DPI Democratic Progress Institute

TAKING CASES TO THE EUROPEAN COURT OF HUMAN RIGHTS

Dara Yıldız
Sophie Adams

A manual
Third Edition
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The Democratic Progress Institute (DPI) is an independent non-governmental organisation established in consultation with international experts in conflict resolution and democratic advancement. DPI seeks to promote peace and democracy building through strengthened public dialogue and engagement. We provide a unique programme model which combines theoretical foundations and expertise-sharing with practical approaches such as conferences and other platforms for exchange.

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FOREWORD

In 2020, the European Convention on Human Rights celebrated its seventieth anniversary. During those celebrations, Robert Spano, President of the Council of Europe, classified the Convention's role as demanding that 'no man or woman is above the law.'[1] It is in this statement that the European Court of Human Rights finds its crucial importance. For when all else fails, it is the Court that demands that national authorities remain faithfully obedient to the Convention. In doing so, it provides an indispensable safeguard against human rights violations. However, this system remains dependent on applicants and their legal representatives successfully bringing cases to the attention of the Court. This manual aims to contribute to that latter task.

Since beginning its litigation programme in 1992, the Kurdish Human Rights Project (KHRP) has provided legal advice and representation to hundreds of victims of human rights abuse and engaged in effective strategic litigation at the European Court of Human Rights. As of 2010, KHRP has ceased to exist, and in its place, DPI was established, a non-governmental organisation that focuses on conflict resolution and peacebuilding. It is in this context of decades of experience in taking cases to the European Court of Human Rights that this manual came to be.

Therefore, it is with pleasure that we introduce the third edition of the English language version of this manual, which provides a comprehensive guide to taking human rights complaints to Strasbourg and includes commentaries on the practice and procedure of the Court and key texts such as the European Convention on Human Rights and the Court's application form. Further, and of particular importance to lawyers and advocates who want to keep up-to-date with the 'living instrument' aspect of the Convention, the manual sets out the development of the Court since its inception and the changes that have been made in order to enhance the Court's efficiency. In this regard, it covers the introduction of pilot-judgment procedures and the new admissibility criteria, as well as explaining five conferences held on the future of the Court between 2010-2018. Lastly, a new section is added on the enforcement of judgments.

To come full circle again; President Spano rightfully signalled that the Convention system has seldom, if ever, been as important as now. 'It requires from all of us, the guardians of the Convention, a brave heart and a determined mind'.[2]

It is to those with the bravest of hearts and the most determined of minds that we present this manual: may you find guidance, solace, and inspiration here.

Sanya Karakas- Head of Legal Programme

List of Abbreviations

CoE	Council of Europe
CoM	Committee of Ministers / the Committee
DEJ	Department of Execution of Judgments of the ECtHR
ECHR	European Convention on Human Rights /the Convention
ECJ	European Court of Justice
ECtHR	European Court of Human Rights / the Court
EIN	European Implementation Network
ENNHRI	European Network for National Human Rights Institutions
EU	European Union
EUR	Euro(s)
FRY	Federal Republic of Yugoslavia
ICTY	International Criminal Tribunal for the former Yugoslavia
NATO	North Atlantic Treaty Organization

1 Robert Spano, 'Opening remarks by President Robert Spano European Court of Human Rights' (The European Convention on Human Rights at 70: Milestones and Major Achievements conference, Strasbourg, 18 September 2020), 2.

2 Ibid. 3.

INTRODUCTION

On 4 November 2020, the European Convention on Human Rights (the Convention) celebrated its seventieth anniversary. It was the first convention adopted by the Council of Europe in 1950 and is integrally linked with the founding principles of the organisation. These principles, which are implicitly stated in the Council of Europe Statute, are the promotion of pluralist democracy, respect for the rule of law, and the protection of human rights and fundamental freedoms.

The Council of Europe and the Convention emerged as part of the response to the death, suffering and the widespread destruction caused by the Second World War. 'Europe's leaders' were determined that such events should 'never happen again' and so ten European countries met in London on 5 May 1949 to bring into being the Council of Europe. With events such as the fall of the Berlin Wall in 1989, the Council of Europe expanded across Europe and now has 46 Member States.

The Member States are all signatories to the Convention, as one of the conditions for entry into the Council of Europe is to sign and ratify the Convention and its protocols within a certain timeframe.

It is central to the effectiveness of the Convention that a person can raise a Convention issue before the local courts and have it adjudicated upon locally. This is in keeping with the philosophy of the Convention as a system for the protection of human rights that is subsidiary to national law. Accordingly, the majority of the Member States have incorporated the Convention into their domestic legal system, thus enabling the domestic courts to invoke the Convention principles and its case law. For instance, in the United Kingdom, the Convention was incorporated into domestic law through the Human Rights Act 1998, which came into force in October 2000.

Once all domestic legal remedies in respect of a human rights complaints have been exhausted, an individual may submit an application to the European Court of Human Rights (the Court) claiming a breach of the Convention by a Member State. However, it should be stressed that the Strasbourg organs are not a 'fourth instance' or appeal court which review cases at a domestic level. Instead, the protection of human rights should be ensured at national level with the Court as the 'fall back' option.

It is important to note that the Convention is concerned primarily with civil and political rights. There are a wide range of other human rights not covered, for example, a number of social and economic rights are protected under the European Social Charter.[3] Where the Court receives applications concerning alleged injustices involving matters outside the scope of the Convention, such applications will be deemed inadmissible even where the allegations raise serious human rights issues.

The ECHR differs from other international treaties in a fundamental way. For example, the concept of nationality is considered irrelevant since 'everyone within the contracting party's jurisdiction' is covered by the Convention (Article 1). This means that the ECHR offers protection not only to citizens but also to anyone experiencing a violation of the Convention within the jurisdiction of a Contracting State, whether she or he is an immigrant, refugee, or tourist. To date, complaints have been received from nationals of more than 80 countries.

Further, the ECtHR has in certain circumstances accepted that a Contracting Party has exercised extra-territorial jurisdiction. For example, in the case of *Loizidou v. Turkey*,[4] the Respondent State claimed not to have jurisdiction over the activities of the Turkish military forces occupying Northern Cyprus, which had prevented the applicant from gaining access to her property. The Court confirmed that Article 1 of the Convention is grounded in the idea of State jurisdiction over the individual through State organs or authorities. It also held that the 'responsibility of a contracting party may also arise when as a consequence of military action…. it exercises effective control of an area outside its national territory'. In *Issa and others v Turkey*,[5] the Court recalled that in accordance with the Convention, the term 'jurisdiction' was not restricted to the national territory of the Contracting Parties. In exceptional circumstances, the actions of Contracting States committed outside of their territory, or which produced effects there, may amount to exercise by them of their jurisdiction.

3 The European Social Charter 1996, Strasbourg, 3.V.1996.

4 *Loizidou v. Turkey* App No 15318/89 (ECtHR, 18 December 1996).

5 *Issa v. Turkey* App No 31821/96 (ECtHR, 16 November 2004).

The Court took a different view in the case of *Banković and Others v. Belgium and 16 Other Contracting States*.[6] The case concerned the death of the applicants' relatives during the NATO bombings in the territory of the former Federal Republic of Yugoslavia (FRY). The Court rejected the applicants' arguments that there was a jurisdictional link between the persons who were victims of the bombings and the Respondent States. It stated that the FRY did not fall within the legal space of the Member States and noted that 'the Convention was not designed to be applied throughout the world, even in respect of the conduct of Contracting States'.[7] The Court decided to rely on the desirability of avoiding a gap in human rights protection in favour of establishing jurisdiction only when the territory in question was one that, but for the specific circumstances, would normally be covered by the Convention. The issue of extraterritorial jurisdiction continues to be discussed by the Court. For instance, in 2020 the Court ruled on whether a denied visa application by a member state established jurisdiction.[8] This case revolved around Syrian who applied for a Belgian visa at the Belgian embassy in Beirut. These visas were refused leading the applicants to bring a complaint before a Court. However, the Court held that the fact that a decision was made in a Member State held consequences for individuals residing outside that Member State is not enough on its own to establish jurisdiction.

The European Court of Human Rights considers the Convention to be a 'living instrument' with a 'mandate' to realign European human rights legislation to reflect the concept of transition. Its evolutive nature has seen the addition of a number of additional protocols, which either introduce new rights (Protocols Nos. 1, 4, 6, 7, 12, and 13) or improve Convention mechanisms (Protocol Nos. 11, 14, 15, and 16). The Convention and its protocols are also supplemented by the case law of the (former) European Commission of Human Rights (the Commission) and the Court, which have reinforced and developed these rights over the years. The Convention and its protocols are also supplemented by the case law of the (former) European Commission of Human Rights (the Commission) and the Court, which have reinforced and developed these rights over the years.

An indication of the growing importance of the Convention system within Europe can be seen from considering the number of applications to the Court (and, previously, to

6 *Banković and Others v. Belgium and 16 Other Contracting States* App No 52207/99 (ECtHR, 12 December 2001).

7 *Banković and Others v. Belgium and 16 Other Contracting States* App No 52207/99 (ECtHR, 12 December 2001), para 80.

8 *M.N. and Others v. Belgium* App No 3599/18 (ECtHR, 5 May 2020).

the Commission). In the first 30 years of the ECHR, less than 10,000 complaints were filed with the Commission. Since then, the number of applicants has grown rapidly – in 1995 alone, 10,201 communications were received, whilst by 1999, there were more than 47,000 provisional files pending at the Court. By the end of 2021, there were approximately 70,000 outstanding cases.[9] In 2021, the Court received about 44,000 new applications, an increase of 6% compared to the previous year, and it rendered judgment in more than 3100 cases, an increase of more than 65 per cent compared to 2020.

In 2021 the Court received 44,250 applications, a slight increase on the previous year which saw 41,700 cases brought to the court. There has been a significant increase of cases pending a judgment to 70,150, an increase of 13%. In terms of pending applications before a Chamber or Grand Chamber judgment, the number of pending cases increased 31% to 30,600.[10] In 2021, out of 16,400 applications that were disposed of administratively, 67% were due to a failure to comply with the requirements of Rule 47 of the Rules of Court (contents of an individual application).[11] The Court has seen the number of pending applications increase to 75,650 as of September 2022, 25% of which come from Turkey and 23% from Russia.[12]

These figures do not necessarily illustrate that human rights abuses are multiplying, but rather show that awareness of the Convention is increasing and, particularly with the assistance of non-governmental organisations (NGOs) and human rights groups, individuals are more readily able to pursue their cases to the Court. Nevertheless, the immense backlog of cases has raised concerns as to the Court's efficiency. To address this administrative hurdle, the Member States ratified two Protocols, No. 14 and no. 15, which aimed to reduce the Court's caseload by 25 per cent, and also held several conferences on the future of the Court in Interlaken, Izmir, Brighton, Brussels, Oslo, and Copenhagen respectively Conference' (as outlined in more detail in part 1.8.1 below). Nevertheless, backlogs continue to soar with 70,000 applications pending in 2021.[13]

9 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 179.

10 Ibid.

11 European Court of Human Rights, 'Analysis of statistics 2021' (January 2022) 4.

12 European Court of Human Rights, 'Pending Applications allocated to a Judicial Formation' (16 September 2022) <https://www.echr.coe.int/Documents/Stats_pending_month_20220916_BIL.PDF> accessed 29 November 2022.

13 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 179.

1. THE EUROPEAN COURT OF HUMAN RIGHTS: AN OVERVIEW

1.1 Overview and Development of the European Convention System

- The Convention is a creation of the Council of Europe, which was established immediately after the Second World War, with the aim of enhancing the cultural, social, and political life of Europe. It should be noted that the Council of Europe is a separate entity to the European Union (EU).
- The creation, and early work, of the Council of Europe, which is based in Strasbourg, was in part a reaction to the serious human rights violations encountered in Europe during World War II.
- There were originally ten Member States.
- The Council of Europe's primary decision-making bodies are the Committee of Ministers, the executive organ, and the Parliamentary Assembly.
- The Convention was adopted in 1950 and came into force in 1953. It was intended to protect civil and political rights, rather than economic, social, or cultural rights. The text can be found in **Annex A.**
- The Convention created a right of individual petition - the right of individuals and organisations to challenge their Government through the Strasbourg process. This was initially done through a two-tier process: firstly, an applicant would take their case to the Commission, and secondly, they would take it to the European Court of Human Rights. However, today's cases are taken directly to the Court following the introduction of Protocol No. 11. The Court's judgments are binding on the State parties to the Convention

  There has been great expansion of the Convention system, particularly in the 1990s when a number of central and Eastern European states ratified the Convention. There are now 46 Member States that are all signatories to the Convention. The possibility of the European Union becoming a signatory to the Convention remains on the horizon, which would make it possible for individuals to take complaints against the EU to the Court in Strasbourg.

1.1.1 Protocol No. 11

Previously, cases took at least four or five years to proceed through the system (in addition to any domestic proceedings which may have been pursued). This lengthy process was a major cause of the considerable backlog of ECHR cases that was building. Given this backlog and lengthy case process, reforms were made to improve case procedure.

Protocol No. 11 to the Convention, which came into force on 1 November 1988, abolished the two-tier system of Commission and Court, and created a single full-time permanent Court (Article 19).[14] The primary aim of the changes was to speed up the procedure.

Protocol No. 11 also introduced the mandatory right of individuals to complain directly to the Court.

1.1.2 Protocol No. 14

Despite Protocol No. 11 coming into force, the backlog of Convention cases continued to increase. In 1999, 8,396 applications were registered, compared with 5,981 in 1998.[15] The number of new applications rose from 18,200 in 1998 to 57,000 in 2009 and this dramatic growth raised concerns about the Court's capability to deal with this influx of applications. Thus, calls for further reform were made which materialised with Protocol No. 14.[16]

On 12 May 2004, the Council of Europe Member States adopted Protocol No. 14 to deal with the very high number of individual applications and attempt to ensure the effectiveness of the European Court of Human Rights system. It came into force on 1 June 2010, with the final ratification by Russia.[17]

14 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 11 May 1994, entered into force 1 November 1998) ETS No. 155 (ECHR) Protocol No. 11.

15 Press release of the Registry of the European Court of Human Rights, 24 January 2000.

16 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 13 May 2004, entered into force 1 June 2010) CETS No. 194 (ECHR) Protocol No. 14.

17 Due to Russia's delay in ratifying Protocol No. 14, a number of Member States had signed up to Protocol No. 14bis, which provided for the immediate and interim application of two procedural measures taken from Protocol No. 14, pending the latter's entry into force, namely the provisions allowing (i) a single judge to reject plainly inadmissible applications, and (ii) the three-judge committees to declare applications admissible and decide on their merits in repetitive cases. Protocol No. 14bis ceased to be in force following the entry into force of Protocol No. 14. This has no practical effect on the work of the Court, because the provisions of the former are contained in the latter.

During the early 2000s, over 90 per cent of the applications lodged with the Court were held to be inadmissible, while half of the remaining cases concerned 'repetitive' violations.[18] Accordingly, Protocol No. 14 introduced procedural reforms aimed at tackling the source of these problems to improve the Court's efficiency by 25 per cent.

Protocol 14 made no changes to the substantive rights of the Convention (Articles 1–18); instead, the changes introduced related more to the functioning than to the structure of the system. It also tried to simplify EU accession to the European Convention on Human Rights.

The main changes, explained in further detail in Chapter 3, were:

a) The introduction of a **new admissibility criterion** in Article 35 of the Convention: Article 35(3)(b) stipulates that the Court shall declare an individual application inadmissible if the applicant has not suffered a 'significant disadvantage'.

b) The introduction of a **single-judge formation** (Article 26 of the Convention): this provides the competence to make final decisions on the admissibility of applications, where such decisions can be taken without further examination.

c) The **extension of the competence of the committee of three judges** to cover repetitive cases:

Protocol No. 14 introduced an accelerated procedure for repetitive but manifestly well-founded cases which derive from the same structural defect at the national level. The amended Article 28 of the Convention extends the competence of the committees of three judges from declaring individual applications inadmissible to rendering a joint decision on the admissibility and the merits of an individual application, if the underlying question of the case is already the subject of well-established case law of the Court. The decision and judgment reached are required to be unanimous. If a unanimous decision is reached, it is meant to be final.

Protocol No. 14 maintained the competence of the three-judge committee to declare an individual application inadmissible or to strike it out when there was clear administrative inadmissibility from the outset.

There is no right of appeal from an admissibility decision (Article 28(2) of the Convention). However, parties are entitled to contest the 'well-established' character of the case law. The presence of the national judge in this type of procedure is not

18 Council of Europe Press, 'Protocol 14 – the reform of the ECHR' (Factsheet of the Council of Europe, 15 May 2010) < https://rm.coe.int/16807f2f4> last accessed 29 November 2022.

mandatory. However, Article 28(3) of the Convention provides the Committee with the possibility to invite the judge elected in respect of the Respondent State to take the place of one of the members of the Committee, especially in cases where the Respondent State had contested the application of the accelerated procedure.

