to adversarial proceedings, secondly, the administrative courts had a duty to review the accuracy and precision of their content, by ascertaining whether they contained precise and detailed facts and whether or not those facts were seriously disputed, and thirdly the administrative courts had investigative powers to perform that review. However, the Court carried out a separate examination into whether those safeguards had been complied with in the individual case of each applicant.

Other Convention provisions

Derogation in time of emergency (Article 15)

The judgment in *Aydın Sefa Akay v. Türkiye*[74] concerned the arrest and pre-trial detention of a judge of an international court who, by virtue of the statute of that court, enjoyed diplomatic immunity, and the searches of his house and person.

The applicant, a Turkish national and a career diplomat, was a judge serving at the United Nations International Residual Mechanism for Criminal Tribunals ("the Mechanism") and had been working remotely on a case from his home in Istanbul. Shortly after the 2016 attempted military *coup d'état* in Türkiye a criminal investigation had been opened against employees of the Ministry of Foreign Affairs suspected of being involved in an armed terrorist organisation, FETÖ/PDY (considered by the authorities to be behind the coup attempt). In the course of that investigation, the applicant had been arrested, subjected to a body search and placed in pre-trial detention. The police had also conducted a search of his house and seized, *inter alia*, computers, mobile phones and two books allegedly proving the applicant's connection with FETÖ/PDY. The applicant had been found guilty of being a member of an armed terrorist organisation and sentenced to seven years and six months' imprisonment. Throughout the criminal proceedings, he had repeatedly and unsuccessfully claimed diplomatic immunity as a judge of the Mechanism (Article 29 of the Statute of the Mechanism adopted by Security Council Resolution 1966 (2010)). Despite a *note verbale* from the UN Office of Legal Affairs and an order by the President of the Mechanism to cease all legal proceedings against the applicant and ensure his release, the Turkish authorities and courts had relied on that Statute, the Convention on the Privileges and Immunities of the United Nations and the Vienna Convention on Diplomatic Relations, to conclude that the applicant had not enjoyed absolute immunity but only functional immunity limited to acts performed within the scope of his functions as a judge and that, in any event, he could not assert immunity before the authorities of the State which he represented or of which he was a national. That interpretation had ultimately been confirmed by the Constitutional Court.

The Court found a violation of both Article 5 § 1 and Article 8 of the Convention. It considered that the domestic courts' interpretation of the applicant's diplomatic immunity had not been foreseeable nor in keeping with the requirements of the principle of legal certainty under Article 5 § 1, as the ordinary reading of the relevant international treaty provisions, officially confirmed by the President of the Mechanism (acting on behalf of the Secretary General of the UN) and the UN Office of Legal Affairs, had made it safe to consider that the applicant had in fact enjoyed full diplomatic immunity including when working remotely in accordance with the framework for the operation of the Mechanism. Moreover, the legal uncertainty had been aggravated by the considerable delay in assessing his diplomatic immunity. Lastly, the Court held that the applicant's pre-trial detention could not be justified under Article 15 of the Convention (notice had been given by Türkiye under that provision).

74. *Aydın Sefa Akay v. Türkiye*, no. 59/17, 23 April 2024. See also under Article 5 § 1 (Lawful arrest or detention) and Article 8 (Private life and home) above.

The judgment is novel as the Court extended, for the first time, the caveat of "*other obligations under international law*", within the meaning of Article 15, to obligations arising from diplomatic immunity.

The judgment in *Domenjoud v. France*[75] concerned home-curfew measures taken in the context of a state of emergency declared in France in response to terrorist attacks on 13 November 2015, following which France had exercised its right of derogation under Article 15 of the Convention. The applicants were two brothers who had been placed under home curfew for sixteen days by order of the Minister of the Interior. The orders had been based on "white note" memos from the intelligence services, indicating that (i) the applicants belonged to radical far-left political groups, (ii) they had been involved in violent acts in the past, and (iii) there was a risk that they would take part in "highly violent protest activities" in the context of the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change ("COP21"), which had been set to start in Paris some days later. The measures included obligations for the applicants to report three times a day to a police station and not to leave their homes at night. The applicants had lodged various appeals against the home-curfew measures with the administrative courts but had been unsuccessful. In particular, a preliminary question on constitutionality (*question prioritaire de constitutionnalité*) had been referred to the Constitutional Council, which had found that the placement under home curfew, as provided for in the Law of 3 April 1955 on states of emergency and applied in the present case, had amounted neither to a deprivation of liberty nor to a disproportionate interference with freedom of movement.

Before the Court, the applicants alleged that there had been a violation of Article 5 of the Convention and Article 2 of Protocol No. 4. The Court found that Article 5 did not apply to the measures in issue and that the related complaint was therefore incompatible *ratione materiae* with the Convention. Under Article 2 of Protocol No. 4, however, it found no violation of that provision in respect of the first applicant, but a violation in respect of the second. It considered that his placement under home curfew had not fully met the substantive and procedural requirements of that provision, nor had the measure been covered by the French derogation under Article 15 of the Convention.

Insofar as Article 15 § 1 of the Convention is concerned, the judgment is noteworthy in that the Court assessed whether the derogating measures had been strictly required in the light of the reasons for the derogation, as they had been clearly set out, without transposing to that assessment the moderate level of review that it had established under Article 2 of Protocol No. 4. In the present case, the Court considered that the measure in issue had not been strictly necessary to fulfil the aim of combatting terrorism, as pursued by the exercise of the right to derogation.

