Annual Report 2008

Provisional Edition

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

1959 · 50 · 2009

Annual Report 2008

Provisional Edition

January 2009

Photograph: Council of Europe
Cover: the Human Rights Building (Architect: Richard Rogers Partnership)

CONTENTS

FOREWORD

The year 2008 was marked by the first of a series of celebrations at the Court which will continue throughout 2009 and 2010: tenth anniversary of the entry into force of Protocol No. 11 this year, fiftieth anniversary of the Court in 2009, and sixtieth anniversary of the European Convention on Human Rights in 2010. The Court also hosted a colloquy on the occasion of the sixtieth anniversary of the seminal text: the Universal Declaration of Human Rights. The events thus organised must not only look back to the past but also be used to look into the future. The first event was a seminar held at the Court on 13 October 2008, a few days ahead of the tenth anniversary of the entry into force of Protocol No. 11 to the Convention.

It was legitimate to celebrate Protocol No. 11, which made the Court a single, full-time institution, whilst bringing to a close the remarkable contribution of the European Commission of Human Rights and adapting the role of the Committee of Ministers. Protocol No. 11 simplified the supervision system and even radically transformed it. The system, being now purely judicial, undoubtedly represents an improvement on the previous mechanism. The right of individual petition and the Court's compulsory jurisdiction no longer depend on decisions by States: they have been automatic since the entry into force of the Eleventh Protocol or, for those States that have subsequently ratified the Convention, since the date of their respective ratification. An individual right to apply directly to the Court is a major feature of the European system; though slow to win acceptance and still unique in the world, it has become an incontestable acquired right welcomed by all. This right nevertheless has to be reconciled with the need for speedy and effective processing of applications – a challenge of considerable importance that presents equally considerable difficulties.

However, in 2008 the Court's caseload continued to increase. 2007 saw 41,650 new applications allocated to a judicial formation with a view to a decision and in 2008 the figure was in excess of 49,850. The Court gave 1,543 judgments in 2008. In addition, 2008 saw a very large increase in requests for interim measures: some 3,200 requests were received, of which almost 750 were granted, mostly in sensitive cases concerning immigration law and the right of asylum.

The causes of this saturation are well known: the Council of Europe, which had twenty-three members in 1990, on the accession of the first central European State (Hungary), now has forty-seven. In addition, some of the new member States have a high case-count with three of them (Russian Federation, Romania and Ukraine) accounting for nearly half of the total number, rising to 56% if Turkey is included.

Two further phenomena, however, explain the overloading of the Court, which is the cause of regrettable delays. First, certain applicants, usually because of ignorance about the Convention and the role of the Court, lodge applications which have no prospect of success but which still need to be examined. Secondly, the Court has to deal with a large number of repetitive cases, admittedly well-founded, but which should be disposed of at national level once the relevant principles have become well-established in Strasbourg case-law. The States must bear responsibility for this second problem if they have failed to implement the necessary internal reforms or if reforms have been delayed. Two examples of problems that should be dealt with nationally are the excessive length of proceedings and the failure to enforce domestic judgments. Some commentators have argued that the Convention case-law

should be binding erga omnes*, and that this would improve matters because all States would have to amend their legislation, and domestic courts would have to develop their own case-law, in line with a judgment of the Court against another State. Increasingly – and fortunately – domestic authorities and courts have been learning from case-law that does not concern them directly, thus creating an* erga omnes *effect* de facto*.*

The Court's intense activity in 2008, in terms of volume, did not impair the quality of its judgments, a quality that is reflected in particular in the rulings of the Grand Chamber.

Examples from last year illustrate the diversity and scope of the Court's case-law. A number of rulings have been widely reported in legal literature and have had a profound impact. The report contains extensive references to the main judgments and decisions delivered in 2008.

In addition, it should be noted that in 2008 the Court gave its first advisory opinion. On the basis of Article 47 of the European Convention on Human Rights, the Court had been asked by the Committee of Ministers of the Council of Europe to give its opinion on certain legal questions concerning the gender balance in the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights. The Court found that, in not allowing any exceptions to the rule that the under-represented sex must be represented, the current practice of the Parliamentary Assembly was not compatible with the Convention: where a Contracting Party had taken all the necessary and appropriate steps with a view to ensuring that the list contained a candidate of the under-represented sex, but without success, and especially where it had followed the Assembly's recommendations advocating an open and transparent procedure involving a call for candidatures, the Assembly could not reject the list in question on the sole ground that no such candidate featured on it.

One cannot fail to be struck by the variety, difficulty, and often gravity, of the problems brought before the Court.

For the Court to be able to focus on such important and interesting cases, some of the weight has to be taken off its shoulders. Hence the need to encourage subsidiarity and solidarity between domestic systems and the European mechanism. This is an indispensable means of reducing the flow of incoming applications, especially unmeritorious ones. It is necessary to go further, particularly through a constant increase in the number of domestic remedies, provided of course that they are effective and result in fair and complete redress. The Stockholm symposium held in June 2008 in connection with the Swedish chairmanship of the Committee of Ministers of the Council of Europe, under the title "Towards stronger implementation of the European Convention on Human Rights at national level", helped to lay down markers for the future.

As to Protocol No. 14, which has still not entered into force to date, it remains a matter of hope and a necessity for the Court. It is hoped that, in the coming months, a positive response will at last be secured for this major instrument of reform, admittedly insufficient by itself; but what is not sufficient may nevertheless be necessary, and even indispensable, as this is.

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

I. HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

HISTORY AND DEVELOPMENT OF THE CONVENTION SYSTEM

A. A system in continuous evolution

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

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

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

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

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

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

6. Where the respondent State had accepted the compulsory jurisdiction of the Court (this too having been optional until Protocol No. 11), the Commission and/or any Contracting State concerned had a period of three months following the transmission of the report to the Committee of Ministers within which to bring the case before the Court for a final, binding adjudication including, where appropriate, an award of compensation. Individuals were not entitled to bring their cases before the Court until 1994, when Protocol No. 9 came into force and amended the Convention so as to enable applicants to submit their case to a screening panel composed of three judges, which decided whether the Court should take it up.

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

The Protocols to the Convention

7. Since the Convention's entry into force, fourteen Protocols have been adopted. Protocols Nos. 1, 4, 6, 7, 12[1] and 13 added further rights and liberties to those guaranteed by the Convention. Protocol No. 2 conferred on the Court the power to give advisory opinions, a little-used function that is now governed by Articles 47 to 49 of the Convention[2]. As noted above, Protocol No. 9 enabled individuals to seek referral of their case to the Court. Protocol No. 11 radically transformed the supervisory system, creating a single, full-time Court to which individuals can have direct recourse. Protocol No. 14, which was adopted in 2004 and has since been ratified by all the Contracting States except the Russian Federation, will introduce a number of institutional and procedural reforms, the main objective being to expand the Court's capacity to deal with clearly inadmissible complaints as well as admissible cases that can be resolved on the basis of well-established case-law (see paragraphs 30-31 below). The other Protocols, which concerned the organisation of and procedure before the Convention institutions, are of no practical importance today.

B. Mounting pressure on the Convention system

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

1. This is the most recent to have come into force, having taken effect in 2005.
2. There have been two requests by the Committee of Ministers for an advisory opinion. The first request was found to be inadmissible, and an advisory opinion in respect of the second was delivered on 12 February 2008.

scale, the Court's statistics reflected a similar story, with the number of cases referred annually rising from 7 in 1981 to 119 in 1997[1].

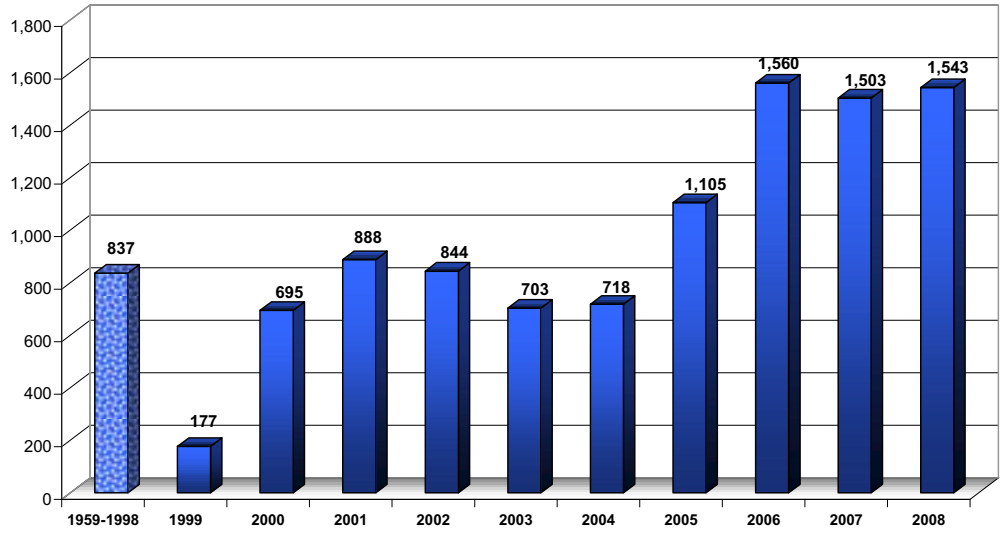
9. At the end of October 2008 the Court celebrated its first ten years as a full-time body. The graphs below and the statistics in Chapter XII attest to its current workload: by the end of 2008, 97,300 allocated applications were pending before the Court. Four States account for over half (57%) of its docket: 28% of the cases are directed against Russia, 11.4% of the cases concern Turkey, 9.1% Romania and 8.5% Ukraine. Whereas the former Commission allocated 45,000 cases to a judicial formation over a period exceeding forty years, the new Court allocated almost 50,000 cases in the year of 2008 alone. During its lifetime the Commission declared inadmissible or struck out some 32,000 applications, whereas the figure for the new Court for 2008 alone exceeded 30,000. Finally, whereas the old Court rendered some 800 judgments over a period over almost forty years, the new Court delivered almost double that figure in each of the last three years.

Applications allocated to a judicial formation

By the time Protocol No. 11 entered into force on 1 November 1998 establishing a full-time Court and opening up direct access to the Court for 800 million Europeans, the Court had delivered fewer than 1,000 judgments. Seven years on, at the end of 2005, the Court had delivered almost 6,000 judgments and less than three years later, in September 2008, the Court delivered its 10,000th judgment. In the course of 2008 it handed down 1,543 judgments concerning a total of 1,881 applications:

1. By 31 October 1998, the old Court had delivered a total of 837 judgments. The Commission received more than 128,000 applications during its lifetime between 1955 and 1998. From 1 November 1998 it continued to operate for a further twelve months to deal with cases already declared admissible before Protocol No. 11 came into force.

Judgments



The highest number of judgments concerned Turkey (264), Russia (244), Romania (199) and Poland (140). These four States accounted for more than half (55%) of all judgments. Nearly one-third (31%) of all judgments concerned eight other States: Ukraine (110 judgments), Italy (83), Greece (74), Bulgaria (60), Hungary (44), United Kingdom (35), France (34) and Moldova (33). The remaining thirty-five Contracting States accounted for 14% of all judgments.

In 2008 the Court dealt with an unprecedented number, over 3,000 in total, of requests for interim measures (Rule 39 of the Rules of Court).

At the end of 2008, as a result of the conflict that had broken out between Georgia and the Russian Federation in August, the Court had also received well over 3,000 applications concerning those hostilities. This very significant number of individual applications has increased the Court's already considerable workload. In addition, the Court also received an inter-State application from Georgia against the Russian Federation arising out of the events of summer 2008.

10. The Court's caseload has raised concerns over the continuing effectiveness of the Convention system. Further changes to the system were agreed in 2004, when Protocol No. 14 was adopted and opened for signature. Although Protocol No. 14 is intended to allow the Court to deal more rapidly with certain types of cases, it cannot lessen the flow of new applications. It is therefore widely agreed that further adaptation of the system will in any event be necessary. At the 3rd Summit of the Council of Europe in Warsaw in May 2005, the heads of State and government present decided to convene a Group of Wise Persons, composed of eminent legal personalities, to consider the steps that might be taken to ensure the system's continuing viability. The Group submitted its report in December 2006, making a number of recommendations, including introducing greater flexibility for reforming the judicial machinery and establishing a new judicial filtering mechanism.

Terms of reference have been given to the Council of Europe's Steering Committee for Human Rights (CDDH) to study and take forward the different proposals.

C. Organisation of the Court

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

12. The provisions governing the structure and procedure of the Court are to be found in Section II of the Convention (Articles 19-51). The Court is composed of a number of judges equal to that of the Contracting States[1]. Judges are elected by the Parliamentary Assembly of the Council of Europe, which votes on a shortlist of three candidates put forward by the States. The term of office is six years, and judges may be re-elected. Their terms of office expire when they reach the age of 70.

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

13. The Plenary Court has a number of functions that are stipulated in the Convention. It elects the office holders of the Court, namely, the President, the two Vice-Presidents (who also preside over a Section) and the three other Section Presidents. In each case, the term of office is three years. The Plenary Court also elects the Registrar and Deputy Registrar. The Rules of Court are adopted and amended by the Plenary Court. It also determines the composition of the Sections.

14. Under the Rules of Court, every judge is assigned to one of the five Sections, whose composition is geographically and gender balanced and takes account of the different legal systems of the Contracting States. The composition of the Sections is changed every three years.

15. The great majority of the judgments of the Court are given by Chambers. These comprise seven judges and are constituted within each Section. The Section President and the judge elected in respect of the State concerned sit in each case. Where the latter is not a member of the Section, he or she sits as an *ex officio* member of the Chamber. If the respondent State in a case is that of the Section President, the Vice-President of the Section will preside. In every case that is decided by a Chamber, the remaining members of the Section who are not full members of that Chamber sit as substitute members.

16. Committees of three judges are set up within each Section for twelve-month periods. Their function is to dispose of applications that are clearly inadmissible.

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

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

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

D. Procedure before the Court

1. General

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

20. The procedure before the European Court of Human Rights is adversarial and public. It is largely a written procedure. Hearings, which are held only in a very small minority of cases, are public, unless the Chamber/Grand Chamber decides otherwise on account of exceptional circumstances. Memorials and other documents filed with the Court's Registry by the parties are, in principle, accessible to the public.

21. Individual applicants may present their own cases, but they should be legally represented once the application has been communicated to the respondent Government. The Council of Europe has set up a legal aid scheme for applicants who do not have sufficient means.

22. The official languages of the Court are English and French, but applications may be submitted in one of the official languages of the Contracting States. Once the application has been formally communicated to the respondent State, one of the Court's official languages must be used, unless the President of the Chamber/Grand Chamber authorises the continued use of the language of the application.

2. The handling of applications

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

An individual application that clearly fails to meet one of the admissibility criteria is referred to a Committee, which will declare it inadmissible or strike it out. A unanimous vote is required, and the Committee's decision is final. All other individual applications, as well as inter-State applications, are referred to a Chamber. One member of the Chamber is designated

to act as judge rapporteur for the case. The identity of the rapporteur is not divulged to the parties. The application is communicated to the respondent Government, which is asked to address the issues of admissibility and merits that arise, as well as the applicant's claims for just satisfaction. The parties will also be invited to consider whether a friendly settlement is possible. The Registrar facilitates friendly settlement negotiations, which are confidential and without prejudice to the parties' positions.

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

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

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

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

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

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

3. Protocol No. 14

30. Protocol No. 14 will change the current organisation and procedure of the Court in a number of respects. When it takes effect, judges will be elected for a single term of nine years. The present judicial formations will be modified. It will in future be possible for the function discharged by a Committee to be taken on by a single judge, who cannot be the judge sitting in respect of the State concerned. The judge will be assisted by a new category of Court officers, to be known as rapporteurs. In addition to their existing competence Committees will have the power to give judgment in cases to which well-established case-law

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

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

E. Role of the Registry

32. Article 25 of the Convention provides that: "The Court shall have a registry, the functions and organisation of which shall be laid down in the Rules of Court. The Court shall be assisted by legal secretaries".

33. The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is therefore composed of lawyers, administrative and technical staff and translators. At the end of 2008 the Registry comprised 626 staff members. Registry staff members are staff members of the Council of Europe, the Court's parent organisation, and are subject to the Council of Europe's Staff Regulations. Approximately half the Registry staff are employed on contracts of unlimited duration and may be expected to pursue a career in the Registry or in other parts of the Council of Europe. They are recruited on the basis of open competitions. All members of the Registry are required to adhere to strict conditions as to their independence and impartiality.

34. The head of the Registry (under the authority of the President of the Court) is the Registrar, who is elected by the Plenary Court (Article 26 (e) of the Convention). He/She is assisted by one or more Deputy Registrars, likewise elected by the Plenary Court. Each of the Court's five judicial Sections is assisted by a Section Registrar and a Deputy Section Registrar.

35. The principal function of the Registry is to process and prepare for adjudication applications lodged by individuals with the Court. The Registry's lawyers are divided into thirty-one case-processing divisions, each of which is assisted by an administrative team. The lawyers prepare files and analytical notes for the Judges. They also correspond with the parties on procedural matters. They do not themselves decide cases. Cases are assigned to the different divisions on the basis of knowledge of the language and legal system concerned. The documents prepared by the Registry for the Court are all drafted in one of its two official languages (English and French).

36. In addition to its case-processing divisions, the Registry has divisions dealing with the following sectors of activity: information technology; case-law information and publications; research and the library; just satisfaction; press and public relations; and internal administration (including a budget and finance office). It also has a central office, which

handles mail, files and archives. There are two language divisions, whose main work is translating the Court's judgments into the second official language.

F. Budget of the Court

37. According to Article 50 of the Convention the expenditure on the Court is to be borne by the Council of Europe. Under present arrangements the Court does not have a separate budget, but its budget is part of the general budget of the Council of Europe. As such it is subject to the approval of the Committee of Ministers of the Council of Europe in the course of their examination of the overall Council of Europe budget. The Council of Europe is financed by the contributions of the forty-seven member States, which are fixed according to scales taking into account population and gross national product.

38. The Court's budget for 2008 amounted to 53.46 million euros. This covered Judges' remuneration, staff salaries and operational expenditure (information technology, official journeys, translation, interpretation, publications, representational expenditure, legal aid, fact-finding missions. etc). It did not include expenditure on the building and infrastructure (telephone, cabling. etc).

II. COMPOSITION OF THE COURT

COMPOSITION OF THE COURT

At 31 December 2008 the Court was composed as follows (in order of precedence)[1]:

Name	Elected in respect of
Jean-Paul Costa, President	France
Christos Rozakis, Vice-President	Greece
Nicolas Bratza, Vice-President	United Kingdom
Peer Lorenzen, Section President	Denmark
Françoise Tulkens, Section President	Belgium
Josep Casadevall, Section President	Andorra
Giovanni Bonello	Malta
Ireneu Cabral Barreto	Portugal
Corneliu Bîrsan	Romania
Karel Jungwiert	Czech Republic
Boštjan M. Zupančič	Slovenia
Nina Vajić	Croatia
Rait Maruste	Estonia
Anatoly Kovler	Russian Federation
Vladimiro Zagrebelsky	Italy
Elisabeth Steiner	Austria
Lech Garlicki	Poland
Elisabet Fura-Sandström	Sweden
Alvina Gyulumyan	Armenia
Khanlar Hajiyev	Azerbaijan
Ljiljana Mijović	Bosnia and Herzegovina
Dean Spielmann	Luxembourg
Renate Jaeger	Germany
Egbert Myjer	Netherlands
Sverre Erik Jebens	Norway
Davíd Thór Björgvinsson	Iceland
Danutė Jočienė	Lithuania
Ján Šikuta	Slovak Republic
Dragoljub Popović	Serbia
Ineta Ziemele	Latvia
Mark Villiger	Liechtenstein
Isabelle Berro-Lefèvre	Monaco
Päivi Hirvelä	Finland
Giorgio Malinverni	Switzerland
George Nicolaou	Cyprus
Luis López Guerra	Spain

1. The seats of judges elected in respect of San Marino and Ukraine are currently vacant.

Name	Elected in respect of
András Sajó	Hungary
Mirjana Lazarova Trajkovska	“The former Yugoslav Republic of Macedonia”
Ledi Bianku	Albania
Nona Tsotsoria	Georgia
Ann Power	Ireland
Zdravka Kalaydjieva	Bulgaria
Işıl Karakaş	Turkey
Mihai Poalelungi	Moldova
Nebojša Vučinić	Montenegro

Erik Fribergh, Registrar
Michael O’Boyle, Deputy Registrar

III. COMPOSITION OF THE SECTIONS

First Section

From 1 January 2008	
President	Christos Rozakis
Vice-President	Loukis Loucaides
	Nina Vajić
	Anatoly Kovler
	Elisabeth Steiner
	Khanlar Hajiyev
	Dean Spielmann
	Sverre Erik Jebens
	Giorgio Malinverni
Section Registrar	Søren Nielsen
Deputy Section Registrar	André Wampach

From 5 February 2008	
President	Christos Rozakis
Vice-President	Nina Vajić
	Anatoly Kovler
	Elisabeth Steiner
	Khanlar Hajiyev
	Dean Spielmann
	Sverre Erik Jebens
	Giorgio Malinverni
	George Nicolaou
Section Registrar	Søren Nielsen
Deputy Section Registrar	André Wampach

Second Section

From 1 January 2008	
President	Françoise Tulkens
Vice-President	András Baka
	Ireneu Cabral Barreto
	Rıza Türmen
	Mindia Ugrekhelidze
	Vladimiro Zagrebelsky
	Antonella Mularoni
	Danutė Jočienė
	Dragoljub Popović
Section Registrar	Sally Dollé
Deputy Section Registrar	Françoise Elens-Passos

From 1 February 2008	
President	Françoise Tulkens
Vice-President	Antonella Mularoni
	Ireneu Cabral Barreto
	Rıza Türmen
	Vladimiro Zagrebelsky
	Danutė Jočienė
	Dragoljub Popović
	András Sajó
	Nona Tsotsoria
Section Registrar	Sally Dollé
Deputy Section Registrar	Françoise Elens-Passos

From 1 October 2008	
President	Françoise Tulkens
Vice-President	Ireneu Cabral Barreto
	Vladimiro Zagrebelsky
	Danutė Jočienė
	Dragoljub Popović
	András Sajó
	Nona Tsotsoria
	Işil Karakaş
Section Registrar	Sally Dollé
Deputy Section Registrar	Françoise Elens-Passos

Third Section

From 1 January 2008	
President	Boštjan M. Zupančič
Vice-President	Corneliu Bîrsan
	Jean-Paul Costa
	Elisabet Fura-Sandström
	Alvina Gyulumyan
	Egbert Myjer
	Davíd Thór Björgvinsson
	Ineta Ziemele
	Isabelle Berro-Lefèvre
Section Registrar	Santiago Quesada
Deputy Section Registrar	Stanley Naismith

From 5 February 2008	
President	Josep Casadevall
Vice-President	Elisabet Fura-Sandström
	Corneliu Bîrsan
	Boštjan M. Zupančič
	Alvina Gyulumyan
	Egbert Myjer
	Ineta Ziemele
	Luis López Guerra
	Ann Power[1]
Section Registrar	Santiago Quesada
Deputy Section Registrar	Stanley Naismith

1. Ann Power took up office on 3 March 2008.

Fourth Section

From 1 January 2008	
President	Nicolas Bratza
Vice-President	Josep Casadevall
	Giovanni Bonello
	Kristaq Traja
	Stanislav Pavlovschi
	Lech Garlicki
	Ljiljana Mijović
	Ján Šikuta
	Päivi Hirvelä
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

From 5 February 2008	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Kristaq Traja
	Stanislav Pavlovschi
	Ljiljana Mijović
	Ján Šikuta
	Päivi Hirvelä
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

From 12 February 2008	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Kristaq Traja
	Stanislav Pavlovschi
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

From 26 February 2008	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Stanislav Pavlovschi
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
	Ledi Bianku
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

From 6 May 2008	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
	Ledi Bianku
	Mihai Poalelungi
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

