



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



European Court of Human Rights **COUNTRY FACT SHEETS**  
**1959 - 2010**



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# Albania

## Examples of cases against Albania

### **Qufaj Co. sh.p.k. v. Albania (18 November 2004)**

In 1996 the applicant company was awarded compensation in a dispute with the city of Tirana over a refusal of planning permission. It sought enforcement of the final decision in its favour, but to no avail. After reiterating that it was not open to a State authority to cite a lack of funds as an excuse for not honouring a judgment debt, the Court held that the applicant company had not had a fair trial.

*Violation of Article 6 § 1 (right to a fair trial)*

### **Balliu v. Albania (16 June 2005)**

In February 2000 Taulant Balliu was found guilty of, *inter alia*, being one of the founding members of the "Kateshi gang", and given a life sentence. The Court noted that the applicant had been represented by an officially appointed lawyer and that the applicant and his counsel had had an opportunity to have the witnesses for the prosecution questioned.

*No violation of Article 6 (right to a fair trial)*

### **Bajrami v. Albania (12 December 2006)**

Agim Bajrami complained that he had been unable to secure the enforcement of a court decision giving him custody of the daughter his ex-wife had taken to Greece after their divorce. After reiterating that the Convention required the States to take all the necessary measures to reunite parents and their children in execution of a final judgment of a domestic court, the Court held that there had been a violation of the applicant's right to respect for his family life.

*Violation of Article 8 (right to respect for private and family life)*

### **Driza v. Albania and Ramadhi and Others v. Albania (13 November 2007)**

In these two cases the applicants had taken court action seeking compensation or the restitution of property that had belonged to their fathers and had been confiscated by the Albanian authorities without any compensation. The Court held, *inter alia*, that there had been a violation of the applicants' right to the peaceful enjoyment of their possessions. It invited Albania, without delay, to take the legal, administrative and budgetary measures necessary in order for the applicants rapidly to receive the compensation or sums awarded under the 1993 Property Act regulating the restitution of property and compensation.

*Violation of Article 6 (right to a fair trial).*

*Violation of Article 13 (right to an effective remedy)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Dybeku v. Albania (18 December 2007)**

Ilir Dybeku, who suffers from chronic schizophrenia, was sentenced to life imprisonment in May 2003 and incarcerated as an ordinary prisoner. The Court held that the fully inadequate conditions in which the applicant was being held had been harmful to his health and amounted to inhuman and degrading treatment. The Court also invited Albania to take the necessary measures as a matter of urgency in order to secure appropriate conditions of detention and adequate medical treatment, in particular for prisoners who need special care owing to their state of health.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 46 (binding force and execution of judgments)*

The Council of Europe  
Accession: 13 July 1995

The Convention  
Signature: 13 July 1995  
Ratification: 2 October 1996

Current judge  
Ledi BIANKU

Previous judge  
Kristaq TRAJA (1998-2008)

First judgment  
*Qufaj Co. sh.p.k. v. Albania*  
(18 November 2004)

The Court and Albania on 1 January 2011  
Total number of judgments: 27  
Violation judgments: 23  
No violation judgments: 1  
Other judgments: 3  
Inadmissibility decisions: 160  
Pending applications: 302

## Examples of general measures

### **Qufaj Co. sh.p.k. v. Albania** (18 November 2004)

Inability of the applicant company to secure enforcement of a final judgment in its favour.

⇒ Allocation of budgetary resources for the execution of judicial decisions awarding compensation and reform of the bailiff service to ensure the effective enforcement of court decisions (*execution in progress*).

### **Driza v. Albania** (13 November 2007)

Inability of the applicant to secure enforcement of a court decision awarding him compensation.

⇒ Repeal of provisions that made it possible to quash final court decisions (*execution in progress*).

### **Bajrami v. Albania** (12 December 2006)

Lack of a specific remedy to prevent or punish the removal of a child outside the respondent State's territory, resulting in failure to enforce the custody decision.

⇒ Improvement of legal protection of children in the event of their abduction by one of the parents (*execution in progress*).

The sign ⇒ indicates the measure taken

## Albania

### Example of an individual measure

#### ***Dybeku v. Albania*** (18 December 2007)

⇒ The applicant, who suffers from chronic schizophrenia and was sentenced to life imprisonment, was transferred to a prison where suitable medical treatment is available to him (*execution in progress*).

#### ***Xheraj v. Albania*** (29 July 2008)

Arben Xheraj, who was acquitted of murder charges in 1998, complained that the fact that the public prosecutor had been able to lodge an appeal out of time had resulted in the reopening of the proceedings against him, effectively annulling his acquittal. He argued that this amounted to trying him twice for the same crime. The Court considered what had happened in this case to be a resumption of the previous proceedings, rather than an attempt to hold a new trial. It also held that allowing the public prosecutor to lodge an appeal out of time had infringed the principle of legal certainty.

*Violation of Article 6 (right to a fair trial)*

*No violation of Article 4 of Protocol No. 7 (right not to be tried or punished twice)*

# Andorra

## Example of case against Andorra

### ***Pla and Puncernau v. Andorra* (13 July 2004)**

The case concerned court decisions that Antoni Pla Puncernau, as an adopted child, could not inherit his grandmother's estate because he could not be considered as "a child from a legitimate and canonical marriage" as stipulated in the grandmother's will.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 8 (right to respect for private and family life)*

### The Council of Europe

Accession: 10 November 1994

### The Convention

Signature: 10 November 1994

Ratification: 22 January 1996

### Current judge

Josep CASADEVALL

### First judgement

*Millan i Tornes v. Andorra* (6 July 1999)

### The Court and Andorra on 1 January 2011

Total number of judgments: 4

Violation judgments: 2

No violation judgments: 0

Other judgments: 2

Inadmissibility decisions: 30

Pending applications: 12

## Example of a general measure

### ***Millan i Tornes v. Andorra* (6 July 1999)**

Impossibility for the applicant to apply to the Constitutional Court without the public prosecutor's consent.

⇒ Extension of the right to lodge a constitutional appeal, the public prosecutor's consent no longer being necessary.

## Example of an individual measure

### ***Pla and Puncernau v. Andorra***

(13 July 2004)

Inability of a child to inherit, via his adoptive father, the estate of his adoptive grandmother, who had died prior to his adoption.

⇒ The applicant, who had been excluded from the estate as an adopted child rather than the "son of a lawful and canonical marriage", was awarded compensation for the pecuniary and non-pecuniary damage sustained (*execution in progress*).

# Armenia

## The Council of Europe

Accession: 25 January 2001

## The Convention

Signature: 25 January 2001

Ratification: 26 April 2002

## Current judge

Alvina GYULUMYAN

## First judgement

*Mkrtchyan v. Armenia* (11 January 2007)

## The Court and Armenia on 1 January 2011

Total number of judgments: 25

Violation judgments: 24

No violation judgments: 1

Other judgments: 0

Inadmissibility decisions: 474

Pending applications: 923

## Examples of general measures

### ***Mkrtchyan v. Armenia*** (11 January 2007)

Unlawful administrative penalty imposed on the applicant for taking part in a demonstration.

⇒ Enactment of a new law on the procedure for holding assemblies, rallies, street processions and demonstrations.

### ***Meltex Ltd and Mesrop Movsesyan v. Armenia*** (17 June 2008)

Lack of reasons given for refusing to award the applicant company a broadcasting licence.

⇒ Incorporation into the law of a requirement to give proper reasons for any decision to award, refuse or revoke a broadcasting licence (*execution in progress*).

## Example of an individual measure

### ***Harutyunyan v. Armenia*** (28 June 2007)

Use at trial of statements obtained from the accused and witnesses through torture.

⇒ The applicant, who had been convicted on the strength of statements obtained under duress, was granted a retrial (*execution in progress*).

## Examples of cases against Armenia

### ***Mkrtchyan v. Armenia*** (11 January 2007)

Armen Mkrtchyan was ordered to pay a fine for having taken part in a demonstration in May 2002. Having observed that, at the material time, there had been no legislation in Armenia governing the organisation of demonstrations, the Court concluded that the interference with the applicant's right to freedom of peaceful assembly had not been prescribed by law.

*Violation of Article 11 (freedom of assembly and association)*

### ***Harutyunyan v. Armenia*** (28 June 2007)

In 2002 Misha Harutyunyan was sentenced to 10 years' imprisonment for murder, following proceedings in which statements obtained from him and two witnesses through torture had been used. The Court ruled that the use of evidence obtained by force had rendered the applicant's trial unfair.

*Violation of Article 6 § 1 (right to a fair trial)*

### ***Galstyan v. Armenia*** (15 November 2007)

Arsham Galstyan was sentenced to three days' detention for taking part in a (peaceful) demonstration involving 30,000 people in April 2003. The Court considered that the very essence of the right to peaceful assembly was impaired where a State, while not prohibiting a demonstration, imposed sanctions, especially such severe ones, on persons participating who had done nothing reprehensible. It further held that the Armenian Code of Administrative Offences did not provide individuals with a clear and accessible right to appeal.

*Violation of Article 11 (freedom of assembly and association)*

*Violation of Article 2 of Protocol No. 7 (right of appeal in criminal matters)*

### ***Meltex Ltd and Mesrop Movsesyan v. Armenia*** (17 June 2008)

The independent broadcasting company Meltex Ltd was refused broadcasting licences on seven separate occasions by the National Television and Radio Commission, without reasons being given for any of the decisions. The Court considered that a procedure which did not require a licensing body to justify its decisions did not provide adequate protection against arbitrary interference by a public authority with the fundamental right to freedom of expression.

*Violation of Article 10 (freedom of expression)*

### ***Bayatyan v. Armenia*** (27 October 2009)

Vahan Bayatyan, a Jehovah's Witness, complained that he had been sentenced to two and a half years' imprisonment for refusing to do his military service. The Court considered that the choice of recognising conscientious objectors was left to each Contracting Party.

*No violation of Article 9 (right to freedom of religion)*

# Austria

## Examples of cases against Austria

### **Lingens v. Austria (8 July 1986)**

Peter Michael Lingens, a journalist, had been fined in 1981 for defaming the then Federal Chancellor Bruno Kreisky. The Court found that the penalty had violated the applicant's right to freedom of expression.

*Violation of Article 10 (freedom of expression)*

### **Ribitsch v. Austria (4 December 1995)**

Ronald Ribitsch complained that he had been ill-treated while in police custody in 1988, during an investigation into drug trafficking, and that the police officer responsible had been acquitted. The Court considered that the injuries suffered by the applicant showed that he had undergone ill-treatment which amounted to both inhuman and degrading treatment.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

### **Gaygusuz v. Austria (16 September 1996)**

The case concerned the Austrian authorities' refusal to grant Cevat Gaygusuz an emergency allowance when his entitlement to unemployment benefit expired, on the grounds that he did not have Austrian nationality.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1 (protection of property)*

### **Karner v. Austria (24 July 2003)**

Siegmund Karner complained about the Austrian courts' decision that the statutory right of a family member to succeed to a tenancy did not apply to homosexual couples.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 8 (right to respect for private and family life)*

### **Maslov v. Austria (23 June 2008)**

Juri Maslov is a Bulgarian national who arrived in Austria at the age of 6. The application concerned a 10-year exclusion order issued against the applicant when he was 16 years old by the Vienna Federal Police Authority. The measure became final when he reached majority at the age of 18 and was still living with his parents. The Court held in particular that, having regard to the applicant's young age, a 10-year exclusion order banned him from living in Austria for almost as much time as he had spent there and for a decisive period of his life.

*Violation of Article 8 (right to respect for private and family life)*

## Example of an individual measure

### **Bönisch v. Austria (6 May 1985)**

The applicant had not had a fair trial on account of the conditions in which the Austrian courts had heard "expert" evidence in criminal proceedings against him from the Director of the Federal Food Control Institute.

⇒ The applicant was granted a presidential pardon, expunging his conviction and removing his name from the criminal records.

## The Council of Europe

Accession: 16 April 1956

## The Convention

Signature: 13 December 1957

Ratification: 3 September 1958

## Current judge

Elisabeth STEINER

## Previous judges

Willi FUHRMANN (1998-2001)

Franz MATSCHER (1977-98)

Alfred VERDROSS (1959-77)

## First judgement

*Neumeister v. Austria* (27 June 1968)

## The Court and Austria on 1 January 2011

Total number of judgments: 287

Violation judgments: 215

No violation judgments: 36

Other judgments: 36

Inadmissibility decisions: 6 091

Pending applications: 567

## Examples of general measures

### **Ahmed v. Austria** (17 December 1996)

Risk of ill-treatment in the event of the applicant's expulsion to Somalia, on account of his activities in an opposition group and the general situation in that country.

⇒ Legislative reform aimed at preventing the expulsion of aliens to countries where they would be at risk of inhuman or degrading treatment.

### **Informationsverein Lentia and Others v. Austria** (24 November 1993)

Impossibility for the applicants to set up and operate a radio station or television channel.

⇒ Liberalisation of broadcasting rights.

### **A.T. v. Austria** (21 March 2002)

The applicant had not been granted a hearing in two sets of proceedings he had instituted following the publication of press articles.

⇒ Enactment of a new Media Act, providing among other things for a hearing unless the persons concerned have explicitly waived that right.

# Azerbaijan

The Council of Europe  
Accession: 25 January 2001

The Convention  
Signature: 25 January 2001  
Ratification: 15 April 2002

Current judge  
Khanlar HAJIYEV

First judgement  
*Kunqurova v. Azerbaijan* (13 April 2006)

The Court and Azerbaijan  
on 1 January 2011

Total number of judgments: 42  
Violation judgments: 38  
No violation judgments: 0  
Other judgments: 4  
Inadmissibility decisions: 1 230  
Pending applications: 1 254

## Examples of general measures

### ***Ramazanova and Others v. Azerbaijan*** (1 February 2007)

The applicants applied several times to the authorities for registration of their association for the homeless.  
⇒ Incorporation into the law of explicit time-limits for registration of legal entities (*execution in progress*).

### ***Mammadov v. Azerbaijan*** (1 January 2007)

The applicant, secretary general of a political party, was tortured in police custody.  
⇒ Training measures for prosecutors, investigators, police officers and judges on preventing torture and inhuman and degrading treatment (*execution in progress*).

## Examples of cases against Azerbaijan

### ***Mammadov v. Azerbaijan*** (11 January 2007)

Sarda Jalaloglu Mammadov, Secretary General of the Democratic Party of Azerbaijan (one of the opposition parties that considered the results of the October 2003 presidential elections to be illegitimate), was arrested and taken into police custody on 18 October 2003. The Court found it established that the applicant had been tortured while in police custody and that the authorities had not carried out an effective investigation into his allegations of torture.

*Violation of Article 3 (prohibition of torture)*

### ***Ramazanova and Others v. Azerbaijan*** (1 February 2007)

The applicants founded an association named "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku" and applied several times to the authorities to have the organisation registered. The Court considered that the significant delays in registering the association, in breach of the statutory time-limits, amounted to a violation of the applicants' right to freedom of association.

*Violation of Article 11 (freedom of assembly and association)*

### ***Hummatov v. Azerbaijan*** (29 November 2007)

In 1993 Alakram Alakbar oglu Hummatov announced the creation of the Talish-Mugan Autonomous Republic ("Talış-Muğan Muxtar Respublikası"), of which he was elected "President". Public disturbances followed, in the course of which several people died. He was subsequently convicted of, *inter alia*, high treason and using armed forces against the State. The Court considered that the inadequate medical care the applicant had received in Gobustan prison had subjected him to considerable mental suffering detrimental to his human dignity.

*Violation of Article 3 (prohibition of inhuman or degrading treatment), inter alia*

### ***Namat Aliyev v. Azerbaijan*** (8 April 2010)

Namat Faiz oglu Aliyev, who ran for election as an opposition candidate in the 2005 parliamentary elections, complained, *inter alia*, of irregularities in the electoral law. The Court found that the conduct of the electoral commissions and the courts and their respective decisions reflected a lack of genuine concern to protect the applicant's right to stand for election.

*Violation of Article 3 of Protocol No. 1 (right to free elections)*

## Examples of individual measures

### ***Ramazanova and Others v. Azerbaijan*** (1 February 2007)

⇒ The applicants' association was registered while the case was pending before the Court (*execution in progress*).

### ***Akimova v. Azerbaijan*** (27 September 2007)

⇒ The applicant was able to evict the unlawful occupants of her flat (*execution in progress*).

### ***Efendiyeva v. Azerbaijan*** (25 October 2007)

The case concerned the failure to enforce a court decision ordering the applicant's reinstatement to her post as Medical Director of the Republican Maternity Hospital following her wrongful dismissal.

⇒ The applicant was reinstated (*execution in progress*).

# Belgium

## Examples of cases against Belgium

### **Marckx v. Belgium (13 June 1979)**

This case concerned Belgian law at the material time on unmarried mothers and children born out of wedlock. In order to establish her own daughter's maternal affiliation, Paula Marckx had had to recognise the child, then adopt her.

*Violations of Article 8 (right to respect for private and family life)*

*Violations of Article 14 (prohibition of discrimination) taken in conjunction with Article 8*

### **Moustaquim v. Belgium (18 February 1991)**

The case concerned the expulsion to Morocco of Abderrahman Moustaquim, who had arrived at a very young age in Belgium and had lived there for approximately twenty years with his relatives.

*Violation of Article 8 (right to respect for private and family life)*

### **Capeau v. Belgium (13 January 2005)**

Wim Capeau had applied unsuccessfully for compensation for having been placed in pre-trial detention in criminal proceedings which were discontinued when there was found to be no case to answer. The Court considered that the requirement under Belgian law that, in order to qualify for compensation, persons placed in pre-trial detention then found to have no case to answer provide evidence of their innocence shed doubt on their innocence and the merits of the decisions reached by the investigation authorities.

*Violation of Article 6 (presumption of innocence)*

### **Mubilanzila Mayeka and Kaniki Mitunga v. Belgium (12 October 2006)**

The application concerned a 5-year-old girl's detention for a period of nearly two months and her subsequent removal to her country of origin when she was only 5 years old.

*Violations of Article 3 (prohibition of inhuman treatment)*

*Violations of Article 8 (right to respect for private and family life)*

### **Leempoel and S.A. Ed. Ciné Revue v. Belgium (9 November 2006)**

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

*No violation of Article 10 (freedom of expression)*

### **Tillack v. Belgium (27 November 2007)**

Hans Martin Tillack, a journalist with the German weekly magazine *Stern*, complained that searches of his home and office and the seizure of items of his property had violated his right to freedom of expression. The Court found that the reasons put forward by the Belgian courts could not be considered "sufficient" to justify the searches.

*Violation of Article 10 (freedom of expression)*

### **Bernaerts v. Belgium (dec.) (14 October 1992)**

Refusal to allow the applicant access to the file submitted to the investigating courts during proceedings for confirmation of his pre-trial detention.

⇒ Change in the Belgian Court of Cassation's approach to the interpretation of the provisions of the Code of Criminal Procedure on applications by the accused for release.

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 14 June 1955

### Current judge

Françoise TULKENS

### Previous judges

Jan DE MEYER (1986-98)

Walter-Jean GANSHOF

VAN DER MEERSCH (1973-86)

Henri ROLIN (1959-73)

### First judgement

*De Becker v. Belgium* (27 March 1962)

### The Court and Belgium on 1 January 2011

Total number of judgments: 162

Violation judgments: 113

No violation judgments: 19

Other judgments: 30

Inadmissibility decisions: 2 940

Pending applications: 580

## Examples of general measures

### **Marckx v. Belgium (13 June 1979)**

In order to establish her daughter's maternal affiliation, the applicant had had to recognise and then adopt the child.