Restrictions not prescribed by the Convention (Article 18)

The Grand Chamber judgment in the inter-State case of *Ukraine v. Russia (re Crimea)*[76] concerned numerous violations of the Convention and its Protocols in the region of Crimea during the events in the course of which the region of Crimea (including the city of Sevastopol) had been purportedly integrated into the Russian Federation, as well as of some subsequent events. The Ukrainian Government maintained that the Russian Federation was responsible for administrative practices resulting in numerous human rights violations, those practices being part of a large, interconnected campaign of political repression implemented by Russia, aimed at stifling any political opposition.

The temporal and territorial scope of application no. 20958/14 was limited to the period from 27 February 2014 to 26 August 2015 and to the territory of Crimea, whereas application no. 38334/18 had no such temporal limitations. The applicant Government had not requested an adjudication of the individual cases to which it had referred but rather had requested that they be treated as

75. *Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024. See also under Article 2 of Protocol No. 2 (Freedom of movement) above.

76. *Ukraine v. Russia (*re *Crimea)* nos. 20958/14 and 38334/18, 25 June 2024. See also under International Humanitarian Law (Principle of "lawfulness"), Article 35 (Jurisdication to deal with cases against Russia) and Article 2 (Right to life - Enforced Disappearances) above and under Article 33 (Inter-State cases) below.

evidence of an administrative practice in breach of the Convention. Accordingly, individual complaints of alleged Convention violations were outside the scope of the case.

In its decision on admissibility[77], the Grand Chamber had held that the impugned facts targeted by application no. 20958/14 fell within the "jurisdiction" of the Russian Federation within the meaning of Article 1 of the Convention; it had dismissed the respondent Government's preliminary objections, and declared admissible the applicant Government's complaints about alleged administrative practices contrary to Articles 2, 3, 5, 6, 8, 9, 10 and 11 of the Convention, Articles 1 and 2 of Protocol No. 1, Article 2 of Protocol No. 4, as well as Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10 and 11 of the Convention and Article 2 of Protocol No. 4 to the Convention. Later, the Grand Chamber held a hearing on the merits of application no. 20958/14 and on the admissibility and merits of application no. 38334/18 (regarding *inter alia* the treatment of "Ukrainian political prisoners" in Crimea, other parts of Ukraine, the Russian Federation, and Belarus).

In the present judgment, the Grand Chamber declared admissible the complaint concerning the transfer of prisoners from Crimea to Russia, which had also been raised in application no. 20958/14, notice of which had in the meantime been given to the Russian Federation, and found a violation of the Convention and its Protocols in respect of each of the admissible complaints in that application. It also declared the application no. 38334/18 partly admissible and partly inadmissible. On the merits of that application, the Grand Chamber found a violation of Articles 3, 5, 6, 7, 8, 10, and 11 of the Convention, as well as of Article 18 in conjunction with Articles 5, 6, 8, 10, and 11. It also reserved the question on just satisfaction and indicated, in accordance with Article 46 of the Convention, that the respondent State must take every measure to secure, as soon as possible, the safe return of the relevant prisoners transferred from Crimea to prisons in Russia.

The Grand Chamber judgment is novel in that it clearly defines the applicability of Article 18 in conjunction with Articles 6 and 7 (for the approaches to date see *Navalnyy and Ofitserov v. Russia*[78]; *Navalnyye v. Russia*[79]; and *Khodorkovskiy and Lebedev v. Russia*[80]). As to Article 6, the Court confirmed that Convention provisions allowed for both explicit and implicit restrictions. Moreover, having regard to its extensive case-law on the matter, the Court found that the rights protected under Article 6 were guarantees with reference to which fundamental abuses by a State might be likely to manifest themselves. Article 18 was thus applicable in conjunction with Article 6. Conversely, the situation was not the same in relation to Article 7. Given the non-derogable nature of its guarantees, the Court considered that Article 18 could not apply in conjunction with it, so that that complaint (Article 18 in conjunction with Article 7) was found to be incompatible *rationae materiae* with the Convention.

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77. *Ukraine v. Russia (*re *Crimea)* (dec.) [GC], nos. 20958/14 and 38334/18, 16 December 2020.
78. *Navalnyy and Ofitserov v. Russia*, nos. 46632/13 and 28671/14, § 129, 23 February 2016.
79. *Navalnyye v. Russia*, no. 101/15, §§ 88-89, 17 October 2017.
80. *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, §§ 897-909, 25 July 2013.

Inter-State cases

Administrative practice

The Grand Chamber judgment in the inter-State case of *Ukraine v. Russia (re Crimea)*[81] concerned numerous violations of the Convention and its Protocols in the region of Crimea during the events in the course of which the region of Crimea (including the city of Sevastopol) had beeen purportedly integrated into the Russian Federation, as well as of some subsequent events. The Ukrainian Government maintained that the Russian Federation was responsible for administrative practices resulting in numerous human rights violations, those practices being part of a large, interconnected campaign of political repression implemented by Russia, aimed at stifling any political opposition.

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In its decision on admissibility[82], the Grand Chamber had held that the impugned facts targeted by application no. 20958/14 fell within the "jurisdiction" of the Russian Federation within the meaning of Article 1 of the Convention; it had dismissed the respondent Government's preliminary objections, and declared admissible the applicant Government's complaints about alleged administrative practices contrary to Articles 2, 3, 5, 6, 8, 9, 10 and 11 of the Convention, Articles 1 and 2 of Protocol No. 1, Article 2 of Protocol No. 4, as well as Article 14 of the Convention, taken in conjunction with Articles 8, 9, 10 and 11 of the Convention and Article 2 of Protocol No. 4 to the Convention. The Grand Chamber had later held a hearing on the merits of application no. 20958/14 and on the admissibility and merits of application no. 38334/18 (regarding *inter alia* the treatment of "Ukrainian political prisoners" in Crimea, other parts of Ukraine, the Russian Federation, and Belarus).