If the judges fail to reach unanimity, the Chamber procedure is applied (Article 29 of the Convention). The national judge will be an ex officio member of the Chamber (Article 26(4) of the Convention)

d) The **role of the Plenary Court** was slightly amended: the Plenary Court is concerned with electing the President, Vice-Presidents, Presidents of Chambers, the Registrar and Deputy Registrar and adopting rules (Article 25 of the Convention). However, with the amendment of Article 25(f) and Article 26(2) of the Convention, the Plenary Court also has the power to request the size of the Court's Chambers to be reduced for a fixed period from seven to five judges by a unanimous decision of the Committee of Ministers. The Plenary Court has no judicial role.

e) The establishment of **a new procedure**, which enables the **Committee of Ministers** to bring proceedings before the Court where a Member State refuses to comply with a judgment: if, for example, the Committee of Ministers considers that a State Party refuses to abide by a final judgment against it, the Committee of Ministers may now ask the Court to examine whether the State Party has failed to fulfil its obligation and bring infringement proceedings before the Court.

f) The **office term of judges** was amended: one judge is elected by the Parliamentary Assembly for each Member State. Each judge holds office for nine years and may not be re-elected (Article 23 of the Convention).

Candidates shall be less than 65 years of age at the date by which the list of three candidates has been requested by the Parliamentary Assembly (Article 21(2) of the Convention). There is a power of dismissal where a two-thirds majority of the judges consider that the judge has ceased to fulfil the required conditions (Article 23(3) of the Convention).[19]

Moreover, the Protocol introduces a new system of appointment of ad hoc judges. Thus, Member States are required to draw in advance a reserve list of ad hoc judges from which the President of the Court will choose when the need arises for such appointment (Article 26(4) of the Convention).

19 Prior to 1 June 2010, judges were elected for six years and could be re-elected.

In addition, the Council of Europe's Commissioner for Human Rights will be entitled to intervene as a third party before the Court (Article 36(3) of the Convention). The Commissioner can submit written comments to the Court and take part in hearings before a Chamber or Grand Chamber. The rationale behind Third Party Interventions lies in "the interest of the proper administration of justice". As the Court relies on the information provided by the parties, the risk exists of it missing out on some of the core issues at play. Third party interventions can in that sense add to the debate by providing information and relevant context. It is important to note that the weight of authority given to Third Party interventions depends on the case. Moreover, the European Network of National Human Rights Institutions notes that only rarely is it explicitly acknowledged that a specific intervention has been used or has had a particular impact.[20]

1.1.3 Protocol no. 15

Given that the Court continued to be inundated with cases, Protocol no. 15 was adopted in 2013 with the aim of continuing to improve the effectiveness of the Convention system. Protocol no. 15 was adopted following the Brighton Declaration in 2012. Much like Protocol no. 14, no reforms introduced in this protocol have affected the rights guaranteed in Convention. It included several administrative reforms to speed up the court process and ease the backlog of cases, as well as reinforce state sovereignty and prevent the European Court of Human Rights becoming a court of fourth instance. These reforms are:

a) References to both the principle of subsidiarity and the margin of appreciation were added to the preamble. Both key doctrines are relied upon by the court and nation states to retain sovereignty over their laws, with extensive jurisprudence developed by the court regarding both doctrines. It should be noted that preambles are not legally binding but do influence interpretations of the law. (Article 1 of Protocol No. 15, amending the preamble of the Convention.)

b) Putting an age limit on becoming an ECtHR judge, requiring any judge to be under the age of 65 and able to server the full nine-year term of office. (Article 2 of Protocol No. 15, amending Article 21 and deleting Article 23, paragraph 2 of the Convention.)

20 European Network of National Human Rights Institutions 'Third Party Interventions Before the European Court of Human Rights: Guide for National Human Rights Institutions' (2020) 8.

c) Reduced the time frame permitted to take an application to the Court following the domestic court decision from six to four months. (Article 4 of Protocol No. 15, amending article 35, paragraph 1 of the Convention)

d) Tightened the admissibility requirements of applications to the Court, in an attempt to prevent more trivial cases from appearing before the court, effectively strengthening the doctrine of *de minimis non curat praetor* (see below). (Article 5, amending article 35 paragraph 3(b) of the Convention.)

Protocol no. 15 entered into force on the 1st August 2021. At the time of writing, the effects of the reform remain to be seen.

1.1.4 Protocol no. 16

Protocol no. 16 is an optional protocol of the Convention that allows national courts of states party to the protocol to request advisory opinions from the Court. This varies from advisory opinions requested under Articles 47 to 49 of the Convention, which allows for requests by the Committee of Ministers. Such advisory opinions are not binding upon the courts that request them, and they do not prevent such cases where an advisory opinion was provided from being later brought before the Court.

On the 8 April 2019, Protocol no. 16 has only been signed by twenty-two states and ratified by twelve.[21] The court has received requests and granted five advisory opinions thus far.[22]

1.2 Substantive Rights Covered by the European Convention

Article 1 obligation to respect human rights
Article 2 right to life
Article 3 prohibition of torture
Article 4 prohibition of slavery and forced labour
Article 5 right to liberty and security

21 As of August 2020, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Malta, Monaco, Montenegro, North Macedonia, Norway, Poland, Portugal, Moldova, Romania, Russia, Serbia, Spain, Sweden, Switzerland, Turkey and the United Kingdom have not ratified Protocol No. 16, Find the full list at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/214/signatures?module=treaty-detail&treatynum=214.

22 See *Advisory opinion concerning the recognition in domestic law of a legal parent-child relation between a child born through gestational surrogacy arrangement abroad and intended mother* request no. p16-2018-001 (ECtHR, 10 April 2019) for the first advisory opinion granted by the court.

Article 6 right to a fair trial
Article 7 prohibition of retrospective penalties
Article 8 right to respect for private and family life
Article 9 freedom of thought, conscience, and religion
Article 10 freedom of expression
Article 11 freedom of assembly and association
Article 12 right to marry
Article 13 right to an effective remedy
Article 14 prohibition of discrimination
Article 15 derogation in time of emergency
Article 16 restrictions on political activity of aliens
Article 17 prohibition of abuse of rights
Article 18 limitation on use of restrictions on rights

1.3 Additional Protocols to the Convention

The substantive rights have been supplemented by additional protocols, which can be found as **Annex A.**

Protocol No. 1:[23] Adopted in 1952 and came into force in 1954. The rights protected are as follows:

1) peaceful enjoyment of possessions
2) right to education
3) free elections at reasonable intervals

This protocol has been ratified by most Contracting States[24].

Protocol No. 4:[25] Adopted in 1963 and came into force in 1968. The rights protected are as follows:

1) no deprivation of liberty merely on the grounds of inability to fulfil a contractual obligation
2) freedom of movement and residence
3) no expulsions of nationals
4) prohibition of collective expulsion of aliens

23 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 20 March 1952, entered into force 18 May 1954) ETS No. 009 (ECHR) Protocol No. 1.

24 As of October 2022, Switzerland and Monaco have not ratified Protocol No. 1

25 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 6 September 1963, entered into force 2 May 1968) ETS No. 046 (ECHR) Protocol No. 4.

This has been ratified by most Contracting States.[26]

Protocol No. 6:[27] Adopted in 1983 and came into force in 1985. The sixth protocol provides for the abolition of the death penalty (except in time of war or imminent threat of war). This has been ratified by most Contracting States.[28]

The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 11 May 1994, entered into force 1 November 1998) ETS No. 155 (ECHR) Protocol No. 11

Protocol No. 7:[29] Adopted in 1984 and came into force in 1988. The rights protected are as follows:

1) conditions on expulsion of lawfully resident aliens
2) right of review of a criminal conviction or sentence
3) compensation for miscarriages of justice
4) no second criminal trial or punishment
5) equality of rights of spouses.

This has been ratified by most Contracting States.[30]

Protocol No. 12:[31] Adopted on 26 June 2000 and came into force on 1 April 2005. It provides a free-standing prohibition against discrimination. This is a significant introduction that adds to the non-discrimination provision in Article 14 of the Convention. As of 2022, 38 states have signed Protocol No. 12, and only 20 states have ratified it.[32]

26 As of October 2022, Switzerland and Greece have not signed and Turkey and the UK, have not ratified Protocol No. 4.

27 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 28 April 1983, entered into force 1 March 1985) ETS No. 114 (ECHR) Protocol No. 6.

28 As of August 2020, Russia is the only state not to have ratified Protocol No. 6.

29 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 22 November 1984, entered into force 1 November 1988) ETS No. 117 (ECHR) Protocol No. 7.

30 As of October 2022, Germany and the Netherlands have signed but not ratified Protocol No. 7, the United Kingdom has neither signed nor ratified the Protocol.

31 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 2000, entered into force 1 April 2005) ETS No. 177 (ECHR) Protocol No. 12.

32 As of October 2022, the following states have not ratified Protocol No. 12: Austria, Azerbaijan, Belgium, Czech Republic, Estonia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Norway, Republic of Moldova, Slovak Republic, Turkey, and Russia. The following states have neither signed nor ratified the Protocol: Bulgaria, Denmark, France, Lithuania, Monaco, Poland, Sweden, Switzerland, and the United Kingdom.

Protocol No. 13:[33] Adopted on 21 February 2002 and came into force on 1 July 2003. It abolishes the death penalty in all circumstances, including crimes committed during war and imminent threat of war. As of October 2022, this has been ratified by 44 Contracting States.[34]

1.4 Types of Cases

Cases can be brought by way of individual application or as an inter-state case. Additionally, third parties may be permitted to intervene in cases.

Individual application: this process is outlined in detail in Chapters 2 and 3 below.

Inter-state cases: any Member State may refer to the Court any alleged breach of the Convention by another Member State (Article 33 of the Convention). It is not necessary for the applicant Member State or any of its nationals to have been affected by the alleged violation. Chambers will decide the admissibility and merits of inter-state cases (Article 29(2) of the Convention). Cases may be relinquished or referred for re-hearing.

Third party intervention: the President may permit any Convention signatory or 'any person concerned' to submit written comments or participate in hearings (Article 36(2) of the Convention).

Applications for permission to intervene can be made by letter to the President of the Court. If permission is granted by the President, it is likely to be conditional. For example, interveners will usually be required not to comment on the facts or law of the particular case, and they may be required to keep their submissions within a specified length. There is, otherwise, no required format for an intervention.

It is advisable (but not necessary) to consult with the applicant(s) in relation to an intervention, for example, to avoid duplication of submissions. Interventions may be useful for the Court in providing, among other things, the wider context relating to the particular case in question or relevant comparative jurisprudence.

According to the amended Article 36, the Commissioner for Human Rights may submit written comments and take part in hearings in all cases before the Chamber and the Grand Chamber, and no longer has to request a leave to do so.

33 The Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 3 May 2002, entered into force 1 July 2003) ETS No. 187 (ECHR) Protocol No. 13.

34 Azerbaijan has not signed, and Armenia has not ratified Protocol No. 13.

1.5 Rules of the Court

The Rules of the Court were adopted on 4 November 1998 and were last amended in October 2022. The rules specify the procedure and internal workings of the Court. A copy of the rules can be found under **Annex I.**[35]

1.6 Underlying Convention Principles

Democratic Society: The principle of democratic society is also prominent in the Convention. In the Preamble, the Contracting Parties reaffirm their profound belief that the fundamental freedoms, which are the foundation of justice, are best maintained by, among other approaches, effective political democracy. An interference with many of the rights guaranteed in the Convention is justified only if it is necessary in a democratic society for one of the listed aims (see Articles 8-11 of the Convention).

Subsidiarity: The Convention system is subsidiary to the national systems of the Contracting Parties. Thus, applicants are required to exhaust effective domestic remedies before filing an application to the Court. The Principle of Subsidiarity is included in the preamble of the Convention through the reforms made in Protocol 15, designed to highlight the importance of national courts in the human rights framework.

Margin of Appreciation: The Court refers to the national authorities' margin of appreciation doctrine when it assesses whether a limitation upon one of the rights and freedoms guaranteed in the Convention is necessary in a democratic society. This margin signifies a space of deference for the Member States own judgment. This space can be wide or narrow, which signals the stringency of the Court's review. For example, in cases concerning limitations of the freedom of the press, the Court usually maintains a narrow margin of appreciation, unless the prohibited publication is initiating violence. Conversely, in cases concerning environmental planning or regulation of names, the Court has found that national authorities enjoy a wider margin of appreciation. This means that the Court carries out a less strict review. While the margin of appreciation is a clear limit on the application of the Court, it should be emphasized that the margin of appreciation available to states is never unlimited.

35 The rules can also be downloaded at: https://www.echr.coe.int/documents/rules_court_eng.pdf.

There is no absolute deterrence on the national decision-making processes. Member states must always use their judgment in good faith and the Court has the final authority to determine whether national actions are reasonable, such as whether the state's chosen course of action is consistent with the goal and purpose of the governing norm. The Margin of Appreciation has now been included in the Convention through the reforms made in Protocol 15, aiming to strengthen national discretion with regards to human rights principles.

Proportionality: The Court uses the principle of proportionality when it assesses whether an interference with many of the Convention provisions (for example, Articles 8-11, Article 14) constitutes a violation.

The principle of proportionality requires that there be a reasonable relationship between a particular objective to be achieved and the means used to achieve that objective. The test set out in *Handyside v United Kingdom*[36] described the issue of proportionality in the context of fundamental rights. The following four questions were considered by the Court:

(i) Is there a pressing social need for some restriction of the Convention?
(ii) If so, does the particular restriction correspond to this need?
(iii) If so, is it a proportionate response to that need?
(iv) In any case, are the reasons presented by the authorities, relevant and sufficient?

The Convention as a 'Living Instrument': The Convention is a multilateral treaty and the Court has held, as early as 1975, that it will be guided in its interpretation of the Convention provisions by the principles codified in the Vienna Convention on the Law of the Treaties 1969.[37]

In *Tyrer v. UK,* the Court held that the 'the Convention is a living instrument which must be interpreted in the light of present day-conditions'.[38] This doctrine has been invoked by the Court in several cases. For example, in *Loizidou v. Turkey*, it was held that the 'living instrument' doctrine should not only be confined to the substantive provisions of the Convention but it should also apply to provisions, such as Articles 25 and 46, which govern the operation of the Convention's enforcement machinery.[39]

36 *Handyside v. the United Kingdom* App No. 5493/72 (ECtHR, 7 December 1976).
37 *Golder v. the UK* (1975) 1 EHRR 524.
38 *Tyrer v. the* UK App No. 5856/72 (ECtHR 25 April 1978) para 31.
39 *Loizidou v. Turkey (Preliminary Objections)* App No. 15318/89 (ECtHR, 18 December 1996).

According to the Court, 'these provisions cannot be interpreted solely in accordance with the intentions of their authors as expressed more than forty years ago'.[40] Sometimes, the Court interprets the Convention by referring to its 'dynamic and evolutive' interpretation which is another facet of the 'living instrument' doctrine.[41]

Positive Obligations: The concept of positive obligations on the part of Member States has been developed over the last thirty years as a tool for interpreting the guaranteed rights and freedoms in a more practical and effective way.[42]

The Court applies this doctrine in its case law to require Contracting States to fulfil not only negative obligations of non-interference, but also positive obligations to take reasonable and appropriate measures as necessary in the circumstances.

For example, the Court has articulated several key positive obligations under Article 2 of the Convention, including the duty to undertake effective investigations into killings[43] and the obligation to provide protection to persons whose lives are known to be at immediate risk from the criminal acts of others.[44] Analogous investigation obligations have been developed under Articles 3[45] and 5 of the Convention.[46]

The first case where the Court imposed a positive obligation upon States to provide civil legal aid for complex cases was *Airey v. Ireland*.[47] In this case the applicant, Mrs. Airey, was unable to divorce her husband because she could not afford the high legal costs needed for that, and free legal aid was also not available. This resulted in a violation of Articles 6 and 8 of the Convention, as a positive duty rested upon Ireland to remove the obstacles to a right to free trial. In *X. and Y. v. Netherlands*[48], the Court held that the Convention creates obligations for States which may involve the adoption of measures even in the sphere of the relations of individuals between themselves'.[49] This

40 Ibid, para 70.
41 Aistair Mowbray, 'The Creativity of the European Court of Human Rights' (2005) 5 HRLR 1, 57, 64.
42 *Airey v. Ireland* App No. 6289/73 (ECtHR, 9 October 1979) para 24.
43 First stated in *McCann v. UK* App No. 19009/04 (ECtHR, 13 August 2008) para 37.
44 See *Osman* v. UK App No. 23452/94 (ECtHR, 28 October 1998).
45 See *Assenov v. Bulgaria* App No. 24760/94 (ECtHR, 28 October 1998).
46 See *Kurt v. Turkey* App No. 24276/94 (ECtHR, 28 May 1998).
47 *Airey v. Ireland* App No. 6289/73 (ECtHR, 9 October 1979).
48 *X. and Y. v. Netherlands* App No. 8978/80 (ECtHR, 26 March 1985).
49 *X. and Y. v. Netherlands* App No. 8978/80 (ECtHR, 26 March 1985) para 6.

was continued in the case *Osman v. United Kingdom*,[50] which requests state authorities to take measures to protect individuals known to be at 'immediate risk to life' from the actions of other living individuals.