From 2 September 2008	
President	Nicolas Bratza
Vice-President	Lech Garlicki
	Giovanni Bonello
	Ljiljana Mijović
	Davíd Thór Björgvinsson
	Ján Šikuta
	Päivi Hirvelä
	Ledi Bianku
	Mihai Poalelungi
	Nebojša Vučinić
Section Registrar	Lawrence Early
Deputy Section Registrar	Fatoş Aracı

Fifth Section

From 1 January 2008	
President	Peer Lorenzen
Vice-President	Snejana Botoucharova
	Karel Jungwiert
	Volodymyr Butkevych
	Margarita Tsatsa-Nikolovska
	Rait Maruste
	Javier Borrego Borrego
	Renate Jaeger
	Mark Villiger
Section Registrar	Claudia Westerdiek
Deputy Section Registrar	Stephen Phillips

From 5 February 2008	
President	Peer Lorenzen
Vice-President	Snejana Botoucharova
	Jean-Paul Costa
	Karel Jungwiert
	Volodymyr Butkevych
	Rait Maruste
	Renate Jaeger
	Mark Villiger
	Isabelle Berro-Lefèvre
	Mirjana Lazarova Trajkovska
Section Registrar	Claudia Westerdiek
Deputy Section Registrar	Stephen Phillips

From 6 May 2008	
President	Peer Lorenzen
Vice-President	Rait Maruste
	Jean-Paul Costa
	Karel Jungwiert
	Volodymyr Butkevych
	Renate Jaeger
	Mark Villiger
	Isabelle Berro-Lefèvre
	Mirjana Lazarova Trajkovska
	Zdravka Kalaydjieva
Section Registrar	Claudia Westerdiek
Deputy Section Registrar	Stephen Phillips

From 1 December 2008	
President	Peer Lorenzen
Vice-President	Rait Maruste
	Jean-Paul Costa
	Karel Jungwiert
	Renate Jaeger
	Mark Villiger
	Isabelle Berro-Lefèvre
	Mirjana Lazarova Trajkovska
	Zdravka Kalaydjieva
Section Registrar	Claudia Westerdiek
Deputy Section Registrar	Stephen Phillips

IV. SPEECH GIVEN BY MR JEAN-PAUL COSTA, PRESIDENT OF THE EUROPEAN COURT OF HUMAN RIGHTS, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 25 JANUARY 2008

SPEECH GIVEN BY MR JEAN-PAUL COSTA, PRESIDENT OF THE EUROPEAN COURT OF HUMAN RIGHTS, ON THE OCCASION OF THE OPENING OF THE JUDICIAL YEAR, 25 JANUARY 2008

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

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

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

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

Our Court finds itself at the intersection of these tensions – I might even say these contradictions. And what can be said of the obvious correlation between internal and international conflicts and the aggravation of risks for human rights, other than that Europe is not a happy island, sheltered from wars and crises? Certainly, *pax europeana* holds good overall, but there are many dangerous pockets of tension, in the Balkans, in the Caucasus and at Europe's margins; after all, the conflict in the former Yugoslavia ended scarcely more than ten years ago. In short, our Court does not have only peaceful situations to deal with. In any event the human rights situation is fragile everywhere, it can deteriorate under the pressure of particular circumstances, and human rights always have to be won all over again. This very precariousness of fundamental rights was the reason our Court was set up and remains its permanent justification. It is true that the founder members of the Council of Europe and the drafters of the Convention expected a gradual improvement, based on the three linked pillars of human rights, the rule of law and democracy. Those three principles can only make progress together. If when taking stock we go back as far as the 1950s, there is no doubt that, despite ups and downs, that is what has happened. The European system has surely helped to consolidate fundamental rights, but it has also added to their number, in a movement which is both creative and forward-moving.

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

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

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

up nearly 60% of the total of pending cases: the Russian Federation alone accounts for nearly a quarter of the total "stock" of applications before the Court.

I must also point out that this situation, alarming though it is, has not prevented the Court from giving important judgments, of which I will mention a few examples in a moment. I can also vouch for the fact that the authority and prestige of the Court remain intact, as I have been able to observe during my visits to Contracting States and top-level meetings in Strasbourg. Visits to the Court have indeed become an essential part of any journey to Strasbourg, and some of our visitors come from other continents to find out about our Court and what it is doing. Our judgments are better known and, on the whole, better executed, even though there is still work to be done. Here I would like to take the opportunity to thank the Committee of Ministers, which is responsible for overseeing execution of the Court's judgments. In addition, the numerous meetings with national and international courts and the increasing participation by the Court in training programmes for judges and legal officers provide a way of improving knowledge of the Convention and our case-law. Considerable progress has been made in the area of data-processing and modern techniques to facilitate access to information from the Registry (including access to applications at the stage of their communication to Governments), and to open up access to hearings before the Court, which can be viewed on our website by Internet users in any part of the world. I thank the Government of Ireland for the invaluable assistance they gave the Court to make that possible.

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

The *Behrami v. France* and *Saramati v. France, Germany and Norway* cases[1] concerned events in Kosovo. I will not discuss them in detail, since Mrs Arbour is better placed than I to analyse the relevant decisions, given in the context of United Nations peace-keeping operations in Kosovo conducted by KFOR and UNMIK. I will simply say that the Court held that the actions and omissions of the Contracting Parties were not subject to its supervision and declared the applications inadmissible.

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

In the *Gebremedhin [Gaberamadhien] v. France*[4] judgment, the Court looked into the procedure known as "asylum at the border", in which the asylum-seeker is placed in a holding area at the airport and refused admission to the territory. In the Court's view, where such asylum-seekers ran a serious risk of torture or ill-treatment in their country of origin, Article 13 of the Convention required them to have access to a remedy with automatically

1. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.
2. No. 34445/04, 11 January 2007.
3. No. 59334/00, 18 January 2007.
4. No. 25389/05, 26 April 2007, to be reported in ECHR 2007.

suspensive effect. No such remedy had been available in that case. Here I would like to point out that the legislature did introduce one a few months after our judgment and in order to comply with it.

The *Evans v. the United Kingdom*[1] case raised very sensitive ethical questions. It concerned the extraction of eggs from the applicant's ovaries for *in vitro* fertilisation. The applicant complained that under domestic law her former partner could withdraw his consent to the storage and use of the embryos, thus preventing her from having a child with whom she would have a genetic link. The Court accepted that "private life" encompassed the right to respect for the decision to become or not to become a parent. It therefore held that the legal obligation to obtain the father's consent to the storage and implantation of the embryos was not contrary to Article 8 of the Convention. On the other hand, in *Dickson v. the United Kingdom*[2], it took the view that there had been a violation of Article 8 on account of the refusal to allow a request for artificial insemination treatment by a prisoner whose wife was at liberty, since a fair balance had not been struck between the conflicting public and private interests.

Lastly, in two important cases the Court found violations of the right to education, guaranteed by Article 2 of Protocol No. 1. The first, *Folgerø and Others v. Norway*[3], concerned the refusal to grant pupils in public primary and lower secondary schools full exemption from participation in Christianity, religion and philosophy lessons. By a very narrow majority the Court held that the respondent State had not done enough to ensure that the information and knowledge the syllabus required to be taught in these lessons were put across in a sufficiently objective, critical and pluralistic manner. In the second case, *D.H. and Others v. the Czech Republic*[4], it held to be discriminatory and contrary to Article 14 of the Convention a practice of placing Roma children in special schools intended for children suffering from a mental disability. It held that Roma, as a disadvantaged and vulnerable minority, were in need of special protection extending to the sphere of education.

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

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

1. [GC], no. 6339/05, 10 April 2007, to be reported in ECHR 2007.
2. [GC], no. 44362/04, 4 December 2007, to be reported in ECHR 2007.
3. [GC], no. 15472/02, 29 June 2007, to be reported in ECHR 2007.
4. [GC], no. 57325/00, 13 November 2007, to be reported in ECHR 2007.

weeks, that great country, the main supplier of cases to Strasbourg, will reconsider its decision, or rather the lack of a decision, which weakens us and undermines the whole process of European cooperation. I therefore retain that hope, but as Albert Camus wrote: "hope, contrary to popular belief, is tantamount to resignation. And living means not being resigned."

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

Individual petition is a major feature of the European system, and it is a unique feature, established with great difficulty and finally generalised less than ten years ago. I have repeatedly declared that it is quite simply inconceivable to abandon the right of individual petition deliberately, and I note in passing that to abolish it the Convention would need to be amended by a Protocol – which is no easy matter, as experience has shown! But it seems to me that no supreme court, be it national or international, can do without procedures whereby it can refuse to accept cases, or reject them summarily – in short a filtering mechanism. What the Court must now do, and in this I am sure it will be supported by the Committee of Ministers, is to introduce on its own initiative procedures which, without contravening the Convention, enable it to achieve a different balance. That is to say, it must be able to rule more rapidly and with a greater concentration of its resources on those applications which raise real problems, and to deal more summarily with those which, even when applicants are acting in good faith, are objectively unmeritorious or which concern situations that in themselves cause applicants no real prejudice. The policy I have already mentioned, of defining priorities more precisely, forms part of this shifting of the balance between applications, or in other words this differentiated treatment, which is both fair and inevitable. In short, the aim would be, if we cannot immediately apply the letter of Protocol No. 14, to remain as faithful as possible to its spirit, not forgetting that it was the States which drafted it and that all have signed it. We will not drive straight into the wall. If the obstacle remains in place we will try to find a way round it.

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

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

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

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

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

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

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

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

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

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

Recommendations and resolutions of the Committee of Ministers and the Parliamentary Assembly, reports of the Human Rights Commissioner and various committees working under the aegis of the Secretary General often serve as a source of inspiration for our judgments. But these texts may also play a role in preventing violations, thus removing causes

for a complaint to the Court. In the same spirit we may expect, as the Wise Persons observed in their report, a beneficial effect from the work of national ombudsmen and mediators.

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

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

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

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

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

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

Thank you.

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

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

President Costa, members of the Court, ladies and gentlemen, dear friends and colleagues,

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

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

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

Mr President, some people argue that the European Court of Human Rights has become a victim of its own success, in view of the already high and still increasing number of cases before it. The Court's procedures, which were established some years ago, do not allow it to

deal with such a volume of cases within a reasonable time. I therefore find it regrettable that Protocol No. 14, which provides for more effective procedures by amending the Court's control system, has not been ratified by all the States Parties to the Convention. I sincerely hope that this additional instrument will come into force quickly, so that the Court can deal more efficiently with the volume of complaints brought before it.

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

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

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

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

1. [GC], no. 63235/00, 19 April 2007, to be reported in ECHR 2007.
2. [GC], no. 6339/05, 10 April 2007, to be reported in ECHR 2007.
3. [GC], no. 52391/99, 15 May 2007, to be reported in ECHR 2007.
4. [GC], nos. 21279/02 and 36448/02, 2 October 2007, to be reported in ECHR 2007.
5. (dec.) [GC], nos. 71412/01 and 78166/01, 2 May 2007.

Highlighting the degree to which human rights and classic international law have now become closely interwoven, the case required the Court to assess a particularly complex web of international legal materials, ranging from the United Nations Charter to the International Law Commission's Draft Articles on the Responsibility of International Organisations and on State Responsibility, respectively, as well as the Military Technical Agreement, the relevant United Nations Security Council Resolutions, the Regulations on KFOR/UNMIK status, privileges and immunities, KFOR Standard Operating Procedures, and so on. The United Nations Office of Legal Affairs itself submitted a third-party brief to the Court, set out in the judgment, delineating the legal differences between UNMIK and KFOR. It also argued, in respect of the cluster-bomblet accident, that in the absence of necessary location information being passed on from KFOR, "the impugned inaction could not be attributed to UNMIK".

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

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

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

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

In international law, there is a real risk of unnecessary fragmentation of the law, with different interpretative bodies taking either inconsistent, or worse, flatly contradictory views of the law, without proper acknowledgment of differing views, and proper analysis in support of the stated better position. In the field of human rights, these effects can be particularly damaging, especially when differing views are taken of the scope of the same State's obligations. Given the wide degree of overlap of substantive protection between the European Convention and, in particular, the International Covenant on Civil and Political Rights, the Court's use of United Nations materials diminishes the risk of inconsistent jurisprudence and enhances the likelihood of a better result in both venues.

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

Allow me to add how encouraged I have been by the dramatic expansion in the Court's practice of *amicus curiae* third-party briefs, which put before the Court broader views and other legal approaches, and which can be beneficial in giving the Court's interpretations of the Convention the richest possible basis. As High Commissioner for Human Rights, over the last two years I have begun myself to use this tool, putting briefs to the Special Court for Sierra Leone, the International Criminal Court, the Iraqi High Tribunal and the United States

1. [GC], no. 57325/00, 13 November 2007, to be reported in ECHR 2007.

Supreme Court, in instances where I have felt that the court might be assisted by my input on a particular point of international human rights law. I am sure that in due course similar opportunities before this Court will present themselves, and I hope to be in a position to make useful contributions to your work in this fashion.

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

Against this background, this Court's jurisprudence has been very constructive in setting the stage for progress on these issues. Although the Convention's articulation of rights is essentially civil and political in character, the Court has not hesitated to draw upon the interconnected nature of all rights to address many economic, social and cultural issues through the lens of – nominally – civil rights. The Court's approach, for example, to health issues through the perspective of the right to security of the person – in the absence of a right to health as such – shows how rights issues can be effectively approached from various perspectives. These techniques are of real value to national judiciaries, whose constitutional documents are also often limited to listings of civil and political rights, which nevertheless seek to address issues of broader community concern in rights-sensitive fashion.

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

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

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

Thank you.

VI. VISITS

VISITS

21 January	Mr Robert Fico, Prime Minister, Slovakia Mr Ján Kubiš, Chairman of the Committee of Ministers
24 January	Mr Mikheil Saakashvili, President of Georgia, Mr George Papuashvili, President of the Constitutional Court, and Mr Konstantine Kublashvili, President of the Supreme Court, Georgia
25 January	Mr Farhad Abdullayev, President of the Constitutional Court, Azerbaijan Mr Rajko Kuzmanović, President of the Republika Srpska, Bosnia and Herzegovina
29 January	Mr Pierre Morel, European Union Special Representative for Central Asia
26 February	Mr Claude d'Harcourt, Prefect, Director of the French Prison Service, France
14 April	Mr Ivan Gašparovič, President of Slovakia
15 April	Mrs Angela Merkel, Federal Chancellor, Germany
17 April	Mr Bernard Kouchner, Minister for Foreign and European Affairs, France
6 May	Mr Haşim Kılıç, President of the Constitutional Court, Turkey
7 May	Mr Edward Nalbandyan, Minister for Foreign Affairs, Armenia
23 May	Mr Abdou Diouf, Secretary General of the *Organisation Internationale de la Francophonie*
17 June	Mrs Iva Brozova, President of the Supreme Court, Czech Republic
23 June	Mr Carl Bildt, Minister for Foreign Affairs, Sweden
26 June	Mr Jakob Kellenberger, President of the International Committee of the Red Cross
30 June	Mrs Meglena Kuneva, European Commissioner Mr Filip Vujanović, President of Montenegro
7 July	Mr Marc Perrin de Brichambaut, Secretary General of the OSCE
8 July	Mr Vladimir Kristo, President of the Constitutional Court, Albania
23 September	Mr Torben Melchior, President of the Supreme Court, Denmark

29 September	Mr Haris Silajdžić, President of Bosnia and Herzegovina Mr Jorge Sampaio, United Nations High Representative for Alliance of Civilizations
30 September	Mr Frank Belfrage, State Secretary for Foreign Affairs, Sweden Mr Demetris Christofias, President of Cyprus
1 October	Mrs Nyamko Sabuni, Minister for Integration and Gender Equality, Sweden
2 October	Mr Mehmet Ali Talat, Leader of the Turkish Cypriot community Mr Fredrik Reinfeldt, Prime Minister, Sweden
9 October	Mr Mihajlo Manevski, Minister of Justice, "the former Yugoslav Republic of Macedonia" Mr Alexander Konovalov, Minister of Justice, Russian Federation Mr Jean-Marie Delarue, Inspector-General of Custodial Facilities, France
16 October	Mr Jacques Barrot, Vice-President of the European Commission, Commissioner responsible for Justice, Freedom and Security Mr Arman Mkrtumyan, President of the Court of Cassation, Armenia
21 October	Mr Gilbert Azibert, Secretary General to the Ministry of Justice, France
6 November	Delegation from the Supreme Court, Latvia
12 November	Delegation from the Supreme Court, Japan
18 November	Mrs Rieta Kieber-Beck, Minister for Foreign Affairs, Liechtenstein Mrs Meddžida Kreso, President of the Court of Bosnia and Herzegovina
8 December	Mr Marian Lupu, Speaker of Parliament, Moldova

VII. ACTIVITIES OF THE GRAND CHAMBER AND SECTIONS

ACTIVITIES OF THE GRAND CHAMBER AND SECTIONS

1. Grand Chamber

At the beginning of the year, there were 26 cases (concerning 26 applications) pending before the Grand Chamber. At the end of the year there were 22 cases (concerning 23 applications).

15 new cases (concerning 23 applications) were referred to the Grand Chamber, 5 by relinquishment of jurisdiction by the respective Chambers pursuant to Article 30 of the Convention, and 10 by a decision of the Grand Chamber's panel to accept a request for re-examination under Article 43 of the Convention.

The Grand Chamber held 18 oral hearings.

The Grand Chamber delivered 1 advisory opinion, pursuant to Article 47 of the Convention, and 16 judgments on the merits (concerning 17 applications), 8 in relinquishment cases, 8 in rehearing cases, as well as 2 striking out judgments (one of which following a friendly settlement).

2. First Section

In 2008 the Section held 39 Chamber meetings. Oral hearings were held in 2 cases. The Section delivered 346 judgments for 400 applications, of which 338 concerned the merits, 3 concerned friendly settlements and 5 dealt with just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 1,115 cases and 353 judgments were delivered under this procedure.

Of the other applications examined by a Chamber
(a) 32 were declared admissible in a separate decision;
(b) 44 were declared inadmissible;
(c) 131 were struck out of the list; and
(d) 1,119 were communicated to the State concerned for observations, of which 1,101 were communicated by the President.

In addition, the Section held 38 Committee meetings. 4,654 applications were declared inadmissible and 75 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.4% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 30,972 applications were pending before the Section.

3. Second Section

In 2008 the Section held 45 Chamber meetings (including 1 in the framework of the Section's former composition). Oral hearings were held in 3 cases. The Section delivered

372 judgments for 495 applications (including 5 in its former composition), of which 368 concerned the merits, 3 concerned friendly settlements and 1 dealt with just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 1,284 cases and 345 judgments were delivered under this procedure.

Of the other applications examined by a Chamber
(a) 10 were declared admissible in a separate decision;
(b) 178 were declared inadmissible;
(c) 123 were struck out of the list; and
(d) 1,281 were communicated to the State concerned for observations, of which 1,123 were communicated by the President.

In addition, the Section held 57 Committee meetings. 2,612 applications were declared inadmissible and 79 applications were struck out of the list. The total number of applications rejected by a Committee represented around 89% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 18,150 applications were pending before the Section.

4. Third Section

In 2008 the Section held 44 Chamber meetings. An oral hearing was held in 1 case. The Section delivered 286 judgments for 298 applications (including 2 in its former composition), of which 278 concerned the merits and 8 dealt with just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 667 cases and 261 judgments were delivered under this procedure.

Of the other applications examined by a Chamber
(a) 13 were declared admissible in a separate decision;
(b) 60 were declared inadmissible;
(c) 260 were struck out of the list; and
(d) 725 were communicated to the State concerned for observations, of which 609 were communicated by the President.

In addition, the Section held 65 Committee meetings. 6,384 applications were declared inadmissible and 172 applications were struck out of the list. The total number of applications rejected by a Committee represented 95% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 15,157 applications were pending before the Section.

5. Fourth Section

In 2008 the Section held 42 Chamber meetings. An oral hearing was held in 1 case. The Section delivered 261 judgments for 271 applications, of which 233 concerned the merits and 2 concerned friendly settlements; 5 concerned strike out cases; 11 Article 41 judgments; 7 judgments with Article 41 reserved and 3 revision judgments. Article 29 § 3 of the Convention (combined examination of admissibility and merits) was applied in 623 cases and 235 judgments were delivered under this procedure.

Of the other applications examined by a Chamber
(a) 8 were declared admissible in a separate decision;
(b) 178 were declared inadmissible;
(c) 573 were struck out of the list; and
(d) 631 were communicated to the State concerned for observations, of which 604 were communicated by the President.

In addition, the Section held 35 Committee meetings. 5,525 applications were declared inadmissible and 539 applications were struck out of the list. The total number of applications rejected by a Committee represented 88.98 % of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 12,350 applications were pending before the Section.

6. Fifth Section

In 2008 the Section held 42 Chamber meetings (including 1 administrative and 1 information meeting). Oral hearings were held in 3 cases. The Section delivered 260 judgments for 396 applications, of which 250 concerned the merits, 3 concerned friendly settlements, 1 concerned the striking out of a case and 6 dealt with just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 617 cases and 248 judgments were delivered under this procedure.

Of the other applications examined by a Chamber
(a) 13 were declared admissible in a separate decision;
(b) 233 were declared inadmissible;
(c) 182 were struck out of the list; and
(d) 647 were communicated to the State concerned for observations, of which 565 were communicated by the President.

In addition, the Section held 41 Committee meetings. 7,997 applications were declared inadmissible and 164 applications were struck out of the list. The total number of applications rejected by a Committee represented 95.2% of the inadmissibility and striking-out decisions adopted by the Section during the year.

At the end of the year 20,609 applications were pending before the Section.

VIII. PUBLICATION OF THE COURT'S CASE-LAW

PUBLICATION OF THE COURT'S CASE-LAW

A. The Court's Internet site and case-law database

The Court's website (http://www.echr.coe.int) provides general information about the Court, including its composition, organisation and procedure, details of pending cases and oral hearings, as well as the text of press releases. In addition, the site gives access to the Court's case-law database (HUDOC), containing the full text of all judgments and of admissibility decisions, other than those adopted by Committees of three judges, since 1986 (including certain earlier ones), as well as resolutions of the Committee of Ministers in so far as they relate to its examination of cases under Article 46 of the Convention or under former Articles 32 and 54. The database is accessible via an advanced search screen and a search engine enables the user to carry out searches in the text and/or in separate data fields. A user manual and a help function are provided.

The Court's database is also available on DVD. In addition, monthly Case-law Information Notes are accessible free of charge *via* the HUDOC search portal. These contain summaries of cases which the Jurisconsult, the Section Registrars and the Head of the Case-Law Information and Publications Division have highlighted for their particular interest (judgments, applications declared admissible or inadmissible and cases which have been communicated to the respondent Government for observations). An annual hard-copy subscription is also available and includes eleven issues as well as an index.

For information on how to subscribe to the DVD and the Information Notes please visit the Internet page "ECHR Publications".

In 2008 the Court's Internet site had over 165 million hits (an increase of 24% from 2007) in the course of over 3 million user sessions (an increase of 10% from 2007).

B. *Reports of Judgments and Decisions*

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

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

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

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

The published texts are accompanied by headnotes, key words and key notions as well as a summary. A separate volume containing indexes is issued for each year. So far the following judgments and decisions delivered in 2008 have been accepted for publication. Grand Chamber cases are indicated by [GC] and decisions by "(dec.)". Where a Chamber judgment is not final or a request for referral to the Grand Chamber is pending, the decision to publish the Chamber judgment is provisional. As a number of cases examined towards the end of 2008 have not yet been considered for possible publication the complete list will be included in the final version of this Annual Report.