In the present judgment, the Grand Chamber declared admissible the complaint concerning the transfer of prisoners from Crimea to Russia, which had also been raised in application no. 20958/14, notice of which had in the meantime been given to the Russian Federation, and found a violation of the Convention and its Protocols in respect of each of the admissible complaints in that application. It also declared application no. 38334/18 partly admissible and partly inadmissible. On the merits of that application, the Grand Chamber found a violation of Articles 3, 5, 6, 7, 8, 10, and 11 of the Convention, as well as of Article 18 in conjunction with Articles 5, 6, 8, 10, and 11. It also reserved the question of just satisfaction and indicated, in accordance with Article 46 of the Convention, that the respondent State should take every measure to secure, as soon as possible, the safe return of the relevant prisoners transferred from Crimea to prisons in Russia.

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81. *Ukraine v. Russia (*re *Crimea)* [GC], nos. 20958/14 and 38334/18, 25 June 2024. See also under Article 35 (Jurisdiction to deal with cases against Russia), Article 2 (Right to life - Enforced disappearances), Article 18 (Restrictions not prescribed by the Convention) above.
82. *Ukraine v. Russia (*re *Crimea)* (dec.) [GC], nos. 20958/14 and 38334/18, 16 December 2020.

The Grand Chamber judgment is important as Court held that, when determining the existence of an administrative practice of enforced disappearances contrary to Article 2 of the Convention, the overall examination should not be confined only to those individuals who had ultimately remained unaccounted for. Even though the presumption of death applied only to those individuals, the Court considered that the following factors were of particular importance in the overall context of a large number of instances of irregular deprivation of liberty and the relatively short period during which the abductions took place: the abductions were perpetrated by persons whose acts entailed the responsibility of the respondent State; the fact that the victims were predominantly pro-Ukrainian activists, journalists and Crimean Tatars who were perceived as opponents to the events that had unfolded in Crimea at the time; the fact that the abductions followed a particular pattern and were used as a means to intimidate and persecute such individuals in the enforcement of a global strategy of the respondent State to suppress the existing opposition in Crimea to the Russian "occupation". In the present case, there had been 43 documented cases of disappearances but only eight of those abducted are still missing and their whereabouts and fate remain unknown; most of the individuals concerned had been released soon after they had gone missing. Nevertheless, the Court considered that there had been "sufficiently numerous" instances of abduction to amount to a pattern or system ("repetition of acts") which was itself life-threatening to engage the applicability of Article 2 as regards that administrative practice: moreover, the respondent State's prosecuting authorities had systematically refused to carry out an effective investigation into credible allegations of enforced disappearance.

Index of cases

Solemn hearing

Speech given by the President of the European Court of Human Rights, Síofra O'Leary

26 January 2024

Distinguished Presidents of the Constitutional and Supreme Courts, Chair of the Ministers' Deputies, Secretary General of the Council of Europe, Commissioner for Human Rights, Excellencies, Ladies and Gentlemen,

For the Court and the Council of Europe, 2023 was marked by a historic fourth summit. In their Reykjavík Declaration, the forty-six Heads of State and Government reaffirmed:

> "[their] deep and abiding commitment to the European Convention on Human Rights and the European Court of Human Rights as the ultimate guarantors of human rights across our continent, alongside our domestic democratic and judicial systems.[1]

1. Reykjavík Declaration, Summit of the Council of Europe, United around our values, 16-17 May 2023, p. 4.

Tonight, I have the honour of delivering this address on behalf of the forty-five Convention Judges by whom I am surrounded.

I address you not merely in your capacity as national superior court judges but also as Convention judges, to whom it primarily falls to ensure that your national authorities comply with the obligations to which they have sovereignly subscribed by ratifying the European Convention on Human Rights.

We are conscious that you have travelled from far and wide and are grateful for your presence here tonight, which is testimony to your own commitment to the soon to be seventy-five-year-old Convention system.

We meet at a time when that system – whose character is at once both fragile and resilient – is again being called into question. And yet, paradoxically, we are ever more conscious, as we survey the situation in Europe and in the world, of the need to safeguard the three fundamental principles which underpin this system – democracy, the rule of law and human rights – whatever the legal basis relied upon.

After providing you with a brief overview of our judicial activity in 2023 (I), I would like to touch on a societal problem which continues to be too vividly and brutally reflected in our case-law and from which none of our societies appear to be immune (II). I will then extract some key themes from four landmark judgments handed down last year (III) before introducing you to our keynote speaker, Commissioner Reynders, who we warmly welcome to the Human Rights Building (IV).

(I)

As 2024 dawned, the number of applications pending before the Court, although high (68,450), has decreased significantly, compared to the close of 2022 (when over 74,000 applications were pending).

In the past year the Court dealt with 38,260 applications and handed down judgments in respect of 6,900 of them (a 66% increase on 2022). Approximately 6,400 applications were decided by Committees of three judges; while single-judges dealt with a further 25,834 applications. Over 16,600 applications were communicated to respondent States.

75% of pending applications originate from the same five States I listed last January, namely Türkiye (23,400 applications), the Russian Federation (12,450), Ukraine (8,750), Romania (4,150) and Italy (2,750).

Fortunately, the past year ushered in some new developments and even green shoots.

Firstly, the number of applications pending against the Russian Federation when its membership ceased has been reduced from over 17,000 to 12,450. Additional Committees, operational across all five Sections, have adopted judgments or decisions concerning 5,300 applications and communicated a further 9,400.

Secondly, thanks to greater recourse to Committees and the successful use of the friendly settlement procedure, the Italian docket has fallen from 3,531 to 2,750 applications.

Finally, in September, the Grand Chamber handed down a judgment in a leading case against Türkiye. It identified violations of Articles 7 and 6 § 1 of the Convention stemming from a systemic problem in cases tried in the aftermath of the attempted *coup d'état*.[2] A first batch of 1,000 follow-on applications, of which there are approximately eight thousand, has since been communicated.