In the 2009 judgment in *Opuz v. Turkey*,[51] the Court held that the Turkish authorities failed to protect the applicant against ill-treatment perpetrated by her former husband under Article 2 and 3 of the Convention. The Court considered whether, and concluded that, a state can be held responsible for acts of domestic violence under Articles 2, 3 and 14.

Principle de minimis non curat praetor: The *principle de minimis non curat praetor* (literally, 'the praetor does not concern himself with trifles') is reflected in Article 35 of the Convention which states that 'The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that (it is) … an abuse of the right of application.'

The Court is not restricted in its use of any information and argumentation it deems relevant to decide whether the principle can be applied.

An example of the Court's approach can be seen in *Bock v. Germany*. In this case the applicant, a civil servant, made a request for aid to his employer and asked to be reimbursed for 7.99 EUR, which he had paid for magnesium tablets prescribed by his physician.[52] The case reached the Court based on an Article 6 argument concerning the lengths of the proceedings the applicant initiated to receive the reimbursement.

In its application of Article 35, the Court paid particular attention to the disproportion between the triviality of the facts against the background of the Court's workload and the large number of pending applications, which raised serious issues on human rights.

The Court further observed that such proceedings contributed to the congestion of the courts at the domestic level and therefore to the excessive length of court proceedings. It also took the applicant's comfortable financial situation as a government official into consideration and the fact that there was no significant question of principle involved.

50 *Osman v. UK* App No. 23452/94 (ECtHR, 28 October 1998) para 116.

51 *Opuz v. Turkey* App No. 33401/02 (ECtHR, 9 June 2009).

52 *Bock v. Germany* App No. 11118/84 (ECtHR, 29 March 1989).

Noting that the issue of excessive length of court proceedings had been dealt with by the Court in numerous cases – in particular, including against the Respondent Government – in which the principles of the reasonable time requirement of Article 6(1) of the Convention had been laid down, the Court found it appropriate to reject the application as a whole as an abuse of the right of application.

It should be noted that the use of this doctrine may become more frequent in future given the reforms set out in Protocol 15. Some believe these reforms attempt to empower the *Principle de minimis non curat praetor*. Others are of the opinion that this is purely meant to be a symbolic change.[53] At the time of writing, Protocol 15 has only recently been implemented, so it remains to be seen if this is the case.

1.7 The Pilot – Judgment Procedure

The efficiency of the Convention system is threatened not only by the high number of repetitive and clone cases in the Court's backlog,[54] but by the prevalence of late (and non) executions of the Court's judgments. In this regard, the number of cases pending before in 2017 concerned 7,584 and 81 per cent were repetitive.[55]

To address this issue, the Court developed the pilot-judgment procedure as a means of dealing with large groups of identical cases that derive from the same underlying problem (Rule 61, Rules of Court). It is intended to help national authorities to eliminate systematic or structural problems highlighted by the Court as giving rise to repetitive cases. In doing this, it also assists the Committee of Ministers in its role of ensuring that each judgment of the Court is properly executed by the Respondent State.

In a pilot judgment, the Court aims:

- to determine whether there has been a violation of the Convention in the particular case;
- to identify the systematic issue under national law, policy or practice that is at the root of the violation;

53 See for example, Dilan Gümüştas, 'Protocol No. 15 to the ECHR: a new era of subsidiarity or a symbolic change? (Oxford Human Rights Hub, 5 November 2021) https://ohrh.law.ox.ac.uk/protocol-no-15-to-the-echr-a-new-era-of-subsidiarity-or-a-symbolic-change/ accessed 30 November 2022.

54 European Court of Human Rights, 'Annual Report 2009 of the European Court of Human Rights, Council of Europe' (Registry of the European Court of Human Rights, Strasbourg, 2010) 5.

55 Department for the Execution of Judgments of the European Court of Human Rights, 'Overview 1998 – 2017' https://rm.coe.int/overview-1998-2017-eng/16807b81c9 accessed 29 November 2022.

- to give clear indications to the Government as to how it can eliminate the systematic issue;
- to give guidance on general measures that can be used to bring about the creation of a domestic remedy capable of dealing with similar cases (including those already pending before the Court awaiting the pilot-judgment), or at least to bring about the settlement of all such cases pending before the Court.

  However, not every category of repetitive cases is suitable for a pilot-judgment procedure and not every pilot-judgment leads to an adjournment of cases, especially where the systemic problem touches on the most fundamental rights of the person under the Convention.

  The Court has used the procedure flexibly since it delivered the first pilot-judgment in 2004 concerning the 'Bug River' cases against Poland,[56] which resulted in the introduction of new legislation to resolve the underlying systemic issue and the settlement of similar pending cases at the Court.[57]

  Another case examined using this approach is the KHRP-assisted case of *Chiragov and Others v. Armenia*,[58] which was heard before the Grand Chamber on 15 September 2010.[59] This case concerned the flight of six applicants and their families, all Azeri Kurds, from their villages in the Azerbaijan region of Lachin following an attack by Armenian military forces in 1992. Since that time the applicants have been unable to return to their homes and property, as the area remains the subject of an international dispute between Armenia and Azerbaijan. The outcome of this case impacts upon the approximately 30,000 Azeri persons displaced as a result of the capture of Lachin.

  On 16 June 2015 the Court, ruling on the merits of these cases, found a continuing violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights; a continuing violation of Article 8 (right to respect for private and family life) of the Convention; and a continuing violation of Article 13 (right to an effective remedy). However, only on the 12th of December 2017 did the Court rule on the question of just satisfaction in *Chiragov*. The Armenian Government was ordered to pay EUR 5,000 in respect of pecuniary and non-pecuniary damage to each of the applicants and a total amount of 28,642.87 pounds sterling for costs and expenses.

56 *Broniowski v. Poland* ECHR 2004-V. See also Broniowski v. Poland ECHR 2005-IX.

57 *See E.G v. Poland* App No. 50425/99 (ECtHR, 23 September 2008).

58 *Chiragov and Others v. Armenia* App No. 12316/05 (ECtHR, 16 June 2015).

59 The webcast of the hearing can be found at: http://www.echr.coe.int/ECHR/EN/Header/Press/Multimedia/Webcasts+of+public+hearings/webcastEN_media?&p_url=20100915-1/en/.

1.8 The Future of the Court

Although the changes introduced by Protocols No. 14, No. 15 and the pilot-judgment procedure have the potential to make significant improvements to the Court's excessive workload, they have failed to offer a complete solution. For instance, in the context of armed conflict cases the pilot judgment approach appears to contradict the reality of armed conflicts, where the main cause of repeated applications is related to the extent of military operations rather than defective law or administrative practice. Since 1959, the Court has delivered more than 24,511 judgments. Almost half of these judgments were made against three States: Russia, Ukraine, and Romania. In more than 84 per cent judgments delivered in 2021, the Court found a violation of the Convention.[60]

While the Covid pandemic has led to a small reduction of new applications in 2020, down 6 percent on 2019. This has had little effect on the number of cases pending within the court, which remains around 60,000.

Russia, Turkey, and Ukraine have the highest number of pending cases within the European Court of Human Rights. These three states hold over half the number of pending cases within the Court, with Russia having 13,645 cases pending, Turkey 11,750 and Ukraine 10,408.

In light of this situation, several decisions and resolutions were made over the years by the Member States, NGOs and the Court itself in order to improve the efficiency of the Court and uphold the protection of the Convention.

1.8.1 The Interlaken, Izmir, Brighton, Oslo, Brussels, and Copenhagen Conferences

Following an initiative of the Court, multiple high-level conferences on the future of the Court were organised in Interlaken (Switzerland, 2010), Izmir (Turkey, 2011), Brighton (United Kingdom, 2011), Oslo (Norway, 2014), Brussels (Belgium, 2015), and Copenhagen (Denmark, 2018). These meetings were held with the purpose to reaffirm the commitment of the Member States to the protection of human rights in Europe and to agree on a plan for the future development of the Court. In trying to

60 The European Court of Human Rights, 'The European Court of Human Rights in Facts & Figures 2021' (Council of Europe, 2021), https://www.echr.coe.int/Documents/Facts_Figures_2021_ENG.pdf, 5.

achieve this, the conferences facilitate dialogue between scholars, judges, and governmental experts.[61] At the end of the conferences, declarations and oftentimes action plans were established.

After the first of these meetings, the Interlaken conference, the Member States issued a joint declaration which included an Action Plan containing short- and middle-term measures as well as an agenda for their implementation. Member States agreed to inform the Committee of Ministers before the end of 2011 about the measures taken with respect to certain proposals. The Action Plan proposed that between 2012 and 2015, the Committee of Ministers evaluate the extent to which the implementation of Protocol No. 14 and the Action Plan improved the operation of the Court, and before the end of 2019 the Committee had to decide whether more significant changes were necessary.

The main points of the Action Plan concerned the following areas:

- Right to Individual Petition
- Implementation of the Convention at National Level
- Filtering
- Repetitive Applications
- The Court
- Supervision of Executions of Judgments
- Simplified Procedure for Amending the Convention

Further details of the Interlaken Declaration and Action Plan can be found in Annex H. Any developments, including proposed safeguards, need to be carefully considered in order to ensure that changes are not introduced that effectively limit the right to individual petition. For instance, after the Interlaken Declaration, discussions took place about potentially imposing fees on applicants, requiring applications to be submitted in either English or French, and requiring applicants to be represented by a lawyer.[62] While these ideas were dismissed eventually, they would have had the effect of curtailing access to the Court for people in Europe who are unable to make such

61 'The long-term future of the European Court of Human Rights' (University of Oslo) https://www.jus.uio.no/pluricourts/english/news-and-events/events/2014/coe-conference-en/ accessed 8 November 2022.

62 One of them being Turkey, see Council of Europe "Proceedings/Actes", High Level Conference on the future of the European Court of Human Rights, Interlaken, 18-19 February 2010, Turkey, Mr Cevdet Yilmaz, 103; Implementation of the Interlaken Declaration: Draft Report on the Access to the Court - Fees for Applicants.

payments, potentially infringing on their right of equality before the law. Therefore, it remains essential to strike the right balance between improving backlogs within the Court and keeping the Court available to all.

On their substance, the declarations focused mostly on the division of tasks between the Court and the Member States. In that sense, paragraph 9(a) of the Interlaken Action plan specifically acknowledges the subsidiarity of the Court, affirming that it is not a fourth instance court. This marked the first time this was acknowledged in an official document as well as the start of a discussion over the principle of subsidiarity and the discretion of the Member States.[63]

A year after Interlaken, another conference was held in Izmir for the same purposes. Paragraph 5 reiterated that '... the subsidiary character of the Convention mechanism constitutes a fundamental and transversal principle which both the Court and States Parties must take into account'. In the conclusions of the follow-up plan of the Izmir Declaration, the Court is once again ordered to avoid examining the issues of fact and law decided by national courts.[64] Moreover, the Court was invited to confirm this principle in its case-law.

However, during the closing speech for the subsequent Brighton conference, former president of the Court, Nicolas Bratza, expressed his discomfort with Member States dictating how the case law of the Court should evolve, particularly in light of the rule of law and the independence of the judiciary.[65] Therefore, the 2012 Brighton declaration seemed to shift the emphasis from the responsibility of the Court to a shared responsibility between the Court and the Member States.[66] Paragraph 3 of the Brighton declaration for instance declares that State Parties must effectively resolve violations at the national level and abide by the final judgment of the court.

Despite this pushback, it has been argued in academic literature that on several occasions, the Court departed from its own case law in favour of deference to national courts. In doing so, relativising what was formerly an absolute rule or prohibition.[67]

63 Jon Petter Rui, 'The Interlaken, Izmir and Brighton Declarations: Towards a Paradigm Shift in the Strasbourg Court's Interpretation of the European Convention on Human Rights?' (2013) 31 NJHR 1, 33.

64 Conclusions follow-up plan, F. para 2(c) .

65 https://www.echr.coe.int/Documents/Speech_20120420_Bratza_Brighton_ENG.pdf

66 Hubert Smekal and Nino Tsereteli, 'Reforming to Please: A Comprehensive Explanation for Non-Exit from the European Court of Human Rigts' (2021) 17 European Constitutional Law Review, 664, 673.

67 Jon Petter Rui, 'The Interlaken, Izmir and Brighton Declarations: Towards a Paradigm Shift in the Strasbourg Court's Interpretation of the European Convention on Human Rights?' (2013) 31 NJHR 1, 49.

In 2015, the Brussels conference was held, resulting in the Brussels declaration. Article 34 of this declaration reiterates that the right to individual application should not be hindered. Moreover, with Brussels, the emphasis started to lie on non-execution by Member States.[68] The primary obligation is put on the Member States to enforce the judgement, while acknowledging that the backlogs come mostly repetitive applications. Subsidiarity comes in second place.[69]

The following conference, that led to the Copenhagen declaration (2018), was marked by insistence on dialogue between court and governments through formal and informal mechanisms. The ability to request advisory opinions grounded in Protocol No. 16 has to be seen in that light too.[70] However, the expansion of dialogue was also met with criticism from many, as worries persisted that dialogue beyond the already existing opportunities would lead to politicisation of the Court.[71] Simultaneously, governments have continued to advocate for more sovereignty and less influence from the European Court of Human Rights.[72]

Ultimately though, Copenhagen once again reaffirms the right to individual application,[73] subsidiarity, and the primary obligation of member states to enforce judgments.[74] It established that the most effective way of dealing with human rights violations remains at the national level.[75]

The Copenhagen, Izmir, Brighton, Brussels, Interlaken and Oslo Declarations can also be found in Annex H.

68 Preamble of the Brussels declaration, see for example 'Stresses the importance of further promoting knowledge of and compliance with the Convention within all the institutions of the States Parties'.

69 High level Conference on the "Implementation of the European Convention of Human Rights, our shared responsibility", Brussels Declaration, 27 March 2015, available at https://www.echr.coe.int/Documents/Brussels_Declaration_ENG.pdf

70 Ibid. Paras 33-41, para 37(a).

71 James A. Goldston and Shirley Pouget, 'The Copenhagen Declaration: how not to "reform" the European Court of Human Rights' (2018) 3 European Human Rights Law Review, page 208.

72 For example from Denmark, who had their presidency that year, see Nicola Anne Witcombe, 'The European Convention on Human Rights: Copenhagen Declaration 2018' (NordicsInfo, 26 April 2019) < https://nordics.info/show/artikel/the-european-convention-on-human-rights-copenhagen-declaration-2018 > accessed 1 December 2022.

73 Copenhagen Declaration 2018, para 2 available at https://www.echr.coe.int/Documents/Copenhagen_Declaration_ENG.pdf .

74 Ibid. Para 20.

75 Ibid. Para 10.

1.8.2 EU Accession to the ECHR

Protocol No. 14 provides, among other things, the legal basis for the possibility of EU accession to the Convention, to which the EU is committed pursuant to Article 6 of the Lisbon treaty (2007). The European Commission proposed negotiation directives for the EU's accession to the Convention in March 2010.

The negotiations for EU accession are ongoing and will address questions such as the relationship between the EU courts system and the Court, the procedures for bringing EU law-related cases to the Court, and whether the EU will appoint a judge as all other Member States do. While years of negotiations have passed, as of November 2022, the accession process remains an ongoing affair and is likely to remain so for the near future.

2. OUTLINE OF THE PROCEDURE FOR TAKING CASES TO THE EUROPEAN COURT OF HUMAN RIGHTS

A flowchart summarising the process below is attached at **Annex F.**

2.1 Lodging an Application with the Court

Contact details:

European Court of Human Rights
Council of Europe
67075 Strasbourg Cedex
France
Telephone: +33 (0)3 88 41 20 18
Fax: +33 (0)3 88 41 27 30
+33 (0)3 90 21 43 10
Website: http://www.echr.coe.int

The Court can easily be contacted in writing should there be any queries regarding the progress of a case. The relevant section staff are usually able to assist. The case name, Respondent State and application number should be stated in all correspondence. The Court now usually sends applicants a set of bar codes once the application has been submitted, which should be stuck on subsequent correspondence.

The application should identify the applicant(s), provide the relevant facts and any domestic proceedings, which have been brought and set out the Articles of the Convention, which the applicant claims have been breached (Rule 47, Rules of Court).

An application need *not* be submitted by a lawyer. Persons, non-governmental organisations or groups of individuals may also do so themselves (Rule 36(1), Rules of Court).

There is no Court fee.

The Court has two official languages, English and French (Rule 34(1), Rules of the Court). However, prior to an admissibility decision in a case, the introductory letter and indeed any communication or pleading submitted to the Court, may be in any one of the official languages of the Convention State Parties (Rule 34(2), Rules of the Court). After admissibility, parties will be required to communicate with the Court in English or French, unless they obtain the permission of the President of the Chamber to continue to use the official language of a State Party.

2.2 Registration of the Case

Once an application is received, it will be sent to the legal division responsible for the state against which the application is lodged. Your case will then be given a number and examined by a lawyer. The case will then be assigned to one of the Court's five sections (see **Annex E** for details of their composition).