Austria
Maslov v. Austria [GC], no. 1638/03, 23 June 2008

Belgium
Epstein and Others v. Belgium (dec.), no. 9717/05, 8 January 2008 (extracts)
Riad and Idiab v. Belgium, nos. 29787/03 and 29810/03, 24 January 2008 (extracts)

Bosnia and Herzegovina
Rodić and Others v. Bosnia and Herzegovina, no. 22893/05, 27 May 2008

Bulgaria
Dodov v. Bulgaria, no. 59548/00, 17 January 2008
C.G. and Others v. Bulgaria, no. 1365/07, 24 April 2008 (extracts)

Cyprus
Kafkaris v. Cyprus [GC], no. 21906/04, 12 February 2008

Czech Republic
Glaser v. the Czech Republic, no. 55179/00, 14 February 2008

France
E.B. v. France [GC], no. 43546/02, 22 January 2008
Coutant v. France (dec.), no. 17155/03, 24 January 2008
July and Sarl Libération v. France, no. 20893/03, 14 February 2008 (extracts)
El Morsli v. France (dec.), no. 15585/06, 4 March 2008
Marchiani v. France (dec.), no. 30392/03, 27 May 2008 (extracts)
Soulas and Others v. France, no. 15948/03, 10 July 2008
André and Other v. France, no. 18603/03, 24 July 2008
Boivin v. France and Belgium and 32 Other Member States of the Council of Europe (dec.), no. 73250/01, 9 September 2008

Georgia
The Georgian Labour Party v. Georgia, no. 9103/04, 8 July 2008

Greece
Arvanitaki-Roboti and Others v. Greece [GC], no. 27278/03, 15 February 2008
Alexandridis v. Greece, no. 19516/06, 21 February 2008

Hungary
Vajnai v. Hungary, no. 33629/06, 8 July 2008
Korbely v. Hungary [GC], no. 9174/02, 19 September 2008

Italy
Saadi v. Italy [GC], no. 37201/06, 28 February 2008

Latvia
Ādamsons v. Latvia, no. 3669/03, 24 June 2008
Kononov v. Latvia, no. 36376/04, 24 July 2008 (extracts)

Lithuania
Ramanauskas v. Lithuania [GC], no. 74420/01, 5 February 2008

Moldova
Guja v. Moldova [GC], no. 14277/04, 12 February 2008
Megadat.com SRL v. Moldova, no. 21151/04, 8 April 2008

Netherlands
Mir Isfahani v. the Netherlands (dec.), no. 31252/03, 31 January 2008

Poland
Ladent v. Poland, no. 11036/03, 18 March 2008 (extracts)
Hutten-Czapska v. Poland (just satisfaction) [GC], no. 35014/97, 28 April 2008

Romania
Rosengren v. Romania, no. 70786/01, 24 April 2008 (extracts)

Russia
Ryakib Biryukov v. Russia, no. 14810/02, 17 January 2008
Maslova and Nalbandov v. Russia, no. 839/02, 24 January 2008 (extracts)
Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, 20 March 2008 (extracts)
Shtukaturov v. Russia, no. 44009/05, 27 March 2008
Wasserman v. Russia (no. 2), no. 21071/05, 10 April 2008
Ismoilov and Others v. Russia, no. 2947/06, 24 April 2008 (extracts)
Dedovskiy and Others v. Russia, no. 7178/03, 15 May 2008 (extracts)
Chember v. Russia, no. 7188/03, 3 July 2008

Sweden
Barsom and Varli v. Sweden (dec.), nos. 40766/06 and 40831/06, 4 January 2008
Fägerskiöld v. Sweden (dec.), no. 37664/04, 26 February 2008

Switzerland
Hadri-Vionnet v. Switzerland, no. 55525/00, 14 February 2008

Turkey
Albayrak v. Turkey, no. 38406/97, 31 January 2008
Turgut and Others v. Turkey, no. 1411/03, 8 July 2008 (extracts)

Yumak and Sadak v. Turkey [GC], no. 10226/03, 8 July 2008
Araç v. Turkey, no. 9907/02, 23 September 2008

Ukraine
Kovach v. Ukraine, no. 39424/02, 7 February 2008

United Kingdom
Saadi v. the United Kingdom [GC], no. 13229/03, 29 January 2008
Burden v. the United Kingdom [GC], no. 13378/05, 29 April 2008
McCann v. the United Kingdom, no. 19009/04, 13 May 2008
N. v. the United Kingdom [GC], no. 26565/05, 27 May 2008
Liberty and Others v. the United Kingdom, no. 58243/00, 1 July 2008
N.A. v. the United Kingdom, no. 25904/07, 17 July 2008 (extracts)
Grayson and Barnham v. the United Kingdom, nos. 19955/05 and 15085/06, 23 September 2008 (extracts)

IX. SHORT SURVEY OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2008

SHORT SURVEY OF THE MAIN JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2008

Introduction

In 2008 the Court delivered a total of 1,543 judgments, a figure that represents a slight increase compared with the 1,503 judgments delivered in 2007; 18 judgments were delivered by the Court in its composition as a Grand Chamber (compared with 15 in 2007).

Many of the judgments concerned so-called "repetitive" cases: the number of judgments classed as importance level 1 or 2 in the Court's case-law database (HUDOC) represents 23% of all the judgments delivered in 2008*.

The number of cases declared admissible was 1,671, including 76 in which the declaration was made in a decision (compared with 185 in 2007) and 1,595 (1,441) in a judgment on the merits (joint examination of the admissibility and merits).

In Chamber and Grand Chamber compositions, 693 applications were declared inadmissible (compared with 491 in 2007) and 1,269 were struck out of the list (764).

The Court's Publications Committee has already accepted 54 of the judgments and decisions adopted by the Chambers and the Grand Chamber in 2008 for publication in the *Reports of Judgments and Decisions* 2008 (ECHR). In view of the large number of cases the Court examined in the last quarter of the year, the total number of judgments and decisions accepted for publication will appear in the final version of the 2008 Annual Report.

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

The highest number of judgments finding at least one violation of the Convention was delivered in respect of Turkey (257), followed by Russia (233), Romania (189), Poland (129) and Ukraine (110).

*. 1 = High importance – judgments which the Court considers make a significant contribution to the development, clarification or modification of its case-law, either generally or in relation to a particular State.
2 = Medium importance – judgments which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law.
3 = Low importance – judgments with little legal interest - those applying existing case-law, friendly settlements and striking out judgments (unless these have any particular point of interest).

Jurisdiction and admissibility

Victim status (Article 34)

In its *Burden v. the United Kingdom*[1] judgment, the Grand Chamber addressed the situation of individuals fearing that they would suffer directly from the effects of legislation without there being any individual acts of enforcement. Two unmarried sisters in their eighties complained that when one of them died the survivor would have to pay a considerable amount in inheritance tax, unlike the survivor of a married couple or civil partnership. The Grand Chamber found that, given the applicants' age, the wills they had made and the value of the property each owned, they had established that there was a real risk that, in the not too distant future, one would be required to pay substantial inheritance tax on the property inherited from her sister. In those circumstances, the Court held that the applicants could claim to be "victims".

"Core rights"

Right to life (Article 2)

In *Dodov v. Bulgaria*[2], the Court, for the first time, examined the case of the disappearance of an elderly Alzheimer's patient from the medical wing of a State-run nursing home, apparently as a result of staff negligence. The Court stated that Article 2 was applicable and held that there had been a violation of that Article on account of the State's failure to comply with its positive obligation to provide judicial remedies capable of establishing the facts and securing the accountability of those who had placed the patient's life in danger. The Court also found that there had been no violation with regard to the police response following news of the disappearance.

The case of *Renolde v. France*[3] concerned the suicide of a man in pre-trial detention who had been punished by confinement for forty-five days in a disciplinary cell, despite the fact that he suffered from acute psychotic illness and had made a suicide attempt three days prior to the confinement. The Court found that the authorities had failed in their positive obligation to protect the detainee's right to life, by not considering at any point his placement in a psychiatric institution, by not supervising the administration of his medication (given for several days at a time) and by imposing the heaviest disciplinary sanction without taking into account his condition. It held, for the first time in this type of situation, that there had been a violation of Article 2.

The Court was also called upon to rule on the effects of a natural disaster in a case concerning a mudslide in a mountain region which devastated a town and caused deaths, injuries and the destruction of homes. In the case of *Budayeva and Others v. Russia*[4], the Court thus highlighted the difference between the State's positive obligations in the sphere of regulating dangerous activities and positive obligations in the sphere of natural disasters. Referring to the case of *Öneryıldız v. Turkey*[5], the Court applied to natural disasters the principle that all possible steps had to be taken to mitigate risks to people's lives. It held that there had been a violation of Article 2 under its substantive and procedural heads.

Prohibition of torture (Article 3)

The Court examined a number of cases in which it had occasion to clarify the scope of Article 3.

In *Kafkaris v. Cyprus*[6], for example, after pointing out that the sentencing of an adult to an irreducible term of life imprisonment could raise an issue under Article 3, the judgment showed how the Court determined, in a given case, whether or not a life sentence could be regarded as irreducible.

In its *Riad and Idiab v. Belgium*[7] judgment, the Court described as inhuman and degrading treatment the placement of illegal immigrants in the transit zone of an international airport for more than ten days. It found in particular that it was unacceptable for anyone to be detained in conditions involving a total lack of provision for basic needs, adding that the possibility of having three meals a day did not in itself alter that conclusion. The Court also pointed out the feeling of humiliation that must have resulted from the obligation to live in a public place without proper support.

Lastly, in the *Chember v. Russia*[8] judgment, the Court for the first time found that "inhuman punishment" had been inflicted in the context of military service, in the form of physical exercise imposed as a disciplinary measure on a conscript by his superior, with the result that the applicant had been left disabled.

Expulsion and extradition

According to the Court's established Article 3 case-law, when an expulsion decision has been enforced before the Court delivers its judgment, the existence of a risk for the applicant in the country to which he has been deported must be assessed with reference to those facts which were known or ought to have been known to the Contracting State at the time of deportation. As pointed out in the *Saadi v. Italy*[9] judgment, if the applicant has not yet been extradited or deported when the Court examines the case, the relevant time will be that of the proceedings before the Court, which does not confine itself to analysing the situation on the date of the final domestic decision ordering the measure. In that case, which concerned a deportation order made under legislation enacted to combat international terrorism, the Grand Chamber confirmed the principle of the absolute nature of Article 3 and indicated the requisite standard of proof in this connection. As regards the risk that an alien threatened with expulsion might be subjected to treatment in breach of Article 3 in the receiving country, the Grand Chamber observed that the existence of domestic laws and accession to international treaties guaranteeing respect for fundamental rights in principle were not in themselves sufficient to ensure adequate protection against the risk of ill-treatment where reliable sources had reported practices resorted to or tolerated by the authorities which were manifestly contrary to Convention principles.

Moreover, in the case of *Ismoilov and Others v. Russia*[10], which concerned the extradition of aliens suspected of offences including acts of terrorism, the Court considered that the diplomatic assurances from the requesting authorities had failed to offer a reliable guarantee against the risk of ill-treatment, given that the practice of torture was described by reputable international experts as systematic.

In the case of *N. v. the United Kingdom*[11], the Court examined the situation of a person with an HIV and AIDS-related condition who faced expulsion from the United Kingdom, where she had been receiving treatment, to Uganda, where she feared that her life expectancy would be reduced. The Court clarified its Article 3 case-law in respect of the expulsion of persons afflicted with serious illnesses. It noted that, since its judgment in the case of *D. v. the United Kingdom*[12] of 2 May 1997, it had never found, in a case where a State's decision to remove an alien was in dispute, that the enforcement of that decision would entail a violation of Article 3 on account of the alien's poor health. It considered that the *N. v. the United Kingdom* case did not present very exceptional circumstances, unlike those that characterised the case of *D. v. the United Kingdom* and that the enforcement of the decision to remove the applicant to Uganda would not give rise to a violation of Article 3. Observing that the level of treatment available in the Contracting State and the country of origin might vary considerably, the Court found that Article 3 did not place an obligation on the Contracting State to alleviate such disparities through the provision of free and unlimited health care to all aliens without leave to remain within its jurisdiction.

Detention

As in previous years, the Court has had to deal with allegations of Article 3 violations sustained by persons in custodial facilities.

It thus ruled in the case of *Dedovskiy and Others v. Russia*[13] on the systematic, indiscriminate use of rubber truncheons by members of a special prison security unit on convicted prisoners serving their sentences, by way of retaliation or punishment. The Court found that the use of truncheons had no basis in law. It moreover classified the treatment suffered by the detainees as torture and saw in it gratuitous violence intended to cause fear and humiliation, in addition to the actual intense physical suffering, even though the prisoners' health had not been permanently affected.

Right to liberty and security (Article 5)

Placement in a transit zone

The Court indicated, in the *Riad and Idiab* case (cited above), that the placement of aliens in a transit zone, not immediately on their arrival in the country but over a month later, after decisions ordering their release, and the fact that they had been held there for fifteen and eleven days respectively, no time-limit having been set, amounted to *de facto* deprivation of liberty prohibited by Article 5, and not simply to a restriction of their liberty. The judgment added that "detaining" a person in the transit zone for an unspecified, unforeseeable length of time, without the detention being based on any actual legal provision or valid judicial decision, and with limited possibility of judicial control in view of the difficulties of maintaining sufficient contact for proper judicial supervision, was in itself contrary to the principle of legal certainty.

Notion of arbitrary detention

In the *Saadi v. the United Kingdom*[14], judgment the Court consolidated the key principles that it had developed on a case-by-case basis concerning the attitudes of authorities that could potentially be characterised as "arbitrary" within the meaning of Article 5 § 1 (a), (b), (d), (e)

and the second part of (f). The judgment pointed out that it was clear from the case-law that the notion of arbitrariness in the context of Article 5 varied to a certain extent depending on the type of detention involved. The notion of arbitrariness in the respective contexts of sub-paragraphs (b), (d) and (e) thus required the Court to ascertain, among other things, whether the detention was necessary to fulfil the declared aim.

As to sub-paragraph (c) of Article 5 § 1, the *Ladent v. Poland*[15] judgment added that detention should also be a proportionate measure.

Immigration control

In the above-mentioned *Saadi v. the United Kingdom* judgment, the Court interpreted for the first time the meaning of the words used in the first limb of Article 5 § 1 (f), which refers to "the lawful ... detention of a person to prevent his effecting an unauthorised entry into the country". It thus concluded that Article 5 § 1 (f) permitted the detention of an asylum-seeker or other immigrant prior to the State's grant of leave to enter. To interpret it as permitting detention only of a person who is shown to be trying to evade entry restrictions would be to place too narrow a construction on the terms of the provision and on the power of the State to exercise its undeniable right to control immigration. The Grand Chamber rejected the idea that, as soon as an asylum-seeker has surrendered himself to the immigration authorities, he is seeking to effect an "authorised" entry, with the result that detention cannot be justified under the first limb of Article 5 § 1 (f). In addition, the type of detention covered by the first limb of Article 5 § 1 (f) should not be arbitrary, any more than that covered by the second limb. The Court went on to clarify the criteria to be applied in ascertaining whether or not a detention measure in the context of the first limb is arbitrary (see, above, the findings in the same judgment as to the other sub-paragraphs). Referring to the difficult administrative problems with which the United Kingdom was confronted during the period in question, with an escalating flow of huge numbers of asylum-seekers, the Court did not find that it had been incompatible with Article 5 § 1 (f) to detain the applicant for seven days in suitable conditions to enable his claim to asylum to be processed speedily.

Procedural rights

Right to a fair hearing (Article 6)

Applicability

In the *Araç v. Turkey*[16] case, the Court acknowledged specifically and for the first time that the right of access to higher education was a right of a civil nature. The applicant had not been allowed to enrol in a university on account of her failure to supply an identity photo on which she appeared without a headscarf. The Court found that she was not affected in her relations with the public authorities as such, acting in the exercise of their discretionary powers, but in her personal capacity as a private user of a public service. The Court thus abandoned the case-law of the Commission (*Simpson v. the United Kingdom*[17], 4 December 1989), which had concluded that Article 6 was inapplicable to proceedings concerning the laws on education, on the ground that the right not to be denied elementary education fell within the domain of public law.

Fair trial

The Court was called upon, in the *Ramanauskas v. Lithuania*[18] case, to rule on the intervention of undercover agents and police entrapment. It considered that the use of special investigative techniques – and infiltration in particular – did not necessarily infringe the right to a fair trial. However, on account of the risk of incitement by the police to commit an offence, the Court found that such methods had to be kept within clear limits. While the use of undercover agents could be tolerated provided that it was subject to clear restrictions and safeguards, the public interest could not justify the use of evidence obtained as a result of police incitement, as to do so would expose the accused to the risk of being definitively deprived of a fair trial from the outset.

Public pronouncement

In the case of *Ryakib Biryukov v. Russia*[19], the Court had occasion to determine whether the requirement to deliver judgments publicly had been met by the reading in open court of no more than the operative part of a decision. Noting that the reasoning on which the domestic court had based its judgment had remained inaccessible to the public, the Court found that there had been a violation of Article 6 § 1. The judgment thus implies that the requirement to deliver judgments publicly encompasses public access to the full text of judgments adopted in civil cases.

Presumption of innocence

The Court examined for the first time the question of the applicability of Article 6 § 2 to statements made in the context of extradition proceedings, in the case of *Ismoilov and Others* (cited above), which concerned the extradition of foreign nationals who were suspected of having committed offences including acts of terrorism. It considered that the wording of the extradition decisions amounted to a declaration of the applicants' guilt which could encourage the public to believe them guilty and which prejudged the assessment of the facts by the competent judicial authority in the requesting State.

Defence rights

The Court, after observing among other things that individuals who have been arrested, especially minors, are in a particularly vulnerable situation at the investigative stage, the Court found in the case of *Salduz v. Turkey*[20] that, in order for the right to a fair trial to remain sufficiently "practical and effective" it was necessary, as a rule, to provide access to a lawyer from the first interview of a suspect by the police, unless it was demonstrated in the light of the particular circumstances of each case that there were compelling reasons to restrict this right. It added that the rights of the defence would in principle be irretrievably prejudiced when incriminating statements made during a police interview without a lawyer were subsequently used for a conviction.

No punishment without law (Article 7)

The *Kafkaris* judgment (cited above) observes that a distinction has been made in case-law between a measure that constitutes in substance a "penalty" and a measure that concerns the "execution" or "enforcement" of a "penalty". Thus, where the nature and purpose of a

measure relates to the remission of a sentence or a change in a regime for early release, this does not form part of the "penalty" within the meaning of Article 7.

In the *Korbely v. Hungary*[21] case, a retired military officer had been convicted for participating in the quelling of a riot during the 1956 revolution. The domestic courts, relying on Article 3 § 1 of the 1949 Geneva Conventions, found him guilty of multiple homicide constituting a crime against humanity. The Court observed that the commission of murder, within the meaning of common Article 3 of the Geneva Conventions, could have provided a basis for conviction for a crime against humanity committed in 1956, but that other criteria needed to be satisfied for such a characterisation to be made out. Those criteria derived not from common Article 3 but from the international law elements inherent in the notion of crime against humanity as it existed at the relevant time. The Court found that the domestic courts, however, had not examined whether the killing had met the additional criteria necessary for it to constitute a crime against humanity. Accordingly, it had not been shown that the constituent elements of a crime against humanity were present in this case. The Hungarian courts had found that one of the victims, who was killed at the time, was a non-combatant for purposes of common Article 3. However, the Court was not convinced that, in the light of the commonly accepted international law standards applicable at the time, the victim in question could be said to have laid down his arms within the meaning of common Article 3. It was therefore of the opinion that he did not fall within any of the categories of non-combatants protected by that Article. Since no conviction for crimes against humanity could reasonably have been based on that provision, in the light of the relevant international law standards applicable at the time, there had been a violation of Article 7.

The case of *Kononov v. Latvia*[22] concerned the conviction in 2004 of a former non-commissioned officer in the Soviet army of war crimes (massacre of villagers) allegedly committed in May 1944 on Latvian territory, then under German occupation, by members of the unit under his command. In essence, the Court found that there were no fundamental differences in the accessibility and foreseeability requirements relating to the criminal law, between ordinary offences and domestic criminal law, on the one hand, and war crimes and international criminal law, on the other. Moreover, it had not been sufficiently established that the May 1944 attack was in itself contrary to the rules and customs of war as codified by the Hague Regulations of 1907. A request for referral to the Grand Chamber is pending.

Right to an effective remedy (Article 13)

In the *Chember* judgment (cited above), the Court observed that when misconduct by an agent of the State could not be proved, on account of a criminal investigation not being effective, with the criminal proceedings having been closed at the investigation stage, a claim could not be filed with the civil courts based on the same facts. The Court thus found ineffective the action for damages in Russian law.

Compensation for wrongful conviction (Article 3 of Protocol No. 7)

The question of compensation for wrongful conviction was dealt with for the first time in the *Matveyev v. Russia*[23] case, where the outcome of two compensation claims filed with the same courts by the same victim of a wrongful conviction had been different. The Court, relying on the Explanatory Report to Protocol No. 7, ruled on the applicability of Article 3 of

that Protocol, finding that the reversal of the conviction had been based not on "a new or newly discovered fact" but on the review of evidence used in the criminal proceedings.

Civil and political rights

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

Applicability

The right of parents to organise a decent funeral for their children is protected by Article 8. In the *Hadri-Vionnet v. Switzerland*[24] case, concerning the burial of a stillborn child in a common grave after it was transported to the cemetery in an ordinary delivery van, without the mother's consent, the Court also found that lack of intent or of bad faith on the part of municipal employees did not absolve the State of its international obligations in respect of the Convention. The Court further declared in that case that the duty of the Contracting States to organise their services and train their employees to meet the requirements of the Convention obtained "all the more in such private and sensitive matters as dealing with the death of a close relative, where a particularly high level of diligence and caution must be shown".

Private life

The *E.B. v. France*[25] case concerned a refusal to grant approval for adoption to a homosexual in a stable and long-term relationship, having regard among other things to her "conditions of life". The Court found that the domestic authorities, in rejecting the application for adoption, had made a distinction based on her "sexual orientation" and thus held that there had been a violation of Article 14 of the Convention taken in conjunction with Article 8.

In the case of *Shtukaturov v. Russia*[26], a schizophrenic adult had been declared as lacking legal capacity in a decision made without his knowledge, at the request of his mother, who had become his guardian. He had not been able to challenge the decision in court and had subsequently been confined to a psychiatric hospital. The Court found that the interference with the applicant's private life had been considerable. It had made him totally dependent on his guardian for most aspects of his life and for an indefinite duration. Moreover, that interference could only be disputed through the intermediary of his guardian, who had opposed any attempt to lift the measure. In addition, the proceedings in which the applicant had been deprived of his legal capacity had been vitiated because he had been unable to participate in them. Lastly, the reasoning of the decision had been insufficient because it was based solely on a medical report which had not analysed in sufficient depth the applicant's degree of incapacity. The report had not considered the consequences of the applicant's illness on his social life, health and financial interests, or analysed exactly in what way he was unable to understand or control his actions. The Court found that the existence of a mental disorder, even a serious one, could not be the sole reason to justify full incapacitation, and held that there had been a violation of Article 8.

The Court also dealt, in *K.U. v. Finland*[27], with the protection of minors from abuse via the Internet. A twelve-year-old child was the subject of an advertisement of a sexual nature posted on an Internet dating site by an unknown person. The child's father was unable to have

the perpetrator prosecuted, as under the legislation in place at the time the police and the courts could not require the Internet service provider to identify the person who posted the advertisement. The Court, after reaffirming the principle that certain types of conduct called for a criminal-law response, found that the State had failed in its positive obligation to protect the child's right to respect for his private life, as the protection of his physical and moral welfare had not been given precedence over the confidentiality requirement. It considered that the legislature had to provide a framework for reconciling the confidentiality of Internet services with the prevention of disorder or crime and the protection of the rights and freedoms of others. The judgment is not final.

Lastly, in the case of *S. and Marper v. the United Kingdom*[28], the Grand Chamber found that the blanket and indiscriminate nature of the powers of retention by the authorities of the fingerprints, cellular samples and DNA profiles of persons suspected of committing offences but not convicted, as applied in the present case, particularly in respect of a minor, failed to strike a fair balance between the competing public and private interests. Accordingly, the indefinite retention in question constituted a disproportionate interference with the applicants' right to respect for private life and could not be regarded as necessary in a democratic society.