In 2023 we engineered the necessary quantitative and qualitative shift in judicial work at Chamber and Committee levels. This is with a view to allowing Chambers more time and space to deal with the new and complex legal questions raised in many of the cases pending before them, while ensuring that Committees can increase judicial output and expedition where the existing well-established case-law, and a given case, so permit.

2023 was also a year characterised by procedural reflections and reforms.

A new Practice Direction sought to clarify the manner in which third parties can intervene in cases pending before the Court.[3] Five years after the entry into force of Protocol No. 16, the Court updated its guidelines for domestic courts considering whether to request an advisory opinion.[4] The Rules of Court now also contain a new rule on the treatment of highly sensitive documents. This

2. *Yüksel Yalçinkaya v. Türkiye* [GC], no. 15669/20, 26 September 2023.

3. Practice Direction on third-party intervention under Article 36 § 2 of the Convention or under Article 3, second sentence, of Protocol No. 161.

4. Updated Guidelines on the implementation of advisory opinion procedure under Protocol No. 16 to the Convention (coe.int).

responds to calls from High Contracting Parties, some of which had been involved in previous cases where the question of such access arose.[5]

Rule 28, which governs recusal, was clarified and consolidated following a consultation with stakeholders. A new Practice Direction issued last week seeks to ensure greater transparency and confirms the paramount importance attached to the independence and impartiality of the justice rendered by this Court.[6]

Which leaves me just a few, but very necessary, minutes to devote to interim measures.

When issuing interim measures, which it does in exceptional cases where there is an imminent risk of irreparable harm, the Court exercises its jurisdiction to ensure observance of the engagements undertaken by the High Contracting Parties in the Convention and Protocols thereto, in accordance with Article 19 of the Convention.

It is important to reiterate that a failure by a respondent State to comply with interim measures undermines the effectiveness of the right of individual application guaranteed by Article 34 of the Convention. It also undermines the formal undertaking of the State in question in Article 1 to protect the rights and freedoms set forth in the Convention.[7]

Last year, I expressed grave concern that some Contracting States are prepared to flout international rule of law requirements, disregarding the issuance of interim measures and seeking to undermine the authority of the Court by questioning its jurisdiction to do so.

Today, our concern should be heightened. This is because the criticism previously directed at this Court is now, in certain quarters, redirected at national judges. National judges who act in accordance with the rule of law, perform their essential judicial role, comply with their fundamental obligations under national law, the Convention system or other instruments of international law and uphold the right to effective judicial protection, preserving individual rights to physical integrity, liberty and to life itself.

Responding to recent attacks on what he referred to as the "European legal order" – to which you, we and the members of the CJEU here present all belong – the President of the French *Conseil Constitutionnel* emphasised this month that:

> "The notion of the rule of law underpins the entire European approach, whether at continent-wide level … in the context of the European Convention … or at European Union level. Let us not lose sight of the stability, credibility and influence that the European dimension confers on our countries.[8]

Showing contempt for judicial decisions adopted by independent and impartial courts, whether at national or international level, is never the solution in a democratic State governed by the rule of law.

The binding nature of interim measures does not of course mean that the Court does not listen to those who call on it to review its decision-making processes. Nor does it mean that it is not attuned to attempts by parties on either side to instrumentalise the Court. Consultations are ongoing on clearer codification of the Court's well-established case-law on Rule 39, greater transparency has been introduced in decision-making since last December and a revised Practice Direction, clarifying the Rule 39 process will be published once the consultation and codification are complete.[9]

Finally, returning to the Reykjavík Declaration, I thank your States wholeheartedly for having translated political support for the Convention system and the values it upholds into the provision of more sustainable financing. As we, the Judges of this Court, had so clearly indicated, this is necessary to enable us to exercise our judicial mission.

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5. See, for instance, *Al Nashiri v. Poland*, no. 28761/11, §§ 17-40 and 360-76, 24 July 2014, and *Yam v. the United Kingdom*, no. 31295/11, §§ 79-83, 16 January 2020. See also Press release ECHR 296 (2023) of 30 October 2023, "European Court introduces new rules on highly sensitive documents – new Rule 44F and amended Rule 33 § 1".
6. Press Release, ECHR 016 (2024) of 22 January 2024, "European Court updates rules on recusal of judges".
7. See, for example, *K.I. v. France*, no. 5560/19, §§ 115–16, 15 April 2021.
8. *Cérémonie de vœux du Président de la République au Conseil constitutionnel*, 8 January 2024.
9. See Press release ECHR 308 (2023) of 13 November 2023, "Changes to the procedure for interim measures (Rule 39 of the Rules of Court)".

(II)

Before turning to some of this year's jurisprudential landmarks, I would like to turn a spotlight on cases which address endemic and pervasive forms of violence, too often shielded from the glare of the law and from public exposure. This is because of where the violence occurs or the feelings of fear and shame it seeks to instil. Its victims are silent members of our own communities, perhaps even of our own families, with geography, age, social class or education providing no form of protection or immunity.

I am of course referring to domestic and gender-based violence.

Over the last two decades, starting with *Opuz v. Turkey*,[10] the Court has developed a rich body of case-law pursuant mainly to Articles 2, 3, 8 and 14 of the Convention, which seeks to protect and compensate individual victims and contributes to greater awareness of the legal mechanisms and responses required at national level to combat and prevent this type of violence.[11]

The Court's work has incited and informed the leadership of the Council of Europe in this field, whether through the indefatigable work of GREVIO or the Istanbul Convention,[12] to which thirty-nine Council of Europe States are now parties. Following ratifications by Moldova, the United Kingdom and Ukraine in 2022, the EU itself[13] ratified the Convention last year. It was joined two weeks ago by Latvia.