⇒ Legislative reform to remove existing forms of discrimination in Belgian succession law based on marital status or affecting children born outside marriage.

### **Bouamar v. Belgium (29 February 1988)**

Unlawfulness of a minor's successive placements in a remand prison, by way of an interim custody measure.

⇒ Legislative reform prohibiting a juvenile court from placing a severely disturbed young person in a remand prison more than once in the course of the same proceedings.  
Establishment of six facilities with closed sections reserved for minors.

# Bosnia and Herzegovina

The Council of Europe  
Accession: 24 April 2002

The Convention  
Signature: 24 April 2002  
Ratification: 12 July 2002

Current judge  
Ljiljana MIJOVIĆ

First judgement  
*Jeličić v. Bosnia and Herzegovina*  
(31 October 2006)

The Court and Bosnia and Herzegovina  
on 1 January 2011

Total number of judgments: 14  
Violation judgments: 14  
No violation judgments: 0  
Other judgments: 0  
Inadmissibility decisions: 2 254  
Pending applications: 1 315

## Example of a general measure

### **Šobota-Gajić v. Bosnia and Herzegovina** (6 November 2007)

Attempts by the applicant for more than six years to be reunited with her son.  
⇒ Stricter penalties for failure by a parent to observe the other parent's custody rights, introduction of measures to ensure enforcement in such cases and to protect the child.

## Examples of individual measures

### **Šobota-Gajić v. Bosnia and Herzegovina** (6 November 2007)

⇒ The applicant and her son were reunited after being separated for five years because the father had abducted the child following the parents' divorce.

### **Jeličić v. Bosnia and Herzegovina** (31 October 2006)

⇒ The applicant's savings were returned to her after being "blocked" since the dissolution of the former Yugoslavia (*execution in progress*).

### **Rodić and Others v. Bosnia and Herzegovina** (27 May 2008)

⇒ The applicants, who had been detained in conditions that endangered their physical well-being, were transferred to another prison not entailing the same problems (*execution in progress*).

## Examples of cases against Bosnia and Herzegovina

### **Jeličić v. Bosnia and Herzegovina** (31 October 2006)

Ruža Jeličić complained that she had not been allowed to withdraw her savings in foreign currency. She also complained of the non-enforcement of the final judgment in her favour.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Šobota-Gajić v. Bosnia and Herzegovina** (6 November 2007)

Verica Šobota-Gajić complained that the national authorities had failed to take all reasonable measures to facilitate her reunion with her son, in spite of domestic decisions in her favour

*Violation of Article 8 (right to respect for private and family life)*

### **Rodić and Others v. Bosnia and Herzegovina** (27 May 2008)

The four applicants were all convicted of war crimes against Bosniac (at the time, Bosnian Muslim) civilians during the 1992-95 war in Bosnia and Herzegovina. The case concerned their detention in an ordinary prison where a majority of the other prisoners were Bosniac. The Court found that considering the number of Bosniacs in the prison and the nature of the applicants' offences (war crimes against Bosniacs), it was clear that their detention there entailed a serious risk to their physical well-being.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 13 (right to an effective remedy)*

### **Sejdić and Finci v. Bosnia and Herzegovina** (22 December 2009)

The applicants complained that, despite possessing experience comparable to that of the highest elected officials, they were prevented by the Constitution of Bosnia and Herzegovina, and the corresponding provisions of the Election Act 2001, from being candidates for the Presidency and the House of Peoples of the Parliamentary Assembly solely on the ground of their ethnic origins. The Court found that prohibiting a Rom and a Jew from standing for election to the House of Peoples of the Parliamentary Assembly and for the State Presidency amounted to discrimination and breached their electoral rights.

*Violation of Article 14 (prohibition of discrimination) taken together with Article 3 of Protocol No. 1 (right to free elections)*

*Violation of Article 1 of Protocol No. 12 (general prohibition of discrimination)*

# Bulgaria

## Examples of cases against Bulgaria

### **Hasan and Chaush v. Bulgaria (26 October 2000)**

The applicants, a former Chief Mufti of the Bulgarian Muslims and a teacher of Islamic religion, complained about the Bulgarian authorities' decision to change the leadership and statute of the Muslim community. The Court found that there had been interference with the internal organisation of the Muslim community and the applicants' freedom of religion.

*Violation of Article 9 (freedom of thought, conscience and religion)*

### **Anguelova v. Bulgaria (13 June 2002)**

The case concerned the death of the applicant's 17-year-old son while in police custody in 1996, following his arrest for attempted theft.

*Violations of Article 2 (right to life)*

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 5 (right to liberty and security)*

*Violation of Article 13 (right to an effective remedy)*

*No violation of Article 14 (prohibition of discrimination)*

### **Nachova and Others v. Bulgaria (6 July 2005)**

The case concerned the killing in July 1996 of two relatives of the applicants, both aged 21, by a military policeman who was trying to arrest them. The applicants alleged, *inter alia*, that prejudice and hostile attitudes towards people of Roma origin had played a decisive role in the events leading up to the shootings and the failure to carry out a meaningful investigation. The Court held that there had been a violation of Article 14 taken in conjunction with Article 2 in that the Bulgarian authorities had failed to investigate whether or not discrimination might have played a role in the killing of the applicants' relatives.

*Violations of Article 2 (right to life)*

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 2*

### **Stankov v. Bulgaria (12 July 2007)**

Parvan Slavchev Stankov was awarded damages for his unjustified pre-trial detention. Almost all the award was charged in court fees, however. The Court held that the imposition of a considerable financial burden upon conclusion of the proceedings might well act as a restriction on the right of access to court.

*Violation of Article 6 (right to a fair trial)*

### **Gochev v. Bulgaria (26 November 2009)**

The applicant was deprived of his passport for more than six years when an enforcement order was issued against him at the request of private companies to which he owed money. He complained about the interference with his freedom of movement. The Court found that the Bulgarian authorities had failed in their obligation to make sure the interference with the applicant's right to leave his country was, in the circumstances, justified and proportionate, both initially and throughout.

*Violation of Article 2 of Protocol No. 4 (freedom of movement)*

## Examples of an individual measure

### **Kunov v. Bulgaria (dec.) (23 June 2005)**

Inability of the applicant to obtain the reopening of his trial after conviction in absentia.

⇒ The unfair proceedings resulting in the applicant's conviction were reopened, his conviction was quashed and the case was referred to the competent court for a fresh examination.

## The Council of Europe

Accession: 7 May 1992

## The Convention

Signature: 7 May 1992

Ratification: 7 September 1992

## Current judge

Zdravka KALAYDJIEVA

## Previous judges

Snejana BOTOCHAROVA (1998-2008)

Dimitar GOTCHEV (1992-98)

## First judgement

*Lukanov v. Bulgaria* (20 March 1997)

## The Court and Bulgaria on 1 January 2011

Total number of judgments: 375

Violation judgments: 343

No violation judgments: 19

Other judgments: 13

Inadmissibility decisions: 4 804

Pending applications: 3 466

## Examples of general measures

### **Stefanov v. Bulgaria (3 May 2001)**

The applicant, a Jehovah's Witness, was convicted for refusing to perform military service.

⇒ Decriminalisation of conscientious objection and creation of an alternative to compulsory military service.

### **Lotter v. Bulgaria (19 May 2004)**

Withdrawal of the residence permits of Jehovah's Witnesses.

⇒ Enactment of a new Religious Denominations Act, allowing the registration of the Jehovah's Witnesses as a legal entity.

### **Varbanov v. Bulgaria (5 October 2000)**

The applicant had been detained in a psychiatric hospital by a district prosecutor and had not been able to challenge his deprivation of liberty.

⇒ Enactment of a new Health Act, by which only the courts are competent to take decisions on psychiatric confinement.

### **M.C. v. Bulgaria (4 December 2003)**

Insufficient protection of an alleged rape victim.

⇒ Instructions issued to the investigating bodies to take greater account of the position of victims in rape cases, in accordance with the principles established by the European Court (*execution in progress*).

# Croatia

## The Council of Europe

Accession: 6 November 1996

## The Convention

Signature: 6 November 1996

Ratification: 5 November 1997

## Current judge

Nina VAJIĆ

## First judgement

*Rajak v. Croatia* (28 June 2001)

## The Court and Croatia on 1 January 2011

Total number of judgments: 191

Violation judgments: 154

No violation judgments: 8

Other judgments: 29

Inadmissibility decisions: 4 700

Pending applications: 1 594

## Examples of general measures

### **Horvat v. Croatia** (26 July 2001)

Excessive length of civil proceedings.

⇒ Legislative reform introducing an effective remedy in respect of the excessive length of proceedings and adoption of measures to ensure the reasonable length of judicial proceedings.

### **Mikulić v. Croatia** (7 February 2002)

Inability of the applicant to secure the determination of her action to establish paternity.

⇒ Enactment of a new Family Act providing for specific measures to establish paternity rapidly where the putative father refuses to cooperate in the proceedings.

### **Šečić v. Croatia** (31 May 2007)

Lack of an effective investigation into a racist attack against a Rom.

⇒ Incorporation of "hate crime" into the Criminal Code, creation of a special police division with particular responsibility for investigating such crimes, and implementation of an awareness-raising programme for police officers on preventing crimes of this nature (*execution in progress*).

## Examples of cases against Croatia

### **Mikulić v. Croatia** (7 February 2002)

Montana Mikulić complained that the failure of the domestic courts to reach a decision in her paternity suit had left her uncertain about her personal identity. The Court found that the inefficiency of the courts had left the applicant in a state of prolonged uncertainty as to her personal identity.

*Violation of Article 8 (right to respect for private and family life)*

### **Mežnarić v. Croatia (no. 1)** (15 July 2005)

Ivan Mežnarić complained that he had not had a fair hearing before an impartial tribunal because his constitutional complaint concerning a breach of contract had been decided by a panel of judges which included a judge who had represented his opponents at an earlier stage in the proceedings.

*Violation of Article 6 (right to a fair trial)*

### **Karadžić v. Croatia** (15 December 2005)

Edina Karadžić was living with her son in Germany. In 2001 the boy's father kidnapped his son and took him to Croatia. The applicant complained about the inefficiency of the Croatian authorities and, in particular, about the prolonged failure to enforce a court order to reunite her with her son.

*Violation of Article 8 (right to respect for private and family life)*

### **Šečić v. Croatia** (31 May 2007)

Šemso Šečić alleged that the domestic authorities had failed to undertake a serious and thorough investigation into the racist attack against him in 1999 and that he had suffered discrimination on the basis of his Roma origin. The Court found it unacceptable that, being aware that the event in issue was very probably induced by ethnic hatred, the police had allowed the investigation to last for more than seven years without undertaking any serious steps to identify or prosecute the perpetrators.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 3*

### **X v. Croatia** (17 July 2008)

The applicant, who suffered from paranoid schizophrenia and had been divested of her capacity to act, complained that her daughter had been given up for adoption without her knowledge or consent.

*Violation of Article 8 (right to respect for private and family life)*

### **Branko Tomašić and Others v. Croatia** (15 January 2009)

The applicant, who was sentenced to five months' imprisonment and made to undergo psychiatric treatment for having threatened to kill his former partner and their daughter. When he was released from prison, he killed them both, then committed suicide. The applicants – relatives of the woman and child – contended that the authorities had not done enough to prosecute.

*Violation of Article 2 (right to life)*

## Examples of individual measures

### **Kutić v. Croatia** (1 March 2002)

Lack of access to a court on account of legislation staying all civil proceedings concerning claims for damages in respect of terrorist acts.

⇒ The civil proceedings that had been stayed were resumed in a series of cases concerning their excessive length. The Ministry of Justice also urged that the cases be conducted with special diligence.

### **Mikulić v. Croatia** (7 February 2002)

⇒ The domestic proceedings found by the European Court to have been excessively lengthy came to an end. The defendant's paternity was established and the applicant was granted maintenance.

### **Napijalo v. Croatia** (13 November 2003)

⇒ The applicant's passport was returned to him after it had been seized by the customs authorities for more than two years for non-payment of a fine.

# Cyprus

## Examples of cases against Cyprus

### **Kyprianou v. Cyprus (15 December 2005)**

Michalakis Kyprianou, a lawyer, complained that he had not been tried by an independent and impartial tribunal, as the same court which claimed that he was in contempt had also tried and punished him.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 10 (freedom of expression)*

### **Kafkaris v. Cyprus (12 February 2008)**

The case concerned in particular the complaint by Panayiotis Agapiou Panayi, alias Kafkaris, that following amendments to the prison rules and domestic legislation he had been subjected to a retrospective prolongation of his term of imprisonment from a twenty- year sentence to an indeterminate term.

*Violation of Article 7 (no punishment without law)*

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*No violation of Article 5 (right to liberty and security)*

*No violation of Article 14 (prohibition of discrimination).*

### The Council of Europe

Accession: 24 May 1961

### The Convention

Signature: 16 December 1961

Ratification: 6 October 1962

### Current judge

George NICOLAOU

### Previous judges

Loukis LOUCAIDES (1998-2008)

Andreas Nicolas LOIZOU (1990-98)

Mehmed ZEKIA (1961-84)

### First judgement

*Modinos v. Cyprus* (22 April 1993)

### The Court and Cyprus on 1 January 2011

Total number of judgments: 60

Violation judgments: 50

No violation judgments: 4

Other judgments: 6

Inadmissibility decisions: 498

Pending applications: 141

## Example of a general measure

### **Aziz v. Cyprus** (22 June 2004)

Impossibility for the applicant to vote in parliamentary elections as a member of the Turkish-Cypriot community.

⇒ New legislation giving effect to the right of Cypriot nationals of Turkish origin habitually residing in the Republic of Cyprus to vote and to be elected in parliamentary, municipal and community elections.

## Czech Republic

### The Council of Europe

Accession: 30 June 1993  
(Czech and Slovak Federal Republic)

### The Convention

Signature: 21 February 1991  
Ratification: 18 March 1992

### Current judge

Karel JUNGWIERT

### First judgement

*Špaček, s.r.o., v. the Czech Republic*  
(9 November 1999)

### The Court and the Czech Republic on 1 January 2011

Total number of judgments: 158  
Violation judgments: 142  
No violation judgments: 5  
Other judgments: 11  
Inadmissibility decisions: 8 232  
Pending applications: 1 302

### Examples of general measures

#### **Exel v. the Czech Republic** (5 July 2005)

Lack of a public hearing before the Commercial Court and the City Court.  
⇒ Change in the approach of the Supreme Court, defining the circumstances in which courts are obliged to hold hearings in bankruptcy proceedings. Subsequently, enactment of a new Bankruptcy Act.

#### **Singh v. the Czech Republic** (25 January 2005)

Detention of the applicants for two and a half years pending deportation.  
⇒ Introduction of a time-limit of five working days for decisions on applications for release.

#### **Heglas v. the Czech Republic** (1 March 2007)

Recording of a conversation by means of a body-planted listening device and use of a list of telephone calls as evidence at a trial.  
⇒ Incorporation into the Code of Criminal Procedure of provisions on obtaining lists of telephone calls in criminal investigations and on recording conversations by means of a body-planted listening device.

### Examples of cases against Czech Republic

#### **Malhous v. the Czech Republic** (12 July 2001)

Jan Malhous complained that he had not enjoyed a public hearing before an independent and impartial tribunal in proceedings he had brought for the restitution of farmland which had belonged to his father and had been expropriated without compensation.

*Violation of Article 6 § 1 (right to a fair trial)*

#### **Credit and Industrial Bank v. the Czech Republic** (21 October 2003)

The applicant company complained that it had no remedy concerning a decision to place it in compulsory administration or concerning subsequent administrative and judicial decisions.

*Violation of Article 6 (right to a fair trial)*

#### **Wallová and Walla v. the Czech Republic** (26 October 2006)

Emílie Wallová and her husband Jaroslav Walla complained about the placement of their children in a public institution on the grounds that the family had not had a suitable and stable home.

*Violation of Article 8 (right to respect for family life)*

#### **Kříž v. the Czech Republic and Mezl v. the Czech Republic** (9 January 2007)

Václav Kříž and Oldřich Mezl both complained about the length of proceedings concerning their right of contact with their children, and in Mr Mezl's case, his parental responsibility. They further complained of their prolonged inability to secure the enforcement of the decisions granting them rights of contact, during which time they had thus been prevented from seeing their children.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 8 (right to respect for family life)*

#### **D.H. and Others v. the Czech Republic** (13 November 2007)

The applicants complained that they had been placed in special schools because of their Roma origin.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 2 of Protocol No. 1 (right to education)*

#### **Macready v. the Czech Republic** (22 April 2010)

Thomas Lawrence Macready, a United States national, complained that after his divorce his wife had taken their child to the Czech Republic without his consent. The Court found that the Czech authorities had not secured the applicant's right to see his child during the proceedings to secure the boy's return to the United States.

*Violation of Article 8 (right to respect for private and family life)*

### Example of an individual measure

#### **Buchen v. the Czech Republic** (26 November 2002)

⇒ The applicant, a former military judge, was able to continue receiving the retirement allowance that had been suspended in a discriminatory manner when he had been assigned to a post as a judge at an ordinary court.

# Denmark

## Examples of cases against Denmark

### **Hauschildt v. Denmark (24 May 1989)**

Mogens Hauschildt was charged with fraud and embezzlement and sentenced to five years' imprisonment in 1984. He complained that the same judges who convicted him had previously taken various decisions concerning his pre-trial detention.

*Violation of Article 6 (right to a fair trial)*

### **Jersild v. Denmark (23 September 1994)**

Jens Olaf Jersild, a journalist, had been sentenced to pay a fine in 1987 for having aided and abetted the dissemination of racist remarks by a group of young people in a radio interview. The Court found that there had been a violation of the journalist's freedom of expression.

*Violation of Article 10 (freedom of expression)*

### **A. and Others v. Denmark (8 February 1996)**

The ten applicants were either themselves victims, or relatives of deceased victims, of the HIV virus who had been infected with the virus through blood transfusions. Their complaint concerned the time it had taken the Danish courts to award them compensation.

*Violation of Article 6 (right to a fair trial within a reasonable time)*

### **Sørensen and Rasmussen v. Denmark (11 January 2006)**

The applicants complained that the existence of closed-shop agreements in Denmark in their respective areas of employment had violated their right to freedom of association. The Court found that the applicants had been compelled to join a trade union, which struck at the very substance of freedom of association.

*Violation of Article 11 (freedom of assembly and association)*

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 13 April 1953

### Current judge

Peer LORENZEN

### Previous judges

Isi FOIGHÉL (1989-98)

Jørgen GERSING (1982-88)

Max SØRENSEN (1980-81)

Helga PEDERSEN (1971-80)

Alf Niels Christian ROSS (1959-71)

### First judgement

*Kjeldsen, Busk Madsen and Pedersen v. Denmark* (7 December 1976)

### The Court and Denmark on 1 January 2011

Total number of judgments: 34

Violation judgments: 13

No violation judgments: 9

Other judgments: 12

Inadmissibility decisions: 1 142

Pending applications: 121

## Examples of general measures

### **A. and Others v. Denmark** (8 February 1996)

Length of compensation proceedings for persons contaminated with the HIV virus during transfusions.