Further points to note:

- Legal aid is *not* available at this stage.
- The application is registered on receipt of the completed application form. The Court will reply in writing to confirm receipt. The Court may also refer in the letter to any apparent problems as to the admissibility of the application (which the applicant should try to answer).
- Following registration, all documents lodged with the Court are accessible to the public (unless the Court decides otherwise).
- Once registered, an application is assigned to a Judge Rapporteur (whose identity is not disclosed to the applicant) to consider admissibility.

2.3 Examination of the Case

Article 26 of the Convention lays down ground rules for the composition of the judiciary organ determining the case.

1) To consider cases brought before it, the Court shall sit in a single-judge formation, in committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up committees for a fixed period of time
2) At the request of the plenary Court, the Committee of Ministers may, by a unanimous decision and for a fixed period, reduce to five the number of judges of the Chambers.
3) When sitting as a single judge, a judge shall not examine any application against the High Contracting Party in respect of which that judge has been elected.[76]

This examination takes place in two stages: admissibility and merits (see below).

76 European Convention on Human Rights, Article 26, Single-judge Formation, Committees, Chamber, and Grand Chamber.

2.4 Legal Aid

When a case is communicated to the Respondent Government, the applicant is then able to apply for legal aid. The applicant will have to complete a 'declaration of means' form. The assessment of financial means is carried out by the appropriate *domestic* authority. The Court will send an application for legal aid to the Government to comment on. The grant of legal aid is retrospective and there is a set scale of fees for each stage of the proceedings, and grants are very low. Monies are paid by bank transfer.

2.5 Interim Measures

Interim measures (Rule 39, Rules of the Court): a Chamber or its President may indicate to the parties any interim measures, which it considers should be adopted in the interests of the parties or the proper conduct of the proceedings.

The Court applies a threefold test:

1) There must be a threat of irreparable harm of a very serious nature;
2) The threat of harm must be imminent and irremediable; and
3) There must be an arguable *(prima facie)* case.

For example, interim measures may be applied where an applicant is threatened with expulsion to a country where there is a danger of torture or death. *In Shamayev and 12 Others v. Georgia and Russia*,[77] the Court requested the Georgian authorities to stay the extradition of several suspected terrorists of Chechen origin to Russia, pending receipt of more detailed information concerning the circumstances surrounding the extradition.[78]

Interim measures have also been applied in other types of cases. In *Öcalan v. Turkey*, the Court applied emergency interim measures under Rule 39, Rules of Court. The case concerned the death penalty sentence against PKK leader at the time, Abdullah Öcalan. The Court applied Rule 39 to ensure that the death penalty was not carried out so as to give the Court time to effectively examine the admissibility of the application under the Convention.[79]

77 *Shamayev and 12 Others v. Georgia and Russia* (Interim Measures) App No. 36378/02 (ECtHR, 4 October 2002).
78 See also *Babar Ahmad and Others v. UK* App Nos. 24027/07 et al (ECtHR, 6 July 2010).
79 *Öcalan v. Turkey* App No. 46221/99 (ECtHR, 2 May 2005).

More recently, the Court granted interim measures in a case against the United Kingdom concerning their policy of removing asylum-seekers to Rwanda under a new asylum partnership agreement. The Court ruled that an Iraqi asylum-seeker should not be removed to Rwanda until three weeks after the final domestic decision in his ongoing judicial review proceedings.[80]

Requests for interim measures in urgent cases should be sent to the Court by fax or by courier, preferably during working hours.[81] If a request is sent by e-mail, a hard copy should also be sent at the same time. The request should be marked as URGENT – RULE 39 in bold and written, where possible, in one of the official languages of the Contracting States in the following format:

"Rule 39 – Urgent
Person to contact (name and contact details): ...

[In deportation or extradition cases]
Scheduled date and time of removal and destination: ..."[82]

In extradition and deportation cases, a request and relevant supporting material should be submitted prior to the final domestic decision being issued. The requests must be accompanied with all necessary supporting documents such as relevant domestic decisions and any other material that will substantiate the applicant's allegations.

Failure of a State to comply with interim measures may amount to a violation of Article 34 of the Convention. More specifically, in *Mamatkulov and Askarov v. Turkey*,[83] the Court held that '…a failure to comply with interim measures had to be regarded as preventing the Court from effectively examining the applicant's complaint and as hindering the effective exercise of his or her right and, accordingly, as a violation of Article 34'.

80 *N.S.K. v. the United Kingdom (Interim Measures)* App No. 28774/22 (ECtHR, 13 June 2022).
81 The Court will NOT deal with requests sent by e-mail.
82 Rules of Court Practice Directions, requests for Interim Measures, para II.
83 *Askarov v. Turkey* App No. 46827/99 and 46951/99 (ECtHR, 4 February 2005).

2.6 Decision on Admissibility

Whether a case is admissible will be determined by a single judge, a committee of three judges, or a Chamber of seven judges, depending on the circumstances of the case as follows:

- An application may be declared inadmissible by a single Judge, where such a decision can be taken without further examination (Article 27(1)), as well as by a committee (Article 28(1) of the Convention), namely where such decision is based on clear, existing Convention case law. The Explanatory Report for Protocol No. 14 clarifies that '….the judge will take such decisions only in clear-cut cases, where the inadmissibility of the application is manifest from the outset'. However, a single judge cannot decide on the admissibility of an individual application filed against her or his own state (Article 26(3) of the Convention). Such decisions are final.
- If a single judge does not declare an application inadmissible or strike it out, that judge shall forward it to a committee or to a Chamber for further examination.
- If a committee does not declare an application inadmissible or strike it out, that committee may at the same time render a judgment on the merits, if the underlying question in the case, concerning the interpretation or the application of the Convention or the Protocols, is already the subject of well-established case law of the Court.
- The remainder of the cases are dealt with by a Chamber of seven judges.

  The Court may hold an oral hearing to decide admissibility, although this is now rare and usually only if the case raises difficult or new issues. An application may be declared admissible/inadmissible in part.

2.7 Communication of the Case

If a case is communicated to the Respondent Government, the Government will be asked to reply to specific questions (copies of which are sent to the applicant) within a stipulated time (extensions of time may be obtained by the Government).

2.8 Government's Observations and Applicant's Observations in Reply

Following the communication of a case to a Respondent State, that State is able to submit written observations to the Court concerning the application. A copy of the Government's written observations will be sent to the applicant. The applicant may

submit further written observations in reply (within a stipulated time). The Government will then be provided with an opportunity to respond to these (again, within a stipulated time).

2.9 Admissibility and Merits Addressed Together

The Court may decide an application's admissibility and merits at the same time (Articles 28(1)(b) of the Convention). This is happening on an increasing basis, mainly to speed up cases, particularly where they are repetitive.

If so, the Court will take this decision at the time of communicating a case to the Respondent State. The parties will be invited at that time to lodge submissions dealing with just satisfaction and friendly settlement.

Alternatively, where it considers it appropriate, a Chamber may decide to proceed to adopt a judgment on the merits, which incorporates the decision on admissibility without giving notice to the parties at the time of communication.

2.10 Establishing the Facts

The Court *may* examine witnesses and carry out fact-finding hearings and/or on-the-spot investigations, although this is rare.

2.11 Friendly Settlement

The friendly settlement procedure provides the Respondent Government and the applicant with an opportunity to resolve a dispute.

Following the decision on admissibility, the Court will write to the parties asking for any proposals as to settlement (Article 39 of the Convention). The case is struck off the Court's list of cases if settlement is agreed.

Applicants who receive friendly settlement proposals from a Respondent State would be advised to negotiate firmly for both redress, including compensation and costs, and for Government commitments to revise policy or practice or to introduce new legislation. These proceedings are confidential.

A friendly settlement may be concluded at any stage of the proceedings.

2.12 Final Submissions Post-Admissibility and Examination of the Merits

Where admissibility and merits are not considered together, the parties are invited to lodge final written submissions (commonly referred to as the 'Memorial'). This should encapsulate the totality of the applicant's case.

Details of any costs or compensation, which are being claimed should either be included with the Memorial or should be submitted to the Court within two months of the admissibility decision (or other stipulated time).

The Court will carry out a detailed examination of the merits.

2.13 Oral Hearing

The practice whereby the Court holds an oral hearing on the merits of the case is now the exception rather than the rule. The Court is generally more likely to do so if the case is of high legal or political importance or if further clarification is needed on the facts.

Where hearings occur, these take place in public, unless there are reasons for the hearing to be held in private. The hearings usually take no more than two hours in total. Applicants are usually given 30 minutes to make their initial oral arguments. If the Court asks questions of the parties there may be a 15 to 20-minute adjournment, then each party may have 15 to 20 minutes to answer questions and reply to the other side.

2.14 Judgment[84]

The Court's reasoned judgment is published several months after the submission of final written observations or after any oral hearing. Parties will be given notice of the date and time of delivery of the judgment, which will also be posted on the Court's website.

Judges may append their dissenting judgment to the majority judgment. Once final, judgments have binding force (Article 46(1) of the Convention).

The Court's primary remedy is a declaration that there has been a violation of one or more Convention rights.

84 Further information about judgments can be found in Chapter 4 below.

The judgment may include an award for 'just satisfaction' under Article 41. This may include compensation for both pecuniary and non-pecuniary loss and legal costs. Awards for just satisfaction may be reserved in order for the Court to receive further submissions.

The Court will *not* quash decisions of the domestic authorities or courts or strike down domestic legislation, but it may in some circumstances recommend that a Respondent State take particular measures. In instances where there has been a breach of the right to a fair trial, for example, the Court may recommend that the most appropriate form of relief would be to permit the applicant a retrial by an independent and impartial tribunal.[85]

There is *no provision* in the Convention for costs to be awarded against an applicant.[86] Parties have three months following the delivery of a Chamber judgment to request referral of the case to the Grand Chamber for fresh consideration. Requests for referral to the Grand Chamber are examined by a panel of judges which decides whether or not referral is appropriate. Judgments by the Grand Chamber are final and cannot be appealed.

85 *See Gencel v. Turkey* App No 53431/99 (ECtHR, 23 October 2003).

86 See section 4.2.5 for greater explanation of costs and expenses with regards to the ECtHR.

3. ADMISSIBILITY CRITERIA AT THE EUROPEAN COURT OF HUMAN RIGHTS

The admissibility rules are a critical aspect of the European Convention system as around 90 per cent of the applications lodged with the Court are currently deemed to be inadmissible.[87]

Article 34 of the Convention sets out the requirements relating to standing (i.e. who can bring a case). Article 35 sets out the admissibility criteria, the most important of which in practice are the requirement to exhaust effective domestic remedies and to submit an application to the Court within six months of the final decision in the domestic proceedings.

Article 34: The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 35:

1) The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of four months from the date on which the final decision was taken.
2) The Court shall not deal with any application submitted under Article 34 that
   a. is anonymous; or
   b. is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3) The Court shall declare inadmissible any individual application submitted under Article 34 which it considers that:
   a. The application is incompatible with the provisions of the Convention of the Protocols thereto, manifestly ill-founded or an abuse of the right of individual application; or
   b. The applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits
4) The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

The notion of 'significant disadvantage' was introduced by Protocol No. 14. The Court first applied the new criterion on the first day of its entering into force in the case of *Ionescu v. Romania*,[88] and then reconfirmed a month later in the case of *Korolev v. Russia*.[89]

In the latter case, the applicant complained about the failure of the Russian authorities to pay him 22.50 roubles (which amounted to 0.56 euros) which had been awarded by the domestic courts. He relied on Article 6 of the Convention and on Article 1 of Protocol No. 1. Although accepting that even a modest financial award might be significant for some people because of their personal circumstances or the economic situation of the country or region in which they lived, the Court considered less than one euro as of clearly negligible value and of minimal significance for the applicant.

The Court took into consideration that a violation of the Convention might concern an important question of principle and thus cause a significant disadvantage without affecting pecuniary interest and noted that the applicant had only complained of the failure to pay him less than one euro in dues.

In considering the safeguards that form part of Article 35(3)(b) of the Convention, the Court concluded that an examination of Mr Korolev's application on the merits was not required, recalling that on many previous occasions it had decided on claims concerning the non-execution of domestic judicial decisions in Russia and the need for adoption of general measures to prevent future violations stemming from non-execution. An examination on the merits of Mr Korolev's claim would not add anything new and consequently, was not necessary.

Concerning the due consideration by a domestic tribunal, the Court noted that Mr Korolev's case had been considered at two levels of domestic jurisdiction and his claims had been granted and that there had been due judicial consideration of his case at the national level.

87 Echr.coe , 'The admissibility of an application', 1 https://www.echr.coe.int/Documents/COURtalks_Inad_Talk_ENG.PDF

88 *Adrian Mihai Ionescu v. Romania* App No. 36659/04 (ECtHR, 1 June 2010).

89 *Vladimir Petrovich Korolev v. Russia* App No. 25551/05 (ECtHR, 1 July 2010).

The Court has noted itself that situation complaints falling under the scope of Articles 2 and 3 of the Convention would be inadmissible under the significant disadvantage ground.[90]

3.1 Standing and Capacity - Who May Petition the Court?

The rules relating to capacity and standing are not restrictive, although they are inextricably linked to the requirement that an applicant must claim to be the victim of a violation of one or more Convention rights (which is dealt with below).

Article 34 of the Convention states that the Court may receive applications from 'any person, non-governmental organisation or group of individuals…' Accordingly, individuals, groups of individuals, NGOs, companies (even if dissolved),[91] shareholders, trusts, professional associations, trade unions, political parties and religious organisations may all submit applications to the Court. Depending on the nature of the Convention violation alleged, a company itself may bring an application under the Convention, as may the chair and managing director of the company[92] and individual shareholders in exceptional circumstances.[93]

However, certain rights by definition can only be claimed by individuals and cannot extend to organisations, such as freedom of thought, conscience and religion,[94] the right to education[95] and the right not to be subjected to degrading treatment or punishment.[96]

3.1.1 Nationality and Residence

Nationality and place of residence are irrelevant to the right of individual petition, reflecting the obligation in Article 1 for the parties to secure Convention rights to everyone within their jurisdiction. The test applied is whether or not the applicant can claim to be a victim of a violation of their Convention rights, where such violation occurred within the jurisdiction of the Respondent State.

90 European Court of Human Rights, 'Practical guide on admissibility criteria' (Registry of the Court, 2022) 80, para 324.

91 *Pine Valley v. Ireland* (1992) 14 EHRR 319, para 42.

92 *Kaplan v. UK* (1982) 4 EHRR 64.

93 *Agrotexim v. Greece* (1996) 21 EHRR 250.

94 X and Church of Scientology v. Sweden App No. 7805/77 (ECtHR, 5 May 1979.

95 Ingrid Jordebo Foundation of Christian Schools v. Sweden App No. 11533/85 (ECtHR, 8 December 1987).

96 Kontakt-Information-Therapie and Hengen v. Austria App No. 11921/86 (ECtHR, 12 October 1988).

3.1.2 Legal Capacity

Lack of legal capacity may not affect the right of petition,[97] but applicants may be represented by a relative or other suitable person. Where, however, applicants are represented before the Court by a relative or other person, the Court will require evidence of their authority to represent the applicant.

In *Zehentner v. Austria*[98] an applicant who was lacking legal capacity under domestic law was permitted to present his own case before the Court, despite his guardian's disapproval.

3.1.3 Children

Children may be applicants in cases before the Court, both in conjunction with adult 'victims' arising from the same complaint and in their own right. For example, in *Marckx v. Belgium*,[99] an unmarried mother and her young daughter complained of the illegitimacy laws in Belgium, including in relation to the bequeathing and inheritance of property. The case of *A v. UK*[100] concerned the severe ill-treatment of the applicant child by his stepfather and the failure of the State to provide the child with protection from ill-treatment.

Children may also be represented by a parent,[101] unless there is a conflict of interest or for any reason the parent does not have legal standing in domestic law to do so. In *Hokkanen v. Finland*[102] an application was brought by a father in respect of a child custody dispute with the child's maternal grandparents. The applicant's father also lodged an application on behalf of his daughter, but that aspect of the case was declared inadmissible as it was found that he was no longer the child's custodian at the relevant time. Where it is alleged that parents have a conflict of interest with any child on whose behalf they purport to act, the Court has emphasised that the key consideration is that any serious issues concerning respect for a child's rights should be examined.[103]

97 See, for example, *Winterwerp v. The Netherlands* (1979) 2 EHRR 387; *Van der Leer v. the Netherlands* ECtHR (1990) 12 EHRR 567.

98 *Zehentner v. Austria* App No. 20082/02 (ECtHR, 16 July 2009).

99 *Marckx v. Belgium* (1980) 2 E.H.R.R. 330.

100 A v. UK App No. 25599/94 (ECtHR, 23 September 1998).

101 *Campbell and Cosans v. UK* (1981) 3 EHRR 531.

102 *Hokkanen v. Finland* (1995) 19 EHRR 139.

103 *P, C and S v. UK* App No. 56547/00 (ECtHR, 11 December 2001).