Year on year do we see in the cases pending before us a positive shift in patterns of private behaviour and State action in their regard? Sadly not, or not enough.

In 2023, in cases involving Bulgaria and Georgia, the Court found violations of either Articles 2 or 3 of the Convention, combined with Article 14, against the backdrop of a systemic failure by the relevant State authorities to address gender-based violence.[14] These cases follow on from judgments against the same two States,[15] as well as other judgments against Italy and Croatia, in 2022.[16] Last year we also handed down judgments highlighting the secondary victimisation of a 12 year old orphan who had complained of sexual abuse,[17] or the authorities' failure to protect a victim of domestic violence and to ensure her continued contact with her children. The blocking of contact had been used to compound and replace the previous physical abuse.[18]

Often in public discourse on domestic and gender-based violence one finds references to vulnerability and comparisons with the treatment of ethnic or minority groups. Yet the victims of domestic and gender-based violence are not born vulnerable. They are rendered vulnerable, on their journey from girl to womanhood, by the imbalanced social structures into which they are born, by the law and by law-makers, and by attitudes and patterns of behaviour in their regard which are ignored, permitted or endorsed by society, including the State.

In the cases I have referenced and the hundreds pronounced in previous years, our focus has been, and must remain the actions and omissions of State authorities. Many of these cases are complex. This is by virtue of their nature, the occurrence of violence in the private domain and the competing rights of the accused. But the relatively simple legal question which confronts us remains that framed by the Court in *Opuz* over 15 years ago:[19] were the applicants accorded equal and sufficient protection before the law?

(III)

Turning to the over 6,900 applications leading to judgments last year, rest assured that at this late hour I will highlight only four, all chosen for the broader themes they illustrate.

10. *Opuz v. Turkey*, no. 33401/02, ECHR 2009.
11. See *Kurt v. Austria* [GC], no. 62903/15, 15 June 2021, and the authorities cited therein.
12. Convention on preventing and combating violence against women and domestic violence (CETS No. 210). GREVIO is the Group of Experts on Action against Violence against Women and Domestic Violence.
13. See European Union declaration contained in the instrument of approval deposited on 28 June 2023.
14. *A.E. v. Bulgaria*, no. 53891/20, 23 May 2023, and *Gaidukevich v. Georgia*, no. 38650/18, 15 June 2023.
15. *Y and Others v. Bulgaria*, no. 9077/18, 22 March 2022, and *A and B v. Georgia*, no. 73975/16, 10 February 2022.
16. See, for example, *M.S. v. Italy*, no. 32715/19, 7 July 2022, and *J.I. v. Croatia*, no. 35898/16, 8 September 2022.
17. *B. v. Russia*, no. 36328/20, 7 February 2023.
18. *Luca v. Republic of Moldova*, no. 55351/17, 17 October 2023.
19. *Opuz*, cited above, §§ 199-200.

In *Fedotova and Others v. Russia* the Grand Chamber found a violation of the respondent State's positive obligations under Article 8 owing to the absence of any form of legal recognition of same-sex partnerships.[20]

Consolidating its existing case-law on the subject,[21] the Court recognised that the margin of appreciation accorded States Parties relates to the form of legal recognition required – which does not have to extend to marriage – and to the content of protection, which nevertheless has to be adequate.

The need to ensure recognition and effective protection of the private and family life of same-sex couples was firmly located in the values of a "democratic society" promoted by the Convention, foremost among which are pluralism, tolerance and broadmindedness. It would be incompatible with the underlying values of the Convention, as an instrument of the European public order, if the exercise of rights by a minority group were made conditional on its being accepted by the majority.

Follow on judgments requiring effective protection of same-sex couples were handed down by Chambers in the ensuing months in cases against Romania, Ukraine, Bulgaria and Poland.[22]

In relation to Article 10, and the protection afforded by the latter to whistle-blowers, the Grand Chamber seised the opportunity in *Halet v. Luxembourg*[23] to refine and clarify the relevant principles.

The applicant had disclosed several hundred tax documents to a media outlet which subsequently published them to draw attention to advantageous tax agreements concluded between the private company for which he worked and the respondent State. The applicant was dismissed by his employer, given a criminal fine and refused a whistle-blower defense by the national courts.

The detailed and technical reasoning of the Grand Chamber is not food for a solemn hearing. I refer to the judgment to draw attention to the relevant considerations which arise in relation to the public interest in whistle-blowing cases and the fine-tuning of the balancing exercise to be conducted by national authorities in those cases. The Court indicated that account should be taken of the detrimental effects of disclosure taken as a whole, in so far as they may affect private interests (whether those of an employer or a third party) and public ones (encompassing the wider economic good and citizens' confidence in the fairness and justice of a State's fiscal policies).

Given that the new EU Whistle-Blowing Directive refers to the relevant criteria established in the case law of this Court, *Halet* is a leading Convention judgment in a field which will no doubt see further, developing synergies in the case-law of the two European Courts.[24]

Moving to Chamber judgments and decisions, at a time when the Court is unjustifiably criticised for failing to take account of the difficulties faced by States in the fight against terrorism, it is worthwhile highlighting the judgment in *Pagerie v. France*.[25]

The case raised the issue whether sufficient procedural safeguards had been attached to a lengthy preventive curfew imposed on a radicalised Islamist during the state of emergency declared in France following terrorist attacks, some of which had been coordinated by ISIL, from 2015 onwards.