⇒ Adaptation of the Danish civil courts' practice in order to ensure better supervision of compliance with the reasonable-time requirement. Establishment of a special compensation fund.

### **Sørensen and Rasmussen v. Denmark** (11 January 2006)

Compulsory membership of a trade union as a precondition for recruitment.

⇒ Extension by law of the negative freedom of association, i.e. the right not to be a member of a union.

## Estonia

The Council of Europe  
Accession: 14 May 1993

The Convention  
Signature: 14 May 1993  
Ratification: 16 April 1996

Current judge  
Julia LAFFRANQUE

Previous judge  
Rait MARUSTE (1998 – 2010)  
Uno LÕHMUS (1994-98)

First judgement  
*Slavgorodski v. Estonia* (12 September 2000)

The Court and Estonia on 1 January 2011

Total number of judgments: 23  
Violation judgments: 19  
No violation judgments: 3  
Other judgments: 1  
Inadmissibility decisions: 1 164  
Pending applications: 502

### Examples of general measures

***Alver v. Estonia*** (8 November 2005)  
Conditions of detention amounting to inhuman or degrading treatment.  
⇒ Introduction of a programme to build new prisons or to perform extensive renovations to existing ones. Pending the completion of the programme, implementation of temporary measures to improve detention conditions in arrest houses. Introduction of a mechanism for lodging complaints alleging ill-treatment in detention.

***Sulaoja v. Estonia and Pihlak v. Estonia***  
(15 February 2005 and 21 June 2005)  
Unjustified extension of the applicants' pretrial detention.  
⇒ New Code of Criminal Procedure introducing time-limits for pre-trial detention, a mechanism for regular review of the lawfulness of such detention and time-limits for decisions on the lawfulness of detention.

### Examples of cases against Estonia

#### ***Tammer v. Estonia*** (6 February 2001)

Enno Tammer, a journalist and editor-in-chief of an Estonian daily newspaper, was convicted of the offence of insult in 1997 for having accused the woman who was later to marry the Estonian Prime Minister of breaking up another's marriage and being an unfit and careless mother. The Court found that the applicant's conviction and the penalty incurred were not disproportionate.

*No violation of Article 10 (freedom of expression)*

#### ***Alver v. Estonia*** (8 November 2005)

Rein Alver was convicted of fraud and burglary and given a prison sentence. He complained about his prolonged detention in unsanitary conditions, which he claimed had led to his contracting liver disease and tuberculosis. The Court held that the conditions of the applicant's detention, in particular the overcrowding, inadequate lighting and ventilation, impoverished diet and poor hygiene conditions and state of repair of the cell facilities, combined with the applicant's state of health, amounted to a violation of the Convention.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

#### ***Harkmann v. Estonia*** (11 July 2006)

Allar Harkmann complained that he had not been brought before a court immediately after his arrest and that he had been unable to obtain any compensation for his unlawful detention.

*Violation of Article 5 (right to liberty and security)*

#### ***Dorozhko and Pozharskiy v. Estonia*** (24 April 2008)

The applicants alleged that in the criminal proceedings against them for theft, the trial court judge had not been impartial as her husband had been involved in the preliminary investigation.

*Violation of Article 6 (right to a fair trial)*

#### ***Liivik v. Estonia*** (25 June 2009)

In 1999, Jaak Liivik was responsible for its everyday management, including entering into privatisation agreements. In 2004, he was convicted of abuse of office for acting beyond his authority in assuming financial obligations for the State. The Court considered that the applicant, convicted of abuse of office in a privatisation agreement concerning Estonian Railways, could not have foreseen under the criminal law applicable at the relevant time that his acts had constituted a criminal offence.

*Violation of Article 7 (no punishment without law)*

### Examples of individual measures

#### ***Alver v. Estonia*** (8 November 2005)

⇒ The applicant was transferred to a different prison from the one where he had been subjected to ill-treatment, and was released shortly afterwards.

#### ***Veeber v. Estonia (no. 2)*** (21 January 2003)

⇒ The applicant, who had been convicted of tax evasion on the basis of provisions that had not yet been in force at the time of the acts, was retried and acquitted by the Supreme Court, which thus recognised the direct effect of the European Court's judgments.

# Finland

## Examples of cases against Finland

### **Hokkanen v. Finland (23 September 1994)**

Teuvo Hokkanen complained that the public authorities had failed to facilitate his speedy reunion with his daughter. They had allowed the child's grandparents to keep her in their care and to prevent his access to her in defiance of court decisions and had transferred custody to them.

*Violation of Article 8 (right to respect for private and family life)*

### **K. and T. v. Finland (12 July 2001)**

The applicants complained about the placement of their children in public care. The Court found a violation of the Convention on account of the taking of the applicants' newborn child into care and the lack of measures aimed at reuniting the family.

*Violation of Article 8 (right to respect for private and family life)*

### **Nikula v. Finland (21 March 2002)**

Anne Nikula, a lawyer, was convicted for having criticised a prosecutor for decisions taken in his capacity as a party to criminal proceedings in which the applicant was defending one of the accused.

*Violation of Article 10 (freedom of expression)*

### **Jokela v. Finland (21 May 2002)**

The applicants complained about the discrepancy between the assessment of the market value of expropriated land and land subject to inheritance tax. They also complained that they had been denied a fair hearing in the expropriation proceedings.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

*No violation of Article 6 (right to a fair trial)*

### **Johansson v. Finland (6 September 2007)**

Mika and Jaana Johansson complained about the Finnish authorities' refusal to register the forename "Axl" for their son. The Court attached particular importance to the fact that the name "Axl" was not "new" at the time, since three persons had already been registered under that name when the applicants' son was born and at least two other children had subsequently been given the name.

*Violation of Article 8 (right to respect for private and family life)*

## Examples of individual measures

### **N. v. Finland (26 July 2005)**

⇒ Granting of a residence permit to the applicant, whose expulsion to the Democratic Republic of Congo would have exposed him to a risk of ill-treatment.

### **Johansson v. Finland (6 September 2007)**

Refusal by the authorities to register the name "Axl" for the applicants' son, whereas other requests to the same effect had already been allowed.

⇒ The applicants were able to give their child the forename of their choice, which had initially been rejected by the authorities (*execution in progress*).

## The Council of Europe

Accession: 5 May 1989

## The Convention

Signature: 5 May 1989

Ratification: 10 May 1990

## Current judge

Päivi HIRVELÄ

## Previous judges

Matti PELLONPÄÄ (1998-2006)

Raimo PEKKANEN (1989-98)

## First judgement

*Hokkanen v. Finland* (23 September 1994)

## The Court and Finland on 1 January 2011

Total number of judgments: 151

Violation judgments: 119

No violation judgments: 21

Other judgments: 11

Inadmissibility decisions: 2 874

Pending applications: 551

## Examples of general measures

### **K.A. v. Finland (14 January 2003)**

Lack of adequate measures by the authorities to reunite parents with their children placed in foster care.

⇒ Amendment of the Child Welfare Act to provide more precise regulations, in particular on contact between children in foster care and their parents, and implementation of a training programme for social services staff on child welfare promotion.

### **Goussev and Marenk v. Finland**

(17 January 2006)

Seizure of documents from the applicants, who were suspected of defamation.

⇒ Enactment of the Act on Exercise of Freedom of Expression in the Mass Media, clarifying the relationship between certain provisions on publications and the Coercive Measures Act.

## France

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 3 May 1974

### Current judge

André POTOCKI

### Previous judges

Jean-Paul COSTA (1998-2011)

Louis-Edmond PETTITI (1980-1998)

Pierre-Henri TEITGEN (1976-1980)

René Samuel CASSIN (1959-1976)

### First judgement

*Bozano v. France* (18 December 1986)

### The Court and France on 1 January 2011

Total number of judgments: 815

Violation judgments: 604

No violation judgments: 116

Other judgments: 95

Inadmissibility decisions: 19 941

Pending applications: 2 676

### Examples of general measures

#### **B. v. France** (25 March 1992)

Lack of legal recognition of the new identity of a post-operative transsexual.

⇒ Change in national practice concerning the possibility for the civil status of transgender persons to match their new gender identity.

#### **Mazurek v. France** (1 February 2000)

Statutory discrimination against adulterine children in terms of inheritance rights.

⇒ Change in the law to remove existing forms of discrimination between adulterine and other children regarding inheritance rights.

#### **Etcheveste and Bidart v. France** (21 March 2002)

Excessive length of criminal proceedings.

⇒ Reforms to avoid, in particular, the excessive length of the investigation phase and of criminal proceedings as a whole, and introduction of an effective domestic remedy in respect of their length.

### Examples of cases against France

#### **Fressoz and Roire v. France** (21 January 1999)

Roger Fressoz, a former publication director of the weekly satirical newspaper *Le Canard enchaîné*, and Claude Roire, a journalist, were both convicted of handling unlawfully obtained photocopies following the publication in 1989 of copies of the tax assessments of the then Chairman of Peugeot, Jacques Calvet. The Court found, in particular, that neither the applicants' account of the events nor their good faith had been called into question and that the journalist had acted in accordance with the standards governing his profession.

*Violation of Article 10 (freedom of expression)*

#### **Selmouni v. France** (28 July 1999)

Ahmed Selmouni complained that he had been ill-treated while in police custody in 1991. The Court considered that the physical and mental violence to which the applicant had been subjected, considered as a whole, had caused "severe" pain and suffering and had been particularly serious and cruel.

*Violation of Article 3 (prohibition of torture)*

*Violation of Article 6 § 1 (right to a hearing within a reasonable time)*

#### **Mazurek v. France** (1 February 2000)

The case concerned the halving of Claude Mazurek's share of his mother's estate in relation to a legitimate child on account of his status as an adulterine child. The Court held that an adulterine child could not be blamed for circumstances for which he or she was not responsible.

*Violation of Article 1 of Protocol No. 1 (protection of property) taken in conjunction with Article 14 (prohibition of discrimination)*

#### **Koua Poirrez v. France** (30 September 2003)

The case concerned the French authorities' refusal to award a disabled adult's allowance to Ettien Laurent Koua Poirrez, who was resident in France, on the ground that he was not a French national and there was no reciprocal agreement in respect of that benefit between France and the Ivory Coast, the State of which he was a national. The Court held that, when ratifying the Convention, France had undertaken to secure to everyone within its jurisdiction, which the applicant was, the rights and freedoms defined in the Convention.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1 (protection of property)*

*No violation of Article 6 § 1 (right to a fair trial)*

#### **Editions Plon v. France** (18 May 2004)

The case concerned the continued prohibition on the distribution of a book entitled *Le Grand Secret*, co-authored by Dr Gubler, a former private physician to President Mitterrand, which discussed the difficulties he had encountered in concealing the head of State's illness.

*Violation of Article 10 (freedom of expression)*

#### **Vo v. France** (8 July 2004)

Following a mix-up caused by the fact that two patients shared the same surname, a doctor examined Thi-Nho Vo, who was six months pregnant at the time, and pierced her amniotic sac, making a therapeutic abortion necessary. The applicant complained about the authorities' refusal to classify the unintentional killing of her unborn child as involuntary homicide. The Court considered that it was neither desirable, nor even possible as matters stood, to answer in the abstract the question whether an unborn child was a person for the purposes of Article 2 of the Convention.

*No violation of Article 2 (right to life)*

## France

### **Siliadin v. France (26 July 2005)**

Siwa-Akofa Siliadin complained that French criminal law had not afforded her sufficient and effective protection against the “servitude” in which she had been held, or at the very least against the “forced and compulsory” labour she had been required to perform, which in practice had made her a domestic slave. The Court considered that the French criminal legislation in force at the relevant time had not afforded the applicant specific and effective protection against the actions of which she had been a victim.

*Violation of Article 4 (prohibition of servitude)*

### **Draon v. France and Maurice v. France (6 October 2005)**

The applicants were the parents of children with severe congenital disabilities which, owing to medical errors, had not been discovered during prenatal examinations. The case concerned the applicants’ inability to obtain compensation for the special burdens arising from their children’s disability on account of the application to pending proceedings of the “Kouchner Law” or “anti-Perruche Law”, which had come into force while their actions were pending.

*No violation of Article 13 (right to an effective remedy)*

*No violation of Article 8 (right to respect for private and family life)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Ramirez Sanchez v. France (4 July 2006)**

Ilich Ramirez Sanchez, better known as “Carlos the Jackal”, was prosecuted following investigations into a series of terrorist attacks carried out in France and was sentenced to life imprisonment in 1997. He complained about his prolonged solitary confinement.

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 13 (right to an effective remedy)*

### **Renolde v. France (16 October 2008)**

Hélène Renolde complained that the French authorities had not taken the necessary measures to protect the life of her brother, who hanged himself in July 2000 in his cell in Bois-d’Arcy Prison, where he was in pre-trial detention. The Court observed, among other things, that prisoners known to be suffering from serious mental disturbance and to pose a suicide risk required special measures geared to their condition.

*Violation of Article 2 (right to life)*

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

### **Examples of individual measures**

#### **Mayali v. France (14 June 2005)**

Conviction of the applicant without being given an adequate and sufficient opportunity to challenge the victim’s assertions on which the conviction was based.

⇒ The applicant’s case was referred back for reconsideration following the Court’s findings that the criminal proceedings against him had been unfair.

#### **Motais de Narbonne v. France (2 July 2002)**

Excessive burden imposed on the applicants as a result of the lack of any development on land expropriated from them nineteen years previously.

⇒ The applicants were awarded compensation for the pecuniary damage sustained, taking into account the current market value of the land and the compensation already paid to them for the expropriation.

## Georgia

### The Council of Europe

Accession: 27 April 1999

### The Convention

Signature: 27 April 1999

Ratification: 20 May 1999

### Current judge

Nona TSOTSORIA

### Previous judge

Mindia UGREKHELIDZE (1999-2008)

### First judgement

*Assanidze v. Georgia* (8 April 2004)

### The Court and Georgia on 1 January 2011

Total number of judgments: 39

Violation judgments: 32

No violation judgments: 6

Other judgments: 1

Inadmissibility decisions: 1 901

Pending applications: 2 812

### Examples of general measures

#### ***Ghavitadze v. Georgia*** (3 March 2009)

Systemic nature of the lack of medical treatment in prisons.

⇒ Demolition of a prison constituting a health hazard, replaced by a more modern and better-equipped facility, and production of an action plan for treatment of infectious diseases in prisons (*execution in progress*).

#### ***Patsuria v. Georgia*** (6 November 2007)

Extension of the applicant's pre-trial detention mainly on the basis of the seriousness of the charges against him.

⇒ Amendment of the Code of Criminal Procedure, which now provides that "the measure of pre-trial detention may be ordered only if the objectives pursued cannot be achieved by a less severe measure" (*execution in progress*).

### Examples of cases against Georgia

#### ***Assanidze v. Georgia*** (8 April 2004)

Tengiz Assanidze was formerly the mayor of Batumi and a member of the Supreme Council of the Ajarian Autonomous Republic. The applicant complained that he was still being held by the authorities of the Ajarian Autonomous Republic despite having received a presidential pardon in 1999 for an initial offence and having been acquitted of a second by the Supreme Court of Georgia in 2001. The Court found that the applicant had been arbitrarily detained and held that the Georgian State had to secure his release at the earliest possible date.

*Violation of Article 5 (right to liberty and security)*

*Violation of Article 6 (right to a fair trial)*

#### ***Shamayev and Others v. Georgia and Russia*** (12 April 2005)

The application concerned the extradition or application for extradition to Russia of the thirteen applicants, all of whom were of Chechen origin and suspected of being terrorist rebels. The Court found, in particular, that both Georgia and Russia had hindered the right of individual application. It also held that by obstructing the Court's fact-finding visit and denying it access to the applicants detained in Russia, the Russian Government had unacceptably hindered the establishment of part of the facts.

*Violation of Article 34 (right of individual application), among other violations*

#### ***Apostol v. Georgia*** (28 November 2006)

Leonid Tikhonovich Apostol complained of the authorities' refusal to enforce a judgment in his favour in which an award had been made to him.

*Violation of Article 6 § 1 (right to a fair trial)*

#### ***Gorelishvili v. Georgia*** (5 June 2007)

Ilmar Gorelishvili, a journalist at the relevant time, was found liable for defamation in 2003 for publishing an article in which she criticised various politicians and government officials, notably referring to their declared assets.

*Violation of Article 10 (freedom of expression)*

#### ***Patsuria v. Georgia*** (6 November 2007)

Gia Patsuria was convicted of attempted fraud in 2005. He alleged that, when authorising his detention, the authorities had relied solely on the gravity of the charges against him and the reasonable suspicion that he had committed a crime. The Court considered that in relying essentially on the gravity of the charges against the applicant, the Georgian courts had failed to address the specific circumstances of his case or to consider alternative pre-trial measures.

*Violation of Article 5 (right to liberty and security)*

#### ***Ramishvili and Kokhreidze v. Georgia*** (27 January 2009)

Shalva Ramishvili and Davit Kokhreidze are co-founders and shareholders of a private media firm that runs the television channel TV 202. They were accused of blackmail and placed in detention pending trial. They complained, *inter alia*, that at the hearings concerning their applications for release they had been placed in cages, that special force police officers had been present and that people had been constantly entering and leaving the room and talking on the phone. The Court considered that the imposition of such harsh and humiliating measures on the applicants had not been justified. It also found that a hearing held in such chaotic conditions was hardly conducive to the calm examination of the case, and noted the connivance between the judge and the prosecutor during the hearing.

*Violations of Article 3 (prohibition of inhuman or degrading treatment)*

*Violations of Article 5 (right to liberty and security)*

## Georgia

### ***Poghosyan v. Georgia* (24 February 2009)**

Khvicha Poghosyan complained that he had not been given the medical care his health condition demanded when he was serving a prison sentence for robbery. The Court noted that there was a structural problem concerning the medical care dispensed to prisoners suffering, *inter alia*, from viral hepatitis C. It found that to be an aggravating factor in respect of Georgia's responsibility under the Convention and invited the authorities rapidly to adopt measures to prevent the transmission of viral hepatitis C in prisons, to introduce a screening system and to guarantee prompt and effective treatment for the disease.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

### **Examples of individual measures**

#### ***Assanidze v. Georgia* (8 April 2004)**

⇒ The applicant, who had been arbitrarily detained despite his acquittal, was released the day after the European Court's judgment.

#### ***Shamayev and Others v. Georgia and Russia* (12 April 2005)**

⇒ The decision to extradite one of the applicants to Russia, where he risked being subjected to ill-treatment, was set aside by the Supreme Court of Georgia following the European Court's judgment (*execution in progress*).

# Germany

The Council of Europe  
Accession: 13 July 1950

The Convention  
Signature: 4 November 1950  
Ratification: 5 December 1952

Current judge  
Angelika NUSSBERGER

Previous judges  
Renate JAEGER (2004 - 2010)  
Georg RESS (1998-2004)  
Rudolf BERNHARDT (1981-98)  
Hermann MOSLER (1959-80)

First judgement  
*Wemhoff v. Germany* (27 June 1968)

The Court and Germany on 1 January 2011  
Total number of judgments: 193  
Violation judgments: 128  
No violation judgments: 47  
Other judgments: 18  
Inadmissibility decisions: 19 308  
Pending applications: 2 381

## Examples of general measures

**Öztürk v. Germany** (21 February 1984)  
Requirement for the applicant to pay interpretation costs in judicial proceedings concerning a road traffic accident.  
⇒ Amendment of legislation on interpretation costs payable by persons participating in proceedings under the Regulatory Offences Act.