In 2021, in the judgment of *A.M. and Others v. Russia*,[104] the Court clarified that the best interest of the child is entrusted to the custodial parent. In the case of A.M., a transgender woman from Russia saw her parental rights restricted after her transition. While the Court ruled that a violation of Articles 8 and 14 of the Convention had taken place regarding the applicant, this was not extended to the children whose application was ruled inadmissible. This ruling has sparked much criticism as it prevented the children from presenting their own standpoints, even though the case revolves around them and their best interests too.[105]

Children may be represented at the Court by others, such as solicitors, provided that the representative produces proof of their authority to act. For example, in *SD, DP and T v. UK*,[106] which concerned delay in care proceedings, the application was brought by a solicitor on behalf of the three children, supported by a letter of authority from the guardian ad litem appointed by the court to safeguard the interests of the children in the domestic proceedings. This was challenged by the Government who argued that neither the solicitor nor the guardian ad litem had authority to act on the children's behalf in the proceedings under the Convention. However, the Commission rejected the Government's objections, emphasising that it would not take a restrictive or technical approach to such questions, as children generally relied on others to represent their interests, and required specific protection of their interests which had to be both practical and effective. No conflict of interests was found to arise and based on the facts, there was no alternative means of representation.

3.1.4 Death of an Applicant

The Court will not accept applications in the name of a deceased person. However, it is well established that an application can be brought on behalf of the deceased by a close relative or heir. For example, the case of *McCann v. UK*,[107] Concerning the fatal shooting of three members of the IRA in Gibraltar by British soldiers, was brought by members of the victims' families who were representatives of the estates of the deceased. In *Keenan v. UK*,[108] following her son's suicide in prison, the applicant

104 *A.M. and Others v. Russia* App No. 47220/19 (ECtHR, 6 July 2021).

105 Ingrida Milkate and Pieter Cannoot, 'A.M. and Others v. Russia: Representation of Children Before the ECtHR' (*Strasbourgobservers*, 12 November 2021) <https://strasbourgobservers.com/2021/11/12/a-m-and-others-v-russia-representation-of-children-before-the-ecthr/> accessed 9 November 2009.

106 *SD, DP and T v. UK* (1996) 22 EHRR CD 148.

107 *McCann v. UK* (1996) 21 EHRR 97.

108 *Keenan v. UK* (Comm. Rep.) App No. 27229/95 (ECtHR, 6 September 1999).

complained of the prison authorities' failure to take adequate steps to safeguard her son's life.

It is *not* necessary for an applicant in such cases to have to establish financial dependency or pecuniary loss. In *Keenan*,[109] the applicant's son had been over 18 when he died and he had no dependants, which effectively ruled out proceedings under the Fatal Accidents Act 1976 or for bereavement damages. The absence of any pecuniary loss did not prevent Mrs Keenan from making an application to the Commission and indeed the very fact that she could not bring domestic proceedings in respect of her son's death led to a finding by the Court of a violation of the right to an effective remedy under Article 13 of the Convention.

Where the standing of an applicant to bring Convention proceedings in respect of a deceased relative has been challenged, the Strasbourg institutions have underlined the objective and purpose of the Convention as being to provide practical and effective safeguards.[110]

If an applicant dies whilst a case is pending before the Court, the case can usually be continued by the applicant's close relatives or heirs, if that person has a legitimate interest, or if the Court is satisfied that the complaint is of general importance. For example, the parents of a haemophiliac who had contracted HIV could continue an application brought in respect of the length of domestic proceedings for compensation following the applicant's death.[111] In *Laskey, Jaggard and Brown v. UK*,[112] a case concerning criminal proceedings for assault brought in relation to sadomasochistic activities, there was no objection to the father of the first applicant continuing with the proceedings following the first applicant's death. In *Micallef v. Malta*[113] the Court allowed an application to be introduced on behalf of the applicant's sister, who had died while her constitutional claim concerning an alleged breach of her right to a fair trial was pending.

109 *Keenan v. UK* (Judgment) App No. 27229/95 (ECtHR, 18 April 2001).

110 See, for example, *Yasa v. Turkey*, ECtHR (Application No. 22495/93) Judgment of 2 September 1988, (1999) 28 EHRR 408; *Kurt v. Turkey*, ECtHR (Application No. 24276/94) Judgment of 25 May 1998, (1999) 29 EHRR 373.

111 *X v. France*, ECtHR (Application No. 9993/82) Judgment of 31 March 1992, (1992) 14 EHRR 483.

112 *Brown v. UK*, ECtHR (Application No. 21627/93) Judgment of 19 February 1997, (1997) 24 EHRR 39.

113 *Micallef v. Malta*, App No. 17056/06 (ECtHR, 15 October 2009).

3.1.5 Public Corporations

Public bodies, such as councils, cannot make applications to the Court, as Article 34 only permits a 'person, non-governmental organisation or group of individuals' to petition the Court. This rule excludes any 'decentralised authorit[y] that exercise[s] public functions'.[114]

3.2 Who Can Claim to be a Victim?

In accordance with Article 34 of the Convention, an applicant must claim to be the victim of a violation of one or more Convention rights. The Court will only consider the particular circumstances of each case and will not permit abstract challenges (*actio popularis*),[115] nor will the Court admit hypothetical breaches. This may lead to all or part of Convention applications being rejected. For example, in *Buckley v. UK*[116] the applicant, who was a self-identified gypsy, complained that she was prevented from living in caravans on her own land with her family and from following a life as a traveller under Article 14 of the Convention. The applicant also complained to the Court of the provisions of the Caravan Sites Act 1968 and the Criminal Justice and Public Order Act 1994, which criminalised the use of traveller caravans in certain circumstances. However, the Court found that as no criminal measures had been taken against the applicant under either statute, those particular complaints could not be considered.

The test applied by the Court is that the applicant must show that they have personally or directly been affected by the alleged Convention violation.

The victim test may rule out some applicants in a case, but not others.[117] In *Ahmed and Others v. UK*,[118] a complaint made by the union UNISON concerning the restrictions on the political activities of local government officers was declared inadmissible.

114 *Danderyds Kommun v. Sweden* App No. 52559/99 (ECtHR, 7 June 2001). See also 16 *Austrian Communes and some of their councillors v Austria*, App No. 5765/77 (ECtHR, 31 May 1974); *Rothenthurm Commune v. Switzerland*, App No. 13252/87 (ECtHR, 14 December 1988); *Ayuntamiento de M v. Spain*, App No. 15090/89 (ECtHR, 7 January 1991); *The Province of Bari, Sorrention and Messeni Nemagna v. Italy*, App No. 41877/98 (ECtHR, 15 September 1998); *The Municipal Section of Antilly v. France*, ECtHR (Application No. 45129/98) Decision of 23 November 1999, EHRR 1999-VIII & *Ayuntamiento de Mula v. Spain*, App No. 55346/00 (ECtHR, 1 February 2001).

For the position of the BBC, see BBC v. UK, App No. 25978/94 (ECtHR, 19 January 1996).

115 See, for example, Lindsay and Others v. UK App No. 31699/96 (ECtHR, 17 January 1997) – application claiming to represent more than 1 million people in Northern Ireland declared inadmissible ratione personae with the provisions of the Convention.

116 *Buckley v. UK* (1997) 23 EHRR 101.

117 See, for example, Bowman and the Society for the Protection of Unborn Children v. UK App No. 24839/94 (ECtHR, 4 December 1995).

118 *Ahmed and Others v. UK* App No. 22954/93 (ECtHR, 12 September 1995). See also, for example, *Purcell and Others v. Ireland* App No. 15404/89 (ECtHR, 16 April 1991).

The Commission found that the regulations in question[119] did not affect the rights of the union as such (under Articles 10 or 11) and therefore UNISON could not claim to be a victim of a violation of the Convention. However, applications brought by individual local government officers who were affected by the regulations were declared admissible. Therefore, if there are doubts about an applicant organisation's victim status, it is advisable to include at least one individual victim as an applicant.

The Strasbourg institutions have allowed a degree of flexibility in certain circumstances in defining what is meant by a 'victim'. Where there is any doubt about an individual's 'victim' status, practitioners should consider carefully whether their clients fall into any of the categories set out below.[120]

3.2.1 Potential Victims

Article 34 of the Convention may permit an applicant to complain that the law itself violates their Convention rights, even if there has been no specific measure implemented against them. However, potential victims of Convention violations must satisfy the Court that there is a real personal risk of being directly affected by the violation.[121]

Those considered to be at risk have fallen into various categories, including those at risk of criminal prosecution. The cases of *Dudgeon v. UK*,[122] *Norris v. Ireland*,[123] *Modinos v. Cyprus*[124] all concerned domestic legislation criminalising homosexual acts.[125] In Dudgeon, the applicant complained that he was liable to prosecution because of his homosexual conduct and complained of the fear, suffering and psychological distress caused by the very existence of the laws in question. He had been questioned by the police about his homosexual activities and his house had been searched, but criminal proceedings had not been brought against him. The Court accepted that the very existence of the legislation continuously and directly affected his private life, as the threat hanging over him was real.

119 The Local Government Officers (Political Restrictions) Regulations 1990.

120 The European Court of Human Rights has also issued a practical guide that provides in a more detailed manner summaries of what constitutes victimhood under article 34 of the European Court of Human Rights, 'Practical guide on admissibility criteria' (Registry of the Court, 2022).

121 See, for example, *Open Door Counselling and Dublin Well Woman v. Ireland* (1993) 15 EHRR 244, para 44 and *Johnston and Others v. Ireland* (1987) 9 EHRR 203, para 42.

122 *Dudgeon v. UK* (1982) 4 EHRR 149.

123 *Norris v. Ireland* (1991) 13 EHRR 186.

124 *Modinos v. Cyprus* (1993) 16 EHRR 485.

125 *See also Sutherland v. UK* (Comm. Rep.) (1997) 24 EHRR CD 22; A.D.T. v. UK (2001) 31 EHRR 33.

Another category of potential victims includes those who fall into a particular group within society who might be affected by a particular measure or omission. In *Balmer-Schafroth v. Switzerland*[126] the Government argued that the applicants who were residents living close to a nuclear power station could not claim to be victims of a decision to extend the power station's operating licence because the consequences of the violations of which they complained were too remote to affect them directly and personally. However, the Court rejected those arguments, as the applicants' objections had been found admissible by the Swiss Federal Council and because there could be a Convention violation even in the absence of prejudice.

Potential violations of the Convention will also arise in cases concerning specific measures which, if implemented, would breach the Convention. This often arises in the context of immigration or extradition cases. The case of *Soering v. UK*[127] concerned the decision of the Home Secretary to extradite the applicant to the US where he faced capital murder charges in Virginia and a possible death sentence. Therefore, if he were sentenced to death, he would be exposed to the 'death row phenomenon' which he claimed would violate Article 3 of the Convention. In those circumstances, the Court found that the responsibility of the State would be engaged where there were substantial grounds for believing that, if extradited, the applicant faced a real risk of being subjected to torture or inhuman or degrading treatment or punishment. That had to be the case, in order to ensure the effectiveness of the Article 3 safeguards, given the serious and irreparable nature of the suffering which the applicant faced.

There have been many examples of applicants complaining of prospective violations in deportation cases.[128] In *Chahal v. UK*[129] the applicant complained that his deportation to India would violate his rights under Article 3 because as a Sikh political activist he risked being subjected to torture. The State's responsibility will be engaged where there are substantial grounds for believing that the applicant, if expelled, would face a real risk of treatment contrary to Article 3. In *D v. UK*[130] the applicant, who was suffering from the advanced stages of the AIDS virus, complained that his removal to

126 *Balmer-Schafroth v. Switzerland* (1998) 25 EHRR 598, paras 24-26. See also, for example, *Amuur v. France* (1996) 22 EHRR 533, para 36.

127 Soering v. UK (1989) 11 EHRR. 439.

128 See, for example, *Hilal v. United Kingdom* App No. 45276/99 (ECtHR, 6 March 2001).

129 *Chahal v. UK* (1997) 23 EHRR 413.

130 *D v. UK,* ECtHR (1997) 24 EHRR 423; Also see *Bensaid v. United Kingdom* App No. 44599/98 (ECtHR, 6 February 2001).

St Kitts, where he had been born, would violate Article 3 because the lack of adequate medical treatment would expose him to inhuman and degrading treatment. A different outcome followed in *N v. UK*[131] . The former case centred around a Ugandan applicant who was HIV positive. Without adequate treatment, her life expectancy would be under a year. The needed medication was available in Uganda, but considerably expensive and only a limited supply of it was available in the applicant's home town. However, the Court ruled this did not meet the exceptional circumstances test. Therefore, it seems that the threshold for this test remains high.

Nevertheless, applicants will be required to wait for the final decision in any domestic proceedings and to exhaust available and effective avenues of appeal before their complaints will be admitted by the Court.[132]

The extent of the secrecy of legislation or measures taken by public authorities may have a bearing on the question of victim status. In *Klass and Others v. Germany*,[133] the applicant's lawyers complained about the domestic law in Germany relating to secret surveillance, even though they had no evidence that they had been under surveillance themselves. The Court found that the applicants should not be prevented from claiming to be victims of the alleged violation where, because of the secrecy of the measures in question, it was not possible to prove any specific implementation against the applicant. Accordingly, applicants may in certain circumstances legitimately complain to the Court of being a victim of a violation because of the mere existence of secret measures.[134]

Regarding this latter category of secret surveillance measures, the Court clarified that the Convention only allows for such measures if they are strictly necessary for safeguarding the democratic institutions. In *Szabó and Vissy v. Hungary*,[135] the Court held that the existence of the law permitting secret surveillance and the lack of adequate safeguards amounted to a violation of Article 8 of the Convention. The applicants claimed to be potential victims and believed that they were particularly at risk of having their communications being intercepted as a result of their employment with civil society organisations critisising the government. The Court considered that the

131 *N v. UK* App No. 26565/05 (ECtHR, 27 May 2008).

132 See, for example, *Vijayanathan and Pusparajah v. France* (1993) 15 EHRR 62.

133 *Klass and Others v. Germany* (1978) 2 EHRR. 214.

134 See also, for example, *Virginia Matthews v. UK* App No. 28576/95 (ECtHR, 16 October 1996) – allegation that applicant peace campaigner's telephone calls had been intercepted.

135 *Szabó and Vissy v. Hungary* App No. 37138/14 (ECtHR, 12 January 2016).

domestic law does not appear to provide any possibility for an individual who alleges interception of their communications to lodge a complaint with an independent body, and so, the Court permitted the applicants to claim to be victims of a violation of their rights under Article 34 of the Convention.[136]

3.2.2 Indirect Victims

An individual who is not directly affected by a particular measure or omission may nevertheless have been 'indirectly' affected by the violation of the Convention rights of another person. This may often be the case in respect of close family connections, but it could also include other third parties. For example, family members of a person who is subject to a deportation decision might claim to be a victim of a Convention violation. The case of *Chahal v. UK*[137] concerned the proposed deportation of Mr Chahal, a Sikh separatist leader, on grounds that he posed a threat to national security. Not only did Mr Chahal himself bring proceedings under the Convention, but so too did his wife and children, arguing that his deportation would violate their right to respect for family life under Article 8 of the Convention. The case of *Abdulaziz, Cabales and Balkandali v. UK*[138] concerned the 1971 Immigration Act and Rules which prevented the applicants' husbands from remaining with them or joining them in the UK. The case was brought by the wives who were lawfully and permanently settled in the UK. On their behalf, the Court found a violation of Article 8 taken together with Article 14 (as victims of sex discrimination) and of Article 13 of the Convention.

3.2.3 'Prejudice' Experienced by the Applicant

Generally, there is no need for a victim to have suffered 'prejudice' or 'detriment'. Those requirements are only relevant in relation to awards of 'just satisfaction' under Article 41 of the Convention.[139] For example, in *CC v. UK*,[140] the applicant complained of automatic pre-trial detention. The Commission found that the deduction

136 Ibid. Para 39.

137 *Chahal v. UK* (1997) 23 EHRR 413.

138 *Abdulaziz, Cabales and Balkandali v. UK* (1985) 7 EHRR 471.

139 See, for example, *Balmer-Schafroth v. Switzerland* (1998) 25 EHRR 598, para 26; *Amuur v. France* (1996) 22 EHRR 533, para 36.

140 *CC v. UK* App No. 32819/96 (ECtHR, 1 December 1997).

of the period of pre-trial detention from his sentence did not remove his victim status as it did not constitute an acknowledgement that the Convention had been violated. The position may be different, however, where the national authorities have acknowledged, either expressly or in substance, that there has been a violation of the Convention and where redress has then been provided to the victim.[141] This is discussed further below.

Further, as noted at the start of Chapter 3, the Court now has the power to declare cases inadmissible where the applicant 'has not suffered a significant disadvantage' (Article 35(3)(b) of the Convention). However, a case will not be rejected on this ground where the Court considers that respect for human rights, as defined in the Convention and the Protocols, requires an examination of the application on the merits or where the case has not been duly considered by a domestic tribunal.