Finding no violation of Article 2 of Protocol No. 4, the Chamber emphasised that:

> "The Court is acutely conscious of the difficulties associated with the fight against terrorism […]. Thus, in the area of the fight against terrorism, the Convention requires the member States to take preventive measures to protect the lives of the population in the event of a real and immediate risk of attack […] and also to secure effective safeguarding of the protected rights […]. The Court reiterates that it is primarily for the

20. *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, 17 January 2023

21. See, *inter alia*, *Oliari and Others v. Italy*, nos. 18766/11 and 36030/11, 21 July 2015 and *Orlandi and Others v. Italy*, nos. 26431/12 and 3 others, 14 December 2 017.

22. See *Buhuceanu and Others v. Romania,* nos. 20081/19 and 20 others, 23 May 2023; *Maymulakhin and Markiv v. Ukraine*, no. 75135/14, 1 June 2023; *Koilova and Babulkova v. Bulgaria*, no. 40209/20, 5 September 2023; *Przybyszewska and Others v. Poland*, nos. 11454/17 and 9 others, 12 December 2023.

23. *Halet v. Luxembourg* [GC], no. 21884/18, 14 February 2023.

24. Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law, OJ 2019 L305/17, recital 33.

25. *Pagerie v. France*, no. 24203/16, 19 January 2023.

> national authorities to strike the sometimes delicate balance between protection of the public and the safeguarding of rights, in accordance with the principle of subsidiarity. Nonetheless, this balancing exercise is subject to European supervision, a task entrusted to the Court.[26]

The final judgment I will refer to *Wałęsa v. Poland*[27] and its aftermath, mark an important inflection point. It follows multiple violations found in a series of previous cases challenging the impact of judicial reforms initiated in the respondent State in 2017.[28] The objective of those judgments, whether the violations rested on Articles 6, 8, 10 or even Article 18, has been to protect the national judiciary against unlawful external influence, from the executive, the legislature or from within the judiciary itself.

In *Wałęsa* the Court had recourse to its pilot judgment procedure, whose dual purpose is to reduce the threat to the effective functioning of the Convention system and to facilitate the most speedy and effective resolution of a dysfunction affecting the protection of Convention rights in the national legal order.

The Chamber found violations of Articles 6 and 8 of the Convention in the case brought by the applicant, the former leader of *Solidarność*. He had suffered the reversal, ten years on, by a Chamber of the Supreme Court of a final defamation judgment in his favour, following an appeal by the Prosecutor General. The Court regarded the latter appeal as "an abuse of the legal procedure by the State authority in pursuance of its own political opinions and motives".[29]

The interrelated systemic problems identified by the Court entailed repeated breaches of the fundamental principles of the rule of law, separation of powers and the independence of the judiciary. When deciding to apply the pilot judgment procedure, the Court emphasised that the state of continued non-compliance with the Convention had been perpetuated by the Constitutional Court's recent judgments, which in parallel had contested the primacy of EU law and the binding effect of CJEU judgments.

The judgment in *Wałęsa v. Poland* is a reminder that where the common values underpinning the Convention are openly challenged, common values which derive from Europe's common constitutional heritage, both European courts assist directly and indirectly in their defence, in defence of the other European system and in defence of independent and impartial national constitutional and supreme courts.[30]

It is also a judgment which speaks to the possibility of change. Soon after its delivery, notice was received by the Court from the respondent State of its

> "will and determination to implement ECHR judgments, particularly those regarding the principles of the rule of law and independence of the judiciary.[31]

(I V)

While I have thus far only referred to the ongoing conflict in Ukraine, other cold and active conflicts persist within the Convention legal space. Looking East, we see brutality and aggression playing out daily on our screens and in other people's streets and lives.

26. Ibid., §§ 147-50.

27. *Wałęsa v. Poland*, no. 50849/21, 23 November 2023.

28. *Dolińska-Ficek and Ozimek v. Poland*, nos. 49868/19 and 57511/19, 8 November 2021; *Advance Pharma sp. z o.o v. Poland*, no. 1469/20, 3 February 2022; *Xero Flor w Polsce sp. z o.o. v. Poland*, no. 4907/18, 7 May 2021, *Reczkowicz v. Poland*, no. 43447/19, 22 July 2021, *Grzęda v. Poland* [GC], no. 43572/18, 15 March 2022; *Żurek v. Poland*, no. 39650/18, 16 June 2022; *Tuleya v. Poland*, nos. 21181/19 and 51751/20, 6 July 2023; *Juszczyszyn v. Poland*, no. 35599/20, 6 October 2022.

29. *Wałęsa*, cited above, § 254.

30. See the Speech "EUnited in Diversity II – The Rule of Law and Constitutional Diversity: Perspectives from the European Court of Human Rights", The Hague, the Netherlands, 31st August – 1st September 2023, and, for concrete examples, Tuleya, cited above, § 264; and the joined cases of the ECJ of 22 February 2022 of *X and Y v. Openbaar Ministerie*, C-562/21 PPU and C-563/21 PPU, EU:C:2022:100 points 79-80 or, recently, Case C-718/21 *L.G. v. Krajowa Rada Sądownictwa* EU:C:2023:1015.

31. See the Statement of 15 December 2023.

As we face into the turbulence of 2024, the opening words of the United Nation's Charter carry particular resonance.

Our forebearers sought to save succeeding generations from the scourge of war, reaffirm faith in human rights, respect international law, promote social progress and practice tolerance. Now is surely not the time for our generation, on whom so much has been bestowed, to renege on these promises to the generations which succeed us.

Commissioner Reynders, I started and finished my address with references to the rule of law and common European values. This struck me as an appropriate springboard from which to introduce you as our keynote speaker.

In the Reykjavík Declaration the EU is identified as the main institutional partner of the Council of Europe in political, legal, and financial terms.