**Von Hannover v. Germany**  
(24 June 2004)  
Lack of protection against publication of photographs taken by paparazzi.  
⇒ Change in the courts' approach in cases concerning publication of photographs of public figures to strike a better balance between public and private interests.

**Niedzwiecki v. Germany**  
(25 October 2005)  
Refusal to award child benefit to the applicant because he did not have a permanent residence permit.  
⇒ Amendment of the Child Benefits Act to remove discrimination in the treatment of different categories of foreigners.

## Examples of cases against Germany

### **Vogt v. Germany** (26 September 1995)

The applicant maintained that her dismissal from the civil service on account of her political activities as a member of the DKP (German Communist Party) had infringed her right to freedom of expression. The Court held that the applicant's dismissal was a disproportionate penalty.

*Violation of Article 10 (freedom of expression)*

### **Streletz, Kessler and Krenz v. Germany** (22 March 2001)

The applicants were former senior officials of the German Democratic Republic (GDR). Following the reunification of Germany, they were found guilty of killing a number of people who had attempted to flee the GDR across the border between the two Germanys between 1971 and 1989.

*No violation of Article 7 (no punishment without law)*

*No violation of Article 14 (prohibition of discrimination)*

### **Von Hannover v. Germany** (24 June 2004)

Princess Caroline von Hannover had on several occasions unsuccessfully applied to the German courts for an injunction preventing any further publication of a series of photographs which had appeared in German magazines in the 1990s, claiming that they infringed her right to protection of her private life and her right to control the use of her image. The Court said that everyone, including people known to the public, had to have a "legitimate expectation" that his or her private life would be protected.

*Violation of Article 8 (right to respect for private and family life)*

### **Von Maltzan and Others v. Germany** (dec.) (2 March 2005)

The cases concerned one of the major issues to arise after the reunification of Germany: the indemnification and compensation terms for those whose property had been expropriated either after 1949 in the GDR or, as in the vast majority of cases, between 1945 and 1949 in the former Soviet Occupied Zone of Germany. The Court held in particular that the applicants could not argue that they had "possessions" within the meaning of Article 1 of Protocol No. 1, and declared the applications inadmissible.

*Inadmissible*

### **Storck v. Germany** (16 June 2005)

Waltraud Storck had spent almost twenty years of her life in psychiatric institutions and hospitals, having been placed in a psychiatric ward at her father's request. It was subsequently established that the applicant had never suffered from schizophrenia and that her behaviour had been caused by conflicts with her family. The Court observed that no court had authorised the applicant's internment or her medical treatment.

*Violation of Article 5 § 1 (right to liberty and security)*

*No violation of Article 8 (right to respect for private and family life)*

### **Jahn and Others v. Germany** (30 June 2005)

In this case the applicants had been obliged, without compensation, to give up land they had inherited which their predecessors – known at the time as "the new farmers" – had acquired following the agrarian reform in the Soviet Occupied Zone of Germany in 1945.

*No violation of Article 1 of Protocol No. 1 (protection of property)*

*No violation of Article 14 (prohibition of discrimination)*

### **Jalloh v. Germany** (11 July 2006)

In 1993 the police administered Abu Bakah Jalloh with an emetic to make him regurgitate a small packet of cocaine they had seen him swallow when

## Germany

they arrested him. He was subsequently convicted of drug trafficking. The Court found that the German authorities had subjected the applicant to a grave interference with his physical and mental integrity against his will by forcing him to vomit in order to retrieve evidence they could have obtained by less intrusive means. The fact that the evidence thus obtained had been used against him had made his trial as a whole unfair.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 6 (right to a fair trial)*

### Example of an individual measure

**Görgülü v. Germany** (26 February 2004)

⇒ The applicant was awarded sole custody of his child, who was born outside marriage and had initially been placed with a foster family after being abandoned by the natural mother.

# Greece

## The Council of Europe

Accession: 9 August 1949

## The Convention

Signature: 28 November 1950

Ratification: 28 November 1974

(Ratification 28/3/1953 -  
Denunciation with effect on 13/6/1970)

## Current judge

Linós-Alexandre SICILIANOS

## Previous judges

Christos ROZAKIS (1998-2011)

Nicolas VALTICOS (1986-98)

Dimitris EVRIGENIS (1975-86)

Georges MARIDAKIS (1959-70)

## First judgement

*Phillis v. Greece (no. 1)* (27 August 1991)

## The Court and Greece on 1 January 2011

Total number of judgments: 613

Violation judgments: 541

No violation judgments: 14

Other judgments: 58

Inadmissibility decisions: 3 063

Pending applications: 802

## Example of a general measure

### **Kokkinakis v. Greece** (25 May 1993)

Detention of a Jehovah's Witness for proselytism.

⇒ Adaptation of national practice regarding the application of the provisions governing the offence of "proselytism".

## Examples of individual measures

### **Hornsby v. Greece** (19 March 1997)

Failure of the authorities to comply with two decisions of the Supreme Administrative Court granting the applicants a licence to open a private English language school.

⇒ The applicants were granted a licence to open their school.

### **Manoussakis and Others v. Greece**

(26 September 1996)

The applicants, all Jehovah's Witnesses, were convicted for setting up and operating a place of worship without prior authorisation from the Minister of Education and Religious Affairs.

⇒ The applicants were granted a permit to establish a place of worship. In addition, their case was reopened and their conviction was quashed; on that account, the proceedings against them were terminated with final effect.

## Examples of cases against Greece

### **Kokkinakis v. Greece** (25 May 1993)

Minos Kokkinakis, a Jehovah's Witness, was arrested more than sixty times for proselytising.

*Violation of Article 9 (right to freedom of thought, conscience and religion)*

### **The former King of Greece and Others v. Greece** (23 November 2000)

The case concerned the ownership status of the property of the Greek Crown. The applicants, the former King of Greece, his sister Princess Irene and his aunt Princess Ekaterini, complained about Law No. 2215/1994, by which ownership of their moveable and immovable property passed to the State, without any provision for compensation.

*Violation of Article 1 of Protocol No. 1 (right of property)*

### **Makaratzis v. Greece** (20 December 2004)

Christos Makaratzis was pursued by police officers after driving through a red traffic light. The police officers used firearms to stop him. The applicant complained that the police officers had used excessive firepower against him, putting his life at risk. He also complained of the lack of an adequate investigation into the incident.

*Violations of Article 2 (right to life)*

### **Lionarakis v. Greece** (5 July 2007)

Nikitas Lionarakis, at the relevant time the presenter and coordinator of a radio programme broadcast live by the Hellenic Broadcasting Corporation, was held liable for defamation on account of statements on the "Öcalan case" made by a journalist who was a guest on the programme. The Court considered, in particular, that the journalist and coordinator could not be held liable in the same way as the person who had made remarks that were possibly controversial, insulting or defamatory.

*Violation of Article 6 § 1 (right to a fair trial)*

*Violation of Article 10 (freedom of expression)*

### **Alexandridis v. Greece** (21 February 2008)

Theodoros Alexandridis, a lawyer, complained that when taking the oath of office he had been obliged to reveal that he was not an Orthodox Christian.

*Violation of Article 9 (right to freedom of thought, conscience and religion)*

*Violation of Article 13 (right to an effective remedy)*

# Hungary

## Examples of cases against Hungary

### **Földes and Földesné Hajlik v. Hungary (31 October 2006)**

Károly András Földes and Anna Földesné Hajlik were prosecuted for fraudulent bankruptcy and the Hungarian authorities withdrew the first applicant's passport. He complained that his passport had been withdrawn for over a decade.

*Violation of Article 2 of Protocol No. 4 (freedom of movement)*

### **Bukta and Others v. Hungary (17 July 2007)**

The three applicants complained that a peaceful demonstration in which they had taken part during a visit by the Romanian Prime Minister had been dispersed only because the police had not had prior notification.

*Violation of Article 11 (freedom of assembly and association)*

### **Vajnai v. Hungary (8 July 2008)**

The case concerned the conviction of Attila Vajnai, who at the relevant time was Vice-President of a left-wing political party, for wearing a five-pointed red star, the symbol of the international workers' movement, at a demonstration in Budapest.

*Violation of Article 10 (freedom of expression)*

### **Korbely v. Hungary (19 September 2008)**

In 1994 János Korbely was indicted for his participation in the quelling of a riot in Tata during the 1956 revolution. He was found guilty of crimes against humanity and was sentenced to five years' imprisonment. The applicant alleged that he had been convicted in respect of an act which had not constituted a criminal offence at the time it was committed.

*Violation of Article 7 (no punishment without law)*

### **Kenedi v. Hungary (26 May 2009)**

János Kenedi is a historian specialising in dictatorships and their secret services, amongst other subjects. He complained about the refusal of the Hungarian Ministry of the Interior to enforce a judicial decision allowing him access to documents concerning the communist period in Hungary. The Court found that the authorities had misused their power by delaying the applicant's exercise of his right of access to the documents concerning the Hungarian secret services.

*Violation of Article 10 (freedom of expression)*

### The Council of Europe

Accession: 6 November 1990

### The Convention

Signature: 6 November 1990

Ratification: 5 November 1992

### Current judge

András SAJÓ

### Previous judge

András B. BAKA (1991-2008)

### First judgement

*Rekvényi v. Hungary* (20 May 1999)

### The Court and Hungary on 1 January 2011

Total number of judgments: 211

Violation judgments: 200

No violation judgments: 4

Other judgments: 7

Inadmissibility decisions: 3 070

Pending applications: 1 576

### Example of general measures

#### **Osváth v. Hungary (5 July 2005)**

Extension of the applicant's pre-trial detention in non-adversarial proceedings.

⇒ Introduction of the adversarial principle in proceedings concerning the extension of pre-trial detention.

### Examples of individual measures

#### **Földes and Földesné Hajlik v. Hungary (31 October 2006)**

⇒ The foreign travel ban imposed on the first applicant for more than ten years, following proceedings for fraudulent bankruptcy, was revoked.

#### **Korbely v. Hungary (19 September 2008)**

⇒ The applicant, who had been convicted of "crimes against humanity" for killing two people in the course of a military operation, had the criminal proceedings against him reopened.

#### **Kenedi v. Hungary (26 May 2009)**

Refusal to enforce a court decision authorising the applicant access to documents concerning the secret services.

⇒ The applicant was granted access to the documents he wished to consult for his research.

## Iceland

### The Council of Europe

Accession: 7 March 1950

### The Convention

Signature: 4 November 1950

Ratification: 29 June 1953

### Current judge

Davíð Thór BJÖRGVINSSON

### Previous judges

Gaukur JÖRUNÐSSON (1998-2004)

Thór VILHJÁLMSOON (1971-98)

Sigurgeir SIGURJONSSON (1967-71)

Einar ARNALDS (1959-67)

### First judgement

*Jón Kristinsson v. Iceland* (1 March 1990)

### The Court and Iceland on 1 January 2011

Total number of judgments: 12

Violation judgments: 9

No violation judgments: 0

Other judgments: 3

Inadmissibility decisions: 117

Pending applications: 19

## Examples of cases against Iceland

### ***Thorgeir Thorgeirson v. Iceland* (25 June 1992)**

Thorgeir Thorgeirson, a journalist, was convicted of defamation of civil servants following the publication in 1983 of two articles on police brutality.

*Violation of Article 10 (freedom of expression)*

### ***Pétur Thór Sigurðsson v. Iceland* (10 April 2003)**

Pétur Thór Sigurðsson lost a court case against the National Bank of Iceland in 1997. He complained that, on account of the close financial relationship between the judge and her husband on the one hand and the National Bank of Iceland on the other, his case had not been heard by an independent and impartial tribunal.

*Violation of Article 6 § 1 (right to a fair trial)*

### ***Hilda Hafsteinsdóttir v. Iceland* (8 June 2004)**

Hilda Hafsteinsdóttir alleged that her detention in police custody on several occasions for drunkenness and disorderly conduct had not been justified. The Court noted that at the relevant time there had been no regulatory framework governing either the police's discretion over the duration of the relevant type of detention or the decision to place the applicant in detention.

*Violation of Article 5 (right to liberty and security)*

## Example of a general measure

### ***Sigurður A. Sigurjónsson v. Iceland***

(30 June 1993)

Obligation for a taxi driver to join a trade union.

⇒ Abolition of the requirement to belong to a specified union in order to conduct business as a taxi driver.

# Ireland

## Examples of cases involving Ireland

### ***Ireland v. the United Kingdom* (18 January 1978)**

The United Kingdom authorities exercised a series of "extrajudicial" powers of arrest, detention and internment in Northern Ireland from August 1971 until December 1975. The application concerned the scope and implementation of those measures as well as the alleged ill-treatment of persons thereby deprived of their liberty.

*Violation of Article 3 (prohibition of degrading treatment)*

*No violation of Article 15 (derogation in time of emergency)*

*No violation of Article 5 (right to liberty and security)*

*No violation of Article 14 (prohibition of discrimination)*

### ***Norris v. Ireland* (26 October 1988)**

David Norris complained about the existence in Ireland of laws which made certain homosexual practices between consenting adult men criminal offences.

*Violation of Article 8 (right to respect for private life)*

### ***Open Door and Dublin Well Woman v. Ireland* (29 October 1992)**

The applicants were companies that provided information about abortion facilities to pregnant women in Ireland. In 1988 the Supreme Court issued an injunction preventing them from assisting pregnant women to travel abroad for an abortion.

*Violation of Article 10 (freedom of expression)*

### ***Heaney and McGuinness v. Ireland* (21 December 2000)**

Anthony Heaney and William McGuinness were arrested on suspicion of serious terrorist offences. After advising them that they had the right to remain silent, police officers requested them under the Offences against the State Act to give details about their movements at the time of the relevant offences. The Court found a violation of the applicants' right to remain silent and their right not to incriminate themselves.

*Violation of Article 6 (right to a fair trial)*

### ***"Bosphorus Airways" v. Ireland* (30 June 2005)**

In May 1993 the Irish authorities seized an aircraft in Irish territory which Bosphorus Airways had leased from Yugoslav Airlines. It was seized under a regulation of the Council of the European Communities implementing the United Nations sanctions regime against the Federal Republic of Yugoslavia (Serbia and Montenegro).

*No violation of Article 1 of Protocol No. 1 (protection of property)*

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 25 February 1953

### Current judge

Ann POWER

### Previous judges

John HEDIGAN (1998-2007)

Brian WALSH (1980-98)

Philip O'DONOGHUE (1971-80)

Conor Alexander MAGUIRE (1965-71)

Richard McGONIGAL (1959-64)

### First judgement

*Lawless v. Ireland* (no. 1) (14 November 1960)

### The Court and Ireland on 1 January 2011

Total number of judgments: 25

Violation judgments: 15

No violation judgments: 5

Other judgments: 5

Inadmissibility decisions: 638

Pending applications: 59

## Examples of general measures

### ***Norris v. Ireland* (26 October 1988)**

The law making homosexuality a criminal offence was found to be in breach of the Convention.

⇒ Decriminalisation of homosexual acts between consenting adults.

### ***Johnston v. Ireland* (18 December 1986)**

Prohibition of divorce and lack of recognition of the family life of persons who, after the breakdown of the marriage of one of them, were living together with their children.

⇒ Amendment of legislation on the status of children, ensuring equal rights to all children, whether born within or outside marriage.

# Italy

## The Council of Europe

Accession: 5 May 1949

## The Convention

Signature: 4 November 1950

Ratification: 26 October 1955

## Current judge

Guido RAIMONDI

## Previous judges

Vladimiro ZAGREBELSKY (2001-10)

Benedetto CONFORTI (1998-2001)

Carlo RUSSO (1981-98)

Giorgio BALLADORE PALLIERI (1959-80)

## First judgement

*Artico v. Italy* (13 May 1980)

## The Court and Italy on 1 January 2011

Total number of judgments: 2 121

Violation judgments: 1 617

No violation judgments: 51

Other judgments: 453

Inadmissibility decisions: 9 675

Pending applications: 10 208

## Examples of general measures

### **Calogero Diana v. Italy** (15 November 1996)

Monitoring of the applicant's correspondence during his detention.

⇒ Legislative amendment prohibiting the arbitrary inspection of prisoners' correspondence.

### **Lucà v. Italy** (27 February 2001)

Conviction of the applicant solely on the basis of pre-trial statements made by a co-accused person whom he was not allowed to cross-examine.

⇒ Constitutional and legislative amendments, by virtue of which statements made without observing the adversarial principle cannot be used in criminal proceedings against the accused without the latter's consent.

## Examples of cases against Italy

### **Guerra and Others v. Italy** (19 February 1998)

The forty applicants all lived in Manfredonia, about one kilometre away from a factory which produced fertilisers and other chemical products and had been classified as high-risk. The factory has since been closed, but while it was operating several emissions of toxic substances and an explosion resulted in numerous instances of poisoning. The Court considered that the Italian authorities had not provided the applicants with information about the risks and about what to do in the case of an accident in the chemical factory.

*Violation of Article 8 (right to respect for private and family life)*

### **Cordova v. Italy (no. 1)** (30 January 2003)

Agostino Cordova, a public prosecutor in Palmi at the relevant time, lodged a criminal complaint against two members of parliament, alleging defamation. His complaints were unsuccessful as the Italian courts found that the acts in question were covered by parliamentary immunity.

*Violation of Article 6 § 1 (right to a fair trial)*

### **Perna v. Italy** (6 May 2003)

Giancarlo Perna, a journalist, was convicted of aggravated defamation following the publication of an article in the daily newspaper *Il Giornale* incriminating the then Principal Public Prosecutor in Palermo. The Court considered that the disputed article transmitted a clear and unambiguous message to the effect that the judge had abused his powers, and that the applicant had at no point attempted to prove the truthfulness of his allegations.

*No violation of Article 6 (right to a fair trial)*

*No violation of Article 10 (freedom of expression)*

### **Maestri v. Italy** (17 February 2004)

In November 1993 disciplinary proceedings were brought against Angelo Massimo Maestri, a judge, for having been a member of a Masonic lodge affiliated to the Grande Oriente d'Italia di Palazzo Giustiniani from 1981 until March 1993.

*Violation of Article 11 (freedom of assembly and association)*

### **Scordino v. Italy (no. 1)** (29 March 2006)

The case concerned both the effectiveness of the "Pinto Act", which introduced the possibility of lodging a complaint with the Italian courts in respect of excessively long proceedings, and the right to receive compensation for expropriation. The Court invited Italy to take all measures necessary to ensure that the domestic decisions were not only in conformity with the Court's case-law but were also executed within six months of being deposited with the registry.

*Violations of Article 6 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Sejdovic v. Italy** (1 March 2006)

Ismet Sejdovic complained that he had been convicted in his absence without having had the opportunity to present his defence before the Italian courts.

*Violation of Article 6 (right to a fair trial)*

### **Saadi v. Italy** (28 February 2008)

The case concerned the possible deportation of Nassim Saadi to Tunisia, where he claimed to have been sentenced in 2005, in his absence, to twenty years' imprisonment for membership of a terrorist organisation acting abroad in peacetime and for incitement to terrorism. The Court held that, if the decision to deport the applicant to Tunisia were to be enforced, there would be a violation of Article 3 (prohibition of torture and inhuman or degrading treatment).

# Latvia

## Examples of cases against Latvia

### **Podkolzina v. Latvia (9 April 2002)**

Ingrida Podkolzina, a member of the Russian-speaking minority in Latvia, complained that the removal of her name from the list of candidates for parliamentary elections on the ground that she had an inadequate command of Latvian, the official language of Latvia, infringed her right to stand as a candidate in elections.