Home

In the *McCann v. the United Kingdom*[29] judgment, the Court expressly held for the first time that, as regards the procedural safeguards required by Article 8, whenever a person risked losing his or her home there must be a possibility of having the proportionality of the eviction measure determined by an independent tribunal.

Expulsion

In its *Maslov v. Austria*[30] judgment, concerning a juvenile delinquent, the Grand Chamber observed that where an offence committed by a minor was the underlying reason for an exclusion order, the State had to have regard to the best interests of the child, and that this included an obligation to facilitate his or her reintegration. However, that aim could not be achieved by severing family or social ties through expulsion, which had to remain a means of last resort in the case of a juvenile offender. In sum, the Court saw little room for justifying an expulsion of a settled migrant on account of mostly non-violent offences committed when a minor. By contrast, very serious violent offences could justify expulsion even if they were committed by a minor.

Freedom of religion (Article 9)

In the *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*[31] judgment, which supplemented existing case-law, the Court found that a period of twenty years for granting legal personality to a religious community was not justified. It further considered that a ten-year wait before a registered religious community was able to apply for the status of a "religious society" could be acceptable in exceptional circumstances, such as in the case of newly established and unknown religious groups, but that such a period was discriminatory in the case of religious groups such as the Jehovah's Witnesses that were well-established nationally and internationally.

In the case of *Leela Förderkreis e.V. and Others v. Germany*[32], the Court dealt with criticism voiced against religious beliefs and movements, not by private groups or individuals but by public authorities. It accepted that the meaning of terms such as "sect" could change with time and take on a pejorative or defamatory connotation. Such terms had, in the present case, been used in an information campaign launched by the Government to warn the public and young people about the practices of religious or meditation movements that emerged in Germany in the 1960s. The judgment is not final.

Freedom of expression (Article 10)

This year the Court has dealt with a large number of new situations covered by Article 10.

Its judgment in *Vajnai v. Hungary*[33], for example, was the first to concern symbols and national legislation that prohibited their display in certain cases. This case arose from the conviction of a leader of a political party for having, during an authorised demonstration on the public highway, displayed a red star on his jacket. The conviction had been based on a provision in the Criminal Code banning "totalitarian symbols". The Court found that symbols could have many different meanings, and in this case the red star did not represent only a totalitarian communist regime but also the international workers' movement and certain legal political parties in various Contracting States.

The Court also ruled for the first time on the disclosure by a civil servant of in-house information. In the case of *Guja v. Moldova*[34], the Grand Chamber found that the signalling by a civil servant or an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the civil servant concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large. Civil servants are generally bound by a very strong duty of discretion. Thus disclosure should be made in the first place to the person's superior or other competent authority or body. It is only where this is clearly impracticable that the information could, as a last resort, be disclosed to the public. A certain number of other factors were also laid down by the Court for the purposes of ascertaining whether or not a civil servant's action should benefit from protection.

TV Vest AS and Rogaland Pensjonistparti v. Norway[35] concerned the imposition of a fine on a local television station for having broadcast an advertisement by the regional section of a small political party shortly before local and regional elections, in breach of the legislation prohibiting any televised advertising for "political opinions". This judgment was particularly innovative and important because the Court ruled for the first time on the prohibition of political advertising for a political party. It ruled against such a prohibition, which was both permanent (not applicable only during election periods) and absolute (valid only for television, since political advertising in other media was permitted). The Court noted that the absence of a European consensus in this area argued in favour of granting States a wider margin of appreciation than is normally granted with regard to restrictions on political debate. However, it considered paid-for television broadcasts the sole means by which the applicant party could make itself known to the public, in contrast to large parties which received wide television coverage, and did not find that the disputed advertisement was such as to lower the quality of political debate or to offend various sensibilities. The judgment is not final.

The Court found a violation of Article 10 in the *Frankowicz v. Poland*[36] case, where a reprimand had been imposed on a doctor as a disciplinary measure by medical tribunals for having drawn up and sent to one his patients a report criticising the treatment, prescribed by another doctor, being followed by the same patient, in violation of the code of medical ethics. Whilst it accepted that the relationship between doctors and patients might imply the need to preserve solidarity between members of the medical profession, the Court recognised nonetheless that all patients had a right to consult another doctor for a second opinion on the treatment they had received, and for an honest and objective evaluation of their doctor's actions. Dealing for the first time with a doctor's freedom of expression in relation to his colleagues with regard to diagnosis and treatment, the Court considered that the absolute prohibition on any criticism between doctors was likely to discourage doctors from providing their patients with an objective opinion on their health and any treatment received, and criticised the authorities for not having attempted to verify the truthfulness of the findings in the disputed medical opinion. The judgment is not final.

Lastly, the Court made a noteworthy and innovative contribution on the subject of journalists' sources in *Saygılı and Others v. Turkey*[37]. The case concerned an award of damages against the proprietor, the editor and a journalist of a daily newspaper on account of articles alleging misconduct by a public prosecutor responsible for an investigation into the disappearance of a suspect in police custody. The articles were based on the Court's judgment in *İrfan Bilgin v. Turkey*[38] and on the prosecutor's statements to a delegation from the European Commission of Human Rights in that case. The Court considered that when the press contributed to a public debate on questions of legitimate concern, it should, in principle, be able to rely on official reports without having to conduct its own independent research. That was undeniably so in the case of factual and legal findings from the Court's judgments.

Freedom of assembly and association (Article 11)

The case of *Demir and Baykara v. Turkey*[39] concerned a failure to recognise the right of municipal civil servants to form a trade union and the annulment with retrospective effect of a collective agreement between the trade union and the employing authority. The Court first pointed out that the consensus emerging from specialised international instruments and from the practice of Contracting States could constitute a relevant consideration when it interpreted Convention provisions in specific cases. Summarising the development of its case-law concerning the right of association, the Court pointed out that the list of its essential elements was not finite but was subject to evolution depending on particular developments in labour relations. As regards, more specifically, the right to bargain collectively, the Court departed from its previous case-law and considered that, having regard to the developments in labour law, both international and national, and to the practice of Contracting States in such matters, the right to bargain collectively with the employer had, in principle, become one of the essential elements of the "right to form and to join trade unions for the protection of [one's] interests" set forth in Article 11 of the Convention. Like other workers, civil servants, except in very specific cases, should enjoy such rights.

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

In the case of *Yumak and Sadak v. Turkey*[40], the Court examined for the first time the question of an electoral threshold applied nationwide in parliamentary elections. It was a

threshold of 10% imposed nationally for the representation of political parties in Parliament. The Court found that, generally speaking, such a high threshold appeared excessive. It being the highest among the member States of the Council of Europe, the Court had to establish whether or not it was disproportionate, for which purpose it assessed first the significance of the threshold in comparison with those in other European States and then the effects of the correctives and other safeguards with which the impugned system was attended. This led the Court to conclude that, when assessed in the light of the specific political context of the elections in question, and attended as it was by correctives and other guarantees under Turkish law which had limited its effects in practice, the threshold had not had the effect of impairing in their essence the applicants' electoral rights.

Kovach v. Ukraine[41] is one of the few cases in which the Court has been called upon to rule on the result of an election and on the manner in which it was handled by the authorities. The case concerned the invalidation – on account of irregularities which were not attributable to the candidate in question – of votes obtained by the leading candidate in several electoral divisions of a parliamentary constituency, resulting in victory for his opponent. The Court found that the legislation was unclear since it empowered electoral commissions to invalidate votes on the basis of "other circumstances which ma[de] it impossible to establish the wishes of the voters". It moreover noted that neither the decision declaring the votes invalid nor the subsequent decisions of the Central Election Commission or the Supreme Court contained a discussion of the conflict between two provisions of electoral law, or of the credibility of the various protagonists. The Court thus found the invalidation "arbitrary" and applied the proportionality test in relation to Article 3 of Protocol No. 1.

The Court dealt for the first time with the impact of multiple nationality on the right to free elections in the case of *Tănase and Chirtoacă v. Moldova*[42], which concerned the inability of persons with multiple nationality to stand as candidates in parliamentary elections and to take their seats in Parliament if elected. Basing its arguments on the European Convention on Nationality and the activities of the Council of Europe (particularly those of the Parliamentary Assembly, the Venice Commission and the European Commission against Racism and Intolerance), the Court referred to the concept, in a democracy, of MPs' "loyalty to the State" and stressed the interdependent nature of the "active" aspect of the guarantee provided by Article 3 of Protocol No. 1 (the right to vote) and its "passive" aspect (the right to stand for election). It concluded that there had been a violation of this provision. The judgment is not final.

Lastly, in the case of *The Georgian Labour Party v. Georgia*[43], a political party complained about the organisation of parliamentary elections. Its complaint concerned in particular the compilation of electoral rolls, composition of electoral commissions and annulment of elections in two constituencies, thus disfranchising approximately 60,000 voters and preventing it from obtaining the 7% of votes required to secure a seat in parliament. The Court clarified the scope of its supervision in matters concerning electoral rolls and voter registration. It considered, first, that the unexpected change in the rules on voter registration one month before the election could not be criticised in the very specific circumstances of the country's political situation, and, secondly, that the active system of voter registration, which did not in itself amount to a breach of the applicant party's right to stand for election, was not the cause of ballot fraud but represented a reasonable attempt to remedy it. The Court also emphasised the importance of the composition of electoral commissions, indicating that they should not become a forum for political confrontation between candidates. Lastly, it found a

violation of the applicant party's right to stand for election, on account of the annulment of parliamentary elections in two constituencies.

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

The Court has dealt with a variety of questions arising under this Article.

In the case of *Budayeva and Others* (cited above), it considered that in situations of natural disaster all reasonable steps – rather than all possible steps – had to be taken to mitigate risks to people's property. It thus held that there had been no violation of this Article.

In *Epstein and Others v. Belgium*[44] the Court examined domestic legislation which provided for measures in favour of Jewish and Gypsy victims of the Second World War but required claimants to have been Belgian nationals on 1 January 2003. The Court confirmed its case-law (*Woś v. Poland*[45], decision of 1 March 2005, and *Associazone nazionale Reduci dalla Prigionia dall'Internamento e dalla Guerra di Liberazione and Others v. Germany*[46], decision of 4 September 2007) and added two points of clarification. It indicated, first, that the State had to be able to decide freely on the criteria for awarding compensation to civilians who had suffered from war damage caused by another State, and that claimants had to fulfil the conditions laid down in the legislation to be entitled to the statutory award. Secondly, it stated that, as regards the nationality requirement, war-victim compensation was to be distinguished from entitlement to social benefits, whether or not contributory.

The Court also examined, in the case of *Carson and Others v. the United Kingdom*[47], a failure to increase in line with inflation the pensions paid to retired persons having worked and contributed in the United Kingdom but now living in other countries not bound by reciprocal bilateral agreements with the United Kingdom. The Court considered that as people were free to choose where they lived, less weighty grounds were required to justify a difference of treatment based on residence than one based on an inherent personal characteristic, such as race or sex. It accordingly held that there had been no violation of Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1. The judgment is not final.

Lastly, the Court was called upon to rule on the question of Internet access. In the case of *Megadat.com SRL v. Moldova*[48] it found that there had been a violation on account of the withdrawal of the licences of the country's largest Internet access provider for failing to notify the authorities of a change of address.

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

Article 41

The question of awards for non-pecuniary damage in respect of the excessive length of domestic proceedings brought jointly by a large number of claimants, who subsequently complained about the matter to the Court, was dealt with in the cases of *Arvanitaki-Roboti and Others v. Greece*[49] and *Kakamoukas and Others v. Greece*[50]. In such cases the Court takes account of the manner in which the number of participants in such proceedings may influence the level of distress, inconvenience and uncertainty affecting each of them, as a high

number of participants will very probably have an impact on the amount of just satisfaction to be awarded in respect of non-pecuniary damage. Certain factors may justify a reduction, others an increase, in the amount awarded.

Article 46

The case of *Gülmez v. Turkey*[51] concerned the imposition of six successive disciplinary penalties on a person in pre-trial detention, with the result that the applicant was deprived of visits for one year. The Court considered that the violation of Article 6, on account of the lack of public hearings during the proceedings, revealed a systemic problem arising out of the legislation itself and invited the respondent State to bring it into line with the European Prison Rules adopted by the Committee of Ministers of the Council of Europe on 11 January 2006.

In the case of *Viaşu v. Romania*[52], the Court dealt with the impossibility for the owner of a plot of land, transferred by the State to an agricultural cooperative, to obtain its return or compensation for it, under the applicable legislation. It noted the existence of a structural problem resulting both from shortcomings in the legislation and from administrative practice, and invited the respondent State to put an end to the problem by adopting general measures, by removing any obstacle to the effective exercise of the right to restitution or by compensating the wronged owners. The judgment is not final.

Notes

1. [GC], no. 13378/05, 29 April 2008, to be reported in ECHR 2008.
2. No. 59548/00, 17 January 2008, to be reported in ECHR 2008.
3. No. 5608/05, 16 October 2008.
4. Nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, 20 March 2008, to be reported in ECHR 2008 (extracts).
5. [GC], no. 48939/99, ECHR 2004-XII.
6. [GC], no. 21906/04, 12 February 2008, to be reported in ECHR 2008.
7. Nos. 29787/03 and 29810/03, 24 January 2008, to be reported in ECHR 2008 (extracts).
8. No. 7188/03, 3 July 2008, to be reported in ECHR 2008.
9. [GC], no. 37201/06, 28 February 2008, to be reported in ECHR 2008.
10. No. 2947/06, 24 April 2008, to be reported in ECHR 2008 (extracts).
11. [GC], no. 26565/05, 27 May 2008, to be reported in ECHR 2008.
12. 2 May 1997, *Reports of Judgments and Decisions* 1997-III.
13. No. 7178/03, 15 May 2008, to be reported in ECHR 2008 (extracts).
14. [GC], no. 13229/03, 29 January 2008, to be reported in ECHR 2008.
15. No. 11036/03, 18 March 2008, to be reported in ECHR 2008 (extracts).
16. No. 9907/02, 23 September 2008, to be reported in ECHR 2008.
17. No. 14688/89, Commission decision of 4 December 1989, Decisions and Reports 64.
18. [GC], no. 74420/01, 5 February 2008, to be reported in ECHR 2008.
19. No. 14810/02, 17 January 2008, to be reported in ECHR 2008.
20. No. 36391/02, 27 November 2008.
21. [GC], no. 9174/02, 19 September 2008, to be reported in ECHR 2008.
22. No. 36376/04, 24 July 2008, to be reported in ECHR 2008 (extracts).
23. No. 26601/02, 3 July 2008.
24. No. 55525/00, 14 February 2008, to be reported in ECHR 2008.
25. [GC], no. 43546/02, 22 January 2008, to be reported in ECHR 2008.
26. No. 44009/05, 27 March 2008, to be reported in ECHR 2008.
27. No. 2872/02, 2 December 2008.
28. Nos. 30562/04 and 30566/04, 4 December 2008.

29. No. 19009/04, 13 May 2008, to be reported in ECHR 2008.
30. [GC], no. 1638/03, 23 June 2008, to be reported in ECHR 2008.
31. No. 40825/98, 31 July 2008.
32. No. 58911/00, 6 November 2008.
33. No. 33629/06, 8 July 2008, to be reported in ECHR 2008.
34. [GC], no. 14277/04, 12 February 2008, to be reported in ECHR 2008.
35. No. 21132/05, 11 December 2008.
36. No. 53025/99, 16 December 2008.
37. No. 19353/03, 8 January 2008.
38. No. 25659/94, ECHR 2001-VIII.
39. No. 34503/97, 12 November 2008.
40. [GC], no. 10226/03, 8 July 2008, to be reported in ECHR 2008.
41. No. 39424/02, 7 February 2008, to be reported in ECHR 2008.
42. No. 7/08, 18 November 2008.
43. No. 9103/04, 8 July 2008, to be reported in ECHR 2008.
44. (dec.), no. 9717/05, 8 January 2008, to be reported in ECHR 2008 (extracts).
45. (dec.), no. 22860/02, ECHR 2005-IV.
46. (dec.), no. 45563/04, 4 September 2007.
47. No. 42184/05, 4 November 2008.
48. No. 21151/04, 8 April 2008.
49. [GC], no. 27278/03, 15 February 2008, to be reported in ECHR 2008.
50. No. 38311/02, 15 February 2008.
51. No. 16330/02, 20 May 2008.
52. No. 75951/01, 9 December 2008.

X. SELECTION OF JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2008

SELECTION OF JUDGMENTS AND DECISIONS DELIVERED BY THE COURT IN 2008[1]

JUDGMENTS

Article 2

Article 2 § 1

Life

Disappearance of applicants' relatives in Chechnya during military operations: *violations*.
Betayev and Betayeva v. Russia, no. 37315/03, no. 108
Gekhayeva and Others v. Russia, no. 1755/04, no. 108
Ibragimov and Others v. Russia, no. 34561/03, no. 108
Sangariyeva and Others v. Russia, no. 1839/04, no. 108

Positive obligations

Lack of accountability for disappearance of a patient from a nursing home: *violation*.
Dodov v. Bulgaria, no. 59548/00, no. 104

Failure by authorities to take proper steps to trace applicant's son following his reported abduction in south-east Turkey: *violation*.
Osmanoğlu v. Turkey, no. 48804/99, no. 104

Failure to conduct effective investigation into fate of Greek-Cypriots who had gone missing during the Turkish military operations in northern Cyprus in 1974: *violation (case referred to the Grand Chamber)*.
Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, nos. 104 and 110

Failure by authorities to implement land-planning and emergency-relief policies in the light of foreseeable risk of a mudslide that would lead to loss of life: *violations*.
Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, no. 106

Suicide of a conscript during military service following injuries and blows inflicted by a non-commissioned officer: *violation*.
Abdullah Yılmaz v. Turkey, no. 21899/02, no. 109

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

Suicide of mentally disturbed prisoner in disciplinary cell: *violation*.
Renolde v. France, no. 5608/05, no. 112

Inadequate medical treatment during pre-trial detention and failure to investigate: *violation*.
Dzieciak v. Poland, no. 77766/01, no. 114

Article 2 § 2

Use of force

Undisputed use of lethal force by State agents and effectiveness of the investigation: *violation*.
Mansuroğlu v. Turkey, no. 43443/98, no. 105

Serious injury caused by stray bullet fired from a police officer's gun during an operation to break up a demonstration: *violation*.
Evrim Öktem v. Turkey, no. 9207/03, no. 113

Article 3

Torture

Ill-treatment of persons held for questioning and failure to follow correct procedures when prosecuting those responsible: *violations*.
Maslova and Nalbandov v. Russia, no. 839/02, no. 104

Ill-treatment and unjustified use of truncheons against detainees and lack of effective investigation: *violation*.
Dedovskiy and Others v. Russia, no. 7178/03, no. 108

Disproportionate and unjustified use of truncheons against a detainee and lack of effective investigation: *violation*.
Vladimir Romanov v. Russia, no. 41461/02, no. 110

Inhuman or degrading treatment or punishment

Ill-treatment of persons held for questioning and failure to follow correct procedures when prosecuting those responsible: *violations*.
Maslova and Nalbandov v. Russia, no. 839/02, no. 104

Detention of illegal aliens in the transit zone of an airport for more than ten days without providing for their basic needs: *violation*.
Riad and Idiab v. Belgium, nos. 29787/03 and 29810/03, no. 104

Silence of authorities in face of real concerns about the fate of Greek-Cypriots who had gone missing during the Turkish military operations in northern Cyprus in 1974: *violation (case referred to the Grand Chamber)*.

Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, nos. 104 and 110

Mandatory life sentence with no prospect of release for good behaviour following changes to the legislation: *no violation*.

Kafkaris v. Cyprus, no. 21906/04, no. 105

Allegations of ill-treatment during an operation by security forces against the PKK in a state-of-emergency region: *violation*.

Mansuroğlu v. Turkey, no. 43443/98, no. 105

Racially motivated ill-treatment of a Roma minor by a police officer during an incident between officials and Roma and lack of effective investigation: *violation*.

Stoica v. Romania, no. 42722/02, no. 106

Obligation for a seventy-one year old to perform military service: *violation.*

Taştan v. Turkey, no. 63748/00, no. 106

Failure to secure the well-being of prisoners subjected to ethnically-motivated violence: *violation*.

Rodić and Others v. Bosnia and Herzegovina, no. 22893/05, no. 108

Conditions of detention of and lack of proper medical care for a prisoner suffering from Hepatitis-B-induced cirrhosis: *violation*.

Kotsaftis v. Greece, no. 39780/06, no. 109

Applicant held for thirty-four days in a cell designed for short-term administrative detention not exceeding three hours: *violation*.

Shchebet v. Russia, no. 16074/07, no. 109

Nature of threats of physical harm made by police interrogators in an attempt to secure information from a suspected child abductor regarding the missing child's whereabouts: *inhuman treatment for which sufficient redress afforded at domestic level (case referred to the Grand Chamber)*.

Gäfgen v. Germany, no. 22978/05, nos. 109 and 113

Excessive level of physical exercise imposed as punishment on conscript known to be suffering from health problems and failure to conduct effective investigation: *violations*.

Chember v. Russia, no. 7188/03, no. 110

Surgery performed on drug-trafficker without his consent: *no violation*.

Bogumil v. Portugal, no. 35228/03, no. 112

Conditions of detention and transport of a remand prisoner: *violations*.

Moiseyev v. Russia, no. 62936/00, no. 112

Placement of mentally disturbed prisoner in disciplinary cell for forty-five days: *violation*.
Renolde v. France, no. 5608/05, no. 112

Moral suffering endured by members of a family as a result of the dismemberment and decapitation of their abducted relatives' bodies: *violation*.
Khadzhialiyev and Others v. Russia, no. 3013/04, no. 113

Lack of medical assistance to a HIV-positive detainee and State's failure to comply with Rule 39 measures in connection therewith: *violation*.
Aleksanyan v. Russia, no. 46468/06, no. 114

Expulsion

Risk of ill-treatment in case of deportation to Tunisia of a terrorist who had been tried *in absentia*: *deportation would constitute a violation*.
Saadi v. Italy, no. 37201/06, no. 105

Proposed removal of HIV patient to her country of origin, where her access to appropriate medical treatment was uncertain: *removal would not constitute a violation*.
N. v. the United Kingdom, no. 26565/05, no. 108

Proposed deportation of Tamil asylum-seeker to Sri Lanka: *deportation would constitute a violation*.
N.A. v. the United Kingdom, no. 25904/07, no. 110

Expulsion to China despite grant of refugee status by UNHCR: *no violation*.
Y v. Russia, no. 20113/07, no. 114

Extradition

Applicants risking ill-treatment if extradited to Uzbekistan: *extraditions would constitute a violation*.
Ismoilov and Others v. Russia, no. 2947/06, no. 107

Proposed extradition of applicant to Turkmenistan where he risked treatment proscribed by the Convention: *extradition would constitute a violation*.
Ryabikin v. Russia, no. 8320/04, no. 109

Risk of ill-treatment if extradited to Turkmenistan: *extradition would constitute a violation*.
Soldatenko v. Ukraine, no. 2440/07, no. 112

Article 5

Article 5 § 1

Deprivation of liberty

Failure to conduct effective investigation into arguable claim that missing Greek-Cypriots may have been detained during Turkish military operations in northern Cyprus in 1974: *violation (case referred to the Grand Chamber)*.

Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, nos. 104 and 110

Procedure prescribed by law

Confinement to ship of crew of a foreign vessel that had been arrested on the high seas: *violation (case referred to the Grand Chamber)*.

Medvedyev and Others v. France, no. 3394/03, nos. 110 and 113

Lawful arrest or detention

Continued detention of illegal aliens in the transit zone of an airport and in an immigration centre in breach of order for their release: *violation*.

Riad and Idiab v. Belgium, no. 29787/03 and 29810/03, no. 104

Arbitrary detention based on erroneous conclusion that the applicant sought to evade justice: *violation*.