As EU Commissioner for Justice you have promoted the rule of law as a central component of the common DNA of both organisations.[32] Before PACE, you recently addressed EU accession to the Convention. Your annual Rule of Law reports, which survey EU and accession States, have focused, quite correctly, on the record of the States surveyed when it comes to execution of this Court's judgments.

It is heartening to see, whether in the recent work of the Commission or the CJEU, greater attention finally being paid to the vital contributions of the Venice Commission, GRECO[33] or CEPEJ,[34] alongside the judgments of this Court, to the defence of democracy and the rule of law.

Commissioner Reynders, the judicial members of Europe's legal order and other guests are eager to hear your words and I now invite you to take the floor.

32. See the speech at the Parliamentary Assembly of the Council of Europe, 12.10.2023.
33. Group of States against Corruption.
34. European Commission for the Efficiency of Justice.





Speech given by the European Commissioner for Justice, Didier Reynders

President of the European Court of Human Rights, Judges of the European Court of Human Rights, Presidents of the Constitutional Courts and Supreme Courts, President of the Ministers' Deputies, Secretary General of the Council of Europe, Secretary General of the Parliamentary Assembly, Excellencies,

Ladies and gentlemen,

Thank you for inviting me to speak at today's solemn hearing in my capacity as European Commissioner for Justice.

As Jacques Delors pointed out here in Strasbourg, nearly thirty years ago, when addressing the Parliamentary Assembly of the Council of Europe, we cannot forget that it was with the Council of Europe that it all began.

The European Convention on Human Rights came into force in 1953, more than seventy years ago, and it is the cornerstone of the Council of Europe's legal system.

Determined not to repeat the errors of the past, our predecessors who put so much effort into setting up the Convention and the legal system of the European Union were driven by a commitment to protect common values, namely the rule of law, fundamental rights and democracy.

Even today, the Convention constitutes a major achievement for human rights protection, allowing

as it does individuals to lodge their case directly before an international court.

For many applicants, the Strasbourg Court is a ray of hope in the face of injustice.

Furthermore, the Court does not merely rule on individual cases.

Through its case-law, it clarifies and develops the rules established by the Convention, thus ensuring that they are complied with throughout the whole of the Council of Europe's legal order. The Court also ensures that the Convention remains a living instrument, adapted to the protection of rights in changing societies.

Your work is therefore essential to ensure the protection of the rule of law and fundamental rights across the European continent.

In May last year, the Heads of State and Government met at the Reykjavik Summit to renew their commitment to the Council of Europe's values and principles, and to give further direction to its work.

As President von der Leyen stated at the Summit, we wish to strengthen the democratic foundations of the European Union. And we are very much looking forward to the Union acceding to the European Convention on Human Rights as soon as possible.

Indeed, the Union's accession to the Convention is not just a legal obligation under the Lisbon Treaty. It would also represent a major achievement for the protection of fundamental rights and for the strengthening of ties between the European Union and the Council of Europe.

Complementarity between the Charter and the Convention

As you know, the European Union's legal system in the area of fundamental rights is based on the Charter, and on the complementarity between it and the Convention.

While these two instruments have their own characteristics, they are both essential in order to ensure the protection of fundamental rights in the European legal space.

It is therefore not unheard of for EU bodies and the European Court of Human Rights to address the same questions concerning the rule of law, sometimes in respect of the same country, even if those questions manifest themselves in different ways.

The Strasbourg Court's recent judgment in *Wałęsa v. Poland*[1], which you have just mentioned Madam President, is a good case in point.

A final judgment given by a domestic court in Mr Wałęsa's favour was reversed nine years later by the Polish Supreme Court's Chamber of Extraordinary Review, on an extraordinary appeal.

In 2021 the European Court of Human Rights had already ruled that that Chamber of Extraordinary Review was not an "independent and impartial tribunal established by law".

In its *Wałęsa* judgment, the Court found a violation of the right to an independent tribunal and of the principle of legal certainty.

Having regard to the systemic nature of the violations it had found, the Court also applied its pilot-judgment procedure to the case, and held that Poland was to take adequate measures to put an end to the systemic violations of the Convention identified by it.

As the Court noted in its judgment, the European Commission had also criticised the extraordinary review procedure before this particular Chamber of the Polish Supreme Court in its proposal to trigger the so-called "Article 7 of the Treaty on European Union" procedure, aimed at determining whether there was a clear risk of a serious breach of the rule of law by Poland.

Furthermore, in a judgment of December last year, the Court of Justice of the European Union held, in the context of a reference for a preliminary ruling, that, given the manner in which judges of the Chamber of Extraordinary Review were appointed, a panel of its judges did not constitute a "court or tribunal" within the meaning of Article 267 of the Treaty on the Functioning of the European Union.

In support of its findings, the Luxembourg Court relied on the case-law of the European Court of Human Rights.

Thus, we can see that a dialogue also exists, and that a complementarity has developed between the two organisations, and particularly between the two Courts.

1. *Wałęsa v. Poland*, no. 50849/21, 23 November 2023.

The Commission's Rule of Law Report

However, it is always preferable to prevent rule-of-law crises before they arise and have to be resolved by the courts.

The European Commission's annual Rule of Law Report is a tool which aims to prevent such crises.

The fourth edition of the Report was published last July. As in the past, it was the result of close cooperation between the Commission, the Council of Europe and its bodies.

It is now settled practice that, in the Rule of Law Report, we examine the national rules of the Member States through the lens both of EU law, in particular the case-law of the Luxembourg Court of Justice, and of European standards, such as the recommendations of the Committee of Ministers, the opinions of the Venice Commission or GRECO and, of course, the judgments of the European Court of Human Rights.

The 2023 Report included recommendations for each Member State. These recommendations are aimed at encouraging the States to launch the necessary reforms.