*Violation of Article 3 of Protocol No. 1 (right to free elections)*

### **Ždanoka v. Latvia (16 March 2006)**

At the time of the Court's judgment in this case, Tatjana Ždanoka was a member of the European Parliament. The case concerned the fact that she had been ruled ineligible to stand for election in Latvia on account of her former membership of a political party which had been declared unconstitutional, and her activities within it.

*No violation of Article 3 of Protocol No. 1 (right to free elections)*

### **Kadiķis v. Latvia (no. 2) (4 May 2006)**

Arnis Kadiķis complained about the conditions of his detention in the temporary isolation unit at the local police headquarters of the Liepāja State police.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 13 (right to an effective remedy)*

### **Shevanova v. Latvia and Kaftailova v. Latvia (7 December 2007)**

In these two cases the applicants, who had been living in Latvia for several years in one case and several decades in the other, became stateless following the break-up of the Soviet Union. The Latvian authorities refused to regularise their stay and made orders for their deportation which, the applicants maintained, infringed their right to respect for their private and family life. The Court observed that neither applicant had yet taken the steps indicated by the relevant department, despite being expressly invited to do so. To date, they had made no attempt, however slight, to get in touch with the authorities and try to find a solution to any difficulties that might arise. It therefore struck the applications out of the list of cases.

### **Andrejeva v. Latvia (18 February 2009)**

Natālija Andrejeva was employed at a recycling plant at the Olaine chemical complex, formerly a public body under the authority of the USSR Ministry for the Chemical Industry. The complex is situated in what was USSR territory and is now Latvian territory following the restoration in August 1991 of Latvian independence.

The case concerned, in particular, the applicant's complaint that the application of the transitional provisions of the Latvian State Pensions Act in her case had deprived her of pension entitlements in respect of seventeen years of employment. The Court found a violation of the Convention on account of the Latvian courts' refusal to grant the applicant a retirement pension in respect of her years of employment in the former Soviet Union prior to 1991 on the ground that she did not have Latvian citizenship.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1 (protection of property)*

*Violation of Article 6 § 1 (right to a fair hearing) of the Convention*

### The Council of Europe

Accession: 10 February 1995

### The Convention

Signature: 10 February 1995

Ratification: 27 June 1997

### Current judge

Ineta ZIEMELE

### Previous judge

Egils LEVITS (1995-2004)

### First judgement

*Kulakova v. Latvia* (18 October 2001)

### The Court and Latvia on 1 January 2011

Total number of judgments: 45

Violation judgments: 37

No violation judgments: 5

Other judgments: 3

Inadmissibility decisions: 1 742

Pending applications: 572

## Examples of general measures

### **Podkolzina v. Latvia (9 April 2002)**

Requirement of proficiency in Latvian in order to stand in parliamentary elections.

⇒ Amendment of the Parliamentary Elections Act and repeal of a provision requiring anyone standing in parliamentary elections to have a high level of proficiency in Latvian.

### **Lavents v. Latvia (28 November 2002)**

Effect on the presumption of innocence of statements made by a judge to the press.

⇒ Introduction of the post of investigating judge, with responsibility for supervising the observance of human rights in criminal proceedings; restrictions on monitoring prisoners' correspondence; and adoption of regulations providing for the possibility of family visits to persons in pre-trial detention.

### **Zaicevs v. Latvia (31 July 2007)**

Impossibility for the applicant to appeal against his sentence of three days' administrative detention for contempt of court.

⇒ Repeal of a provision of the Regulatory Offences Code which, among other things, breached the principle of the right of appeal in criminal matters.

## Latvia

### Examples of individual measures

#### **Podkolzina v. Latvia** (9 April 2002)

⇒ The legislative amendments made in the light of the European Court's judgment enabled the applicant, a member of the Russian-speaking minority, to stand in elections without needing to prove her proficiency in Latvian.

#### **Slivenko v. Latvia** (9 October 2003)

⇒ The applicants, who had been struck out of the register of Latvian residents as "citizens of the former USSR" despite having spent their entire lives in Latvia, were granted permanent residence permits.

#### **Farbtuhs v. Latvia** (2 December 2004)

⇒ The applicant, who was imprisoned in inappropriate conditions in view of his age (84) and health, was released shortly after his application to the European Court.

#### **Kononov v. Latvia** (17 May 2010)

The case concerned the applicant's conviction in Latvia for war crimes for acts committed during the Second World War.

*No violation of Article 7 (no punishment without law)*

# Liechtenstein

## Examples of cases against Liechtenstein

### ***Wille v. Liechtenstein* (28 October 1999)**

Herbert Wille, a high-ranking judge at the relevant time, complained that a letter from Prince Hans-Adam II of Liechtenstein informing him that he would not appoint him to public office, should he be proposed by the Parliament or any other body, had violated his right to freedom of expression.

*Violation of Article 10 (freedom of expression)*

### ***Frommelt v. Liechtenstein* (24 June 2004)**

Peter Frommelt was placed in pre-trial detention in 1997 on suspicion of offences including embezzlement and fraud. He alleged that there had been procedural shortcomings in the review of his pre-trial detention.

*Violation of Article 5 (right to liberty and security)*

#### The Council of Europe

Accession: 23 November 1978

#### The Convention

Signature: 23 November 1978

Ratification: 8 September 1982

#### Current judge

Mark VILLIGER

#### Previous judges

Lucius CAFLISCH (1998-2006)

Ronald St. John MACDONALD (1980-98)

#### First judgement

*Wille v. Liechtenstein* (28 October 1999)

#### The Court and Liechtenstein on 1 January 2011

Total number of judgments: 5

Violation judgments: 5

No violation judgments: 0

Other judgments: 0

Inadmissibility decisions: 59

Pending applications: 14

#### Example of a general measure

### ***Frommelt v. Liechtenstein*** (24 June 2004)

Extension of the applicant's pre-trial detention in non-adversarial proceedings.

⇒ Change in procedural practice concerning pre-trial detention, introducing the possibility for detainees to comment prior to the adoption of a decision extending their pre-trial detention.

# Lithuania

The Council of Europe  
Accession: 14 May 1993

The Convention  
Signature: 14 May 1993  
Ratification: 20 June 1995

Current judge  
Danutė JOČIENĖ

Previous judge  
Pranas KŪRIS (1994-2004)

First judgement  
*Raišelis v. Lithuania* (29 February 2000)

The Court and Lithuania on 1 January  
2011

Total number of judgments: 65  
Violation judgments: 52  
No violation judgments: 7  
Other judgments: 6  
Inadmissibility decisions: 2 773  
Pending applications: 443

## Examples of general measures

### ***Birutis and Others v. Lithuania*** (28 March 2002)

Unfairness of proceedings resulting in the applicants' conviction on the basis of anonymous evidence, for participating in a prison riot.

⇒ Introduction of provisions on taking evidence from anonymous witnesses.

### ***Savenkovas v. Lithuania*** (18 November 2008)

Inhuman conditions of detention on account of the overcrowding and unsanitary conditions at a prison.

⇒ Construction and renovation of prisons to ensure sanitary conditions meeting international standards.

### ***Sidabras and Džiautas v. Lithuania*** (27 July 2004)

Prohibition on occupying various private-sector posts for former KGB agents.

⇒ Abolition of certain employment restrictions for former KGB agents, including in the public sector.

## Examples of cases against Lithuania

### ***Puzinas v. Lithuania (no. 2)*** (9 January 2007)

Alvydas Puzinas, who was serving a prison sentence, complained that he had been given a disciplinary penalty for circumventing the prison rules by sending a letter via a prisoner who had been released.

*No violation of Article 8 (right to respect for correspondence)*

### ***L. v. Lithuania*** (11 September 2007)

At birth the applicant was registered as a girl, with a name clearly identifiable as female. He submitted, however, that from an early age he had felt that his gender was male rather than female. L. complained about the lack of legislation allowing him to complete gender reassignment surgery and pursue his life as a person of male gender.

*No violation of Article 3 (prohibition of degrading treatment)*

*Violation of Article 8 (right to respect for private life)*

### ***Ramanauskas v. Lithuania*** (5 February 2008)

Kęstas Ramanauskas worked as a prosecutor in the Kaišiadorys region. He complained that the authorities had incited him to commit a criminal offence and that, as a result, he had been unfairly convicted of bribery.

*Violation of Article 6 § 1 (right to a fair trial)*

### ***Armonienė v. Lithuania and Biriuk v. Lithuania*** (25 November 2008)

The applicants complained that they had been awarded derisory amounts in damages despite decisions in their favour concerning serious breaches of their privacy following the publication of a press article stating that they were HIV-positive.

*Violation of Article 8 (right to respect for private and family life)*

### ***Cudak v. Lithuania*** (23 March 2010)

In 1997, Alicija Cudak was hired as a secretary and switchboard operator by the Polish Embassy in Vilnius. The Court found that the Lithuanian authorities had breached the Convention in declining to hear a sexual harassment complaint lodged by the applicant.

*Violation of Article 6 § 1 (right of access to a court)*

## Examples of individual measures

### ***Jucys v. Lithuania*** (8 January 2008)

The applicant complained that he had not been compensated for the seizure and sale of mink furs in the context of criminal proceedings against him, in which he was ultimately acquitted.

⇒ The applicant received full compensation, and following the reopening of his case, was awarded the interest claimed.

### ***Ramanauskas v. Lithuania*** (5 February 2008)

⇒ The applicant, who had been found guilty of bribery following active incitement by State agents, had his conviction quashed and the prohibition on his working in the judiciary lifted.

### ***Gulijev v. Lithuania*** (16 December 2008)

Applicant excluded from national territory and expelled to Azerbaijan in breach of the Convention.

⇒ The data concerning the applicant were deleted from the national list of aliens barred from the country.

# Luxembourg

## Examples of cases against Luxembourg

### ***Procola v. Luxembourg* (28 September 1995)**

Procola, a dairy constituted as an agricultural association, appealed against decisions fixing milk quotas. The Court found that four members of the *Conseil d'Etat* had successively performed advisory and judicial functions in the same case.

*Violation of Article 6 (right to a fair trial)*

### ***Roemen and Schmit v. Luxembourg* (25 February 2003)**

Robert Roemen, a journalist, and Anne-Marie Schmit, his lawyer, complained about searches carried out at their places of work and Mr Roemen's home in the course of a judicial investigation into a breach of professional confidence.

*Violation of Article 8 (right to respect for private and family life)*

*Violation of Article 10 (freedom of expression)*

### ***Wagner and J.M.W.L. v. Luxembourg* (28 June 2007)**

Jeanne Wagner and her adopted daughter, J.M., unsuccessfully applied for recognition in Luxembourg of the order by the Peruvian authorities for the child's adoption. The Court found, among other things, that on account of her status as the adopted child of an unmarried mother of Luxembourg nationality whose family ties as created by a foreign judgment were not recognised in Luxembourg, J.M. had been penalised in her daily life.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 8 (right to respect for family life)*

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 8*

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 3 September 1953

### Current judge

Dean SPIELMANN

### Previous judges

Marc FISCHBACH (1998-2004)

Alphonse SPIELMANN (1985-98)

Léon LIESCH (1977-85)

Henri DELVAUX (1976-77)

Eugène RODENBOURG (1959-75)

### First judgement

*Procola v. Luxembourg* (28 September 1995)

### The Court and Luxembourg on 1 January 2011

Total number of judgments: 36

Violation judgments: 29

No violation judgments: 4

Other judgments: 3

Inadmissibility decisions: 364

Pending applications: 54

### Example of a general measure

#### ***Procola v. Luxembourg***

(28 September 1995)

Lack of independence and impartiality of the Judicial Committee of the *Conseil d'Etat*, because certain members performed both advisory and judicial functions in the same proceedings.

⇒ Amendment of the composition of the *Conseil d'Etat*, particularly as regards the Judicial Committee.

### Example of an individual measure

#### ***Roemen and Schmit v.***

***Luxembourg*** (25 February 2003)

⇒ The documents seized from a journalist and his lawyer during searches were returned to them (*execution in progress*).

## Malta

### The Council of Europe

Accession: 29 April 1965

### The Convention

Signature: 12 December 1966

Ratification: 23 January 1967

### Current judge

Vincent A. DE GAETANO

### Previous judges

Giovanni BONELLO (1998-2010)

Giuseppe MIFSUD BONNICI (1992-98)

John CREMONA (1965-92)

### First judgement

*Demicoli v. Malta* (27 August 1991)

### The Court and Malta on 1 January 2011

Total number of judgments: 31

Violation judgments: 25

No violation judgments: 2

Other judgments: 4

Inadmissibility decisions: 109

Pending applications: 26

## Examples of cases against Malta

### ***Mizzi v. Malta* (12 January 2006)**

Maurice Mizzi tried unsuccessfully to bring an action to repudiate paternity. He complained that he had been denied access to a court and that the irrefutable presumption of paternity applied in his case amounted to a disproportionate interference with his right to respect for his private and family life.

*Violation of Article 8 (right to respect for private and family life)*

### ***Zarb Adami v. Malta* (20 June 2006)**

Maurice Zarb Adami served as a juror on several occasions. He unsuccessfully sought exemption from jury service and was fined when he failed to appear after being summoned to serve on a further occasion. He complained that he had been discriminated against on the ground of sex, as the percentage of women called to perform jury service in Malta was negligible, and that he had had to face criminal proceedings in relation to the imposition of a discriminatory civic obligation.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 4 § 3 (d) (prohibition of slavery and forced labour)*

### Example of a general measure

#### ***Sabeur Ben Ali v. Malta* (29 June 2000)**

⇒ Amendment of the Criminal Code, granting the Court of Magistrates the power to automatically review the merits of any person's continued detention and giving all detainees the right to a speedy review of the lawfulness of their detention.

# Moldova

## Examples of cases against Moldova

### **Metropolitan Church of Bessarabia and Others v. Moldova (13 December 2001)**

The case concerned the Moldovan authorities' refusal to recognise the applicant (Orthodox Christian) church.

*Violation of Article 9 (freedom of religion)*

*Violation of Article 13 (right to an effective remedy)*

### **Ilașcu and Others v. Moldova and Russia (8 July 2004)**

The applicants were accused of anti-Soviet activities and illegally combating the legitimate government of the State of Transdniestria, under the direction of the Moldovan Popular Front and Romania. Ilie Ilașcu was sentenced to death and the confiscation of his property was ordered, while the other applicants were sentenced to terms of twelve to fifteen years' imprisonment, together with the confiscation of their property. The Court held, among other things, that the applicants came within the jurisdiction of both Moldova and Russia.

*Several violations, including violations of Article 3 (prohibition of torture)*

### **Timpul Info-Magazin and Anghel v. Moldova (27 November 2007)**

The case concerned defamation proceedings against the applicants following the publication of an article entitled "Luxury in the land of poverty".

*Violation of Article 10 (freedom of expression)*

### **Guja v. Moldova (12 February 2008)**

The case concerned the dismissal of Iacob Guja, who was head of the Press Department of the Moldovan Prosecutor General's Office at the relevant time, for giving a newspaper two letters received by the Prosecutor General's Office.

*Violation of Article 10 (freedom of expression)*

### **Tănase v. Moldova (27 April 2010)**

Alexandru Tănase has dual Moldovan and Romanian nationality. He is a member of the Moldovan Liberal Democratic Party and held the office of Minister of Justice in the coalition government when the Court delivered its judgment. The case concerned the introduction in 2008 (law no. 273) of a prohibition on Moldovan nationals holding other nationalities who had not started a procedure to renounce those nationalities from taking their seats in Parliament following their election. The Court found that the ban on members of parliament holding two or more nationalities was unjustified.

*Violation of Article 3 of Protocol No. 1 (right to free elections)*

### **Metropolitan Church of Bessarabia and Others v. Moldova (13 December 2001)**

⇒ The applicant church was recognised and registered, thus enabling it to protect its property interests.

### **Christian Democratic People's Party v. Moldova (14 February 2006)**

⇒ Temporary ban on the activities of the Christian Democratic People's Party unjustified. The ban was lifted (*execution in progress*).

### The Council of Europe

Accession: 13 July 1995

### The Convention

Signature: 13 July 1995

Ratification: 12 September 1997

### Current judge

Mihai POALELUNGI

### Previous judges

Stanislav PAVLOVSCHI (2001-2008)

Tudor PANTÎRU (1996-2001)

### First judgement

*Metropolitan Church of Bessarabia and Others v. Moldova (13 December 2001)*

The Court and Moldova on 1 January 2011

Total number of judgments: 196

Violation judgments: 178

No violation judgments: 1

Other judgments: 17

Inadmissibility decisions: 2 340

Pending applications: 3 826

## Examples of general measures

### **Roșca v. Moldova (22 March 2005)**

Quashing of a final judgment in the applicant's favour in a dispute between him and his bank.

⇒ Adoption of a new Code of Civil Procedure, removing the possibility for the Prosecutor General to apply to have a final judgment quashed.

### **Metropolitan Church of Bessarabia and Others v. Moldova (13 December 2001)**

Refusal by the Moldovan authorities to recognise the applicant church.

⇒ Amendment of the Religious Denominations Act, recognising religious freedom and introducing effective remedies.

## Examples of individual measures

### **Roșca v. Moldova (22 March 2005)**

⇒ The final judgment in the applicant's favour was enforced.

## Monaco

### The Council of Europe

Accession: 5 October 2004

### The Convention

Signature: 5 October 2004

Ratification: 30 November 2005

### Current judge

Isabelle BERRO-LEFÈVRE

### First judgement

*Prencipe v. Monaco* (16 July 2009)

### The Court and Monaco on 1 January 2011

Total number of judgments: 1

Violation judgments: 1

No violation judgments: 0

Other judgments: 0

Inadmissibility decisions: 31

Pending applications: 14

### Example of case against Monaco

#### ***Prencipe v. Monaco* (16 July 2009)**

Josette Prencipe, a French national, was charged with having misappropriated several million euros when she worked as a bank employee in Monaco. The Court noted that the applicant's detention pending trial had lasted approximately four years, and found that the reasons given by the domestic courts to justify her detention had been too abstract and insufficiently substantiated.

*Violation of Article 5 § 3 (right to liberty and security)*

# Montenegro

## Example of case against Montenegro

### ***Bijelić v. Montenegro and Serbia* (28 April 2009)**

The applicants are three Serbian nationals who complained in particular about the non-enforcement of an eviction order concerning an apartment in Montenegro, which had resulted in them being unable to live in it.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

#### The Council of Europe

Accession: 11 May 2007

#### The Convention

Signature: 3 April 2003

Ratification: 3 March 2004  
(Dates of signature and ratification by the State Union of Serbia and Montenegro)

#### Current judge

Nebojša VUČINIĆ

#### First judgement

*Bijelić v. Montenegro and Serbia*  
(28 April 2009)

#### The Court and Montenegro on 1 January 2011

Total number of judgments: 3

Violation judgments: 3

No violation judgments: 0

Other judgments: 0

Inadmissibility decisions: 185

Pending applications: 688

## Example of an individual measure

### ***Bijelić v. Montenegro and Serbia* (28 April 2009)**

Failure to enforce an eviction order concerning a flat in Montenegro.

⇒ The applicants obtained the enforcement of the order to evict a person who had unlawfully occupied their flat for fifteen years (*execution in progress*).