3.2.4 Losing Victim Status and Inter-State Cases

Applicants may lose their status as 'victims' for the purposes of Article 34 of the Convention. For example, an applicant's status may be affected by settlement of domestic proceedings, or acquittal in criminal proceedings,[142] a successful appeal or discontinuation of the domestic proceedings. For example, in *Caraher v. UK*[143] the applicant alleged violations of Articles 2 and 13 arising from the fatal shooting of her husband by British soldiers in Northern Ireland. Two soldiers were prosecuted for the shooting, but were acquitted. The application was introduced in Strasbourg in 1994. In 1998 the applicant settled a High Court action against the Ministry of Defence for aggravated damages in respect of the death of her husband on receipt of £50,000 in full and final settlement of all claims. The application was subsequently declared inadmissible as the Court found that the applicant could no longer claim to be a victim of a violation of the Convention, having settled the civil proceedings. However, an award of damages from the Criminal Injuries Compensation Scheme will not remove an applicant's victim status.[144]

141 *Eckle v. Federal Republic of Germany* (1983) 5 EHRR 1, para 66.

142 However, an acquittal may still mean that an applicant can claim to be a victim of procedural violations. See, for example, *Heaney and McGuinness v. Ireland* App No. 34720/97 (ECtHR, 21 December 2000).

143 *Caraher v. UK* App No. 24520/94 (ECtHR, 11 January 2000).

144 *Z.W. v. UK* App No. 34962/97 (ECtHR, 27 November 2001).

In Eckle v. *Federal Republic of Germany*,[145] the Court laid down a threefold test as to when an applicant would be considered to have lost their victim status:

(i) where the national authorities had acknowledged that there had been a breach of the Convention, either expressly, or in substance; and

(ii) where the applicant had been provided with redress; and

(iii) where the applicant had been treated in such a way that there were sufficient indications to allow an assessment of the extent to which the violation was taken into account.

Applying this test in the case of *Ludi v. Switzerland*,[146] the Court rejected the Government's arguments that the applicant was no longer a victim of a Convention violation because his sentence had been reduced by the Court of Appeal. The Court found that rather than acknowledging that the use of an undercover agent in the criminal proceedings against the applicant had violated the Convention, the authorities had expressly decided that it had been compatible with the Convention's obligations.

Where interferences with rights are caused by 'incidental errors' rather than being deliberate and systematic, a formal apology may remove the applicant's victim status. For example, an apology for interference with prisoners' correspondence, and an assurance that steps would be taken to prevent it happening again, have been found to do so.[147]

In the more recent case of *Chiarello v. Germany*,[148] victim status can be considered to be lost if the sentence is reduced to compensate for excessive length of proceedings.

Regarding interstate cases, any state party to the Convention may submit to the Court any alleged violation of the Convention's and Protocols' provisions by another state party, according to Article 33 of the Convention.[149] This article protects the right to pursue interstate litigation and is an essential mechanism for seeking remedies for human rights violations committed during armed conflict. Interstate cases primarily involve circumstances in which a state supports individual claims in the context of broad Convention breaches. The 'victim' criterion does not apply to

145 *Eckle v. Federal Republic of Germany* 1983) 5 EHRR 1, para 66; See also Dalban v. Romania App No. 28114/95 (ECtHR, 28 September 1999); and Amuur v. France (1996) 22 EHRR 533.

146 *Ludi v. Switzerland* (1993) 15 EHRR 173.

147 See, for example, Faulkner v. UK App No. 37471/97 (ECtHR, 18 September 2001); and *Armstrong v. UK* App No. 48521/99 (ECtHR, 25 September 2001).

148 *Chiarello v. Germany* App No. 497/17 (ECtHR, 20 June 2019).

149 European Convention on Human Rights, Article 3, Inter-State cases.

interstate petitions as a matter of standing before the Court, confirming the interstate application's *erga omnes* nature.[150] Interstate applications have been submitted by Georgia and Ukraine against Russia as it can be more flexible than individual applications.

In *Cyprus v. Turkey*,[151] the court saw an application of the 'just satisfaction' provision of Article 41 in the case of an interstate application. The case concerned the situation in Northern Cyprus since Turkey carried out military operations there in July and August 1974, and the continuing division of the territory of Cyprus since that time. The application of Article 41 in interstate cases does not occur very often, with the others being the previous case of *Ireland v. U.K*,[152] and the more recent case of Georgia v Russia (I & II).[153] In *Cyrpus and Georgia*, the respondent states argued that Article 41 could only be applied to individual applications. However, the Court found this defence to be insufficient and held that Turkey had to pay a total of ninety million euros. In *Cyrpus*, the Court held:

'The overall logic of Article 41 of the Convention was not substantially different from the logic of reparations in public international law. Accordingly, the Court considered that Article 41 did, as such, apply to inter-State cases. However, according to the very nature of the Convention, it was the individual and not the State who was directly or indirectly harmed and primarily "injured" by a violation of one or several Convention rights. If just satisfaction was afforded in an inter-State case, it always had to be done for the benefit of individual victims.'[154]

3.3 When Inadmissibility Arguments can be Raised and Decided

The Court may declare an application inadmissible at any stage of the proceedings (Article 35(4) of the Convention). It may uphold a Respondent Government's arguments that the applicants had failed to exhaust appropriate domestic remedies at the merits stage of the case, even though the case was previously declared admissible.[155]

150 Giorgi Nakashidze, 'The European Court Of Human Rights In A New Reality: Does It Have Sufficient Procedural Infrastructure To Deal With Armed Conflicts?', (2020) 2.3, 54.

151 *Cyprus v. Turkey*, App No. 25781/94 (ECtHR, 10 May 2001).

152 *Ireland v. U.K* App No. 5310/71 (ECtHR, 18 January 1978).

153 *Georgia v. Russia* App No. 13255/07 (ECtHR 3 July 2014)

154 HUDOC, 'Grand Chamber judgment on the question of just satisfaction in the *Cyprus v. Turkey case*', (2014), Just satisfaction award, 3.

155 See, for example, *Aytekin v. Turkey* (2001) 32 EHRR 22.

However, the Respondent Government will be stopped from raising new admissibility arguments at the merits stage, if those arguments were not previously raised at the admissibility stage,[156] unless there are developments after the admissibility decision which are relevant to the question of admissibility amounting to special circumstances warranting its re-examination,[157] such as a reversal of domestic case law or the introduction by the applicant of a new complaint. In *McGonnell v. UK*,[158] the Government argued before the Court that the applicant had failed to exhaust domestic remedies in relation to his complaint that the domestic proceedings had not been independent or impartial, as he had failed to appeal to the Court of Appeal. The Court found that the Government was stopped from relying on such arguments which had not been raised before the Commission.

3.4 Exhaustion of Domestic Remedies

By far the most important of admissibility rules, in practice, are the requirements to exhaust domestic remedies and to lodge an application with the European Court within four months from the date when the final decision was taken. The rules are closely linked, as the time limit for lodging an application will depend upon the extent of the domestic remedies available. Respondent Governments will frequently raise, wherever possible, any objection that domestic remedies have not been exhausted, therefore this is an area where practitioners need to be very clear about their client's position.

The rationale for the domestic remedies rule is the principle that the domestic authorities should always be given the opportunity to put right a Convention violation before the matter is to be considered by the European Court. The rule is based on the assumption, reflected in Article 13, that there is in the domestic system an effective remedy available in respect of the alleged breach, whether or not the Convention is incorporated into national law.[159]

156 *Artico v. Italy* (1981) 3 EHRR 1, paras 27-28; see also *Pine Valley Developments v. Ireland,* (1992) 14 EHRR. 319, para 45.

157 *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria* App Nos. 29221/95 and 29225/95 (ECtHR, 2 October 2001), para 54.

158 *McGonnell v. UK* App No. 28488/95 (ECtHR, 8 February 2000).

159 See, for example, *Akdivar v Turkey* (1997) 23 EHRR 143, para 65.

3.4.1 Burden of Proof

Applicants are required to set out in their application the steps taken to exhaust domestic remedies. The burden of proof is then on the Respondent Government to raise non-exhaustion,[160] by pointing to a domestic remedy which in the circumstances of the particular case should have been, but which had not been, invoked. The Government must satisfy the Court that the remedy was an effective one available both in theory and in practice at the relevant time. This will mean a remedy that was accessible, that was capable of providing redress in respect of the applicant's complaint and offered reasonable prospects of success. If the Government refers to an available remedy which in its view should have been utilised, the applicant must either show why the remedy was in fact exhausted, or why the purported remedy is not adequate or effective or that there were special reasons absolving the applicant from invoking the remedy (see below).

A Respondent Government whose submissions in relation to domestic remedies are inconsistent with their arguments in the domestic proceedings will be given short shrift by the Court.[161]

An applicant should raise in domestic proceedings the substance of the complaint to be made to the Court, in relation to each Article claimed to be violated, on the basis that the domestic courts should have the opportunity to decide on a claim before it is considered by the European Court.[162] For example, in *Ahmet Sadik v. Greece*,[163] the applicant was found by the Court not to have exhausted domestic remedies as he had at no stage relied on Article 10, or on equivalent arguments, in the domestic courts, even though Article 10 was directly applicable in Greek law.

3.4.2 Compliance with Domestic Procedural Rules

In raising the issue expressly or in substance in domestic proceedings, an applicant will be required to have complied with the formal and procedural rules, including time limits, in the domestic law and to have invoked any procedural means which

160 *De Wilde, Ooms and Versyp v. Belgium* (1979) 1 EHRR 373, para 60; see also *Deweer v. Belgium* (1980) 2 EHRR 439, para 26.

161 *Kolompar v. Belgium* (1993) 16 EHRR 197.

162 See, for example, *Glasenapp v. Germany* (1987) 9 EHRR. 25, paras 42-46. However, it may not be strictly necessary for the applicant to have been a party to the proceedings, provided that her/his claims were in substance brought to the attention of the courts (see, for example, P., C. & S v. UK App No. 56547/00 (ECtHR, 11 December 2001).

163 *Ahmet Sadik v. Greece* (1997) 24 EHRR 323.

might have prevented a breach of the Convention.[164] Domestic remedies will accordingly not be considered exhausted if an applicant has not pursued a remedy because the time limits or other procedural rules have not been complied with.

3.4.3 Flexibility of the Rule

The Court has said that the rules in Article 35 of the Convention should be applied with 'some degree of flexibility and without excessive formalism'.[165] This flexibility reflects the fact that the rule is being applied in the context of a system intended to protect human rights. Therefore the exhaustion of domestic remedies rule is not absolute, nor is it applied automatically. The circumstances of each case are always considered, including the general context in which the formal remedies operate and the personal circumstances of the applicant. The Court will then examine, in all the circumstances of the case, whether applicants have done everything that could reasonably be expected of them to exhaust domestic remedies.[166] In *Akvidar v Turkey*,[167] the Court decided that there is no requirement to exhaust insufficient or unrealistic remedies, or where an administrative practice renders domestic proceedings pointless or ineffectual. However, the Court specifically stated that this decision was limited to the specific events of the case.

The Court has relaxed the admissibility criteria for victims of military operations.[168] In this respect, the case of *Akdivar*[169] is also instructive. It dealt with the destruction of the applicants' homes amid 'severe disturbances' in Turkey's south-east between security forces and members of the PKK. In this case, the Court decided that there is no requirement to exhaust insufficient or unrealistic remedies, or where an administrative practice renders domestic proceedings pointless or ineffectual. However, the Court specifically stated that this decision was limited to the specific events of the case.

164 *Cardot v. France* (1991) 13 EHRR 853, para 34.

165 See, for example, *Guzzardi v. Italy* (1981) 3 EHRR 333, para. 72; see also *Cardot v. France*, (1991) 13 EHRR 853, para 34.

166 See, for example, *Yasa v. Turkey*, App No. 22495/93 (ECtHR, 2 September 1998), para 77.

167 *Akdivar v. Turkey* (1997) 23 EHRR 143.

168 Giorgi Nakashidze, 'The European Court Of Human Rights In A New Reality: Does It Have Sufficient Procedural Infrastructure To Deal With Armed Conflicts?' (2020) 1.2, 51

169 *Akdivar v. Turkey* (1997) 23 EHRR 143.

3.4.4 Availability, Effectiveness and Sufficiency of Remedies

Whilst Article 35(1) of the Convention states that the Court may only deal with a matter after all domestic remedies have been exhausted, an applicant is only required to pursue remedies, which are available, effective, and sufficient.

For a domestic remedy to be available, the applicant must be able to initiate the proceedings directly (without being reliant upon a public official). The unavailability of legal aid may affect the accessibility of a remedy, depending upon the applicant's financial resources, the complexity of the remedy and whether legal representation is compulsory in domestic proceedings.[170]

The Court will not be satisfied with Respondent Governments raising the existence of remedies which are only theoretically available. In this respect, the Court may require the Government to produce examples of the claimed remedy having been successfully utilised.[171]

A remedy will be considered effective if it may provide redress for the applicant in respect of the alleged Convention violation. This includes not only judicial remedies, but also any administrative domestic remedy, which may provide (binding) redress in the circumstances of the particular case.

The opportunity to request an authority to reconsider a decision it has already taken does not generally constitute a sufficient remedy.[172] Applicants will also not be required to have pursued remedies which are purely discretionary.[173]

In cases of doubt about the effectiveness of a domestic remedy, including an appeal process (see below), for the purposes of the ECtHR's exhaustion of domestic remedies test, the remedy should be pursued. This has particularly been found to be the case in common law systems, where the courts extend and develop principles through case law: 'it is generally incumbent on an aggrieved individual to allow the domestic courts the opportunity to develop existing rights by way of interpretation'.[174]

In general, applicants will be required to pursue processes of appeal available in the course of domestic remedies, if such an appeal process would or might provide a

170 See *Airey v. Ireland* (1979) 2 EHRR 305; see also *Faulkner v. UK* (Comm. Rep.) App No. 30308/96 (ECtHR, 1 December 1998).

171 See, for example, *De Jong, Baljet and van den Brink v. The Netherlands* (1986) 8 EHRR 20.

172 *B v. UK* (1993) 15 EHRR CD100.

173 See, for example, *Buckley v. UK* App No. 20348/92 (ECtHR, 3 March 1994); *Temple v. UK* (1986) 8 EHRR 252.

174 *Earl and Countess Spencer v. UK* App No. 28851-2/95 (ECtHR, 16 January 1998).

remedy for the alleged Convention violation.[175] However, it is not necessary for applicants to pursue a potential form of redress or an appeal process which would not in fact provide a remedy,[176] for example, where it is clear on settled legal opinion that it has no prospects of success.[177] In that situation, the applicant will have to satisfy the Court that there were no such prospects of success and practitioners should consider filing with the Court counsel's opinion to that effect.[178]

The length of domestic proceedings will also be a factor in the consideration of their effectiveness.[179] For example, the case of *Tanli v. Turkey*[180] concerned the killing of the applicant's son in police custody. Criminal proceedings had been instituted but were still pending one year and eight months after the death of the applicant's son. In view of the serious nature of the crime involved, the Commission found that the criminal proceedings were an ineffective remedy.

If there are a number of possible domestic remedies, an applicant will not be required to have exhausted them all or even to have utilised more than one. The Court has held that an applicant cannot be criticised for not having had recourse to legal remedies, which would have been directed essentially to the same end and would in any case have not offered better chances of success.[181]

Exhaustion of domestic remedies may take place after an application has been introduced with the Court, but such remedies must have been exhausted before the admissibility decision is made.[182]

3.4.5 Special Circumstances

There may, exceptionally, be special circumstances absolving the applicant from exhausting domestic remedies.[183] However, 'special circumstances' will not include lack of legal knowledge of the Convention, negligent advice by lawyers, or the applicant's depressive state. As the Court itself notes 'The exhaustion rule may be described as one that is golden rather than cast in stone'.[184]

Delay in the availability of a remedy may mean that it need not be utilised by the applicant. In *Reed v. UK*,[185] the applicant complained of being assaulted in prison, invoking Article 3 of the Convention. The Government argued that he had failed to exhaust domestic remedies because he had not brought a civil action for damages. However, the applicant had first been required to allow the prison authorities to investigate his complaints and he was denied access to a solicitor for more than two years. In those circumstances, the applicant was not barred for non-exhaustion of domestic remedies, even where the remedy subsequently became available after the two-year period, as in principle, a remedy should have been immediately available to every aggrieved person, particularly in cases of alleged maltreatment.

3.5 Four-Month Time Limit

3.5.1 General Principles

Originally under Article 35(1) of the Convention, the Court was only allowed to deal with a matter which had been submitted within six months of the final decision taken in the domestic proceedings. This has since been amended by Protocol No. 15 to have a four-month time limit. This is to better reflect contemporary court standards within member states as well as decrease admissions to the Court. It should be noted that this reform follows the entry into force of Protocol No. 15 on 1st of August 2021 and was implemented on the 1st of February 2022. Much of the older jurisprudence refers to the six-month time limit, however the principles still retain value and are discussed below.