Ladent v. Poland, no. 11036/03, no. 106

Court orders detention to continue even though it finds the original detention order to be unlawful: *case referred to the Grand Chamber*.

Mooren v. Germany, no. 11364/03, no. 108

Unrecorded detention without a judicial decision: *violation*.

Shchebet v. Russia, no. 16074/07, no. 109

Pre-trial detention following the quashing of a presidential amnesty: *violation*.

Lexa v. Slovakia, no. 54334/00, no. 111

Transfer to a psychiatric hospital of a person under house arrest without the requisite court order: *violation*.

Gulub Atanasov v. Bulgaria, no. 73281/01, no. 113

Article 5 § 1 (f)

Prevent unauthorised entry into country

Seven-day detention in reception centre for asylum-seeker who had been granted “temporary admission”: *no violation*.

Saadi v. the United Kingdom, no. 13229/03, no. 104

Extradition

Lack of a sufficiently accessible, precise and foreseeable procedure under Ukrainian law to avoid arbitrary detention pending extradition: *violation*.

Soldatenko v. Ukraine, no. 2440/07, no. 112

Article 5 § 2

Information on reasons for arrest

76-hour delay in informing "temporarily admitted" asylum-seeker of the grounds for his later detention in a reception centre: *violation*.

Saadi v. the United Kingdom, no. 13229/03, no. 104

Article 5 § 3

Brought "promptly" before a judge or other officer

Suspects in criminal proceedings not brought before a judge for a review of the lawfulness of their detention until nine days after their arrest: *violation*.

Samoilă and Cionca v. Romania, no. 33065/03, no. 106

Period of sixteen days' detention before detainees were brought before a judicial authority following the arrest of their vessel on the high seas: *no violation (case referred to the Grand Chamber)*.

Medvedyev and Others v. France, no. 3394/03, nos. 110 and 113

Duration of police custody (three days and twenty-three hours): *violation*.

Kandzhov v. Bulgaria, no. 68294/01, no. 113

Length of pre-trial detention

Pre-trial detention of a minor for forty-eight days in an adult facility: *violation*.

Nart v. Turkey, no. 20817/04, no. 108

Extension of remand prisoner's detention on insufficient grounds: *violation*.

Moiseyev v. Russia, no. 62936/00, no. 112

Article 5 § 4

Review of lawfulness of detention

Refusal of Supreme Court to review the lawfulness of continued detention: *violation*.

Samoilă and Cionca v. Romania, no. 33065/03, no. 106

Article 6

Article 6 § 1 (civil)

Applicability

Applicability of Article 6 to interlocutory proceedings: *Article 6 applicable (case referred to the Grand Chamber)*.

Micallef v. Malta, no. 17056/06, nos. 104 and 110

Dispute concerning validity of search and seizure operations carried out by tax authorities: *Article 6 applicable*.

Ravon and Others v. France, no. 18497/03, no. 105

Disciplinary proceedings resulting in restriction on family visits to prison: *Article 6 applicable*.

Gülmez v. Turkey, no. 16330/02, no. 108

Decision to transfer a priest to another parish: *Article 6 not applicable*.

Ahtinen v. Finland, no. 48907/99, no. 111

Civil nature of the right to pursue university studies: *Article 6 applicable*.

Araç v. Turkey, no. 9907/02, no. 111

Right to a court

Quashing, by way of supervisory review, of a final judgment on the ground that it adversely affected the rights of a third person: *no violation*.

Protsenko v. Russia, no. 13151/04, no. 110

Access to a court

Access to "court" to challenge validity of orders authorising search and seizure operations in the applicant's home by the tax authorities: *violation*.

Ravon and Others v. France, no. 18497/03, no. 105

Criminal courts' refusal to hear civil claim owing to statutory limitation in the criminal proceedings: *violation*.

Atanasova v. Bulgaria, no. 72001/01, no. 112

Unwarranted refusal to examine merits of the applicant's case: *violation*.

Blumberga v. Latvia, no. 70930/01, no. 112

Inability to exercise remedies in access proceedings owing to failure to pay stamp duty: *violation.*

Iordache v. Romania, no. 6817/02, no. 112

Scope of change in the case-law in a civil case: *no violation.*

Unédic v. France, no. 20153/04, no. 114

Fair hearing

Disciplinary proceedings resulting in restriction on family visits to prison: *violation*.
Gülmez v. Turkey, no. 16330/02, no. 108

Scope of change in the case-law in a civil case: *no violation.*
Unédic v. France, no. 20153/04, no. 114

Equality of arms

Refusal to hear witnesses called by one party to a civil action for reasons which contradicted the court's decision to hear witnesses called by the other party: *violation*.
Perić v. Croatia, no. 34499/06, no. 106

Independent and impartial tribunal

Statutory impossibility to challenge a judge on the basis of his/her family ties with a party's advocate: *violation (case referred to the Grand Chamber)*.
Micallef v. Malta, no. 17056/06, nos. 104 and 110

Absence of right to appeal against a receivership order to a judicial body with full jurisdiction: *violation*.
Družstevní Záložna Pria and Others v. the Czech Republic, no. 72034/01, no. 110

Administrative and material dependence of military courts and their members *vis-à-vis* the Ministry of Defence: *violation*.
Miroshnik v. Ukraine, no. 75804/01, no. 113

Public judgment

Failure to state reasons for civil judgment in public: *violation*.
Ryakib Biryukov v. Russia, no. 14810/02, no. 104

Article 6 § 1 (criminal)

Applicability

Unfair criminal proceedings following the accused's death: *widow could rely on Article 6 under its civil head.*
Grădinar v. Moldova, no. 7170/02, no. 107

Access to a court

Inability of a parliamentarian to have his parliamentary immunity lifted to enable him to defend himself in criminal proceedings: *violation (case referred to the Grand Chamber)*.
Kart v. Turkey, no. 8917/05, nos. 110 and 113

Fair hearing

Conviction of the offence of bribery incited by the police: *violation*.
Ramanauskas v. Lithuania, no. 74420/01, no. 105

Unfair criminal proceedings following the accused's death: *violation of the widow's right to a fair trial.*
Grădinar v. Moldova, no. 7170/02, no. 107

Conviction of the offence of bribery investigated upon a complaint and with collaboration of a private individual: *no violation*.
Milinienė v. Lithuania, no. 74355/01, no. 109

Conviction based on confession made in the absence of a lawyer and retracted immediately the lawyer was present: *violation*.
Yaremenko v. Ukraine, no. 32092/02, no. 109

Decision by criminal court to admit evidence obtained from information provided in confessions it had ruled inadmissible: *no violation (case referred to the Grand Chamber)*.
Gäfgen v. Germany, no. 22978/05, nos. 109 and 113

Partial shifting of burden of proof onto defendant for purposes of calculating amount of confiscation order in drug-trafficking cases: *no violation.*
Grayson and Barnham v. the United Kingdom, nos. 19955/05 and 15085/06, no. 111

Procedural unfairness and lack of adequate facilities to prepare defence in criminal trial: *violation*.
Moiseyev v. Russia, no. 62936/00, no. 112

Trial court's refusal to disclose to the defence materials relating to surveillance operation or to admit statements obtained from key witnesses by the defence: *violation*.
Mirilashvili v. Russia, no. 6293/04, no. 114

Undermining of the applicant's defence by sentencing of his lawyer for contempt of court: *violation*.
Panovits v. Cyprus, no. 4268/04, no. 114

Equality of arms

Trial court's refusal to disclose to the defence materials relating to surveillance operation or to admit statements obtained from key witnesses by the defence: *violation*.
Mirilashvili v. Russia, no. 6293/04, no. 114

Public hearing

Lack of a public hearing before appellate court: *no violation*.
Bazo González v. Spain, no. 30643/04, no. 114

Independent and impartial tribunal

Granting lay judges access to the bill of indictment containing the essential findings of the investigation against the applicant: *no violation*.

Elezi v. Germany, no. 26771/03, no. 109

Article 6 § 2

Applicability

Criminal proceedings in another country sufficient for Article 6 § 2 to apply to related extradition proceedings: *violation*.

Ismoilov and Others v. Russia, no. 2947/06, no. 107

Presumption of innocence

Remand prisoner forced to wear convicted prisoner's uniform at hearing of an application for his release on bail: *violation*.

Samoilă and Cionca v. Romania, no. 33065/03, no. 106

Article 6 § 3 (c)

Defence through legal assistance

Lawyer dismissed from the case for having advised his client not to testify against himself: *violation*.

Yaremenko v. Ukraine, no. 32092/02, no. 109

Failure by domestic courts to ensure practical and effective compliance with rights of the defence: *violation*.

Bogumil v. Portugal, no. 35228/03, no. 112

Use in evidence of confession to police of a minor who had been denied access to a lawyer: *violation*.

Salduz v. Turkey, no. 36391/02, no. 113

Failure to inform the applicant, who was a minor, of his right to consult a lawyer prior to first police questioning: *violation*.

Panovits v. Cyprus, no. 4268/04, no. 114

Article 6 § 3 (d)

Examination of witnesses

Inability to question experts on whose expert opinion the court based its judgment: *violation*.

Balsytė-Lideikienė v. Lithuania, no. 72596/01, no. 113

Article 6 § 3 (e)

Free assistance of interpreter

Inconsistencies in the Supreme Court's case-law on the payment of the interpreters' fees of convicted persons: *violation*.

Işyar v. Bulgaria, no. 391/03, no. 113

Article 7

Article 7 § 1

Nullum crimen sine lege

Conflicting statutory provisions concerning meaning of a sentence of life imprisonment for the purposes of establishing eligibility for remission: *violation*.

Kafkaris v. Cyprus, no. 21906/04, no. 105

Change of law on remission for good behaviour in case of a life prisoner who had been informed at the outset by the trial court that his sentence meant imprisonment for life: *no violation*.

Kafkaris v. Cyprus, no. 21906/04, no. 105

Retrospective application of law through the applicant's conviction of war crimes for his part in a punitive military expedition on villagers during the Second World War: *violation*.

Kononov v. Latvia, no. 36376/04, no. 110

Conviction in respect of an act which did not constitute an offence under the relevant international law at the time of its commission: *violation*.

Korbely v. Hungary, no. 9174/02, no. 111

Article 8

Private life

Fairness of proceedings for an order depriving a patient suffering from borderline mental illness of his legal capacity, and inability of the patient to challenge that order or his subsequent confinement in a psychiatric hospital: *violation*.

Shtukaturov v. Russia, no. 44009/05, no. 106

Gynaecological examination imposed on a detainee without her free and informed consent: *violation*.

Juhnke v. Turkey, no. 52515/99, no. 108

Applicant obliged to change the name she had taken more than fifty years previously: *violation*.

Daróczy v. Hungary, no. 44378/05, no. 110

Insufficient protection of medical records of HIV-positive nurse from unauthorised access: *violation*.

I. v. Finland, no. 20511/03, no. 110

Surgery performed on drug-trafficker without his consent: *no violation*.

Bogumil v. Portugal, no. 35228/03, no. 112

Photographs of a defendant in criminal proceedings released to the press and shown on television, without his consent: *violation*.

Khuzhin and Others v. Russia, no. 13470/02, no. 112

Allegations in satirical magazine that politician had collaborated with former Communist repressive regime: *violation*.

Petrina v. Romania, no. 78060/01, no. 112

Insufficient redress in breach of privacy cases: *violations*.

Armonienė v. Lithuania, no. 36919/02, no. 113
Biriuk v. Lithuania, no. 23373/03, no. 113

Keeping of inaccurate police records and its forwarding to public authorities: *violation*.

Cemalettin Canlı v. Turkey, no. 22427/04, no. 113

Failure to compel service provider to disclose identity of person wanted for placing an indecent advertisement about a minor on an Internet dating site: *violation*.

K.U. v. Finland, no. 2872/02, no. 114

Retention of fingerprints and DNA information in cases where defendant in criminal proceedings is acquitted or discharged: *violation*.

S. and Marper v. the United Kingdom, nos. 30562/04 and 30566/04, no. 114

Private and family life

Still-born child's burial, without her mother's consent or attendance, in a common grave to which she was taken in a delivery van: *violation*.

Hadri-Vionnet v. Switzerland, no. 55525/00, no. 105

Exclusion of the applicant, who had been divested of her capacity to act, from proceedings resulting in the adoption of her daughter: *violation*.

X v. Croatia, no. 11223/04, no. 110

Refusal to rectify spelling of a forename in the registry of births, deaths and marriages: *violation*.

Güzel Erdagöz v. Turkey, no. 37483/02, no. 112

Failure by Supreme Court to give adequate explanation for reversing an award of compensation for damage caused to police officers' integrity and reputation by allegations of torture: *violation*.

Kyriakides v. Cyprus, no. 39058/05, no. 112
Taliadorou and Stylianou v. Cyprus, nos. 39627/05 and 39631/05, no. 112

Family life

Two-month time-limit for requesting return of child placed in the care of the State by the mother: *no violation*.

Kearns v. France, no. 35991/04, no. 104

Restrictions on contact before trial between a remand prisoner and his wife on the ground that she might be called as a prosecution witness: *violation*.

Ferla v. Poland, no. 55470/00, no. 108

Disciplinary proceedings resulting in restriction on family visits for almost a year: *violation*.

Gülmez v. Turkey, no. 16330/02, no. 108

Second investigation by child welfare services into the applicant's parental abilities after an initial investigation had concluded that the children did not need to be taken into care: *no violation*.

K.T. v. Norway, no. 26664/03, no. 111

Temporary placement of a child under public care due to fears of ill-treatment by the parents: *no violation*.

R.K. and A.K. v. the United Kingdom, no. 38000(1)/05, no. 111

Severance of all ties with the biological family of a child who was put up for adoption following suspected sexual abuse by members of the family: *violation*.

Clemeno v. Italy, no. 19537/03, no. 112

Automatic application of ban on exercising parental rights: *violation.*

Iordache v. Romania, no. 6817/02, no. 112

Restrictions on family visits to a remand prisoner: *violations*.

Moiseyev v. Russia, no. 62936/00, no. 112

Finding that child's removal was not wrongful for the purposes of the Hague Convention on the Civil Aspects of International Child Abduction: *violation*.

Carlson v. Switzerland, no. 49492/06, no. 113

Placement of children in public care on ground that their blind parents had failed to provide adequate care and housing: *violation*.

Savin and Savina v. Ukraine, no. 39948/06, no. 114

Expulsion

Expulsion of an alien on unsubstantiated grounds resulting in separation from his family: *violation*.

C.G. and Others v. Bulgaria, no. 1365/07, no. 107

Exclusion order made on account of convictions for largely non-violent offences committed when still a minor: *violation*.

Maslov v. Austria, no. 1638/03, no. 109

Decisions to expel and impose an exclusion order on an illegal immigrant who had married a national of the respondent State and fathered her child: *no violation*.

Darren Omoregie and Others v. Norway, no. 265/07, no. 110

Expulsion on the basis of a "secret" report of the State Security Department which was not disclosed to the applicant: *violation*.

Gulijev v. Lithuania, no. 10425/03, no. 114

Home

Eviction of council-house tenant under summary procedure affording inadequate procedural safeguards: *violation*.

McCann v. the United Kingdom, no. 19009/04, no. 108

Search of law offices and seizure of documents by tax inspectors seeking evidence against one of the firm's corporate clients: *violation*.

André and Other v. France, no. 18603/03, no. 110

Lack of evidence to show unacceptable noise nuisance from a neighbouring tailor shop: *inadmissible*.

Borysiewicz v. Poland, no. 71146/01, no. 110

Correspondence

Systematic monitoring of the entirety of a prisoner's correspondence: *violation*.

Petrov v. Bulgaria, no. 15197/02, no. 108

Interception by the Ministry of Defence of the external communications of civil-liberties organisations on the basis of a warrant issued under wide discretionary powers: *violation*.

Liberty and Others v. the United Kingdom, no. 58243/00, no. 110

Article 9

Manifest religion or belief

Applicant being sworn in as a lawyer forced to disclose that he was not a member of the Orthodox Church and did not wish to take a religious oath: *violation*.

Alexandridis v. Greece, no. 19516/06, no. 105

Prolonged failure to grant legal personality to a religious group: *violation*.

Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria, no. 40825/98, no. 110

Alleged denigration by Government of religious movements classified as "sects": *no violation*.

Leela Förderkreis e.V. and Others v. Germany, no. 58911/00, no. 113

Expulsion of female pupils from State school for refusing to remove headscarves during physical education and sports lessons: *no violation*.

Dogru v. France, no. 27058/05, no. 114
Kervanci v. France, no. 31645/04, no. 114

Article 10

Freedom of expression

Disciplinary sanction of a judge for following PKK-related media: *violation*.

Albayrak v. Turkey, no. 38406/97, no. 104

Conviction of newspaper for using official documents in support of claims made in articles without making additional enquiries: *violation*.

Saygılı and Others v. Turkey, no. 19353/03, no. 104

Criminal conviction of the publications director of a newspaper for defaming investigating judges in an article reporting on a press conference organised by the civil parties: *violation*.

July and Sarl Libération v. France, no. 20893/03, no. 105

Conviction of a newspaper reporter for defamation of a politician by unsubstantiated allegations of fact: *no violation*.

Rumyana Ivanova v. Bulgaria, no. 36207/03, no. 105

Imposition of a fine, with imprisonment in default, on the applicant, who was a researcher and the co-author of a book, for the criminal libel of the author of a scientific work on the same subject: *violation*.

Azevedo v. Portugal, no. 20620/04, no. 106

Unprofessional conduct of a newspaper in publishing two articles defamatory of a high school principal: *no violation*.

Flux *v. Moldova (no. 6)*, no. 22824/04, no. 110

Lawyer given a written reprimand for making a defamatory and unfounded allegation against a prosecution authority in written submissions: *no violation*.

Schmidt v. Austria, no. 513/05, no. 110

Criminal conviction for wearing an outlawed totalitarian symbol (red star) at a political demonstration: *violation*.

Vajnai v. Hungary, no. 33629/06, no. 110

Conviction of demonstrators for chanting slogans supporting an illegal organisation: *violation*.

Yılmaz and Kılıç v. Turkey, no. 68514/01, no. 110

Conviction for criminal libel of a representative of a religious community (the director of the Grand Mosque in Lyons): *violation.*

Chalabi v. France, no. 35916/04, no. 111

Conviction of a journalist for offensive behaviour and defamation: *no violation.*

Cuc Pascu v. Romania, no. 36157/02, no. 111

Conviction for complicity in condoning terrorism following publication of a caricature and accompanying caption: *no violation*.

Leroy v. France, no. 36109/03, no. 112

Confiscation of a publication promoting ethnic hatred: *no violation*.

Balsytė-Lideikienė v. Lithuania, no. 72596/01, no. 113

Criminal conviction and removal from office of a public prosecutor for abuse of authority and insulting the armed forces: *violation*.

Kayasu v. Turkey, nos. 64119/00 and 76292/01, no. 113

Journalist's conviction for criminal defamation in respect of article in a satirical publication accusing, without good faith or a factual basis, an editor of populism and corruption: *no violation*.

Mihaiu v. Romania, no. 42512/02, no. 113

Disciplinary penalty imposed on doctor for criticising fellow practitioner in report to a patient: *violation*.

Frankowicz v. Poland, no. 53025/99, no. 114

Conviction of criminal defamation for reporting suspected child abuse to a doctor: *violation*.

Juppala v. Finland, no. 18620/03, no. 114

Imposition of a fine on a television station for having broadcast an advertisement by a small political party, in breach of the statutory prohibition of any televised political advertising: *violation*.

TV Vest AS and Rogaland Pensjonistparti v. Norway, no. 21132/05, no. 114

Freedom to receive information

Court decision not to prolong private tenancy agreement owing to refusal by immigrant tenants to remove satellite dish used to receive television programmes from their country of origin: *violation*.

Khurshid Mustafa and Tarzibachi v. Sweden, no. 23883/06, no. 114

Freedom to impart information

Dismissal of a member of the Prosecutor General's Office for leaking evidence of apparent governmental interference in the administration of criminal justice to the press: *violation*.

Guja v. Moldova, no. 14277/04, no. 105

Failure to state reasons for successive refusals to grant a television broadcasting licence: *violation*.

Meltex Ltd and Movsesyan v. Armenia, no. 32283/04, no. 109

Article 11

Freedom of peaceful assembly

Dispersal of a demonstration which had not been notified to the police and which was not justified by special circumstances warranting an immediate response: *no violation*.
Éva Molnár v. Hungary, no. 10346/05, no. 112

Repeated bans on silent demonstrations outside Prime Minister's residence: *violation*.
Patyi and Others v. Hungary, no. 5529/05, no. 112

Administrative fine imposed for holding an authorised and peaceful picket against corruption in a court: *violation*.
Sergey Kuznetsov v. Russia, no. 10877/04, no. 112

Freedom of association

Refusal to register a non-governmental association based on a broad interpretation of vague legal provisions: *violation*.
Koretskyy and Others v. Ukraine, no. 40269/02, no. 107

Ban on municipal workers founding a trade union and order setting aside with retroactive effect a collective bargaining agreement: *violations*.
Demir and Baykara v. Turkey, no. 34503/97, no. 113

Article 13

Effective remedy

Ineffectiveness of length-of-proceedings remedy owing to lack of compensation for non-pecuniary damage: *violation*.
Martins Castro and Alves Correia de Castro v. Portugal, no. 33729/06, no. 109

Insufficient compensation for length of proceedings coupled with the failure to speed up the proceedings at issue: *violation*.
Kaić and Others v. Croatia, no. 22014/04, no. 110

Effectiveness of length-of-proceedings remedy lasting over three years: *violation*.
Vidas v. Croatia, no. 40383/04, no. 110

Lack of effective remedy against ban on exercising parental rights: *violation.*
Iordache v. Romania, no. 6817/02, no. 112

Effectiveness of an appeal to the Judicial Service Commission: *violation*.
Kayasu v. Turkey, nos. 64119/00 and 76292/01, no. 113

Effective domestic remedy (Russia)

Proceedings offering no speedy redress and an insufficient amount of damages for the length of enforcement proceedings: *violation*.

Wasserman v. Russia (no. 2), no. 21071/05, no. 107

Article 14

Discrimination (Article 3)

Racially motivated ill-treatment of a Roma minor by a police officer during an incident between officials and Roma and lack of effective investigation: *violation*.

Stoica v. Romania, no. 42722/02, no. 106

Discrimination (Article 8)

Refusal to grant approval for the purposes of adoption, on the ground of the applicant's life-style as a lesbian living with another woman: *violation*.

E.B. v. France, no. 43546/02, no. 104

Prisoner's inability to make telephone calls to his partner because they were not married: *violation*.

Petrov v. Bulgaria, no. 15197/02, no. 108

Discrimination (Article 9)

Inconsistent application of qualifying periods for eligibility to register as a religious society: *violation*.

Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria, no. 40825/98, no. 110

Discrimination (Article 1 of Protocol No. 1)

Ineligibility of cohabiting sisters to exemption from inheritance tax enjoyed by surviving spouses or civil partners: *no violation*.

Burden v. the United Kingdom, no. 13378/05, no. 107

Absence of right to index-linking for pensioners resident in overseas countries which had no reciprocal arrangements with the United Kingdom: *no violation*.

Carson and Others v. the United Kingdom, no. 42184/05, no. 113

Discrimination (Article 2 of Protocol No. 1)

Roma children denied access to school before being assigned to special classrooms in an annex to the main primary school buildings: *violation*.

Sampanis and Others v. Greece, no. 32526/05, no. 109

Placement of Roma children in Roma-only classes owing to their poor command of the Croatian language: *no violation (case referred to the Grand Chamber)*.

Oršuš and Others v. Croatia, no. 15766/03, nos. 110 and 113

Article 17

Destruction of rights and freedoms

Conviction for complicity in condoning terrorism following publication of a caricature and accompanying caption: *no violation*.