## Netherlands

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 4 November 1950

Ratification: 31 August 1954

### Current judge

Egbert MYJER

### Previous judges

Wilhelmina THOMASSEN (1998-2004)

Petrus VAN DIJK (1996-98)

Sibrand Karel MARTENS (1988-96)

André DONNER (1986-87)

Gerard J. WIARDA (1966-85)

Baron Frederik Mari VAN ASBECK (1959-66)

### First judgement

*Engel and Others v. the Netherlands*

(8 June 1976)

### The Court and the Netherlands on 1 January 2011

Total number of judgments: 128

Violation judgments: 73

No violation judgments: 28

Other judgments: 27

Inadmissibility decisions: 4 869

Pending applications: 994

### Example of an individual measure

#### ***Camp and Bourimi v. the***

#### ***Netherlands*** (3 October 2000)

Impossibility for a child to secure recognition of his family relationship with his father, who had died prior to his birth.

⇒ Amendments to the Civil Code concerning parental rights and the conditions for recognition of biological fathers' paternity.

## Examples of cases against the Netherlands

### ***Kleyn and Others v. the Netherlands*** (6 May 2003)

The case concerned applications lodged by twenty-three Netherlands nationals and twelve Dutch companies whose homes or premises were located in close proximity to the track of a new railway line, the Betuweroute, being built across the Netherlands from the port of Rotterdam to the German border.

*No violation of Article 6 (right to a fair trial)*

### ***Said v. the Netherlands*** (5 July 2005)

Mahmoud Mohammed Said alleged that his expulsion to Eritrea would place him at risk of being subjected to treatment in breach of the Convention. The Court held that his expulsion to Eritrea would entail a violation of the Convention

*Violation of Article 3 (prohibition of torture and inhuman or degrading treatment).*

### ***Mathew v. the Netherlands*** (29 September 2005)

The events in issue took place on the island of Aruba in the Caribbean (off Venezuela), which is part of the Kingdom of the Netherlands, where Eduardo Mathew was being held on remand. He complained about the length and conditions of his detention, in particular his solitary confinement.

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

### ***Üner v. the Netherlands*** (18 October 2006)

Ziya Üner, a Turkish national, complained that, as a result of the withdrawal of his residence permit and the imposition of a ten-year exclusion order, he had been separated from his family.

*No violation of Article 8 (right to respect for private and family life)*

### ***Ramsahai v. the Netherlands*** (15 May 2007)

The case concerned the applicants' relative who, after stealing a motor scooter by threatening its owner with a pistol, was shot dead by a police officer who was trying to arrest him. The Court found that there had been a violation of the right to life in that the investigation into the death had been inadequate and not sufficiently independent.

*Violation of Article 2 (right to life)*

# Norway

## Examples of cases against Norway

### ***O. v. Norway and Hammern v. Norway* (11 February 2003)**

The applicants were acquitted of sexually abusing minors. Following their acquittal, they claimed compensation for the inconvenience suffered as a result of the criminal proceedings.

*Violation of Article 6 § 2 (presumption of innocence)*

### ***Folgerø and Others v. Norway* (29 June 2007)**

The applicants, all members of the Norwegian Humanist Association (*Human-Etisk Forbund*), were parents whose children were at primary school at the time of the events in question. They complained that the refusal to grant full exemption from lessons on Christianity, religion and philosophy had prevented them from ensuring that their children received an education in conformity with their religious and philosophical convictions.

*Violation of Article 2 of Protocol No. 1 (right to education)*

#### The Council of Europe

Accession: 5 May 1949

#### The Convention

Signature: 4 November 1950

Ratification: 15 January 1952

#### Current judge

Erik MØSE

#### Previous judges

Sverre Erik JEBENS (2004-2011)

Hanne Sophie GREVE (1998-2004)

Rolv RYSSDAL (1973-98)

Terje WOLD (1959-72)

#### First judgement

*E. v. Norway* (29 August 1990)

#### The Court and Norway on 1 January 2011

Total number of judgments: 28

Violation judgments: 20

No violation judgments: 8

Other judgments: 0

Inadmissibility decisions: 846

Pending applications: 80

#### Example of a general measure

### ***Bergens Tidende and Others v. Norway* (2 May 2000)**

Finding against a newspaper, its editor-in-chief and a journalist for defamation of a cosmetic surgeon by publishing the accounts of dissatisfied patients.

⇒ Change in the Norwegian Supreme Court's position in defamation cases.

# Poland

## The Council of Europe

Accession: 26 November 1991

## The Convention

Signature: 26 November 1991

Ratification: 19 January 1993

## Current judge

Lech GARLICKI

## Previous judge

Jerzy MAKARCZYK (1992-2002)

## First judgement

*Proszak v. Poland* (16 December 1997)

## The Court and Poland on 1 January 2011

Total number of judgments: 874

Violation judgments: 761

No violation judgments: 61

Other judgments: 52

Inadmissibility decisions: 37 593

Pending applications: 6 452

## Examples of general measures

### **Musiał v. Poland** (25 March 1999)

Impossibility for the applicant to have the lawfulness of his psychiatric detention reviewed.

⇒ Measures taken to avoid delays in expert psychiatric assessments, including an increase in the number of psychiatric experts attached to regional courts.

### **Broniowski v. Poland** (22 June 2004)

⇒ Introduction of a compensation scheme for former owners of land beyond the Bug River abandoned in the aftermath of the Second World war.

### **Sildedzis v. Poland** (24 May 2005)

Inability of the applicant to have his vehicle registered during a period of more than two years.

⇒ Simplification of formalities for registering vehicles purchased at public auctions.

## Examples of cases against Poland

### **Kudła v. Poland** (26 October 2000)

Andrzej Kudła was charged with fraud and forgery and detained on remand in 1991. On more than seventy occasions, he requested to be released or appealed against decisions to hold him in detention. He complained, among other things, that the criminal proceedings against him had lasted an unreasonably long time and that he had had no effective domestic remedy available to challenge their length. The Court observed in particular that the applicant had had no remedy in Polish law whereby he could have enforced his right to a “hearing within a reasonable time”.

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 5 § 3 (right to trial within a reasonable time or release pending trial)*

*Violation of Article 6 § 1 (right to a hearing within a reasonable time)*

*Violation of Article 13 (right to an effective remedy)*

### **Broniowski v. Poland** (22 June 2004)

The case concerned the fact that the Polish State had not taken any measures to compensate those who had been repatriated from the “territories beyond the Bug River” after the Second World War and had had to abandon property there. According to the Polish Government, the total number of persons potentially entitled to such measures was estimated at about 80,000. The Court noted the existence of a systemic problem connected with the malfunctioning of domestic legislation and practice. It called upon the Polish authorities to take the necessary measures to secure the property right in question in respect of the remaining Bug River claimants.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Hutten-Czapska v. Poland** (19 June 2006)

The applicant was one of around 100,000 landlords in Poland affected by a restrictive system of rent control (from which some 600,000 to 900,000 tenants benefited), which originated in laws passed under the former communist regime. The system imposed a number of restrictions on landlords’ rights, in particular setting a ceiling on rent levels which was so low that landlords could not even recoup their maintenance costs, let alone make a profit. The Court noted the existence of a systemic problem connected with the malfunctioning of Polish legislation in that it had imposed, and continued to impose, restrictions on landlords’ rights and had not, and still did not, provide for any procedure or mechanism enabling landlords to recover losses incurred in connection with property maintenance. It held that Poland had to secure in its domestic legal order, through appropriate legal and/or other measures, a mechanism maintaining a fair balance between the interests of landlords and the general interest of the community.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Matyjek v. Poland** (24 April 2007)

This was the Court’s first judgment in a case concerning “lustration proceedings” in Poland, which are aimed at exposing persons who worked for or collaborated with the State’s security services during the communist period. Tadeusz Matyjek, who had been a member of the Polish Parliament (*Sejm*), complained that the lustration proceedings against him had been unfair. He particularly referred to their unequal and secret nature, document confidentiality and the unfair rules governing access to files.

*Violation of Article 6 (right to a fair trial)*

### **Bączkowski and Others v. Poland** (3 May 2007)

The applicants were the Foundation for Equality (*Fundacja Równości*) and five of its members, who were also members of non-governmental organisations

## Poland

campaigning on behalf of homosexuals. They complained, among other things, that the mayor of Warsaw had refused them permission to march through the city's streets as part of a campaign called "Equality Days".

*Violation of Article 11 (freedom of assembly and association)*

*Violation of Article 13 (right to an effective remedy)*

*Violation of Article 14 (prohibition of discrimination)*

### **Mojsiejew v. Poland (24 March 2009)**

Władysława Mojsiejew complained of the death of his son in a sobering-up cell where he had been strapped to a bed. The Court noted that when he had been taken to the cell the young man had been in good health. In the absence of a satisfactory and convincing explanation concerning his death, the Court found that the respondent State should bear responsibility.

*Violations of Article 2 (right to life)*

### **Examples of individual measures**

#### **Malisiewicz-Gąsior v. Poland**

(6 April 2006)

⇒ The applicant's conviction for defamation for statements made about another candidate during an election campaign was expunged from her criminal record and her prison sentence was not executed.

#### **Bączkowski and Others v. Poland**

(3 May 2007)

⇒ The applicants are no longer prevented from holding marches and rallies in support of causes including homosexual rights (*execution in progress*).

#### **Hutten-Czapska v. Poland**

(19 June 2006)

⇒ The applicant regained possession of her house and was awarded compensation for the damage sustained (*execution in progress*).

# Portugal

## The Council of Europe

Accession: 22 September 1976

## The Convention

Signature: 22 September 1976

Ratification: 9 November 1978

## Current judge

Paulo PINTO DE ALBUQUERQUE

## Previous judge

Ireneu CABRAL BARRETO (1998-2011)

Manuel António LOPES ROCHA (1991-98)

João de Deus PINHEIRO FARINHA (1977-91)

## First judgement

*Guincho v. Portugal* (10 July 1984)

## The Court and Portugal on 1 January 2011

Total number of judgments: 206

Violation judgments: 138

No violation judgments: 7

Other judgments: 61

Inadmissibility decisions: 1 597

Pending applications: 271

## Example of an individual measure

### ***Maire v. Portugal*** (26 June 2003)

Inability of the applicant to secure the enforcement of court decisions awarding him custody of his child, who had been abducted by the mother.

⇒ The applicant is now able to exercise his access rights in respect of his child.

## Examples of cases against Portugal

### ***Almeida Garrett, Mascarenhas Falcão and Others v. Portugal*** (11 January 2000)

The applicants were all owners of land which was expropriated and made national property as part of the land-reform policy implemented in Portugal after the 1974 revolution. In accordance with the legislation on land reform, they received interim compensation in the form of government bonds. By the time of the Court's judgment they had not yet received the final awards of compensation.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### ***Lopes Gomes da Silva v. Portugal*** (28 September 2000)

Vicente Jorge Lopes Gomes da Silva, who at the relevant time was manager of the daily newspaper *Público*, was convicted of libel. The Court stated in particular that freedom of expression was of particular importance with regard to the press, the limits of acceptable criticism being wider with regard to a politician acting in his public capacity.

*Violation of Article 10 (freedom of expression)*

### ***Antunes Rocha v. Portugal*** (31 May 2005)

In 1994 Gracinda Maria Antunes Rocha signed a temporary contract of employment to work as an administrative assistant for the National Council for Emergency Civil Planning (CNPCE), a body accountable to the Prime Minister. She complained, among other things, that enquiries had been made to obtain information about her and her family, without her knowledge or consent. The Court found that Portuguese law did not indicate with sufficient clarity the scope of security investigations or the manner in which they were to be carried out.

*Violation of Article 6 § 1 (right to a fair trial)*

*Violation of Article 8 (right to respect for private and family life)*

### ***Anheuser-Busch Inc. v. Portugal*** (11 January 2007)

Anheuser-Busch Inc., an American public limited company with its registered office in St Louis (United States), produces beer which it sells under the brand name "Budweiser" in a number of countries around the world. The application concerned the applicant company's inability to sell the beer it produced under the name "Budweiser" in Portugal as a result of the registration of an appellation of origin under which a Czech company distributed its own beer.

*No violation of Article 1 of Protocol No. 1 (protection of property)*

### ***Colaço Mestre and SIC – Sociedade Independente de Comunicação, S.A. v. Portugal*** (26 April 2007)

José Manuel Colaço Mestre was a journalist with the television channel SIC. The applicants were convicted following the broadcasting of an interview which referred in particular to allegations concerning bribery of referees in Portugal and the actions of Mr Pinto da Costa, the then President of the Portuguese Professional Football League and chairman of FC Porto football club. The Court found that the punishment of a journalist by ordering him to pay a fine, together with an award of damages against him and the television channel employing him, might seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there were particularly strong reasons for doing so.

*Violation of Article 10 (freedom of expression)*

### ***Women On Waves and Others v. Portugal*** (3 February 2009)

The applicants are three associations whose activities include fostering debate about reproductive rights. They protested in 2004 against the refusal of the Portuguese authorities to allow the ship *Borndiep* to enter Portuguese territorial waters. The ship had been chartered with a view to the organisation of events in support of the decriminalisation of abortion. The Court pointed out that the right to freedom of expression included the choice of means of disseminating ideas without unreasonable interference from the authorities, particularly in the case of symbolic protest activities.

*Violation of Article 10 (freedom of expression)*

# Romania

## Examples of cases against Romania

### **Brumărescu v. Romania (28 October 1999)**

The applicant complained about the refusal of the Supreme Court of Justice to recognise that the lower courts had jurisdiction to deal with a claim for recovery of possession such as his. The Court noted, among other things, that at the material time the Procurator General of Romania had been empowered to apply for a final judgment to be quashed at any time, in breach of the principle of legal certainty.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Pantea v. Romania (3 June 2003)**

Alexandru Pantea, a former prosecutor, was remanded in custody following an altercation with a person who sustained serious injuries. He complained of the treatment he had been subjected to while in prison and the unlawfulness of his detention.

*Violations of Article 3 (prohibition of inhuman or degrading treatment)*

*Violations of Article 5 (right to liberty and security)*

*Violation of Article 6 (right to a fair trial)*

*No violation of Article 8 (right to respect for private and family life)*

### **Pini and Others v. Romania (22 June 2004)**

The applicants, four Italian nationals, adopted two Romanian children in 2000. The children's home in which the girls had been placed refused to hand them over and the applicants never secured the enforcement of the adoption decisions.

*Violation of Article 6 § 1 (right to a fair trial)*

*No violation of Article 8 (right to respect for family life)*

*No violation of Article 2 of Protocol No. 4 (freedom of movement)*

### **Cumpănă and Mazăre v. Romania (17 December 2004)**

Constantin Cumpănă and Radu Mazăre, both journalists, were convicted for insult and defamation after publishing an article in which they questioned the legality of a contract signed by Constanța City Council.

*Violation of Article 10 (freedom of expression)*

### **Stoica v. Romania (4 March 2008)**

The case concerned a clash between police officers and Roma outside a bar in Giulia during which the 14-year-old applicant Constantin Decebal Stoica was ill-treated by the police.

*Violations of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 3*

*No violation of Article 13 (right to an effective remedy)*

### **Tătar v. Romania (27 January 2009)**

The applicants lived in Maia Mare, near a gold mine where sodium cyanide was used in the extraction process. In spite of an accident in 2000, when large quantities of cyanide were spilled into the environment, the authorities continued to allow the mining company to use the same extraction process. The Court reiterated that pollution could constitute an interference with a person's private and family life by affecting his or her well-being, and that the State had an obligation to protect people and take proper measures to protect their right to respect for their private life and their home and, more generally, to a healthy environment. It also considered that the precautionary principle should have been applied after the accident in 2000.

*Violation of Article 8 (right to respect for private and family life)*

#### The Council of Europe

Accession: 7 October 1993

#### The Convention

Signature: 7 October 1993

Ratification: 20 June 1994

#### Current judge

Corneliu BÎRSAN

#### Previous judge

Marin VOICU (1996-98)

#### First judgement

*Vasilescu v. Romania* (22 May 1998)

#### The Court and Romania on 1 January 2011

Total number of judgments: 791

Violation judgments: 719

No violation judgments: 21

Other judgments: 51

Inadmissibility decisions: 22 567

Pending applications: 11 950

#### Example of a general measure

##### **Brumărescu v. Romania**

(28 October 1999)

Refusal by the Supreme Court of Justice to accept that the courts had jurisdiction to review the lawfulness of the nationalisation of certain immovable property.

⇒ Repeal of the provisions which had made it possible to quash final judicial decisions establishing the right to restitution of nationalised property.

#### Example of an individual measure

##### **Brumărescu v. Romania**

(28 October 1999)

⇒ In a series of cases concerning the quashing of final judgments recognising the validity of the applicants' title to nationalised property, Romania either returned the properties in question to the applicants or paid a sum of money corresponding to their current value.

## Russia

### The Council of Europe

Accession: 28 February 1996

### The Convention

Signature: 28 February 1996

Ratification: 5 May 1998

### Current judge

Anatoly KOVLER

### Previous judge

Vladimir TOUMANOV (1997-98)

### First judgement

*Burdov v. Russia* (7 May 2002)

### The Court and Russia on 1 January 2011

Total number of judgments: 1 079

Violation judgments: 1 019

No violation judgments: 39

Other judgments: 21

Inadmissibility decisions: 42 294

Pending applications: 40 295

### Examples of general measures

#### ***Burdov v. Russia*** (7 May 2002)

Non-execution of final court decisions awarding compensation to the applicant.

⇒ Amendment of legislation governing social protection of Chernobyl victims, providing for a new system of index-linking allowances; adoption of specific measures enabling many similar disputes to be resolved.

#### ***Prokopovich v. Russia*** (18 November 2004)

Eviction of the applicant from her partner's flat following his death.

⇒ Recognition of an unmarried partner as a family member of the lessee.

### Examples of individual measures

#### ***Burdov v. Russia*** (7 May 2002)

⇒ The amounts awarded to the applicant by the Russian courts were paid to him.

#### ***Shofman v. Russia*** (24 November 2005)

Proceedings brought by the applicant to contest paternity held to be time-barred.

⇒ The applicant was able to challenge the legal presumption of his paternity in respect of his wife's son and, once it was established that he was not the child's father, was released from the obligation to pay maintenance.

### Examples of cases against Russia

#### ***Burdov v. Russia*** (7 May 2002)

Anatoliy Tikhonovich Burdov had been awarded compensation by Russian courts on account of his ill-health following his participation in the emergency operations at the site of the Chernobyl nuclear disaster. He complained about the failure to execute final judgments in his favour.

*Violation of Article 6 § 1 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

#### ***Fadeyeva v. Russia*** (9 June 2005)

Nadezhda Mikhaylovna Fadeyeva lived in Cherepovets, a major steel-producing centre 300 km north-east of Moscow. She complained that the operation of a steelworks in close proximity to her home endangered her health and well-being.

*Violation of Article 8 (right to respect for private and family life)*

#### ***Grinberg v. Russia*** (21 July 2005)

Isaak Pavlovich Grinberg was successfully sued for defamation on account of an article he had published in the newspaper *Gubernya* in 2002. In that article he had written about General V.A. Shamanov – who had been elected Governor of the Ulyanovsk Region – claiming that he was “waging war” against the independent press and journalists. In the article he had also referred to Mr Shamanov's support for a colonel who had killed an 18-year-old Chechen girl and had concluded the piece with the words “no shame and no scruples!”