Where applicable, our recommendations also refer to the European standards developed by the Council of Europe. This is particularly true for the composition of councils for the judiciary, whatever name they go by.

Following the announcement by President von der Leyen in her 2023 State of the Union address, this year the Commission will open the Reports to those candidate countries which are making the most progress in rule-of-law terms in their EU accession process, namely Albania, Montenegro, North Macedonia and Serbia.

By inviting those countries to participate in the yearly Report, the European Union is re-emphasising the importance it places on European standards across the entire continent.

The Report allows us to enter into dialogue with the Member States. Two-thirds of the recommendations we made in 2022 were wholly or partially implemented.

Advances in the rule of law can also be made through constitutional reforms, as was the case recently in the Grand Duchy of Luxembourg concerning the National Judicial Council, the majority of whose members will henceforth be judges elected by their peers, and the independence of the judiciary, in particular of the public prosecutor's office.

I will also, in the Commission's name, be opening a structured dialogue on the implementation by Spain of our recommendation related to the National Council for the Judiciary.

Dialogue always comes first.

We are currently engaged in dialogue with the new Polish government about the reforms to be implemented with a view, in particular, to re-establishing judicial independence.

When dialogue is not enough, the Commission uses the other tools at its disposal.

I have already mentioned Article 7 of the Treaty on European Union. Procedures in respect of Poland and Hungary are ongoing before the European Council.

We are bringing infringement procedures before the Court of Justice of the European Union, seeking, if necessary, the imposition of penalty payments.

More recently, we have been able to implement mechanisms linking respect for the rule of law or the Charter of Fundamental Rights to European funding paid to the Member States. The conditionality mechanism was relied upon when suspending funding to Hungary.

The Recovery and Resilience Plans adopted after the height of the COVID-19 pandemic contain obligations to introduce reforms, particularly in the fields of justice and the fight against corruption; the payment of funding is conditional on such steps. This is why no Recovery Plan payments have yet been made to Hungary and Poland, as they have not carried out the necessary reforms.

Funding of certain cohesion programmes has also been frozen for non-compliance with the Charter of Fundamental Rights.

The aim is not to punish, but to encourage reforms. If they are carried out, the budgetary measures can be lifted.

I should like now to talk about another issue, that of compliance with the judgments of your Court.

As President O'Leary recently observed:

> "In a State governed by the rule of law … judgments of national courts must be executed without exception and in a timely manner. The same requirement applies to the judgments issued by the Strasbourg Court …

I wholeheartedly agree.

For the last two years, the Rule of Law Reports have also contained, for each Member State, an overview of the implementation of the key cases of the European Court of Human Rights. And this will of course be the case for this year's Report as well.

Robust national judicial systems are essential

Generally speaking, the national courts are at the forefront in the fight against arbitrary decisions, discrimination and abuse of authority. They are called upon to give full effect to the rights set out in the Convention.

This is why it is essential to have robust national judicial systems which can withstand pressure.

When the system is working well, the protection of human rights should be satisfactorily secured at the national level. However, we know that this is not always the case.

That is why we also need robust, effective and independent institutions at the European level, such as the European Court of Human Rights, to promote and protect those values.

Ladies and gentlemen,

As your Court has pointed out, the rule of law is inherent in all the Articles of the Convention, and the Convention itself is based on that principle. It is compliance with the rule of law which confers on the actions of public authorities the legitimacy required in a democratic society.

The values which underpin the Convention, and the Charter of Fundamental Rights, are universal.

However, we can see that they are subjected to numerous and constantly changing challenges.

We see it in our Rule of Law Reports: every Member State could do better, in one way or another, and we make recommendations to them all, even if the scale of the risk differs from one State to another.

We also see it in the developments of the case-law of the European Court of Human Rights, for example regarding the independence of the judiciary.

And, far more seriously, we have been painfully reminded of the importance of these core values by the war of aggression being waged by Russia against Ukraine.

The inter-State cases pending before the Court against Russia, or the more than 7,400 individual applications concerning the events which occurred in the context of the invasion of Crimea or following the attack of February 2022 also attest to the importance of these core values.

The European Commission is fully committed to supporting Ukraine. We are contributing to the start-up costs of the Register of Damage created by the Council of Europe. We are monitoring the implementation of the sanctions imposed against Russia by the European Union, and are working in close cooperation with the International Criminal Court, the Ukrainian Prosecutor General, the Member States and Eurojust to ensure that the international crimes committed in Ukraine do not go unpunished.

Conclusion

Ladies and gentlemen,

Over the past judicial year, the European Court of Human Rights has once again delivered a number of key judgments which have enriched the European legal space.

Over the coming judicial year, your Court will once again be called upon to rule on questions that are central to the rule of law, the protection of human rights, and democracy.

I wish you all the best for your work to come, and I thank you again for having invited me today.

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European Court of Human Rights
Council of Europe
67075 Strasbourg Cedex
France
+ 33 (0)3 88 41 20 18
+ 33 (0)3 88 41 27 30

The Annual Report of the European Court of Human Rights provides information on the organisation, activities and case-law of the Court.

This Report contains a foreword by the President, an outline of the events that marked the year, the speeches delivered at the opening of the judicial year, an overview of the case-law, the year's judicial activities and the statistical data and tables of violations of Articles of the European Convention on Human Rights by member State.

The Report presents the Court's recent procedural reforms and provides an update on its knowledge-sharing and outreach programmes, notably the Superior Courts Network.

The Court's Annual Reports and other materials about the work of the Court and its case-law are available to download from the Court's website (www.echr.coe.int).

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The European Court of Human Rights is an international court set up in 1959 by the member States of the Council of Europe. It rules on individual or State applications alleging violations of the rights set out in the European Convention on Human Rights of 1950.

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

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