Leroy v. France, no. 36109/03, no. 112

Article 34

Victim

Application introduced on behalf of the applicant's sister who died while her constitutional claim concerning the alleged breach of her right to a fair trial was pending: *victim status upheld (case referred to the Grand Chamber)*.

Micallef v. Malta, no. 17056/06, nos. 104 and 110

Continuation of criminal proceedings after the accused's death: *victim status afforded to widow*.

Grădinar v. Moldova, no. 7170/02, no. 107

Loss of victim status by applicant following assignment of his rights to another applicant: *striking out*.

Dimitrescu v. Romania, nos. 5629/03 and 3028/04, no. 109

Domestic redress for ill-treatment by police officers including express judicial condemnation, the officers' conviction and the exclusion of the applicant's confession: *loss of victim status (case referred to the Grand Chamber)*.

Gäfgen v. Germany, no. 22978/05, nos. 109 and 113

Whether applicant who obtained damages in civil courts could claim to be victim of ill-treatment by gendarme against whom criminal proceedings were discontinued: *victim status upheld*.

Çamdereli v. Turkey, no. 28433/02, no. 110

Lack of effective investigation into the torture of a detainee who had been awarded compensation: *victim status upheld*.

Vladimir Romanov v. Russia, no. 41461/02, no. 110

Insufficient amount of non-pecuniary damage for non-enforcement of final judgment at domestic level: *victim status upheld*.

Kudić v. Bosnia and Herzegovina, no. 28971/05, no. 114

Association underwriting employees' claims qualified as a non-governmental organisation: *victim status upheld.*

Unédic v. France, no. 20153/04, no. 114

Hinder exercise of the right of petition

Inquiry ordered by Government representative into the financial arrangements between the applicant and his representative before the Court: *failure to comply with Article 34*.

Ryabov v. Russia, no. 3896/04, no. 104

Refusal by authorities to allow the applicant, a psychiatric patient, to contact his lawyer, even after the Court had issued an interim measure requesting them to do so: *failure to comply with Article 34*.

Shtukaturov v. Russia, no. 44009/05, no. 106

Lack of medical assistance to a HIV-positive detainee and State's failure to comply with Rule 39 measures in connection therewith: *failure to comply with Article 34*.

Aleksanyan v. Russia, no. 46468/06, no. 114

Article 35

Article 35 § 1

Effective domestic remedy ("the former Yugoslav Republic of Macedonia")

Failure to prove effectiveness of new domestic remedy concerning length of judicial proceedings: *preliminary objection dismissed*.

Parizov v. "the former Yugoslav Republic of Macedonia", no. 14258/03, no. 105

Six-month period

Application in disappearance case lodged more than six months after the respondent State's ratification of the right of individual petition but within days of its recognition of the jurisdiction of the old Court: *preliminary objection dismissed (case referred to the Grand Chamber)*.

Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, nos. 104 and 110

Company's continuing failure to comply with order to reinstate a dismissed employee ended by supervening winding up order: *preliminary objection upheld*.

Cone v. Romania, no. 35935/02, no. 109

Existence of continuing situation in family proceedings: *preliminary objection joined to merits.*

Iordache v. Romania, no. 6817/02, no. 112

Article 35 § 3

Competence *ratione temporis*

Court's temporal jurisdiction in respect of disappearances that had occurred some thirteen years before the respondent State recognised the right of individual petition: *preliminary objection dismissed (case referred to the Grand Chamber)*.

Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, nos. 104 and 110

Entry into force of Protocol to Convention after conviction but before conviction quashed: *preliminary objection dismissed*.

Matveyev v. Russia, no. 26601/02, no. 110

Article 37

Article 37 § 1

Matter resolved

Friendly settlement providing for both individual and general measures in pilot-judgment case: *struck out of the list*.

Hutten-Czapska v. Poland, no. 35014/97, no. 107

Continued examination not justified

Claims either satisfied or still pending at national level: *struck out of the list*.

Kovačić and Others v. Slovenia, nos. 44574/98, 45133/98 and 48316/99, no. 112

Pursuit of application brought on behalf of a deceased person: *inadmissible for abuse of right of petition (in respect of the deceased's son) and refusal of the Government's strike-out request (in respect of the daughter)*.

Predescu v. Romania, no. 21447/03, no. 114

Article 38

Furnish all necessary facilities

Government's refusal to disclose documents from investigation into allegations of ill-treatment by State agents: *failure to comply with Article 38*.

Maslova and Nalbandov v. Russia, no. 839/02, no. 104

Government's refusal to disclose documents requested by the Court in connection with Article 2 complaints: *inferences drawn under Article 2*.

Betayev and Betayeva v. Russia, no. 37315/03, no. 108
Gekhayeva and Others v. Russia, no. 1755/04, no. 108
Ibragimov and Others v. Russia, no. 34561/03, no. 108
Sangariyeva and Others v. Russia, no. 1839/04, no. 108

Article 41

Just satisfaction

Relevance of large number of joint claimants on quantum of awards in respect of non-pecuniary damage in length-of-proceedings cases: *factor to be taken into account*.
Arvanitaki-Roboti and Others v. Greece, no. 27278/03, no. 105
Kakamoukas and Others v. Greece, no. 38311/02, no. 105

Assessment of pecuniary damage for *de facto* expropriation.
Guiso-Gallisay v. Italy, no. 58858/00, no. 112

Article 46

Execution of judgments – General measures

Respondent State to bring national legislation in line with the principles set out in the European Prison Rules so as to ensure effective protection of the right to a fair hearing in disciplinary proceedings against prisoners.
Gülmez v. Turkey, no. 16330/02, no. 108

Respondent State to comply with Court's case-law on the effectiveness of remedies.
Martins Castro and Alves Correia de Castro v. Portugal, no. 33729/06, no. 109

Respondent State to take appropriate legal or other measures to remedy systemic failings in domestic legal order relating to housing legislation.
Ghigo v. Malta, no. 31122/05, no. 110

Respondent State to take general measures to secure the right to restitution in kind of confiscated land or to an award of compensation in lieu.
Viaşu v. Romania, no. 75951/01, no. 114

Execution of a judgment – Individual measures

Respondent State to discontinue the applicant's detention on remand.
Aleksanyan v. Russia, no. 46468/06, no. 114

Article 1 of Protocol No. 1

Possessions

Dismissal of a claim for restitution of works of art that had been deposited in a museum decades earlier: *no violation*.
Glaser v. the Czech Republic, no. 55179/00, no. 105

Peaceful enjoyment of possessions

Refusal to allow Greeks to inherit property located in Turkey, on the ground that the criterion of reciprocity between Greece and Turkey had not been met: *violation*.
Nacaryan and Deryan v. Turkey, nos. 19558/02 and 27904/02, no. 104

Adequacy of measures taken by the authorities to provide alternative accommodation and emergency relief for victims of property damage caused by mudslide: *no violation*.
Budayeva and Others v. Russia, nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, no. 106

Rate of default interest payable by State hospital lower than that payable by private individuals: *violation*.
Meïdanis v. Greece, no. 33977/06, no. 108

Classification of land as public woodlands without compensation: *violation*.
Köktepe v. Turkey, no. 35785/03, no. 110

Date of commencement of pension entitlement put back solely on account of time taken by administrative authorities and courts to issue their decisions: *violation*.
Reveliotis v. Greece, no. 48775/06, no. 114

Failure to return land confiscated by the State or to provide equivalent redress: *violation*.
Viaşu v. Romania, no. 75951/01, no. 114

Deprivation of property

Registration of land belonging to the applicants in the name of the Treasury for nature-conservation purposes without payment of compensation: *violation*.
Turgut and Others v. Turkey, no. 1411/03, no. 110

Control of the use of property

Prolonged inability to enjoy proceeds from customs auction: *violation*.
Jucys v. Lithuania, no. 5457/03, no. 104

Withdrawal of an Internet service provider's operating licences for purely formal breach of regulations: *violation*.
Megadat.com SRL v. Moldova, no. 21151/04, no. 107

Inability of the owner to recover possession of let agricultural land at the end of the lease owing to a decision by the courts to grant the tenant permission to assign the lease to his son: *no violation*.
Gauchin v. France, no. 7801/03, no. 109

Denial of access to business documents and accounts in the control of a State-appointed receiver for purposes of challenging the receivership order: *violation*.
Družstevní Záložna Pria and Others v. the Czech Republic, no. 72034/01, no. 110

Forfeiture of applicant's lawfully possessed money for failure to report it to customs authorities: *violation*.

Ismayilov v. Russia, no. 30352/03, no. 113

Positive obligations

Burglary of the applicant's houses while she was in custody: *no violation*.

Blumberga v. Latvia, no. 70930/01, no. 112

Article 2 of Protocol No. 1

Right to education

Placement of Roma children in Roma-only classes owing to their poor command of the Croatian language: *no violation (case referred to the Grand Chamber)*.

Oršuš and Others v. Croatia, no. 15766/03, nos. 110 and 113

Article 3 of Protocol No. 1

Free expression of opinion of the people

Arbitrary invalidation of votes obtained by the leading candidate in several electoral divisions of a parliamentary constituency, resulting in victory for his opponent: *violation*.

Kovach v. Ukraine, no. 39424/02, no. 105

Elected parliamentarians deprived of their seats as a result of an unforeseeable departure by the Special Supreme Court from its settled case-law concerning the method for calculating the electoral quotient: *violation*.

Paschalidis, Koutmeridis and Zaharakis v. Greece, nos. 27863/05, 28422/05 and 28028/05, no. 107

Introduction of an active system of voter registration shortly before the election in a "post-revolutionary" political context, aimed at remedying the problem of chaotic electoral rolls: *no violation*.

The Georgian Labour Party v. Georgia, no. 9103/04, no. 110

No evidence of abuse of power or electoral fraud adduced to back up a complaint of a pro-presidential majority in electoral commissions at all levels: *no violation*.

The Georgian Labour Party v. Georgia, no. 9103/04, no. 110

Illegitimate and unjustified exclusion of two electoral districts from the country-wide vote tally: *violation*.

The Georgian Labour Party v. Georgia, no. 9103/04, no. 110

Requirement for political parties to obtain at least 10% of the vote in national elections in order to be represented in Parliament: *no violation*.

Yumak and Sadak v. Turkey, no. 10226/03, no. 110

Stand for election

Ineligibility for election of a former member of a military unit affiliated to the KGB: *violation*.

Ādamsons v. Latvia, no. 3669/03, no. 109

Inability of persons with multiple nationality to stand as candidates in parliamentary elections: *violation*.

Tănase and Chirtoacă v. Moldova, no. 7/08, no. 113

Article 2 of Protocol No. 4

Freedom of movement

Length of a residence condition to which an accused was subject both during and after criminal proceedings: *violation*.

Rosengren v. Romania, no. 70786/01, no. 107

Article 1 of Protocol No. 7

Review of expulsion decision

Lack of procedural safeguards in deportation proceedings: *violation*.

C.G. and Others v. Bulgaria, no. 1365/07, no. 107

Article 3 of Protocol No. 7

Compensation

Inability to seek compensation for non-pecuniary damage following quashing of criminal convictions in the absence of a "new or newly discovered fact": *Article 3 of Protocol No. 7 not applicable*.

Matveyev v. Russia, no. 26601/02, no. 110

Rule 39 of the Rules of Court

Interim measures

Refusal of State authorities to comply with an interim measure: *failure to comply with Article 34*.

Shtukaturov v. Russia, no. 44009/05, no. 106

Lack of medical assistance to a HIV-positive detainee and State's failure to comply with Rule 39 measures in connection therewith: *failure to comply with Article 34*.

Aleksanyan v. Russia, no. 46468/06, no. 114

DECISIONS[1]

Article 1

Responsibility of States

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible.*

Boivin v. France and Belgium and 32 other member States of the Council of Europe, no. 73250/01, no. 111

Article 3

Inhuman or degrading treatment or punishment

Decision to place child in care because of suspected abuse after failure to diagnose brittle-bone disease: *inadmissible*.

D. and Others v. the United Kingdom, no. 38000/05, no. 105

Imposition of a life sentence: *inadmissible*.

Garagin v. Italy, no. 33290/07, no. 108

Failure to enforce Human Rights Chamber decisions ordering Bosnia and Herzegovina to protect the well-being and obtain the return of terrorist suspects detained in Guantánamo Bay: *inadmissible*.

Boumediene and Others v. Bosnia and Herzegovina, nos. 38703/06, 40123/06, 43301/06, 43302/06, 2131/07 and 2141/07, no. 113

Statutory ban on returning the bodies of terrorists for burial: *admissible*.

Sabanchiyeva and Others v. Russia, no. 38450/05, no. 113

Appalling conditions of storage of the bodies of the applicants' deceased relatives: *admissible*.

Sabanchiyeva and Others v. Russia, no. 38450/05, no. 113

Expulsion

Risk of ill-treatment in case of expulsion to Algeria of a terrorist suspect: *admissible*.

Ramzy v. the Netherlands, no. 25424/05, no. 108

Proposed removal of Iranian asylum-seeker to Greece under the Dublin Regulation: *inadmissible*.

K.R.S. v. the United Kingdom, no. 32733/08, no. 114

1. Including the Court's advisory opinion of 12 February 2008 (see Articles 21 and 47 below).

Article 5

Article 5 § 1

Lawful arrest or detention

Calculation of total period to be served after applicant received prison sentences from two different courts: *inadmissible*.

Garagin v. Italy, no. 33290/07, no. 108

Applicant's continued placement in preventive detention beyond the maximum period authorised at the time of his placement: *admissible*.

M. v. Germany, no. 19359/04, no. 111

Article 6

Article 6 § 1 (civil)

Applicability

No right under domestic law to obtain a permit to provide betting and gaming services: *inadmissible*.

Ladbrokes Worldwide Betting v. Sweden, no. 27968/05, no. 108

Access to court

State immunity from jurisdiction in proceedings concerning claim for damages for dismissal: *admissible (relinquishment in favour of the Grand Chamber)*.

Sabeh El Leil v. France, no. 34869/05, no. 114

Fair hearing

Conflict in case-law arising out of decisions of Supreme Court: *inadmissible*.

Schwarzkopf and Taussik v. the Czech Republic, no. 42162/02, no. 114

Article 6 § 1 (criminal)

Applicability

Article 6 inapplicable to European arrest warrant procedure: *inadmissible*.

Monedero Angora v. Spain, no. 41138/05, no. 112

Article 6 § 3 (c)

Defence through legal assistance

Refusal of legal aid to contest tax surcharge: *inadmissible*.

Barsom and Varli v. Sweden, nos. 40766/06 and 40831/06, no. 104

Article 6 § 3 (d)

Examination of witnesses

Refusal to hear witnesses allegedly crucial for the applicant's defence: *admissible*.
Sutyagin v. Russia, no. 30024/02, no. 110

Article 7

Article 7 § 1

Nullum crimen sine lege

Employee working for a company based in the Netherlands convicted for lacking a residence permit in Germany: *inadmissible*.
Tolgyesi v. Germany, no. 554/03, no. 110

Conviction for sale of adulterated product, which had been notified to the Belgian authorities, containing an additive prohibited by Community regulations incorporated into French law: *inadmissible.*
Ooms v. France, no. 38126/06, no. 111

Nulla poena sine lege

Effect of the entry into force on the date of his conviction of a legislative-decree liable to affect the applicant's situation: *admissible (relinquishment in favour of the Grand Chamber)*.
Scoppola v. Italy, no. 10249/03, no. 109

Heavier penalty

Final calculation of total period to be served after applicant received two prison sentences that led to a longer deprivation of liberty than that initially indicated by State Counsel's Office: *inadmissible*.
Garagin v. Italy, no. 33290/07, no. 108

Retrospective extension of preventive detention from a maximum of ten years to an unlimited period of time: *admissible*.
M. v. Germany, no. 19359/04, no. 111

Article 8

Private life

Decision not to implement a needle-exchange programme for drug users in prisons to help prevent the spread of viruses: *inadmissible*.
Shelley v. the United Kingdom, no. 23800/06, no. 104

Alleged failure by the authorities to prevent nuisance caused by activities of a car-repair garage illegally built in a residential area: *inadmissible*.

Furlepa v. Poland, no. 62101/00, no. 106

Ruling by Court of Cassation that a special procedure that had to be followed before the telephone calls of a member of the national parliament could be monitored did not apply to the monitoring of calls of members of the European Parliament: *inadmissible*.

Marchiani v. France, no. 30392/03, no. 108

Dismissal of a probation officer working with sex offenders for engaging in sadomasochistic performances in a nightclub and on the Internet: *inadmissible*.

Pay v. the United Kingdom, no. 32792/05, no. 111

Family life

Measures taken by the authorities to protect children wrongly suspected of being victims of child abuse: (a) registration on at-risk register: *inadmissible*, (b) care order: *admissible*.

D. and Others v. the United Kingdom, no. 38000/05, no. 105

Withdrawal of parental rights and prohibition on access to children: *inadmissible*.

Haase and Others v. Germany, no. 34499/04, no. 105

Statutory ban on returning bodies of terrorists for burial: *admissible*.

Sabanchiyeva and Others v. Russia, no. 38450/05, no. 113

Home

Noise nuisance from wind turbine built near a house: *inadmissible*.

Fägerskiöld v. Sweden, no. 37664/04, no. 105

Alleged failure by the authorities to prevent nuisance caused by activities of a car-repair garage illegally built in a residential area: *inadmissible*.

Furlepa v. Poland, no. 62101/00, no. 106

Order for demolition of houses owing to authorities' refusal to continue to authorise the occupation of coastal public land on which they were built: *admissible (relinquishment in favour of the Grand Chamber)*.

Brosset-Triboulet and Brosset-Pospisil v. France, no. 34078/02, no. 111

Depalle v. France, no. 34044/02, no. 111

Correspondence

Ruling by Court of Cassation that a special procedure that had to be followed before the telephone calls of a member of the national parliament could be monitored did not apply to the monitoring of calls of members of the European Parliament: *inadmissible*.

Marchiani v. France, no. 30392/03, no. 108

Article 9

Manifest religion or belief

Dismissal of a doctor for refusing to perform a medical examination owing to a "moral dilemma": *inadmissible*.

Blumberg v. Germany, no. 14618/03, no. 106

Refusal of an entry visa for France because of the unwillingness of the applicant, a Moroccan national, to remove her veil at the security checkpoint at the consular offices: *inadmissible*.

El Morsli v. France, no. 15585/06, no. 106

Obligation to remove turban for driving licence photograph: *inadmissible*.

Mann Singh v. France, no. 24479/07, no. 113

Article 10

Freedom of expression

Imposition of a fine on a lawyer for issuing a press statement criticising "the abusive methods used by special police units on the pretext of fighting terrorism": *inadmissible*.

Coutant v. France, no. 17155/03, no. 104

Removal from judicial office for making critical media statements about the Russian judiciary: *admissible*.

Kudeshkina v. Russia, no. 29492/05, no. 106

Refusal of nationality application by the Cabinet of Ministers, allegedly on national interest grounds: *admissible*.

Petropavlovskis v. Latvia, no. 44230/06, no. 109

Early termination of a conscript's military service on the ground of his membership of an extremist party: *inadmissible*.

Lahr v. Germany, no. 16912/05, no. 110

Warning issued against a politician for calling her opponent a thief in a live television broadcast during the electoral period and court order granting her opponent a right to reply: *inadmissible*.

Vitrenko and Others v. Ukraine, no. 23510/02, no. 114

Freedom to receive information

Denial of information to a non-governmental organisation about a pending constitutional review case: *admissible*.

Társaság a Szabadságjogokért v. Hungary, no. 37374/05, no. 113

Freedom to impart information

Disciplinary penalty imposed on a doctor for advertising his cosmetic-surgery practice: *inadmissible*.

Villnow v. Belgium, no. 16938/05, no. 105

Conviction for imparting information which the applicant alleged was not from a classified source: *admissible*.

Sutyagin v. Russia, no. 30024/02, no. 110

Article 11

Freedom of association

Dismissal of regional public servants for failing to declare their membership of an association: *inadmissible*.

Siveri and Chiellini v. Italy, no. 13148/04, no. 109

Dissolution of an association aimed at promoting "the historical identity of the Slavs from Macedonia, who have for centuries appeared as Bulgarians": *admissible*.

Asssociation of Citizens "Radko" and Paunkovski v. "the former Yugoslav Republic of Macedonia", no. 74651/01, no. 110

Article 13

Effective remedy

Denial of access to intelligence that had resulted in an asylum-seeker's exclusion on national security grounds: *admissible*.

Ramzy v. the Netherlands, no. 25424/05, no. 108

Article 14

Discrimination (Article 6 § 1)

Refusal to grant an authority to enforce the judgment of foreign court: *inadmissible*.

McDonald v. France, no. 18648/04, no. 110

Discrimination (Article 8 of the Convention and Article 1 of Protocol No. 1)

Exclusion of person in homosexual relationship from insurance cover as dependant of a civil servant: *admissible*.

P.B. and J.S. v. Austria, no. 18984/02, no. 106

Discrimination (Article 11)

Dismissal of regional public servants for failing to declare their membership of an association: *inadmissible*.

Siveri and Chiellini v. Italy, no. 13148/04, no. 109

Discrimination (Article 1 of Protocol No. 1)

Legislation implementing measures in favour of Jewish and Roma victims of the Second World War subject to condition that they had held Belgian nationality from a specified date: *inadmissible*.

Epstein and Others v. Belgium, no. 9717/05, no. 104

Difference in treatment between illegitimate children in succession case depending on how their relationship to their parents was established: *inadmissible*.

Alboize-Barthes and Alboize-Montezume v. France, no. 44421/04, no. 112

Article 21

Article 21 § 1

Criteria for office

Refusal of candidate list solely on the basis of gender-related issues: *practice of Parliamentary Assembly incompatible with Convention*.

Advisory opinion – composition of lists of candidates for election as judges of European Court, no. 105

Article 34

Defendant State Party

Ex officio examination of a case against Moldova by virtue of factual links with that country: *inadmissible*.

Kireev v. Moldova and Russia, no. 11375/05, no. 110

Victim

Complaint by severely disabled persons concerning domestic-court decision permitting artificial nutrition and hydration of coma victim to be discontinued: *lack of victim status*.

Rossi and Others v. Italy, nos. 55185/08, 55483/08, 55516/08, 55519/08, 56010/08, 56278/08, 58420/08 et 58424/08, no. 114

Article 35

Article 35 § 1

Exhaustion of domestic remedies (Denmark)

Failure to exercise a remedy for the length of proceedings which, if successful, could have resulted in an exemption from costs order: *inadmissible*.

Pindstrup Mosebrug A/S v. Denmark, no. 34943/06, no. 109

Effective domestic remedy (France)

Specific remedies available in domestic law for violations of the presumption of innocence: *inadmissible*.

Marchiani v. France, no. 30392/03, no. 108

Article 35 § 3

Competence *ratione temporis*

Alleged violation based on an administrative decision taken before the entry into force of the Convention, whereas the final judicial decision was taken thereafter: *inadmissible*.

Meltex Ltd v. Armenia, no. 37780/02, no. 108

Expropriation of private property of ethnic Germans, located on territories entrusted to Poland after World War II, and failure to enact rehabilitation or restitution laws: *inadmissible*.

Preussische Treuhand GmbH & CO. Kg A. A. v. Poland, no. 47550/06, no. 112

Competence *ratione personae*

Dispute falling entirely within internal legal system of an international organisation endowed with its own legal personality separate from that of its members: *inadmissible.*

Boivin v. France and Belgium and 32 Other Member States of the Council of Europe, no. 73250/01, no. 111

Article 46

Execution of a judgment

Alleged failure of domestic authorities to abide by previously adopted European Court judgment: *inadmissible*.

Haase and Others v. Germany, no. 34499/04, no. 105

Article 47

Advisory opinions

Refusal of candidate list solely on the basis of gender-related issues: *practice of Parliamentary Assembly incompatible with Convention*.

Advisory opinion – composition of lists of candidates for election as judges of European Court, no. 105

Article 1 of Protocol No. 1

Possessions

Inability to recover deposits from the Chechen Savings Bank, a part of the Savings Bank of Russia, following its liquidation, despite judicial recognition of entitlement: *admissible*.