*Violation of Article 10 (freedom of expression)*

#### ***Mikheyev v. Russia*** (26 January 2006)

Aleksey Yevgenyevich Mikheyev alleged that, during his time in police custody, police officers had tortured him to make him confess to the rape and murder of a young girl. He had then jumped out of the window of the police station and had broken his spine. He also complained that the investigation into those events had been ineffective.

*Violations of Article 3 (prohibition of torture)*

*Violation of Article 13 (right to an effective remedy)*

#### ***Bazorkina v. Russia*** (27 July 2006)

Fatima Sergeevna Bazorkina submitted that her son had gone to Grozny, Chechnya, and that she had not heard from him since. She alleged that he had been killed by federal forces. According to a CNN recording, he had apparently been interrogated by a Russian officer who had then ordered his execution.

*Violations of Article 2 (right to life)*

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 5 (right to liberty and security)*

*Violation of Article 13 (right to an effective remedy)*

#### ***Budayeva and Others v. Russia*** (20 March 2008)

The applicants lived in the town of Tyrnauz, situated in the mountain district adjacent to Mount Elbrus in the Republic of Kabardino-Balkaria (Russia). Mudslides had been recorded in the area every year since 1937, especially in summer. The case concerned the applicants' accusations that the Russian authorities had failed to heed warnings about the likelihood of a large-scale mudslide devastating Tyrnauz in July 2000, to warn the local population, to implement evacuation and emergency relief policies or, after the disaster, to carry out a judicial investigation.

*Violations of Article 2 (right to life)*

*No violation of Article 1 of Protocol No. 1 (protection of property)*

*No violation of Article 13 (right to an effective remedy)*

#### ***Tatishvili v. Russia*** (22 February 2007)

Denial of residence registration despite production of the documents required by law.

⇒ The applicant, a “citizen of the former USSR”, had her place of residence registered and was thus granted access to medical assistance, social security, an old-age pension, the right to own property, to marry, etc. She was also granted Russian citizenship (*execution in progress*).

## San Marino

The Council of Europe  
Accession: 16 November 1988

The Convention  
Signature: 16 November 1988  
Ratification: 22 March 1989

Current judge  
Kristina PARDALOS

Previous judge  
Antonella MULARONI (2001-2008)  
Luigi FERRARI BRAVO (1998-2001)  
Federico BIGI (1991-96)

First judgement  
*Buscarini and Others v. San Marino*  
(18 February 1999)  
The Court and San Marino on 1 January 2011  
Total number of judgments: 11  
Violation judgments: 8  
No violation judgments: 0  
Other judgments: 3  
Inadmissibility decisions: 40  
Pending applications: 6

### Example of a general measure

***Tierce and Others v. San Marino***  
(25 July 2000)  
⇒ Introduction of the possibility for the accused to give evidence in person in criminal proceedings on appeal.

### Examples of cases against San Marino

#### ***Buscarini and Others v. San Marino*** (18 February 1999)

The three applicants, members of parliament, complained of their obligation to swear on the Gospels on pain of forfeiting their parliamentary seats.

*Violation of Article 9 (freedom of thought, conscience and religion)*

#### ***Tierce and Others v. San Marino*** (25 July 2000)

The first applicant complained that he had not been tried by an impartial tribunal, since the same judge had dealt with the judicial investigation and trial at first instance and the preparation of the file for the appeal hearing. All three applicants complained that they had been given no opportunity to give evidence by the appellate court.

*Violation of Article 6 (right to a fair trial)*

#### ***Beneficio Cappella Paolini v. San Marino*** (13 July 2004)

Beneficio Cappella Paolini, an ecclesiastical institution, brought several sets of proceedings in order to recover possession of plots of land that had been expropriated but had remained unused. The applicant complained of the length of the proceedings in the civil courts and submitted that there had been a denial of justice.

*Violations of Article 6 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

## Serbia

### The Council of Europe

Accession: 3 April 2003

### The Convention

Signature: 3 April 2003

Ratification: 3 March 2004  
(Dates of signature and ratification by the State Union of Serbia and Montenegro)

### Current judge

Dragoljub POPOVIĆ

### First judgement

*Matijašević v. Serbia* (19 September 2006)

### The Court and Serbia on 1 January 2011

Total number of judgments: 49

Violation judgments: 46

No violation judgments: 2

Other judgments: 1

Inadmissibility decisions: 3 308

Pending applications: 3 514

### Example of a general measure

#### **Lepojić v. Serbia** (6 November 2007)

Conviction of the applicant for defamation on account of an article he had written about a town mayor during an election campaign.

⇒ Recognition by the Supreme Court of the direct effect of the European Court's case-law in domestic law in the context of freedom-of-expression cases and, in particular, extension of the degree of acceptable criticism of public figures as opposed to private individuals.

### Examples of cases against Serbia

#### **Matijašević v. Serbia** (19 September 2006)

Milija Matijašević was arrested and remanded in custody in May 2003 on suspicion of murder and fraud. Novi Sad District Court extended his detention on the ground that the applicant had actually committed the criminal offences for which he had been arrested. The Court found that the District Court had pronounced the applicant guilty before his guilt was proved according to law and that the Supreme Court had failed to rectify that "error" on appeal.

*Violation of Article 6 § 2 (presumption of innocence)*

#### **V.A.M. v. Serbia** (13 March 2007)

The application concerned civil proceedings brought in February 1999 by the applicant in which she sought to dissolve her marriage to her husband, to gain sole custody of her daughter, S.M., and to obtain child maintenance. She complained about the length and unfairness of the civil proceedings, and about having been unable for eight years to see her only child or to exercise her parental rights.

*Violation of Article 6 § 1 (right to a fair trial within a reasonable time)*

*Violation of Article 8 (right to respect for private and family life)*

*Violation of Article 13 (right to an effective remedy)*

#### **Filipović v. Serbia** (20 November 2007)

Zoran Filipović was convicted in 2002 for defaming the mayor of Babušnica. In 2004 the mayor obtained an award of damages against him. The applicant complained about the civil compensation proceedings against him resulting from his conviction.

*Violation of Article 10 (freedom of expression)*

#### **Vrenčev v. Serbia** (23 September 2008)

Ljubiša Vrenčev was convicted and fined for illegal possession of drugs. He complained that his detention had been unlawful, essentially because the domestic courts had failed to note his correct address.

*Violations of Article 5 (right to liberty and security)*

# Slovakia

## Examples of cases against Slovakia

### **Feldek v. Slovakia (12 July 2001)**

Lubomír Feldek was successfully sued for defamation after the publication in the press of a statement in which he had made references to the “fascist past” of a government minister. The Court was satisfied that the value judgment made by the applicant was based on information which was already known to the wider public.

*Violation of Article 10 (freedom of expression)*

*No violation of Article 14 (prohibition of discrimination)*

### **Kopecký v. Slovakia (28 September 2004)**

Juraj Kopecký complained that he had been unable to secure the return of 131 gold coins and 2,151 silver coins which had been confiscated from him on the ground that he could not show where the coins had been located on 1 April 1991, as required by law.

*No violation of Article 1 of Protocol No. 1 (protection of property)*

### **Kontrová v. Slovakia (31 May 2007)**

Dana Kontrová complained that Slovakia had failed to protect the life of her two children, who had been killed by her husband after she had filed a criminal complaint against him, accusing him of having assaulted and beaten her, and even though the police had received emergency calls reporting her husband's intentions shortly before the killings.

*Violation of Article 2 (right to life)*

*Violation of Article 13 (right to an effective remedy)*

### **Kučera v. Slovakia (17 July 2007)**

Pavel Kučera complained about the length and unlawfulness of his detention on remand. He also alleged that the police had entered his apartment unlawfully and that he had not been allowed to meet his wife during his detention on remand.

*Violation of Article 5 (right to liberty and security)*

*Violations of Article 8 (right to respect for private and family life)*

### **Urbárska obec Trenčianske Biskupice v. Slovakia (27 November 2007)**

The case concerned the compulsory leasing of land owned by the applicant, an association of landowners in Trenčín, at a rent which was below the applicable property tax and the subsequent transfer of that land to the tenants.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **K.H. and Others v. Slovakia (28 April 2009)**

The applicants are eight Slovak nationals of Roma ethnic origin. During their pregnancies and deliveries they were treated in two hospitals. Subsequently, none of them was able to conceive again. They complained that they had been unable to obtain photocopies of their medical files to find out if they had been sterilised. The Court considered that people who wanted photocopies of documents containing personal information about them should not have to explain why they needed the documents.

*Violation of Article 6 § 1 (access to a court)*

*Violation of Article 8 (right to respect for private and family life)*

*No violation of Article 13 (right to an effective remedy)*

## Examples of individual measures

### **Berecová v. Slovakia (24 April 2007)**

⇒ The applicant regained custody of her children.

### **Paulík v. Slovakia (10 October 2006)**

Impossibility for the applicant to contest paternity.

⇒ The applicant, relying on DNA tests that had not previously been available, had the paternity proceedings reopened and obtained an amendment of the birth certificate in which he had been recorded as the father (*execution in progress*).

## The Council of Europe

Accession: 30 June 1993

(Czech and Slovak Federal Republic)

## The Convention

Signature: 21 February 1991

Ratification: 18 March 1992

(Dates of signature and ratification by the former Czech and Slovak Federal Republic)

## Current judge

Ján ŠIKUTA

## Previous judges

Viera STRÁŽNICKÁ (1998-2004)

Bohumil REPIK (1992-98)

## First judgement

*Lauko v. Slovakia* (2 September 1998)

## The Court and Slovakia on 1 January 2011

Total number of judgments: 248

Violation judgments: 218

No violation judgments: 5

Other judgments: 25

Inadmissibility decisions: 3 709

Pending applications: 1 235

## Examples of general measures

### **Krumpel and Krumpelová v. Slovakia (5 July 2005)**

Excessive length of criminal proceedings.

⇒ Constitutional reform introducing an effective remedy in respect of the excessive length of proceedings and, in particular, adoption of a new Code of Criminal Procedure aimed at accelerating criminal proceedings.

### **Berecová v. Slovakia (24 April 2007)**

Placement of the applicant's children in an institution without the possibility of challenging that decision.

⇒ Repeal of the provisions of the Family Act and the Social Assistance Act that empowered the administrative authorities to take urgent measures on placement of children; such decisions are now taken by the courts.

### **Turek v. Slovakia (14 February 2006)**

Impossibility for the applicant, who was suspected of having worked for the State Security Agency, to challenge in fair proceedings his inclusion on lists of the Agency's collaborators.

⇒ Termination of the effects of the Lustration Act, which excluded former agents of the State Security Agency from certain important posts in public administration (*execution in progress*).

## Slovenia

The Council of Europe  
Accession: 14 May 1993

The Convention  
Signature: 14 May 1993  
Ratification: 28 June 1994

Current judge  
Boštjan ZUPANČIČ

Previous judge  
Peter JAMBREK (1993-98)

First judgement  
*Majarič v. Slovenia* (8 February 2000)

The Court and Slovenia on 1 January 2011

Total number of judgments: 233  
Violation judgments: 220  
No violation judgments: 10  
Other judgments: 3  
Inadmissibility decisions: 3 056  
Pending applications: 3 434

### Example of a general measure

***Rehbock v. Slovenia*** (28 November 2000)  
Ill-treatment of the applicant during his arrest.

⇒ Implementation of measures, in particular training, aimed at preventing the ill-treatment of detainees by the police.

### Examples of cases against Slovenia

#### ***Rehbock v. Slovenia*** (28 November 2000)

Ernst Rehbock, who was convicted of drug offences, complained about the conditions of his arrest and detention, challenged the lawfulness of his detention and alleged that his correspondence with the European Commission of Human Rights had been monitored by the authorities.

*Violation of Article 3 (prohibition of inhuman treatment)*

*Violation of Article 5 (right to liberty and security)*

*Violation of Article 8 (right to respect for private and family life)*

#### ***Matko v. Slovenia*** (2 November 2006)

Aleksander Matko alleged that he had been unlawfully arrested and severely ill-treated by the police. He also complained that his allegations of ill-treatment had not been properly investigated.

*Violations of Article 3 (prohibition of inhuman or degrading treatment)*

#### ***Kovačić and Others v. Slovenia*** (3 October 2008)

The applications concerned the freezing of the applicants' hard-currency savings accounts at the Zagreb office of a Slovenian bank, the Ljubljana Bank, prior to the dissolution of the Socialist Federal Republic of Yugoslavia in 1991. The Court decided to strike the applications out of its list of cases, as two of the three applicants had obtained reimbursement in full of their foreign-currency accounts with interest and the third had issued recovery proceedings which were still pending in the Croatian courts.

# Spain

## Examples of cases against Spain

### **Castells v. Spain (23 April 1992)**

Miguel Castells, a lawyer and a senator elected on the list of the Basque coalition Herri Batasuna, had been sentenced to imprisonment in 1983 for insulting the government in an article he had published holding the government responsible for the impunity enjoyed by armed groups.

*Violation of Article 10 (freedom of expression)*

### **López Ostra v. Spain (9 December 1994)**

Gregoria López Ostra complained of the nuisance caused to herself and her family by a solid and liquid waste treatment plant situated a few metres away from her home.

*Violation of Article 8 (right to respect for private and family life)*

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

### **Prado Bugallo v. Spain (18 February 2003)**

Jose Ramón Prado Bugallo asserted that the interception of his telephone calls as part of an investigation into drug trafficking had infringed his right to respect for his private life. The Court found that the laws governing telephone-tapping measures in Spain at the material time were substantially flawed.

*Violation of Article 8 (right to respect for private and family life)*

### **Moreno Gómez v. Spain (16 November 2004)**

Pilar Moreno Gómez complained of noise and of being disturbed at night by nightclubs near her home. She alleged that the Spanish authorities were responsible and that the resulting noise pollution constituted a violation of her right to respect for her home.

*Violation of Article 8 (right to respect for private and family life)*

### **Olaechea Cahuas v. Spain (10 August 2006)**

Adolfo Héctor Olaechea Cahuas, against whom an international warrant had been issued on the ground of his presumed membership of the "Shining Path" organisation, was extradited to Peru in 2003. The Court concluded that there was insufficient evidence to make out the existence of treatment contrary to Article 3 on account of the extradition. It found that Spain had failed to comply with the interim measure indicated by the Court requesting that the applicant not be extradited until further notice.

*Violation of Article 34 (right of individual petition)*

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*No violation of Article 5 (right to liberty and security)*

*No violation of Article 6 (right to a fair trial)*

### **Muñoz Díaz v. Spain (8 December 2009)**

María Luisa Muñoz Díaz is a Spanish national and a member of the Roma community. She complained about the State's refusal to pay her a survivor's pension following the death of the man she had married in accordance with Roma tradition, with whom she had lived for nineteen years and had six children. The Court found it disproportionate for the Spanish State, which had granted the applicant and her Roma family large-family status, afforded health-care assistance to the applicant and her six children and collected social security contributions from her Roma husband for over nineteen years, to then refuse to recognise the effects of the Roma marriage when it came to the survivor's pension.

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1 (protection of property)*

## Examples of individual measures

### **Castillo Algar v. Spain (28 October 1998)**

⇒ The applicant's conviction was expunged from his criminal record.

### **Iglesias Gil and A.U.I. v. Spain (29 April 2003)**

⇒ Shortly after the application was lodged, the child was returned to his mother, who is now able to enjoy custody of him.

## The Council of Europe

Accession: 24 November 1977

## The Convention

Signature: 24 November 1977

Ratification: 4 October 1979

## Current judge

Luis LÓPEZ GUERRA

## Previous judges

Javier BORREGO BORREGO (2003-08)

Antonio PASTOR RIDRUEJO (1998-2003)

José Maria MORENILLA (1990-98)

Juan Antonio CARRILLO SALCEDO (1986-89)

Eduardo GARCÍA DE ENTERRIA (1978-86)

## First judgement

*Barberà, Messegué and Jabardo v. Spain*  
(6 December 1988)

## The Court and Spain on 1 January 2011

Total number of judgments: 91

Violation judgments: 56

No violation judgments: 31

Other judgments: 4

Inadmissibility decisions: 6 059

Pending applications: 980

## Examples of general measures

### **Castells v. Spain (23 April 1992)**

Conviction of a senator for insulting the government.

⇒ Evidence of the truth of statements is accepted in defamation proceedings. The Constitutional Court confirmed that the Strasbourg case-law was directly applicable in domestic law.

### **Iglesias Gil and A.U.I. v. Spain**

(29 April 2003)

The authorities did not take appropriate steps to ensure the rapid enforcement of court decisions in the applicant's favour following the abduction of her son by the child's father.

⇒ Introduction of stricter penalties for child abduction in the Criminal Code in order to ensure better observance of parents' custody rights.

### **Perote Pellon v. Spain (25 July 2002)**

Lack of impartiality of judges who dismissed applications lodged by the applicant at the investigation stage and subsequently ruled on the merits of his case.

⇒ Improvement of safeguards concerning the composition of military courts and the procedural rules applicable to the judges sitting on them, so that a judge cannot sit in the same case at first instance and on appeal.

## Sweden

### The Council of Europe

Accession: 5 May 1949

### The Convention

Signature: 28 November 1950

Ratification: 4 February 1952

### Current judge

Elisabet FURA

### Previous judges

Elisabeth PALM (1988-2003)

Gunnar LAGERGREN (1977-88)

Sture PETRÉN (1971-76)

Åke Ernst HOLMBÄCK (1959-71)

### First judgement

*Swedish Engine Drivers' Union v. Sweden*

(6 February 1976)

### The Court and Sweden on 1 January 2011

Total number of judgments: 95

Violation judgments: 47

No violation judgments: 22

Other judgments: 26

Inadmissibility decisions: 5 104

Pending applications: 941

### Example of a general measure

#### ***Pudas v. Sweden*** (27 October 1987)

Impossibility for the applicant to challenge a decision to revoke a licence to carry passengers.

⇒ Reform of the system for judicial review of certain administrative decisions.

### Examples of cases against Sweden

#### ***Sporrong and Lönnroth v. Sweden*** (23 September 1982)

The two applications concerned the consequences for the heirs of Mr Sporrong and for Mrs Lönnroth, as landowners, of long-term expropriation permits and prohibitions on construction.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

*Violation of Article 6 (right to a fair trial)*

*No violation of Article 14 (prohibition of discrimination)*

#### ***Olsson v. Sweden (no. 1)*** (24 March 1988)

Mr and Mrs Olsson, who had both been placed in a home for the mentally retarded in their youth, complained about a decision of the authorities to take their three minor children into care and place them in a home on the basis of a report by social services.

*Violation of Article 8 (right to respect for private and family life)*

#### ***Janosevic v. Sweden and Västberga Taxi Aktiebolag and Vulic v. Sweden*** (23 July 2002)

The applicants, who had undergone a supplementary tax assessment, complained in particular that they had had to comply with the decision of the tax authorities before a final court judgment had established their liability.

*Violations of Article 6 (right to a fair trial)*

#### ***White v. Sweden*** (19 September 2006)

In 1996 the two main evening newspapers in Sweden, *Expressen* and *Aftonbladet*, published a series of articles in which the applicant Anthony White was accused of various criminal offences, including the murder of Olof Palme, the Prime Minister. The applicant complained that the courts had failed to provide due protection for his name and reputation.