The time limit is intended to promote legal certainty, to provide the authorities with a degree of protection from uncertainty, and to ensure that past decisions are not continually open to challenge. It is also intended to ensure that cases are dealt with within a reasonable time, and it increases the likelihood of evidence being available which might otherwise disappear. However, as Convention cases take an average four to five years to progress through the various stages (in addition to the time taken

175 See, for example, Civet v. *France* App No. 29340/95 (ECtHR, 28 September 1999).

176 See, for example, *Hilton v. UK* App No. 5613/72 (ECtHR, 5 March 1976; *A.D.T. v. UK*, App No. 35765/97 (ECtHR, 31 July 2000).

177 See, for example, *De Wilde, Ooms and Versyp v. Belgium* (1979) 1 EHRR 373, para 62.

178 See, for example, *H v. UK* App No. 10000/82 (ECtHR, 4 July 1983).

179 See, for example, *Tanli v. Turkey* App No. 26129/94 (ECtHR, 5 March 1996).

180 *Tanli v. Turkey* App No. 26129/94 (ECtHR, 5 March 1996).

181 *A v. France* (1994) 17 EHRR 462, para 32.

182 *Luberti v. Italy* App No. 9019/80 (ECtHR, 7 July 1981) 281.

183 *Akdivar v. Turkey* (1997) 23 EHRR 143.

184 European Court of Human Rights, 'Practical guide on admissibility criteria' (Registry of the Court, 2022) page 27. This guide provides examples for a variety of situations, such as the presumption of innocence, continuous non-enforcement of custody/contact-related rights, or defamation proceedings.

185 *Reed* v. UK (1981) 3 EHRR 136.

for the matter to be dealt with in the domestic courts), it is common for applicants and witnesses to be asked to produce evidence (usually documentary, and occasionally oral) many years after the original events which are the subject matter of the case. The Court considers that the four-month rule allows a prospective applicant time to consider whether to lodge an application and, if so, to decide on the specific complaints and arguments to be raised.

Time runs from the day after the date of the final decision in the domestic proceedings, which the applicant is required to invoke under the exhaustion of domestic remedies rule. This will usually mean the date when judgment is given. If judgment is not given publicly, time will run from the date when the applicant or their representative is informed of the decision.[186] This will mean that time will start to run when the applicant's solicitor receives notification of a decision, even if the applicant is not informed until later.

If reasons for a decision follow after the date when the decision itself was made public or notified to the applicant, the time will only start to run from the later date if the reasons given for the decision are relevant to the Convention application.[187] In *Worm v. Austria*,[188] the applicant journalist had been prosecuted for publishing an article, which was considered capable of influencing the outcome of criminal proceedings relating to a former minister. The Government challenged the admissibility of the application as it had not been lodged within six months of the date (the time limit at the time) when the operative provisions and the relevant reasons were read out by the Court of Appeal. The applicant was not provided with a written copy of the judgment until more than five months later. The Court held that time only started to run after receipt of the written judgment, which contained more than nine pages of detailed legal reasoning.

In relation to a reference to the European Court of Justice (ECJ),[189] the four-month time limit runs from the domestic court's application of the ruling of the ECJ, rather than from the date of the decision of ECJ itself.[190]

186 See, for example, *K.C.M. v. the Netherlands* App No. 21034/92 (ECtHR, 9 January 1995), 87.

187 *Worm v. Austria* (1998) 25 EHRR 454.

188 *Worm v. Austria* (1998) 25 EHRR 454.

189 Under Article 234 - formerly Article 177 - of the EC Treaty.

190 *Bosphorus Hava Yollari Turizm Ve Ticaret AS v. Ireland* App No. 45036/98 (ECtHR, 13 September 2001).

If there are no domestic remedies, practitioners should lodge an application at the Court within four months of the incident or decision complained of, or within four months of the applicant's date of knowledge of the incident or decision.[191] This will be the Court's approach where it is clear that from the outset no effective remedy was available to the applicant.

Where there has been a series of events, which the applicant proposes to raise with the European Court, the safest course is to lodge an application within four months of the first incident. However, if the events are linked, it may be possible to lodge within four months of the final event in the series.

The four months rule has a value in itself of promoting legal certainty and therefore cannot be waived by Respondent Governments.[192]

3.5.2 Doubtful Remedies

If an applicant pursues a remedy which proves to be ineffective, the four months limit may run from the final decision in the ineffective remedy pursued (or from the date of the incident itself, if there were no effective remedies). For some prospective applicants to the Court, it may not at all be clear whether a particular form of redress would amount to a 'domestic remedy' for the purposes of Article 35 of the Convention. However, if there is any doubt about the effectiveness of a particular 'remedy', practitioners should consider lodging an introductory letter with the Court in order to protect their client's position. This can simply be done by a letter to the Court. The procedure is set out in Chapter 2. The Court will not usually require a full application to be lodged in those circumstances, although applicants will be required to keep the Court informed of any developments in the domestic proceedings. A full application should then be lodged once the domestic remedy has been exhausted. If such a letter is not lodged, there is a danger that the Government might argue that the applicant had pursued a remedy that was not 'effective' for the purposes of Article 35 of the Convention and therefore that the application should be declared inadmissible as having been submitted after the expiry of the four months period. For example, the UK Government successfully argued such a point in the case of *Raphaie v. UK*[193] on the basis that the applicant had pursued an internal prison complaint which was not 'effective'.

191 See, for example, *X v. the UK* App No. 7379/76 (ECtHR, 10 December 1977) para 211; see also *Scotts' of Greenock (Estd. 1711) Ltd. Lithgows Ltd (Formerly Lithgows Holdings Ltd v. the UK* App No. 9599/81 (ECtHR, 11 March 1985), para 33.

192 See, for example, *Walker v. UK* App No. 24979/97 (ECtHR, 25 January 2000).

193 *Raphaie v. UK* App No. 20035/92 (ECtHR, 2 December 1993).

Where there is real doubt as to the availability or effectiveness of domestic remedies, the Court *may* be more flexible in applying the four months rule. The Court will, in general, not require an applicant to lodge a complaint before the position in relation to the matter in question has been settled at the domestic level.[194] If an applicant pursues an apparently existing remedy and only subsequently becomes aware of circumstances which render the remedy ineffective, the four months may only start to run from the date when the applicant first became aware, or ought to have become aware of the circumstances which made the remedy ineffective.[195]

The case of *Keenan v. UK*[196] concerned the applicant's son's suicide in prison and the failure of the prison authorities to safeguard his life, given his history of threatening to kill himself in custody. The Government argued that the applicant had failed to comply with the six months rule (as it was at the time) as there had been no effective domestic remedies and the complaint should therefore have been lodged within six months of the applicant's son's death. The applicant had had a potential remedy under the Law Reform (Miscellaneous Provisions) Act 1934. She applied for and was granted legal aid. She obtained the opinion of a consultant psychiatrist and then obtained counsel's opinion. Counsel advised that there were no effective domestic remedies available to her. An application to the Commission was lodged within six months of that advice. The Commission found that it was not until she had received counsel's advice that she could reasonably have known that there were no domestic remedies and accordingly the six months only ran from the date of that advice. The position might be different, however, if there were any evidence of abuse or delay by an applicant or an applicant's lawyers. It may be that in reaching this decision the Commission was influenced by the gravity of the case.

Edwards v. UK[197] concerned the death of the applicants' son who was kicked and stamped to death by his cellmate whilst being held on remand in Chelmsford Prison in 1994. His parents were advised in 1996 that any civil proceedings would have been uneconomic, and they only lodged their Strasbourg application in 1998 after a non-statutory inquiry had published its findings. Nevertheless, the Court rejected the Government's arguments that the case had been lodged out of time, considering the

194 See, for example, *Scotts' of Greenock* (Estd. 1711) *Ltd. Lithgows Ltd (Formerly Lithgows Holdings Ltd) v. the UK* App No. 9599/81 (ECtHR, 11 March 1985), 33.

195 See, for example, *Lacin v. Turkey* App No. 23654/94 (ECtHR, 15 May 1995), 76.

196 *Keenan v. the UK* App No. 27229/95 (ECtHR, 22 May 1998).

197 *Paul and Audrey Edwards v. the UK* App No. 46477/99 (ECtHR, 7 June 2001).

difficulties for the applicants in obtaining information about their son's death in prison and finding it reasonable for them to have awaited the outcome of the inquiry.

Care should be taken to ensure that if an applicant pursues domestic remedies or appeals, that those remedies would be capable of providing redress for every complaint to be made to the Court.[198] This frequently arises in criminal cases where the applicant wishes to complain about aspects of their detention, as well as the fairness of the proceedings. However, if the applicant's appeal against conviction would have no bearing on the question of the lawfulness of the pre-trial detention, then the question of the detention must be considered carefully, and a Convention application lodged within four months of the end of the period of the detention at the latest (or within four months of the final decision in any domestic remedy relating to the detention). For example, in *Surriye Ali v. UK*,[199] the applicant complained under Article 6 of the Convention about the fairness of the criminal proceedings against him, as well as under Article 5 about the lawfulness of her initial detention. The application concerning both aspects of the case was not lodged until after judgment was handed down by the Court of Appeal, but the applicant's Article 5 complaint was found to be out of time as the appeal proceedings were not capable of affecting the position in relation to the detention.

3.5.3 Continuing Breaches of the Convention

Where the matter, which the applicant complains about, is continuing, the time limit will not start to run until the breach ceases to have a continuing effect. Great care should of course be taken to ascertain that the violation is a continuing one, rather than a one-off decision. There will be a continuing breach, for example, where the applicant complains of the continued existence of particular laws, as in *Dudgeon v. UK*,[200] which concerned the existence in Northern Ireland of laws which made homosexual acts between consenting adult males' criminal offences.

There was a violation of the applicant's rights under Article 8 of the Convention because of the non-enforcement of his right of access to his daughter in the case of *Hokkanen v. Finland*.[201] The case was introduced in 1992 and the Court found that the violation arising from the non-enforcement of access had continued until September

198 See, for example, *Lines v. UK* (1997) 23 EHRR CD 58.

199 *Ali v. the UK* (1996) EHRR 428.

200 *Dudgeon v. UK* (1982) 4 EHRR 149.

201 *Hokkanen v. Finland* (1995) 19 EHRR 139.

1993 when the Court of Appeal decided that the applicant's access to his daughter could not be enforced against her wishes.

The case of *Varnava and Others v. Turkey*[202] concerned the disappearance of nine Cypriot nationals during military operations conducted by the Turkish army in Northern Cyprus in 1974. The Grand Chamber held that, in this exceptional situation of international conflict where no normal investigative procedures were available, it had been reasonable for the applicants to await the outcome of the initiatives taken by their government and the United Nations. Accordingly, although they had applied to the Court more than six months after the acceptance by the Respondent State of the right of individual petition, the applicants (relatives of the disappeared persons) had acted with reasonable expedition.

3.6 Anonymous Applications

Every application to the Court must identify the applicant (Article 35(2)(a) of the Convention). Any application, which does not do so, may be declared inadmissible on this ground alone. For example, in *"Blondje" v. the Netherlands*[203] , the applicant's identity could not be established from any of the material in the case file. The Court found that the application was to be regarded as anonymous and declared it inadmissible on that account.

In some cases, applicants may have very good reasons for not wishing to have their identities disclosed. In such cases, the applicant's details (including name, address, date of birth, nationality, and occupation) will have to be set out in the application form, but the applicant can request confidentiality. If the applicant's request for confidentiality is accepted by the Court, the applicant will be identified in the case reports by their initials or simply by a letter.

3.7 Applications Substantially the Same as a Matter Which has Already Been Examined by the Court

An application which is substantially the same as a matter that has already been examined by the Court and which contains no relevant new information will be declared

202 *Varnava and Others v. Turkey* App Nos. 16064/90 et al. (ECtHR, 18 September 2008).

203 *"Blondje" v. the Netherlands* App No. 7254/09 (ECtHR, 15 September 2009).

inadmissible by the Court (Article 35(2)(b) of the Convention). For example, repeated applications from the same applicant concerning the same matter will be declared inadmissible on this ground, unless new relevant information has come to light.

However, the exception concerning 'relevant new information' is important. For example, an applicant whose petition has previously been declared inadmissible for non-exhaustion of domestic remedies may re-submit the case to the Court after having exhausted effective domestic remedies. There may also be new factual information or new developments in domestic proceedings, which may justify a further application, such as the increased length of domestic proceedings.[204] However, additional legal arguments will not amount to 'relevant new information'.[205]

3.8 Applications Already Submitted to Another Procedure of International Investigation or Settlement

The Court may not consider any application which has already been submitted to another procedure of international investigation or settlement, and which contains no relevant new information (Article 35(2)(b) of the Convention). This has very rarely raised any difficulties in practice.[206]

In the case of *Peraldi v. France*,[207] the Court acknowledged for the first time that the United Nations Working Group on Arbitrary Detention was, like the United Nations Human Rights Committee, an 'international investigation and settlement body', basing that finding on considerations such as the group's composition, the nature of its examinations and the procedure it followed. It therefore held that the application before it was 'substantially the same' as the complaint brought by the applicant's brother before that institution. The Court further observed that the rule in Article 35(2)(b) of the Convention, aimed at avoiding a plurality of international proceedings relating to the same cases, applied notwithstanding the date on which the proceedings were brought, the criterion to be taken into consideration being the prior existence of a decision on the merits at the time when the Court examined the application.

204 See, for example, *X v. the UK* App No. 8233/78 (ECtHR, 3 October 1979) 122: *Vallon v. Italy* App No. 9621/81 (ECtHR, 3 June 1985), 217.

205 *X v. the UK* App No. 8233/78 (ECtHR, 3 October 1979), 147.

206 But see, for example, *Cacerrada Fornieles and Cabeza Mato v. Spain*, App No. 17512/90 (ECtHR, 6 July 1992).

207 *Peraldi v. France* App No. 2096/05 (ECtHR, 7 April 2009).

3.9 Incompatibility with the Provisions of the Convention

Article 35(3)(a) of the Convention requires the Court to declare inadmissible any application which it considers 'incompatible with the provisions of the Convention or the protocols…' This has four aspects to it:

1) Incompatibility of an application because of the limits of the State's jurisdiction (known as '*ratione loci*');
2) Incompatibility of an application because of the limits as to what the Convention rights cover (known as '*ratione materiae*');
3) Incompatibility of an application because of the limits in time as to the State's obligations under the Convention (known as '*ratione temporis*');
4) Incompatibility of an application because of the limits as to who may bring Convention applications and as to who may be respondents (known as '*ratione personae*').

3.9.1 Jurisdiction: Ratione Loci

The alleged violation of the Convention must have occurred within the Respondent State's jurisdiction. This includes a 'dependent territory' if the State has made a declaration under Article 56 that the Convention applies to the territory.

For example, in the *Cyprus v. Turkey* cases, Turkey has been found to be responsible for its armed forces in Cyprus. The Turkish armed forces in Cyprus were considered to have brought any persons or property there within the jurisdiction of Turkey, 'to the extent that they exercise control over such persons or property'.[208]

It is generally not possible to complain about the decision of an international organisation. However, the transfer of State power to an international organisation does not necessarily exclude the State's responsibility, as otherwise the Convention guarantees could easily be excluded or limited.[209]

In *Issa and Others v. Turkey*,[210] the Court held unanimously that the applicant's relatives, Iraqi shepherds who had been killed by Turkish soldiers carrying out a military operation in northern Iraq at the time, had not been within the jurisdiction of Turkey within the meaning of Article 1 (obligation to respect human rights) of the Convention.

208 See, for example, *Cyprus v. Turkey* (1976) 4 EHRR 482, para 83.

209 See, for example, *Beer and Regan v. Germany* App No. 28934/95 (ECtHR, 2 December 1997); see also *Waite and Kennedy v. Germany* App No. 26083/94 (ECtHR, 18 February 1999).

210 *Issa and Others v. Turkey* App No. 31821/96 (ECtHR, 16 November 2004).

Bankovic and Others v. Belgium[211] concerned an application brought by six citizens of the Federal Republic of Yugoslavia (FRY) whose relatives had died, or who themselves had been injured, as a result of bombing by NATO during the Kosovo crisis in April 1999. The Court unanimously declared the application inadmissible on the basis that the impugned act fell outside the jurisdiction of the Respondent States. The Court concluded that there was no jurisdictional link between the persons who were victims of the extra-territorial act complained of and the Respondent States. The recent case of *Georgia v. Russia (II)*[212] was problematic for the Court due to the 'effective control' test, which is where an armed group's conduct is only attributable to a state if that state had 'effective control over the military or paramilitary operations in the course of which the alleged violations were committed.', as per the ICJ case of *Nicaragua v. the United States*.[213] The Court held that 'effective control' cannot be invoked as grounds for extraterritorial jurisdiction with respect to an area of active hostilities. As a result, serious allegations of unlawful killings of civilians in *Russia II* were found to be inadmissible, raising concerns for the coherence of the European Court's jurisprudence and for the ability of the Convention to provide protection and oversight in situations where it is most needed.