Merzhoyev v. Russia, no. 68444/01, no. 104

Inability to recover deposits from the Chechen Savings Bank, a part of the Savings Bank of Russia, following its liquidation: *inadmissible*.

Pupkov v. Russia, no. 42453/02, no. 104

No right under domestic law to a court award reflecting inflation: *inadmissible*.

Todorov v. Bulgaria, no. 65850/01, no. 108

Peaceful enjoyment of possessions

Order for demolition of houses owing to authorities' refusal to continue to authorise the occupation of coastal public land on which they were built: *admissible (relinquishment in favour of the Grand Chamber)*.

Brosset-Triboulet and Brosset-Pospisil v. France, no. 34078/02, no. 111

Depalle v. France, no. 34044/02, no. 111

Method of calculation of wealth tax combined with application of a ceiling such that liability did not exceed disposable income: *inadmissible*.

Imbert de Trémiolles v. France, nos. 25834/05 and 27815/05, no. 104

Noise nuisance from wind turbine built near a house: *inadmissible*.

Fägerskiöld v. Sweden, no. 37664/04, no. 105

Refusal to grant permit for peat extraction for nature conservation reasons: *inadmissible*.

Pindstrup Mosebrug A/S v. Denmark, no. 34943/06, no. 109

Article 3 of Protocol No. 1

Free expression of opinion of the people

Election to parliament of representative of a national minority according to number of votes obtained at the territorial, not the national, level: *admissible*.

Grosaru v. Romania, no. 78039/01, no. 113

Rule 43 § 4 of the Rules of Court

Expenses assessed by Court after striking out of list

Award of costs and expenses to the extent that they were actually and necessarily incurred and were reasonable as to quantum: *obligation on respondent State to reimburse sums concerned*.

Pilato v. Italy, no. 18995/06, no. 111

XI. CASES ACCEPTED FOR REFERRAL TO THE GRAND CHAMBER AND CASES IN WHICH JURISDICTION WAS RELINQUISHED BY A CHAMBER IN FAVOUR OF THE GRAND CHAMBER IN 2008

CASES ACCEPTED FOR REFERRAL TO THE GRAND CHAMBER AND CASES IN WHICH JURISDICTION WAS RELINQUISHED BY A CHAMBER IN FAVOUR OF THE GRAND CHAMBER IN 2008

A. Cases accepted for referral to the Grand Chamber

In 2008 the five-member panel of the Grand Chamber (Article 43 § 2 of the Convention and Rule 24 § 5 of the Rules of Court) held 6 meetings (on 30 January, 31 March, 2 June, 7 July, 29 September, and 1 December) to examine requests by the parties for cases to be referred to the Grand Chamber under Article 43 of the Convention. It considered requests concerning a total of 295 cases, 134 of which were submitted by the respective Governments (in 8 cases both the Government and the applicant submitted requests).

The panel accepted requests in the following 10 cases (concerning 18 applications):

Paladi v. Moldova, no. 39806/05
Kozacıoğlu v.Turkey, no. 2334/03
Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland, no. 32772/02
Mooren v. Germany, no. 11364/03
Varnava and Others v. Turkey, nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90
Micallef v. Malta, no. 17056/06
Medvedyev and Others v. France, no. 3394/03
Oršuš and Others v. Croatia, no. 15766/03
Kart v. Turkey, no. 8917/05
Gäfgen v. Germany, no. 22978/05

B. Cases in which jurisdiction was relinquished by a Chamber in favour of the Grand Chamber

Second Section – *Enea v. Italy*, no. 74912/01; *Scoppola v. Italy*, no. 10249/03

Fifth Section – *Depalle v. France*, no. 34044/02; *Brosset-Triboulet and Brosset-Pospisil v. France*, no. 34078/02; *Sabeh El Leil v. France*, no. 34869/05

First, Third and Fourth Sections took no decision to relinquish cases to the Grand Chamber.

XII. STATISTICAL INFORMATION

STATISTICAL INFORMATION

Events in total (2007-2008)

1. Applications allocated to a judicial formation Committee/Chamber [round figures (50)]	**2008**	**2007**	**+/-**
Applications allocated	**49,850**	41,650	20%

2. Interim procedural events	**2008**	**2007**	**+/-**
Applications communicated to respondent Government	**4,416**	3,456	28%
Applications declared admissible	**1,671**	1,626	3%
– in separate decision	**76**	185	-59%
– in judgment on merits	**1,595**	1,441	11%

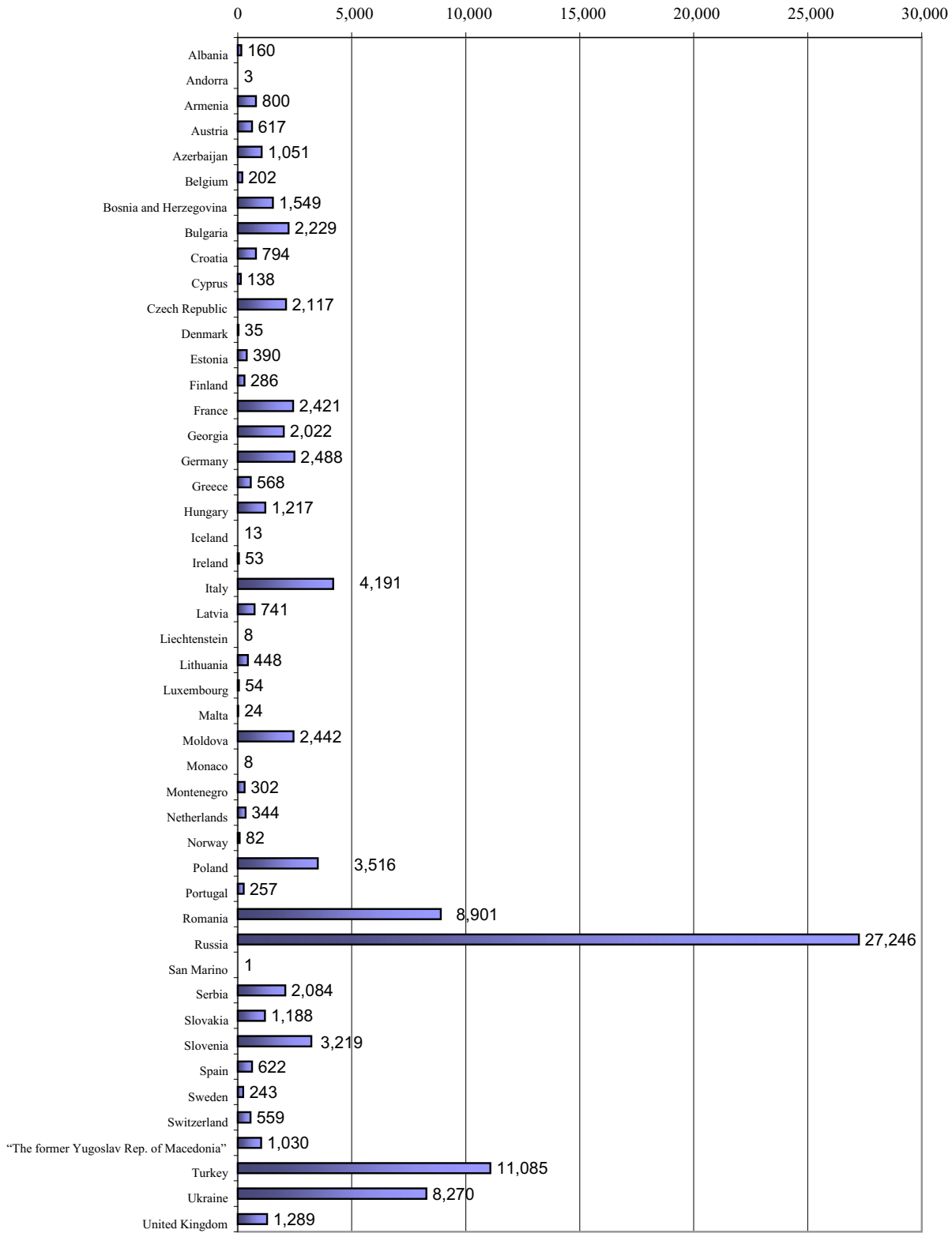
3. Applications disposed of	**2008**	**2007**	**+/-**
By decision or judgment[1]	**32,044**	28,794	11%
– by judgment delivered	**1,881**	1,735	8%
– by decision (inadmissible or struck out)	**30,163**	27,059	11%

4. Pending applications [round figures (50)]	**31/12/2008**	**1/1/2008**	**+/-**
Applications pending before a judicial formation	**97,300**	79,400	23%
– Chamber (7 judges)	**33,850**	27,950	21%
– Committee (3 judges)	**63,450**	51,450	23%

5. Pre-judicial applications [round figures (50)]	**31/12/2008**	**1/1/2008**	**+/-**
Applications at pre-judicial stage	**21,450**	24,450	-12%
	2008	**2007**	**+/-**
Applications disposed of administratively (applications not pursued – files destroyed)	**14,800**	13,400	10%

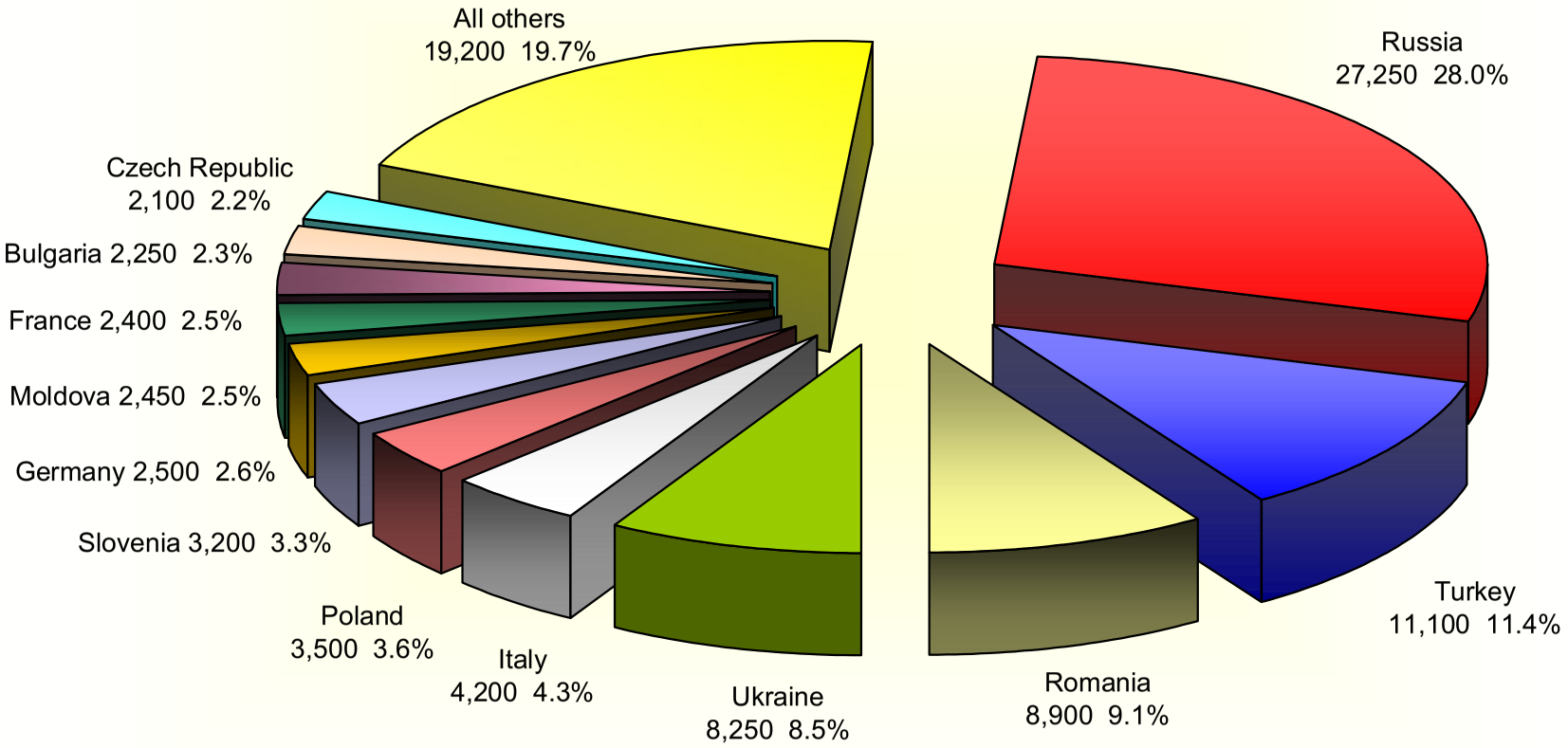
1. A judgment or decision may concern more than one application. Up until 1 January 2008, the Court gave an overall figure for the number of applications pending before it, including applications at the pre-judicial stage. These are applications which are not ready for decision because the file is not complete and which have therefore not yet been allocated to a judicial formation. Since a significant percentage of these uncompleted applications are disposed of administratively because the applicant fails to submit the properly completed application form and/or necessary supporting documentation within the prescribed time-limit, the Court's statistics for 2007 and 2008 respectively provide a figure which more accurately reflects its true judicial activity. The figure for pre-judicial applications appears as a separate statistic since the processing of these files does represent a certain amount of work for the Registry.

Pending cases allocated to a judicial formation on 31 December 2008, by respondent State



Total: 97,307 applications pending before a judicial formation

Pending cases allocated to a judicial formation on 31 December 2008
(main respondent States)



Total number of pending cases: 97,300
[round figures (50)]

Events in total, by respondent State (2008)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Albania	75	15	24	1	1	–
Andorra	1	3	1	1	1	–
Armenia	106	36	7	9	6	–
Austria	373	314	68	14	14	–
Azerbaijan	334	253	37	3	9	–
Belgium	166	98	27	7	14	–
Bosnia and Herzegovina	971	245	18	6	3	–
Bulgaria	890	434	137	53	60	1
Croatia	608	752	70	19	19	–
Cyprus	66	39	19	10	9	–
Czech Republic	721	1,569	19	13	16	1
Denmark	73	56	5	3	2	–
Estonia	169	179	5	4	2	–
Finland	276	461	69	9	9	–
France	2,724	2,619	98	36	34	1
Georgia	1,771	27	28	5	6	–
Germany	1,572	1,580	52	10	10	–
Greece	416	323	98	82	74	–
Hungary	425	338	57	50	44	–
Iceland	7	9	2	1	–	–
Ireland	48	28	1	–	–	–
Italy	1,824	458	63	71	83	–
Latvia	248	147	8	4	4	–
Liechtenstein	8	5	–	–	–	–
Lithuania	255	217	16	9	13	–

Events in total, by respondent State (2008) (continued)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Luxembourg	35	27	8	6	6	1
Malta	12	10	1	1	5	–
Moldova	1,147	477	126	29	33	–
Monaco	5	12	1	–	–	–
Montenegro	156	5	–	–	–	–
Netherlands	385	334	20	2	1	–
Norway	79	78	1	2	5	–
Poland	4,369	3,825	269	143	140	–
Portugal	151	75	86	33	12	–
Romania	5,242	4,466	443	203	199	–
Russia	10,146	2,982	825	267	244	–
San Marino	4	6	–	–	–	–
Serbia	1,067	335	68	12	9	–
Slovakia	488	459	67	13	15	1
Slovenia	1,353	812	188	8	9	–
Spain	393	401	26	9	3	–
Sweden	317	409	17	5	2	–
Switzerland	261	157	18	4	4	–
"The former Yugoslav Republic of Macedonia"	395	330	64	18	15	–
Turkey	3,706	1,475	952	350	264	–
Ukraine	4,770	2,044	259	115	110	–
United Kingdom	1,253	1,240	48	31	35	1
Total	**49,861**	**30,163**	**4,416**	**1,671**	**1,543**	**6**

Violations by Article and by respondent State (2008)

2008	Number of judgments one violation	Judgments finding at least	Friendly settlements / Striking out judgments finding no violation	Other judgments*	Right to life - deprivation of life	Lack of effective investigation	Inhuman or degrading treatment Prohibition of torture	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Right to a fair trial	No punishment without law	Length of proceedings	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	Total	Total	Total	Total	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**1**	1											1														
Andorra	**1**	1											1														
Armenia	**6**	6							3				4					1	1						1		4
Austria	**14**	11	2		1							2	3	7		1	1	1			1	1					
Azerbaijan	**9**	7			2								2	2				1	2		1		1				1
Belgium	**14**	12	2						1			1	1	9		1					2						
Bosnia Herzegovina	**3**	3							1			1	1								1		1				
Bulgaria	**60**	51	3	1	5		1		11	3		40	8	25		7		1			21	1	3				1
Croatia	**19**	16	1		2				1				2	11		1					5		2				
Cyprus	**9**	6	2		1								3	2	1	2					1						
Czech Republic	**16**	15		1								5	12			1							2				
Denmark	**2**	2												2													
Estonia	**2**	2										1	1														
Finland	**9**	8	1										3	2		2		1									
France	**34**	24	9	1		1			1			3	15	1		1		3				1					
Georgia	**6**	4	2							1		1	1	1											1		
Germany	**10**	6	3	1									1	5							1						
Greece	**74**	73	1						1			1	12	53			1	2	2		14	1	7		1		
Hungary	**44**	43	1											39	1	1		1	1								1
Iceland	**0**																										
Ireland	**0**																										
Italy	**82**	72	2		8				2			2	6	51		13		1			7		8		1		
Latvia	**4**	4										1	1		1										1		
Liechtenstein	**0**																										
Lithuania	**13**	11	2			1	1		1				4			5							1				

* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

Violations by Article and by respondent State (2008) (continued)

2008	Number of judgments one violation	Judgments finding at least	Friendly settlements / Striking out judgments finding no violation	Other judgments*	Right to life - deprivation of life	Lack of effective investigation	Prohibition of torture	Inhuman or degrading treatment	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Length of proceedings	Right to a fair trial	No punishment without law	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Right to marry	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	*Total*	*Total*	*Total*	*Total*	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Luxembourg	**6**	4	1	1									1	3												
Malta	**5**	2			3								1	1												
Moldova	**33**	28	1	1	3			1	2	2		1	15	3		1		3	1		5		9		1		
Monaco	**0**																									
Montenegro	**0**																									
Netherlands	**1**				1																					
Norway	**5**	3	2										1	1				1								
Poland	**141**	129	9	1	2	1	1					47	9	63		17		3			4		3			
Portugal	**12**	12											4	1				2			1		5			
Romania	**199**	189	4		6				7	7		17	77	25		7		2			2	13	129		1		2
Russia	**244**	233	9		2	37	41	7	63	11		67	159	20		8		3	1		59		122				26
San Marino	**0**																									
Serbia	**9**	8	1									3	3	3							1		3			
Slovakia	**15**	12		2	1							1		11												
Slovenia	**9**	8		1										7							8					
Spain	**3**	2	1										2													
Sweden	**2**	2												1				1								
Switzerland	**4**	4										1				3										
"The former Yugoslav Republic of Macedonia"	**15**	15								3			3	10							2		1			
Turkey	**264**	257	1	1	5	11	16	3	30	24		64	75	64		11		20	5		12		42				1
Ukraine	**110**	110				1	3		4	4		14	61	32		1			1		15		46		1		
United Kindgom	**36**	27	6	3					1			2		1		3					1	21					
Sub Total	**1,545**	**1,423**	**66**	**14**	**42**	**52**	**63**	**11**	**129**	**55**	**0**	**275**	**493**	**456**	**3**	**86**	**2**	**47**	**14**	**0**	**164**	**38**	**385**	**0**	**8**	**0**	**36**
Total		**1,543****																									

* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

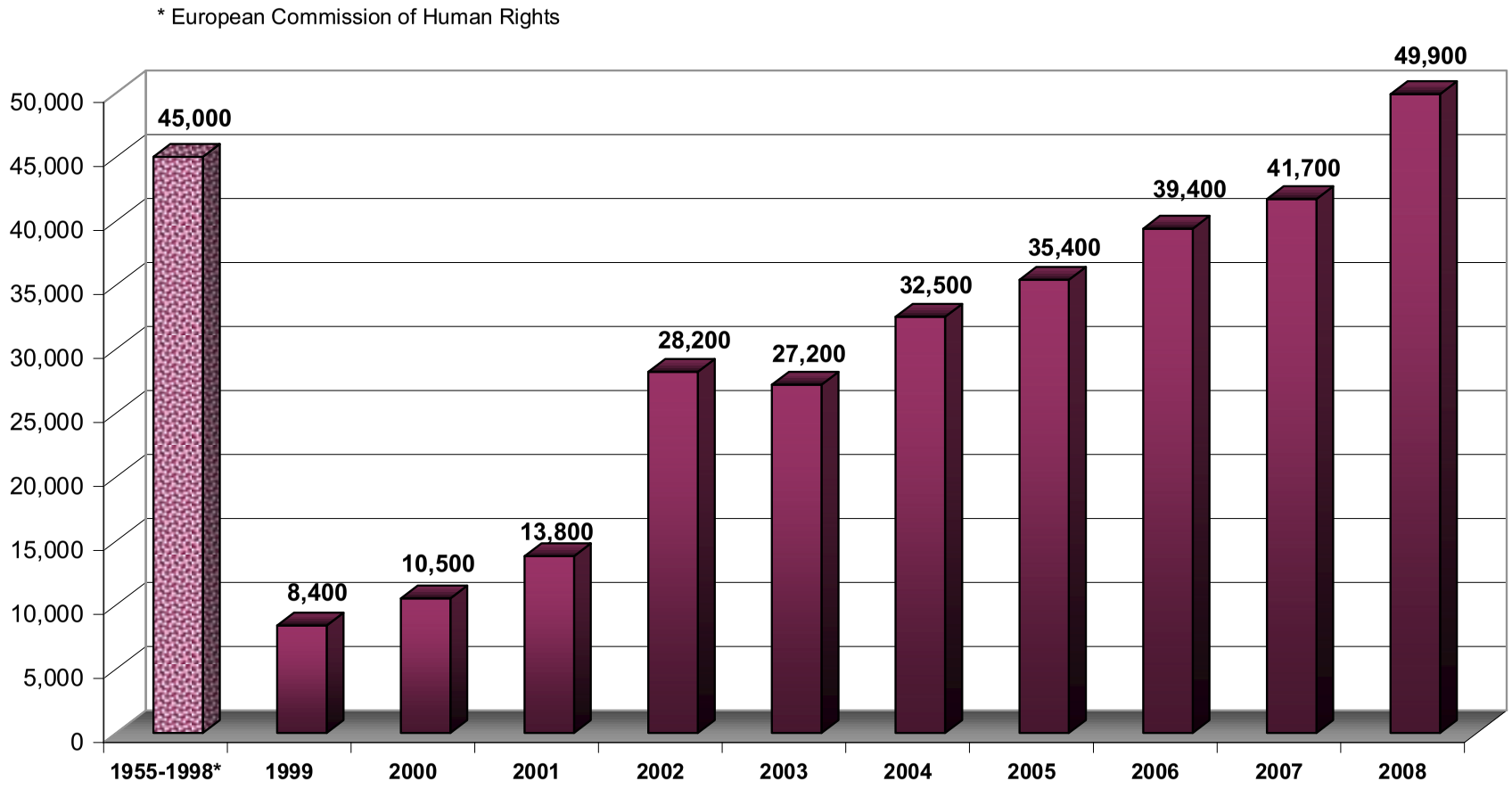
** Including two judgments which concern two respondent States: Romania and the United Kingdom, and Romania and France.