*No violation of Article 8 (right to respect for private and family life)*

#### ***Evaldsson and Others v. Sweden*** (13 February 2007)

The five applicants maintained that they had been forced to contribute to the financing of a union's general activities against their will and in a manner comparable to a union member, which was tantamount to forced membership of the union.

*Violation of Article 1 of Protocol No. 1 (protection of property)*

# Switzerland

## Examples of cases against Switzerland

### **Scavuzzo-Hager and Others v. Switzerland (7 February 2006)**

The applicants were the parents and brother of P., who died in 1994 shortly after being arrested by police officers. They alleged that the police officers had used excessive force when arresting P. They further submitted that the authorities had not conducted an effective investigation into his death. Among other findings, the Court considered that the Swiss authorities had failed to conduct an effective inquiry into the death of the applicants' relative and concluded that there had been a violation of Article 2 under that head.

*Violation of Article 2 (right to life)*

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

### **Monnat v. Switzerland (21 September 2006)**

The Independent Broadcasting Complaints Commission found against the SSR (Swiss Broadcasting Corporation) following the broadcasting in 1997 of a critical documentary on the position of Switzerland during the Second World War in a news programme entitled *Temps présent* ("Present tense") for which the applicant Daniel Monnat was then responsible.

*Violation of Article 10 (freedom of expression)*

### **Stoll v. Switzerland (10 December 2007)**

The case concerned a fine imposed on Martin Stoll for having disclosed in the press a confidential report by the Swiss Ambassador to the United States concerning the strategy to be adopted by the Swiss government in negotiations between, among others, the World Jewish Congress and Swiss banks on the subject of compensation due to Holocaust victims for unclaimed assets deposited in Swiss bank accounts.

*No violation of Article 10 (freedom of expression)*

### **Emonet and Others v. Switzerland (13 December 2007)**

The case concerned the severance of Isabelle Emonet's legal relationship to her mother following her adoption by her mother's spouse.

*Violation of Article 8 (right to respect for family life)*

### **Glor v. Switzerland (30 April 2009)**

Sven Glor was declared unfit for military service and exempted from it because he suffered from diabetes. Even though he had been willing to do his military service, he was asked to pay the tax charged for exemption from serving in the armed forces. The Court found that the applicant had been a victim of discriminatory treatment because of the unreasonable nature of the justification given by the Swiss authorities for the distinction they made, in particular, between persons unfit for service who were exempted from paying the impugned tax and those who were unfit for service but nevertheless required to pay it.

*Violation of Article 14 (prohibition of discrimination) combined with Article 8 (right to respect for private and family life)*

#### The Council of Europe

Accession: 6 May 1963

#### The Convention

Signature: 21 December 1972

Ratification: 28 November 1974

#### Current judge

Helen KELLER

#### Previous judges

Giorgio MALINVERNI (2006-2011)

Luzius WILDHABER (1991-2006)

Denise BINDSCHEDLER-ROBERT (75-1991)

Antoine FAVRE (1963-74)

#### First judgement

*Schiesser v. Switzerland* (4 December 1979)

#### The Court and Switzerland on 1 January 2011

Total number of judgments: 102

Violation judgments: 71

No violation judgments: 24

Other judgments: 7

Inadmissibility decisions: 3 848

Pending applications: 837

#### Example of a general measure

##### **Kopp v. Switzerland** (25 March 1998)

Monitoring of a law firm's telephone lines on the instructions of the Federal Public Prosecutor.

⇒ New laws governing telephone tapping.

#### Examples of individual measures

##### **Bianchi v. Switzerland** (22 June 2006)

⇒ The authorities were able to locate the applicant's child, who had been abducted by the mother and hidden in Mozambique, and the applicant was thus able to be reunited with his son.

##### **Hadri-Vionnet v. Switzerland** (14 February 2008)

⇒ The applicant, who had been unable to attend the burial of her still-born child, was able to have the body exhumed and reburied in conditions of her choosing.

## “The former Yugoslav Republic of Macedonia”

### The Council of Europe

Accession: 9 November 1995

### The Convention

Signature: 9 November 1995

Ratification: 10 April 1997

### Current judge

Mirjana LAZAROVA TRAJKOVSKA

### Previous judge

Margarita TSATSA-NIKOLOVSKA  
(1998-2008)

### First judgement

*Solakov v. “the former Yugoslav Republic of Macedonia”* (31 October 2001)

The Court and “the former Yugoslav Republic of Macedonia” on 1 January 2011

Total number of judgments: 78

Violation judgments: 72

No violation judgments: 3

Other judgments: 3

Inadmissibility decisions: 1 568

Pending applications: 1 029

### Examples of cases against “the former Yugoslav Republic of Macedonia”

#### ***Solakov v. “the former Yugoslav Republic of Macedonia”* (31 October 2001)**

Blagoj Solakov, who was convicted of drug trafficking, complained that he had been unable to cross-examine the witnesses whose testimony served as the sole basis for his conviction, or to have witnesses on his behalf examined.

*Violation of Article 6 (right to a fair trial)*

#### ***Stoimenov v. “the former Yugoslav Republic of Macedonia”* (5 April 2007)**

Jordan Stoimenov complained that the principle of equality of arms had been breached as the national courts had convicted him on the basis of expert reports produced by the same ministry which had brought criminal charges against him.

*Violation of Article 6 § 1 (right to a fair trial within a reasonable time)*

*Violation of Article 13 (right to an effective remedy)*

### Example of a general measure

#### ***Stoimenov v. “the former Yugoslav Republic of Macedonia”* (5 April 2007)**

Breach of the principle of equality of arms as a result of the applicant’s conviction on the basis of expert reports produced by the ministry which had brought criminal proceedings against him.

⇒ Acknowledgement by the Supreme Court that the Convention was an integral part of the domestic legal order and that the domestic courts should refer to the European Court’s judgments in their reasoning.

### Example of an individual measure

#### ***Stoimenov v. “the former Yugoslav Republic of Macedonia”* (5 April 2007)**

⇒ The applicant, whose criminal conviction was unfair in that it was based on the opinions of experts who were not independent, was granted a retrial and an independent expert report was ordered.

# Turkey

## Examples of cases against Turkey

### **Loizidou v. Turkey (18 December 1996)**

The case concerned the inability of Titina Loizidou to secure access to her property in northern Cyprus.

*No violation of Article 8 (right to respect for private and family life)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Cyprus v. Turkey (10 May 2001)**

This case concerned the situation in northern Cyprus following Turkey's military operations there in July and August 1974 and the division of the island's territory ever since.

*Violations of Article 2 (right to life)*

*Violations of Article 3 (prohibition of inhuman or degrading treatment), among other findings*

### **Öneryıldız v. Turkey (30 November 2004)**

At the relevant time Maşallah Öneryıldız was living with twelve close relatives in the slum quarter of Kazım Karabekir in Ümraniye (Istanbul). A methane explosion occurred at the tip in April 1993 and the refuse erupting from the pile of waste engulfed more than ten houses situated below it, including the one belonging to the applicant, who lost nine close relatives.

*Violations of Article 2 (right to life)*

*Violations of Article 13 (right to an effective remedy)*

*Violations of Article 1 of Protocol No. 1 (protection of property)*

### **Mamatkulov and Askarov v. Turkey (4 February 2005)**

The applicants, both members of ERK (Freedom) (an opposition party in Uzbekistan), had been extradited from Turkey to Uzbekistan in March 1999. The Court concluded in particular that, by failing to comply with the interim measures indicated, namely that the applicants should not be extradited until further notice, Turkey was in breach of its obligations under Article 34.

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*No violation of Article 6 (right to a fair trial)*

*Violation of Article 34 (right of individual petition)*

### **Öcalan v. Turkey (12 May 2005)**

The case mainly concerned the sentencing of Abdullah Öcalan to the death penalty for activities aimed at the separation of part of the Turkish State, the manner in which he had been transferred to Turkey and the conditions of his detention. The Court found in particular that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) on account of the death sentence following an unfair trial.

*Several violations of the Convention*

### **Leyla Şahin v. Turkey (10 November 2005)**

Leyla Şahin complained that she had been prohibited from wearing the Islamic headscarf at university.

*No violation of Article 9 (freedom of thought, conscience and religion)*

*No violation of Article 8 (right to respect for private and family life)*

*No violation of Article 10 (freedom of expression)*

*No violation of Article 14 (prohibition of discrimination)*

*No violation of Article 2 of Protocol No. 1 (right to education)*

### The Council of Europe

Accession: 9 August 1949

### The Convention

Signature: 4 November 1950

Ratification: 18 May 1954

### Current judge

Işıl KARAKAŞ

### Previous judge

Rıza TÜRMEK (1998-2008)

Feyyaz GÖLCÜKLÜ (1977-98)

Ali BOZER (1973-77)

Suat BİLGE (1966-72)

Kemel Fikret ARIK (1959-65)

### First judgement

*Loizidou v. Turkey (preliminary objections)*  
(23 March 1995)

### The Court and Turkey on 1 January 2011

Total number of judgments: 2 573

Violation judgments: 2 245

No violation judgments: 55

Other judgments: 273

Inadmissibility decisions: 19 402

Pending applications: 15 206

## Examples of general measures

### **Çiraklar v. Turkey (28 October 1998)**

The applicant had not had a fair trial before an independent and impartial tribunal on account of the presence of a military judge on the bench of the national security court.

⇒ Removal of military judges from the national security courts.

### **Kılınç and Ösray v. Turkey**

(7 June 2005)

⇒ Amendment of the regulatory framework concerning the conditions for fitness to perform military service and introduction of a system for supervising conditions during military service with a view to preventing conscript suicides.

### **United Communist Party of Turkey and Others v. Turkey (30 January 1998)**

⇒ Constitutional and legislative reforms aimed at restricting the possibility of dissolving political parties.

## Turkey

### Examples of individual measures

#### **United Communist Party of Turkey and Others v. Turkey** (30 January 1998)

⇒ The political bans imposed on the applicants who were leaders or active members of the dissolved parties were all lifted. The obstacles to re-registering the dissolved parties were removed.

#### **Arslan v. Turkey** (8 July 1999)

⇒ The applicants' convictions under former section 8 of the Prevention of Terrorism Act were expunged and the restrictions on their civil and political rights were also automatically lifted.

#### **Opuz v. Turkey (9 June 2009)**

Nahide Opuz, who is now divorced, was subjected to repeated violence and death threats by her husband. The case concerns the domestic violence inflicted on the applicant and her mother, eventually leading to the mother's death. The Court considered that the suffering inflicted on the applicant and her mother could be regarded as gender-based violence which was a form of discrimination against women, in view, *inter alia*, of the fact that the general unresponsiveness of the Turkish judicial system to the problem of domestic violence and the impunity enjoyed by the aggressors mainly affected women.

*Violation of Article 2 (right to life)*

*Violation of Article 3 (prohibition of degrading treatment)*

*Violation of Article 14 (prohibition of discrimination) taken in conjunction with Articles 2 and 3*

# Ukraine

## The Council of Europe

Accession: 9 November 1995

## The Convention

Signature: 9 November 1995

Ratification: 11 September 1997

## Current judge

Ganna YUDKIVSKA

## Previous judge

Volodymyr BUTKEVYCH (1996-2008)

## First judgement

*Kaysin and Others v. Ukraine* (3 May 2001)

## The Court and Ukraine on 1 January 2011

Total number of judgments: 717

Violation judgments: 709

No violation judgments: 4

Other judgments: 4

Inadmissibility decisions: 19 538

Pending applications: 10 434

## Examples of general measures

### **Hunt v. Ukraine** (7 December 2006)

⇒ Adoption by the Supreme Court of guidelines for courts on the application of the law in cases concerning adoption and deprivation and restoration of parental rights with a view to ensuring consistent and appropriate treatment of child custody cases.

### **Kovach v. Ukraine** (7 February 2008)

⇒ Amendment of electoral law (*execution in progress*).

## Example of an individual measure

### **Strizhak v. Ukraine** (8 November 2005)

⇒ The applicant, whose court action was unsuccessful after he had been unable to participate effectively in the hearing as a result of a problem with notification, had the civil proceedings for the rehabilitation of his father's memory reopened.

## Examples of cases against Ukraine

### **Sovtransavto Holding v. Ukraine** (25 July 2002)

Sovtransavto Holding, a Russian public limited company with an activity of international transport, held shares in a Ukrainian public limited company Sovtransavto-Lugansk. The applicant company brought proceedings claiming that the amendment of Sovtransavto-Lougansk's articles of association, as a result of which the directors of that company were able to assume sole control of the company's management and assets, had been illegal. Among other findings, the Court was surprised by the different and on occasion conflicting approaches that had been taken by the Ukrainian courts in the application and interpretation of the domestic law.

*Violation of Article 6 (right to a fair trial)*

*Violation of Article 1 of Protocol No. 1 (protection of property)*

### **Aliev v. Ukraine** (29 April 2003)

Pakhrudin Mukhtarovich Aliev was sentenced to death for instigating and engaging in acts of organised crime and for aiding and abetting murder and attempted murder. His sentence was commuted to life imprisonment in June 2000 after the abolition of the death penalty in Ukraine. The Court found in particular that there had been a violation of the Convention on account of the conditions of the applicant's detention on death row.

*Violation of Article 3 (prohibition of inhuman or degrading treatment or punishment), among other findings*

### **Naumenko v. Ukraine** (10 February 2004)

Gennadiy Vasilyevich Naumenko alleged that during his time in prison in the Kharkiv region he had been subjected in particular to forced medical treatment, as well as being handcuffed without reason and otherwise ill-treated. In the light of all the evidence before it, the Court was unable to find that there had been a violation of the Convention.

*No violation of Article 3 (prohibition of torture and inhuman or degrading treatment)*

*No violation of Article 13 (right to an effective remedy)*

### **Melnychenko v. Ukraine** (19 October 2004)

Mykola Ivanovych Melnychenko maintained that, in rejecting his application for registration as a parliamentary candidate, the domestic authorities had acted arbitrarily, because Ukrainian electoral law did not specify whether the requirement of five years' "residence" in Ukraine meant legal or habitual residence.

*Violation of Article 3 of Protocol No. 1 (right to free elections)*

### **Gongadze v. Ukraine** (8 November 2005)

Georgiy Gongadze, the applicant's husband, was a political journalist and editor-in-chief of *Ukrayinska Pravda*, an online newspaper, and was actively involved, both nationally and internationally, in raising awareness about the lack of freedom of speech in Ukraine. His body was found in November 2000. The Court found in particular that the authorities had failed in their duty to protect the life of the applicant's husband.

*Violations of Article 2 (right to life)*

*Violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violation of Article 13 (right to an effective remedy)*

# United Kingdom

## The Council of Europe

Accession: 5 May 1949

## The Convention

Signature: 4 November 1950

Ratification: 8 March 1951

## Current judge

Sir Nicolas BRATZA

## Previous judges

Sir John FREELAND (1991-98)

Sir Vincent EVANS (1980-90)

Sir Gerald FITZMAURICE (1974-80)

Sir Humphrey WALDOCK (1966-74)

Lord (Arnold Duncan) McNAIR (1959-66)

## First judgement

*Golder v. the United Kingdom*

(21 February 1975)

## The Court and the United Kingdom on 1 January 2011

Total number of judgments: 443

Violation judgments: 271

No violation judgments: 86

Other judgments: 86

Inadmissibility decisions: 14 029

Pending applications: 3 172

## Examples of general measures

### **Saunders v. the United Kingdom**

(17 December 1996)

⇒ Legislative reform aimed at preventing the use in criminal proceedings of evidence obtained under compulsion.

### **Matthews v. the United Kingdom**

(18 February 1999)

⇒ Reform of electoral legislation to allow citizens of Gibraltar to take part in European Parliament elections.

### **Christine Goodwin v. the United Kingdom**

(11 July 2002)

Impossibility for transgender persons to marry.

⇒ Introduction in law of the possibility of full recognition of gender reassignment of post-operative transsexuals, including with regard to access to marriage.

## Examples of cases against the United Kingdom

### **Campbell and Cosans v. the United Kingdom (25 February 1982)**

Grace Campbell and Jane Cosans complained about the use of corporal punishment as a disciplinary measure in the State schools in Scotland attended by their children. For both financial and practical reasons, the applicants had no realistic and acceptable alternative to sending their children to State schools. The Court found that there had been a violation of the Convention on account of the use of such punishment in the schools attended by the applicants' children and of the suspension from school of Mrs Cosans' son after he refused to accept it.

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violations of Article 2 of Protocol No. 1 (right to education)*

### **T. v. the United Kingdom and V. v. the United Kingdom (16 December 1999)**

In November 1993 the applicants, who were 11 years old at the time, were found guilty of the abduction and murder of a two-year-old boy and were sentenced to be detained indefinitely, "during Her Majesty's pleasure". The applicants complained in particular that, in view of their young age, their trial in public in an adult Crown Court and the punitive nature of their sentence constituted violations of their rights.

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*Violations of Article 6 (right to a fair trial)*

*Violation of Article 5 § 4 (right to liberty and security)*

### **Pretty v. the United Kingdom (29 April 2002)**

When she brought her case before the Court, Diane Pretty was dying of motor neurone disease, a degenerative disease affecting the muscles, for which there is no cure. She argued in particular that it was for the individual to choose whether to live and that the right to die was the corollary of the right to live and also protected, so the United Kingdom should have to adapt its legislation accordingly. She also sought an undertaking that her husband would not be prosecuted if he assisted her to commit suicide.

*No violation of Article 2 (right to life)*

*No violation of Article 3 (prohibition of inhuman or degrading treatment)*

*No violation of Article 8 (right to respect for private life)*

*No violation of Article 9 (freedom of thought)*

*No violation of Article 14 (prohibition of discrimination)*

### **Christine Goodwin v. the United Kingdom (11 July 2002)**

Christine Goodwin was a post-operative male-to-female transsexual. Her complaints concerned the lack of legal recognition of her post-operative sex and the legal status of transsexuals in the United Kingdom. She complained, in particular, about her treatment in relation to employment, social security and pensions and her inability to marry.

*Violation of Article 8 (right to respect for private and family life)*

*Violation of Article 12 (right to marry and to found a family)*

*No violation of Article 13 (right to an effective remedy)*

### **Evans v. the United Kingdom (10 April 2007)**

Natallie Evans complained that domestic law permitted her former partner effectively to withdraw his consent to the storage and use by her of embryos created jointly by them, preventing her from ever having a child to whom she would be genetically related.

## United Kingdom

*No violation of Article 2 (right to life)*

*No violation of Article 8 (right to respect for private and family life)*

*No violation of Article 14 (prohibition of discrimination)*

### ***S. and Marper v. the United Kingdom (4 December 2008)***

The case concerned the retention by the authorities of the applicants' fingerprints and DNA profiles, taken during criminal proceedings against them, after their acquittal or discharge.

*Violation of Article 8 (right to respect for private and family life)*

### **Examples of individual measures**

#### ***Chahal v. the United Kingdom***

(15 November 1996)

⇒ The first applicant was released and his deportation order was revoked. He then remained in the United Kingdom on the basis of indefinite leave to remain.

#### ***Roche v. the United Kingdom***

(19 October 2005)

⇒ The applicant obtained a finding that the disorder from which he suffered was linked to tests carried out during his military service; his level of disability was reassessed and his pension was increased.

Provisional version (November 2011)

European Court of Human Rights

Public Relation Unit

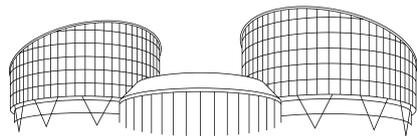
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