Applications processed in 2008

Applications processed in 2008	Section I	Section II	Section III	Section IV	Section V	Grand Chamber	Total
Applications in which judgments were delivered	400	495	298	271	396	21	**1,881**
Applications declared inadmissible (Chamber/Grand Chamber)	44	178	60	178	233		**693**
Applications struck out (Chamber/Grand Chamber)	131	123	260	573	182		**1,269**
Applications declared inadmissible or struck out (Committee)	4,729	2,691	6,556	6,064	8,161		**28,201**
Total	**5,304**	**3,487**	**7,174**	**7,086**	**8,972**	**21**	**32,044**
Applications communicated[1]	1,119	1,282	725	633	657		**4,416**
Applications declared admissible in a separate decision	32	10	13	8	13		**76**
Judgments delivered	346	372	286	261	260	18	**1,543**
Interim measures (Rule 39) granted	17	62	33	542	93		**747**
Interim measures (Rule 39) refused	83	80	85	744	161		**1,153**
Interim measures (Rule 39) refused – falling outside the scope	41	35	717	195	290		**1,278**

1. Including applications communicated for information. Applications may concern several States.

Applications allocated to a judicial formation (1955-2008)



Events in total, by respondent State (1 November 1998-31 December 2008)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Albania	280	112	64	10	11	–
Andorra	27	24	3	3	4	1
Armenia	1,098	289	67	16	11	–
Austria	3,002	2,561	366	188	178	16
Azerbaijan	1,825	759	100	19	19	–
Belgium	1,285	1,021	175	108	96	8
Bosnia and Herzegovina	2,326	765	72	13	7	–
Bulgaria	5,907	3,568	597	287	229	4
Croatia	4,702	3,782	403	150	151	26
Cyprus	435	268	104	47	51	3
Czech Republic	8,019	5,855	478	142	144	8
Denmark	678	661	64	26	24	10
Estonia	1,195	791	38	19	17	1
Finland	2,122	1,932	238	100	99	7
France	15,838	13,170	1,146	662	624	41
Georgia	2,251	207	130	28	23	–
Germany	11,718	9,406	298	93	98	4
Greece	2,943	2,031	676	435	441	17
Hungary	3,494	2,220	282	167	161	4
Iceland	67	56	12	9	8	2
Ireland	340	295	21	12	12	1
Italy	11,728	6,796	2,724	1,744	1,798	324
Latvia	1,753	986	143	39	34	1
Liechtenstein	34	25	3	3	4	–
Lithuania	2,719	2,238	128	59	48	4

Events in total, by respondent State (1 November 1998-31 December 2008) (continued)

State	Applications allocated to a judicial formation	Applications declared inadmissible or struck out	Applications referred to Government	Applications declared admissible	Judgments overall figure	Judgments (friendly settlements only)
Luxembourg	230	173	45	25	25	2
Malta	87	52	26	17	21	–
Moldova	4,116	1,519	476	185	138	–
Monaco	21	14	2	–	–	–
Montenegro	307	5	1	–	–	–
Netherlands	3,103	2,809	212	63	71	8
Norway	552	486	35	25	20	–
Poland	32,344	29,111	1,483	632	629	32
Portugal	1,481	1,114	346	216	153	53
Romania	23,641	14,558	1,530	486	478	14
Russia	56,821	29,119	2,585	801	643	9
San Marino	26	26	12	8	11	1
Serbia	3,776	1,669	139	33	24	–
Slovakia	3,719	2,460	426	165	166	19
Slovenia	5,192	1,800	645	222	220	1
Spain	4,572	4,041	523	60	41	1
Sweden	3,139	2,980	176	46	44	15
Switzerland	2,116	1,627	95	41	45	2
"The former Yugoslav Republic of Macedonia"	1,745	680	163	52	46	1
Turkey	24,945	13,615	4,908	2,237	1,905	186
Ukraine	22,083	13,359	1,370	665	482	1
United Kingdom	7,997	6,885	1,013	348	291	71
Total	**287,799**	**187,920**	**24,543**	**10,706**	**9,736**	**898**

Violations by Article and by respondent State (1 November 1998-31 December 2008)

1999-2008*	Total number of judgments	Judgments finding at least one violation	Friendly settlements / Striking out judgments finding no violation	Other judgments**	Right to life - deprivation of life	Lack of effective investigation	Inhuman or degrading treatment	Prohibition of torture	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Right to a fair trial	Length of proceedings	No punishment without law	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to marry	Right to an effective remedy	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	Total	Total	Total	Total	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**11**	9	1		1				1				8	2		1					4		4				
Andorra	**4**	2		1	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Armenia	**11**	11							3				8					1	3						1		5
Austria	**178**	142	13	17	6	0	0	0	1	0	0	3	51	60	0	11	1	24	1	0	7	10	0	0	0	3	0
Azerbaijan	**19**	15		2	2			1	1	1			6	2				1	4		3		3				1
Belgium	**96**	76	8	12		0	0	0	3	0	0	5	24	52	0	5	0	2	0	0	6	0	0	0	0	0	1
Bosnia Herzegovina	**7**	7							1			1	4			1					1		3				
Bulgaria	**229**	211	7	4	7	7	8	0	30	11	0	185	30	89	0	16	3	5	8	0	62	4	17	0	0	0	2
Croatia	**151**	117	5	26	3				4	1			38	66		5					21	1	8				
Cyprus	**51**	42	3	3	3	0	0	0	2	0	0	1	8	30	1	4	0	1	0	0	8	2	3	0	1	0	1
Czech Republic	**144**	130	4	8	2							15	39	76		12		1	1		12	2	6				
Denmark	**24**	7	6	11		0	0	0	0	0	0	1	0	4	0	1	0	0	1	0	0	0	0	0	0	0	0
Estonia	**17**	14	2	1					1			6	4	3	3						1						
Finland	**99**	71	18	9	1	0	0	0	1	0	0	0	25	29	0	13	0	6	0	0	4	0	2	0	0	0	0
France	**623**	494	65	50	14	3	2	1	8		1	28	202	252	2	14		14	1		25	8	17				4
Georgia	**24**	17	6	1		0	0	0	3	4	0	5	5	3	0	1	1	1	0	0	4	1	2	0	1	0	1
Germany	**98**	66	21	9	2				1			11	11	33		13		1			3	8	1				
Greece	**440**	392	9	19	20	3	3	0	8	3	0	7	82	272	0	2	5	6	4	0	71	4	50	0	2	0	0
Hungary	**160**	151	3	6					1	2		5	2	136	1	1		1	2		1						2
Iceland	**8**	6		2		0	0	0	0	0	0	1	4	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Ireland	**12**	7	4	1								2	4	4							3						
Italy	**1,797**	1,394	29	332	42	0	0	0	3	1	0	20	208	999	0	97	0	3	3	0	59	1	271	0	15	0	15
Latvia	**34**	28	3	3					3			20	5	6	1	12	2	2	1		2				3		5
Liechtenstein	**4**	4				0	0	0	0	0	0	1	1	1	0	0	0	1	0	0	1	0	0	0	0	0	0
Lithuania	**48**	37	5	6		1	1		3			16	10	9		12						2	3				

* This table covers the judgments rendered by the single, full-time Court from 1 November 1998 to 31 December 2008. No judgment was delivered in November-December 1998.

** Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

Violations by Article and by respondent State (1 November 1998-31 December 2008) (continued)

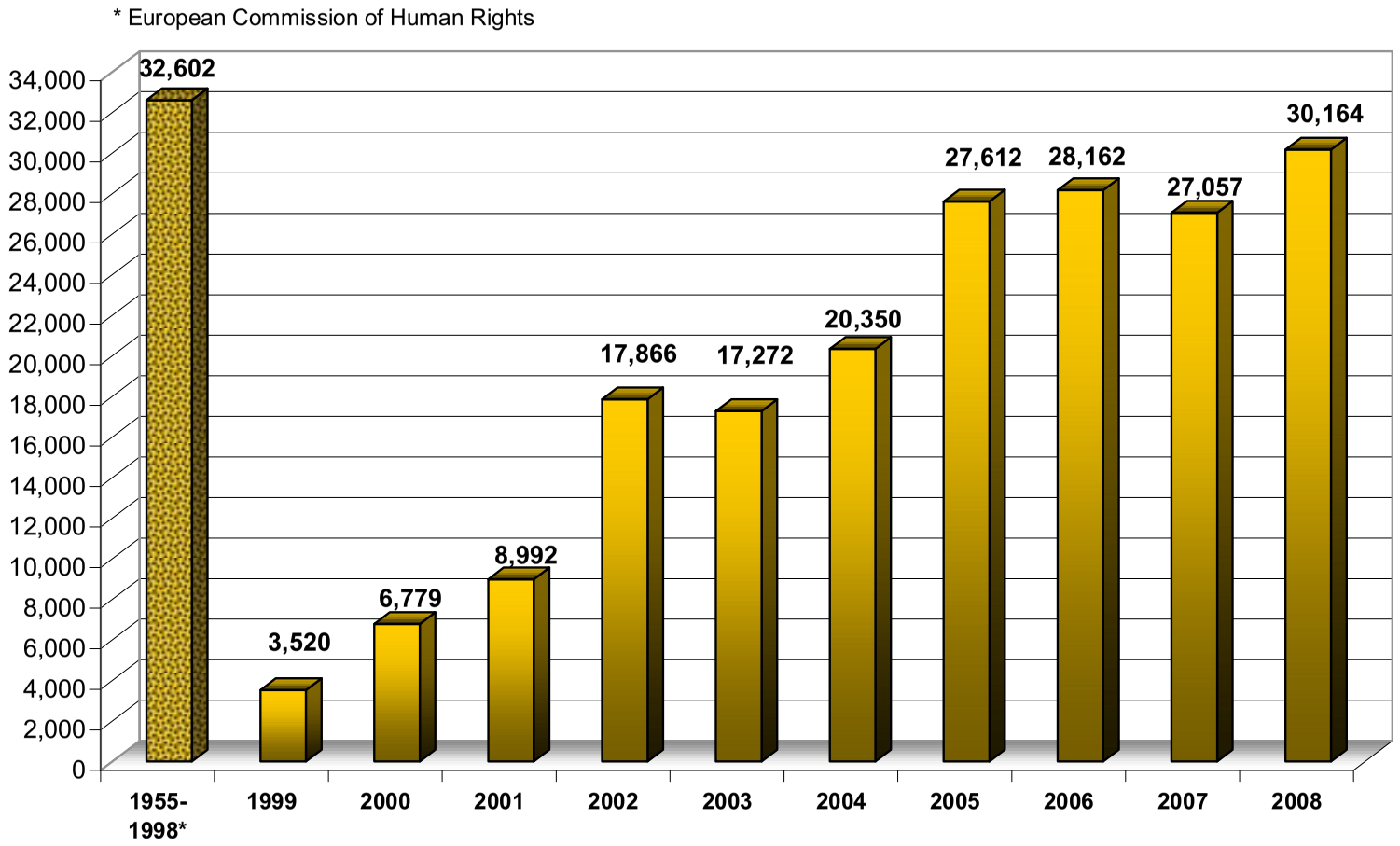
1999-2008*	Total number of judgments	Judgments finding at least one violation	Friendly settlements / Striking out judgments	Judgments finding no violation	Other judgments **	Right to life - deprivation of life	Lack of effective investigation	Inhuman or degrading treatment	Prohibition of torture	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Length of proceedings	Right to a fair trial	No punishment without law	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to an effective remedy	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
	Total	Total	Total	Total	Total	2	2	3	3	3	4	5	6	6	7	8	9	10	11	12	13	14	P1-1	P1-2	P1-3	P7-4	
Luxembourg	**25**	21	2	2		0	1	0	0	0	0	0	5	13	0	3	0	2	1	0	3	1	1	0	0	0	0
Malta	**21**	17	1		3							6	3	5		1		1				2	3				
Moldova	**138**	129	1	2	6	0	0	5	22	8	0	39	78	7	0	6	2	13	2	0	21	0	62	0	1	0	8
Monaco	**0**																										
Montenegro	**0**					0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Netherlands	**71**	41	13	12	5		3	1	7			7	7	5		11		3			1	2					
Norway	**20**	16	4			0	0	0	0	0	0	0	8	2	0	1	0	5	0	0	0	0	0	1	0	0	0
Poland	**630**	548	37	40	5	1	2		2	1		202	36	308		59		10	1		18	2	14				2
Portugal	**153**	95	2	54	2	0	0	0	0	0	0	2	11	60	0	3	0	7	0	0	1	1	15	0	0	0	0
Romania	**478**	429	12	21	16			1	12	15		26	247	46	1	22		6	2		5	17	280		1		7
Russia	**643**	605	22	11	5	59	64	15	109	16	0	156	401	78	0	22	2	11	6	0	105	1	337	1	2	1	50
San Marino	**11**	8		2	1								7	2			1						1				
Serbia	**24**	23	1			0	0	0	0	0	0	3	7	11	0	4	0	2	0	0	9	0	7	0	0	0	0
Slovakia	**166**	138	5	21	2	1						15	11	108		7		5			13	1	4				
Slovenia	**219**	210	6	3		0	1	0	2	1	0	2	1	205	0	1	0	0	0	0	195	0	0	0	0	0	0
Spain	**40**	28	10	1	1					1		2	13	6	1	3		1									1
Sweden	**44**	20	6	18		1	0	0	1	0	0	1	6	10	0	1	0	2	1	0	2	0	4	0	0	0	0
Switzerland	**45**	37	6	2			1					8	10	4		9		6									
"The former Yugoslav Republic of Macedonia"	**46**	42	2	2		0	0	0	0	4	0	0	7	30	0	0	0	0	0	0	4	0	3	0	0	0	0
Turkey	**1,905**	1,652	34	203	16	64	116	20	144	48		340	528	258	4	44	1	169	28		180	2	453	3	5		27
Ukraine	**482**	476	3	2	1	2	5	1	22	8	0	22	327	98	0	12	3	3	1	0	96	0	231	0	2	0	3
United Kindgom	**292**	187	41	60	4	1	12		7			42	64	19		38		2	2	3	23	31	2		3		1
Sub Total		**8,172**	**420**	**979**	**171**	**143**	**219**	**45**	**406**	**125**	**1**	**1,206**	**2,557**	**3,403**	**14**	**468**	**21**	**318**	**73**	**3**	**974**	**104**	**1,808**	**5**	**37**	**4**	**136**
Total		**9736*** **																									

* This table covers the judgments rendered by the single, full-time Court from 1 November 1998 to 31 December 2008. No judgment was delivered in November-December 1998.

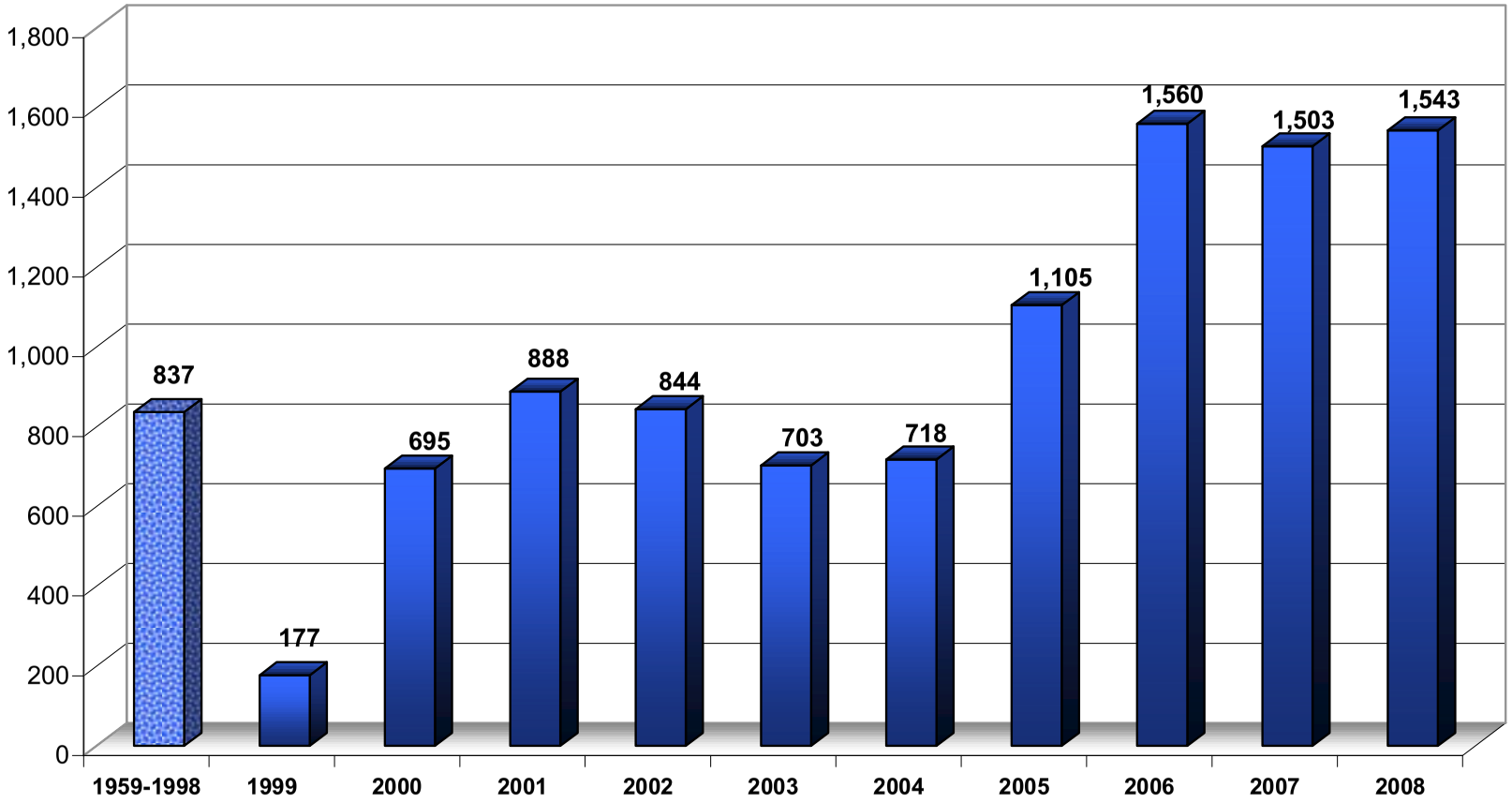
** Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

*** Including six judgments which concern two respondent States: Turkey and Denmark (2001), Moldova and Russia (2004), Romania and Hungary (2005), Georgia and Russia (2005), Romania and the United Kingdom (2008), and Romania and France (2008).

Applications declared inadmissible or struck out (1955-2008)



Judgments (1959-2008)



Allocated applications by population (2005-2008)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2005	2006	2007	2008	1/1/05	1/1/06	1/1/07	1/1/08	2005	2006	2007	2008
Albania	45	52	55	75	3,127	3,127	3,153	3,170	0.14	0.17	0.17	0.24
Andorra	5	8	4	1	75	75	80	83	0.67	1.07	0.50	0.12
Armenia	110	98	614	106	3,216	3,216	3,226	3,230	0.34	0.30	1.90	0.33
Austria	298	344	329	373	8,207	8,266	8,299	8,332	0.36	0.42	0.40	0.45
Azerbaijan	175	221	708	334	8,388	8,388	8,533	8,630	0.21	0.26	0.83	0.39
Belgium	173	107	122	166	10,446	10,511	10,585	10,670	0.17	0.10	0.12	0.16
Bosnia and Herzegovina	209	243	705	971	3,842	3,842	3,884	3,843	0.54	0.63	1.82	2.53
Bulgaria	820	748	818	890	7,761	7,719	7,679	7,640	1.06	0.97	1.07	1.16
Croatia	553	640	558	608	4,444	4,443	4,441	4,435	1.24	1.44	1.26	1.37
Cyprus	66	56	63	66	749	766	779	795	0.88	0.73	0.81	0.83
Czech Republic	1,267	2,466	806	721	10,221	10,251	10,287	10,381	1.24	2.41	0.78	0.69
Denmark	72	68	45	73	5,411	5,427	5,447	5,476	0.13	0.13	0.08	0.13
Estonia	165	184	153	169	1,348	1,345	1,342	1,341	1.22	1.37	1.14	1.26
Finland	243	262	268	276	5,237	5,256	5,277	5,301	0.46	0.50	0.51	0.52
France	1,821	1,831	1,553	2,724	62,519	62,886	63,392	63,753	0.29	0.29	0.24	0.43
Georgia	72	105	162	1,771	4,361	4,361	4,400	4,382	0.17	0.24	0.37	4.04
Germany	1,592	1,601	1,483	1,572	82,501	82,438	82,315	82,222	0.19	0.19	0.18	0.19
Greece	365	371	384	416	11,083	11,125	11,172	11,215	0.33	0.33	0.34	0.37
Hungary	644	423	529	425	10,098	10,077	10,066	10,045	0.64	0.42	0.53	0.42
Iceland	6	12	9	7	294	300	308	314	0.20	0.40	0.29	0.22
Ireland	45	40	45	48	4,109	4,209	4,315	4,420	0.11	0.10	0.10	0.11
Italy	847	931	1,353	1,824	58,462	58,752	59,131	59,618	0.14	0.16	0.23	0.31
Latvia	233	268	232	248	2,306	2,295	2,281	2,271	1.01	1.17	1.02	1.09
Liechtenstein	4	1	5	8	35	35	35	35	1.16	0.29	1.42	2.26

Allocated applications by population (2005-2008) (continued)

State	Applications allocated to a judicial formation				Population (1,000)				Allocated/population (10,000)			
	2005	2006	2007	2008	1/1/05	1/1/06	1/1/07	1/1/08	2005	2006	2007	2008
Lithuania	267	204	226	255	3,425	3,403	3,385	3,366	0.78	0.60	0.67	0.76
Luxembourg	28	32	34	35	455	460	476	484	0.62	0.70	0.71	0.72
Malta	13	16	18	12	403	404	408	411	0.32	0.40	0.44	0.29
Moldova	594	517	889	1,147	3,604	3,604	3,581	3,573	1.65	1.43	2.48	3.21
Monaco	1	4	10	5	32	32	32	32	0.31	1.25	3.13	1.56
Montenegro	–	13	95	156	–	–	651	628	–	–	1.46	2.49
Netherlands	410	397	366	385	16,306	16,334	16,358	16,404	0.25	0.24	0.22	0.23
Norway	58	70	63	79	4,606	4,640	4,681	4,737	0.13	0.15	0.13	0.17
Poland	4,563	3,975	4,202	4,369	38,174	38,157	38,126	38,116	1.20	1.04	1.10	1.15
Portugal	221	215	134	151	10,529	10,570	10,599	10,618	0.21	0.20	0.13	0.14
Romania	3,103	3,310	3,168	5,242	21,659	21,610	21,565	21,529	1.43	1.53	1.47	2.43
Russia	8,069	10,132	9,493	10,146	143,821	143,821	142,221	142,009	0.56	0.70	0.67	0.71
San Marino	4	2	1	4	29	29	32	31	1.38	0.69	0.32	1.30
Serbia	660	595	1,056	1,067	8,118	8,118	7,398	7,374	0.81	0.75	1.43	1.45
Slovakia	442	487	349	488	5,385	5,389	5,394	5,401	0.82	0.90	0.65	0.90
Slovenia	343	1,338	1,012	1,353	1,998	2,003	2,010	2,026	1.72	6.68	5.03	6.68
Spain	495	361	310	393	43,038	43,758	44,475	45,283	0.12	0.08	0.07	0.09
Sweden	449	371	361	317	9,011	9,048	9,113	9,183	0.50	0.41	0.40	0.35
Switzerland	230	282	237	261	7,415	7,459	7,509	7,591	0.31	0.38	0.32	0.34
"The former Yugoslav Republic of Macedonia"	229	295	453	395	2,032	2,032	2,042	2,045	1.13	1.45	2.22	1.93
Turkey	2,488	2,328	2,828	3,706	71,610	72,520	73,423	70,586	0.35	0.32	0.39	0.53
Ukraine	1,869	2,482	4,499	4,770	47,075	47,075	46,466	46,373	0.40	0.53	0.97	1.03
United Kingdom	1,003	843	860	1,253	60,060	60,393	60,853	61,186	0.17	0.14	0.14	0.20

Sources 2008: Internet sites of the Eurostat service ("Population and social conditions") for the population of all countries except the Monaco. For this country the estimate is from the United Nations Statistics Division.