3.9.2 Ratione Materiae

Complaints about rights which are not protected by the Convention will be declared inadmissible on this ground, including rights clearly not covered by the Convention at all, and rights which are found not to fall within the scope of Convention Articles, for example, if an activity is not considered to be part of your 'private life' under Article 8.[214]

3.9.3 Ratione Temporis

Complaints against a State which had not ratified the Convention or accepted the right of individual petition at the relevant date will be declared inadmissible on this ground. Where the events complained of began prior to the entry into force of the Convention and continued afterwards, only the latter part may be the subject of a complaint, although the Court may take facts into account which have occurred before the entry

211 *Bankovic and Others v. Belgium* App No. 52207/99 (ECtHR, 12 December 2001).

212 *Georgia v. Russia (II)* App No. 38263/08 (ECtHR, 21 January 2021)

213 *Nicaragua v. The United States of America, 1986 I.C.J. 14*

214 See, for example, *Botta v. Italy* (1998) 26 EHRR 241.

into force of the Convention.[215] The case of *Zana v. Turkey*[216] concerned the length of criminal proceedings which had started before Turkey had accepted the right of individual petition. In assessing the reasonableness of the length of the proceedings, the Court considered that at that date the proceedings had already lasted two years and five months.

In *Šilih v. Slovenia*[217] the Grand Chamber clarified the Court's case law concerning its temporal jurisdiction to examine complaints under the procedural aspect of Article 2 of the Convention in cases where the death occurred before the entry into force of the Convention in the Respondent State. It held that the obligation to carry out an effective investigation has evolved into a separate and autonomous duty which, although triggered by acts concerning the substantive aspects of Article 2, can give rise to a finding of a separate and independent 'interference'. It may therefore be considered to be a detachable obligation capable of binding the State even when the death took place before the critical date. However, having regard to the principle of legal certainty, the Court stated that, where the death occurred before the critical date, only procedural acts and/or omissions occurring after that date could fall within its temporal jurisdiction. Furthermore, for the procedural obligations to take effect, there must be a genuine connection between the death and the entry into force of the Convention in respect of the Respondent State.

The case of *Varnava and Others v. Turkey*[218] supplements this by emphasising the distinction between the obligation to investigate a suspicious death and the obligation to investigate a suspicious disappearance. The Grand Chamber found that where disappearances in life-threatening circumstances were concerned, the procedural obligation to investigate could hardly come to an end on discovery of the body or the presumption of death, since there generally remained an obligation to account for the disappearance and death as well as to identify and prosecute any perpetrator of unlawful acts in that regard. Accordingly, even though a lapse of over 34 years without any news of the missing persons could constitute strong evidence that they had died in the meantime, the procedural obligation to investigate had not relinquished.

215 See, for example, *Kerojarvi v. Finland* App No. 17506/90 (ECtHR, 19 July 1995).

216 *Zana v. Turkey* App No. 18954/91 (ECtHR, 25 November 1997) para 82.

217 *Silih v. Slovenia* App No. 71463/01 (ECtHR, 9 April 2009).

218 *Varnava and Others v. Turkey* App Nos 16064/90 et al (ECtHR, 18 September 2009).

Regarding suspicious disappearances, the procedural obligation under Article 2 could potentially persist as long as the person's fate was unaccounted for, even where the victim could be presumed dead. The approach adopted in *Šilih*,[219] concerning the requirement of proximity of the death and investigative steps to the date of the Convention's entry into force, therefore applied only in the context of killings or suspicious deaths.

3.9.4 Ratione Personae

This condition will in general exclude complaints which are not directed against the State (or any emanation of the State, such as a public authority, court or tribunal), but against a private individual or organisation.

However, the Court has emphasised that the State cannot absolve itself from responsibility by delegating its obligations to private bodies or individuals. In *Costello-Roberts v. UK*,[220] the Court applied this principle in a case relating to corporal punishment in a private school. The Court found that the State has an obligation to provide children with their right to education, including responsibility for a school's disciplinary system; the right to education applies equally to pupils in independent schools as well as those in state schools.

There may also be exceptions to this condition where the State is found to be responsible for the alleged breach, by, for example, failing to take appropriate measures to protect an individual against the actions of others. For example, the case of *Young, James and Webster v. UK*[221] concerned former British Rail employees who had been dismissed for failing to comply with the closed shop agreement. The Court found the State to be responsible for the domestic law which made the treatment of the applicants lawful.

The responsibility of the State in cases concerning ill-treatment by private individuals will also be incurred under the Convention by virtue of the combined obligations under Articles 1 and 3 of the Convention. Article 1 requires the State to secure to everyone within their jurisdiction the rights and freedoms set out in the Convention.

219 *Silih v. Slovenia* App No. 71463/01 (ECtHR, 9 April 2009).

220 *Costello-Roberts v. the UK* (1995) 19 EHRR 112.

221 *Young, James & Webster* v. UK (1982) 4 EHRR 38.

The State must therefore take the necessary steps to prevent individuals being subjected to inhuman and degrading treatment or punishment, even by private individuals. This will require that there is effective deterrence to prevent ill-treatment, in particular, of children and other vulnerable people, such as those with mental health problems.

A v. UK[222] concerned the applicant's nine-year-old child's ill-treatment by his stepfather. The stepfather was prosecuted for assault occasioning actual bodily harm for beating the child with a garden cane, but was acquitted. The applicant complained, *inter alia*, of a violation of Article 3. The Court found that as it was a defence to a charge of assault that the treatment in question amounted to 'reasonable chastisement', the law did not provide adequate protection against the ill-treatment of the applicant, in violation of Article 3. This was accepted before the Court by the UK Government.

Complaints against a State which has not signed the Convention, or the Protocol will also be excluded by this condition. For example, complaints against the UK in respect of Protocols 4 or 7 would be declared inadmissible on this ground, as the UK has not, as yet, ratified either protocol.

The Court has extended its case law developed in *Behrani v. France*[223] and *Berić and Others v. Bosnia and Herzegovina*[224] - concerning the application of this limitation to armed forces and administrative authorities – to international tribunals. In the cases of *Galić v. the Netherlands*[225] and *Blagojević v. the Netherlands*[226] the Court declared that it lacked jurisdiction ratione personae to deal with acts of the International Criminal Tribunal for the former Yugoslavia (ICTY), notably on the grounds that it could not hinder the Security Council's effective fulfillment of its mission to ensure peace and security and that the provisions governing the ICTY's organisation and procedure were designed precisely to provide those indicted before it with all appropriate guarantees.

222 *A v. UK* (1999) 27 EHRR 611.

223 *Behrani v. France* App No 71412/01 (ECtHR, 2 May 2007).

224 *Beric and Others v. Bosnia and Herzegovina* App No. 36357/04 (ECtHR, 16 October 2007).

225 *Galić v. the Netherlands* App No. 22617/07 (ECtHR, 9 June 2009).

226 *Blagojević v. the Netherlands* App No. 49032/07 (ECtHR, 9 June 2009).

3.10 Manifestly Ill-Founded

An application may be declared inadmissible as being 'manifestly ill-founded' (Article 35(3)(a) of the Convention), if, on a preliminary investigation, the application does not disclose *prima facie* grounds that there has been a breach of the Convention;[227] for example, where the applicant fails to adduce any evidence in support of the application, or if the facts complained of clearly fall within the limitations or restrictions on the Convention rights. In this case, for example, an applicant would need to produce sufficient evidence of telephone tapping or of torture, failing which, the application would be declared inadmissible as being manifestly ill-founded.

In practice, this requirement amounts to a preliminary merits test and a large number of cases are declared inadmissible on this ground. It is in effect a filtering mechanism, intended to root out the weakest cases. This is perhaps an inevitable part of the Strasbourg system given the very large number of cases, which the Court has to deal with. However, it is something of a misnomer, as applications can still be declared 'manifestly ill-founded' even after the Court has decided that the case was worthy of being communicated to the Respondent Government, and only in the light of the Government's submissions. Furthermore, such decisions do not require unanimity, but can be made by a majority of the chamber of the Court.

3.11 Abuse of the Right of Application

Under Article 35(3)(a), the Court will declare inadmissible any application which it considers an abuse of the right of application. Vexatious petitions[228] or petitions written in offensive language will be declared inadmissible on this ground. Deliberately concealing relevant information from the Court might lead to a declaration of inadmissibility on this ground.[229]

227 See, for example, *Brady v. UK* App No. 55151/00 (ECtHR, 3 April 2001).

228 See, for example, *M v. the UK* App No. 13284/87 (ECtHR, 15 October 1987) 214 – a series of 'ill-founded and querulous complaints'.

229 See, for example, F v. Spain App No. 13524/88 (ECtHR, 12 April 1991) 185 - where the applicant was found not to have deliberately concealed certain domestic proceedings in progress.

The application in *Foxley v. UK*[230] was declared partly inadmissible for failure to comply with the six months rule, but the Commission found that as there was evidence of the applicant's original representative having forged a letter purportedly from the Commission, it could equally have been rejected as an abuse of the right of application. In *Drozd v. Poland*[231] the application was struck off the Commission's list of cases following publication in a newspaper (of which the applicant was on the editorial board) of correspondence from the Commission, in breach of the Commission's confidentiality rules.

But this condition will *not* exclude 'political' applications or those made for purposes of gaining publicity. In *McFeeley v. UK*[232] the applicants complained about the conditions in the Maze prison in Northern Ireland. The Government argued that the application was an abuse of the right of petition as it was inspired by motives of publicity and propaganda and was intended to pressurise the Government into re-introducing the special category status. The Commission rejected these arguments, finding that a complaint of abuse might be upheld if an application were clearly unsupported by the evidence or outside the scope of the Convention.

In *Miroļubovs and Others v. Latvia*[233] the Court, for the first time, gave a general definition of the concept of 'abuse of the right of application' and defined the fundamental principles applicable in that regard. While stating that an intentional breach of the confidentiality rule amounted to an abuse of procedure, the Court nevertheless observed that the burden of proving that applicants were at fault for disclosing confidential information lay in principle with the Government, as a mere suspicion was not sufficient for an application to be declared an abuse of the right of petition.

230 *Foxley v. the UK* App No. 33274/96 (ECtHR, 12 October 1999).

231 *Drozd v. Poland* (1996) EHRLR 430 – the case was struck off under the then Article 30(1)(c).

232 *McFeeley et al v. the UK* (1981) 3 EHRR 161.

233 *Mirolubovs and Others v. Latvia* App No. 798/05 (ECtHR, 15 September 2009)

3.12 Applications Without Significant Disadvantage / New Admissibility Criterion

As discussed above, the Court has recently issued inadmissibility decisions in the case of *Korolev v. Russia* and in *Ionescu v. Romania* invoking the new admissibility criterion.

In light of the two cases, which so far have been examined under the new admissibility criteria under Article 35(3)(b) of the Convention and the application of the de *minimis no curat praetor* principle as previously applied in the *Bock case*, the argument can be made that there is not much difference in the Court's assessment before and after the entry into force of the new criterion.

This raises questions over the value of this criterion. In its practice guide on admissibility criteria, the Court has set out a list of cases on what constituted an insignificant financial impact.

4. JUDGMENT AND ENFORCEMENT

4.1 Judgment

The Court's judgment is usually published several months after the submission of final written observations. Judgments are drafted in one of the two official languages of the Court (English or French) unless the Court decides that it must be given in both official languages (Rule 76, Rules of the Court). They are written in standard format and will contain, among other things, the dates on which it was adopted and delivered, the facts of the case, a summary of the submissions of the parties, the reasons in points of law, the operative provisions and the decision, if any, in respect of costs. A judgment also must contain the number of the judges constituting the majority. Concurring or dissenting judges are entitled to have their separate opinions annexed to the judgment (Rule 74 (2), Rules of the Court).

A judgment may be read out at a public hearing and certified copies are sent by the Registry to the parties. It will also be posted on the website the day the judgment is given, but not until later in the day, usually around 1.30pm GMT.

A party may request the interpretation of a judgment within a year following the delivery of that judgment (Rule 79(1), Rules of the Court). If a party discovers a new fact that might have a decisive influence upon the outcome of the case but was unknown to the Court when the judgment was delivered, it may request the revision of the judgment within a period of six months after it acquired knowledge of that fact (Rule 80(1), Rules of the Court).

In exceptional cases, any party to the case may request for its referral to the Grand Chamber. Such a request must take place within a period of three months from the date that the Chamber rendered its judgment on the case (Article 43 of the Convention, Rule 73, Rules of the Court).

A judgment rendered by a Chamber shall become final in one of the following instances:

1) when the parties declare that they will not request that the case be referred to the Grand Chamber; or
2) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
3) when the panel of the Grand Chamber rejects the request to refer under Article 43'. A refusal to refer a case to the Grand Chamber and a judgment rendered by the Grand Chamber are both final (Article 44 (1) of the Convention).[234]

4.2 Remedies

The Court's primary remedy is a declaration that there has been a violation of the Convention. Where the Court finds that there has been a violation of the Convention, the judgment may include an award for 'just satisfaction' under Article 41 of the Convention, if the question of compensation is ready for decision.

Just satisfaction under Article 41 may include compensation for both pecuniary and non-pecuniary loss and legal costs and expenses. Awards for just satisfaction are an equitable remedy, at the discretion of the Court.

The obligation to abide to a final judgment (Article 46(1) of the Convention) includes a legal obligation on the part of the Respondent State not only to pay monetary compensation in cases where an award for just satisfaction has been made, but also to choose the general and/or, if appropriate, individual measures, subject to supervision of the Committee of Ministers, to be adopted in its domestic legal order to end the violation found by the Court and make reparations.[235]

4.2.1 Pecuniary and Non-Pecuniary Compensation

In general, awards of damages are relatively low compared to damages awarded by the domestic courts of many of the older Council of Europe states. This is probably due to a prevailing view that the primary remedy in Strasbourg is the finding of a violation of the Convention itself. Indeed, in many cases, the Court will decline to award any damages on the basis that the declaration is 'sufficient' just satisfaction. In considering awards for just satisfaction, the Court is unlikely to take account of principles or scales of assessment used by domestic courts.[236]

Rather than lay down specific means of calculating damages awards (such as an hourly rate for unlawful detention), the Court applies general principles in assessing just satisfaction. The legal effect of a judgment is to place a duty on the Respondent State to make reparation for its consequences in such a way as to restore as far as possible the

234 European Convention on Human Rights, Article 44(2).

235 *Payqar ev Haghtanak Ltd v. Armenia* App No. 21638/03 (ECtHR, 20 December 2007).

236 *Osman v. UK* (2000) 29 EHRR 245, para 164.

situation existing before the breach (*restitutio in integrum*). The Court will frequently comment that it is unable to speculate on the outcome of the applicant's domestic proceedings, had there not been a violation of the Convention. This is often the position, for example, in cases where there has been a violation of the right to a fair trial in criminal proceedings.[237] In *Findlay v. UK*,[238] for example, the applicant's claim for loss of income of 440,200 UK pounds following his conviction and sentence by a court-martial which violated Article 6(1) was rejected for this reason by the Court.

On many occasions, the Court states that its award is made 'on an equitable basis'.

The Respondent State is usually expressly required to pay compensation and costs within three months of the date of the judgment becoming final. The Court usually directs that interest at a prescribed rate shall be payable on any sums not paid within that time.

It is vital that detailed claims for just satisfaction are made by the applicant. Where an applicant fails to make such a claim, the Court will not consider an award of its own motion[239]. Details of how to set out the claims are included at **Annex G**.

Claims for punitive or aggravated damages have been rejected by the Court, without ruling out the possibility of making such awards.[240]

The highest awards for damages was the award of 1.9 billion euros in respect of pecuniary and non-pecuniary damage in the case of *Yukos v. Russia*.[241] The Court held in this case that Russia had expropriated a company called Yukos' property rights by wrongly fining them for tax liability. Moreover, Russia had breached Yukos' right to a fair trial for not giving it enough time to prepare their cases in first instance and on appeal. In the case of *Loizidou v. Turkey*[242] the damages awarded for the violation of the same right amounted to 457,084 Cypriot pounds (for pecuniary damage, non-pecuniary damage and costs and expenses); by the time Turkey paid the damages in 2003, the sum amounted to more than one million US dollars.[243]

237 See, for example, Hood v. UK (2000) 29 EHRR 365, para 86.

238 *Findlay v. UK* (1997) 24 EHRR 221.

239 See, for example, *Moore and Gordon v. UK* (2000) 29 EHRR 728, para 28.

240 See, for example, *Selcuk and Asker v. Turkey* (1998) 26 EHRR 477, para 119; and *Hood v. UK* (2000) 29 EHRR 365, para 89.

241 *Yukos v. Russia* App No. 14902/04 (ECtHR, 31 July 2014)

242 *Loizidou v. Turkey* (Just Satisfaction) App No. 15318/89 (ECtHR, 28 July 1998).

243 'Turkey compensates Cyprus refugee' (2 December 2003) BBC News <http://news.bbc.co.uk/1/hi/world/europe/3257880.stm> last accessed on 9 November 2022.

The conduct of the applicant may also be a factor in assessing awards. No award was made in McCann and Others v. UK, 'having regard to the fact that the three terrorist suspects who were killed had been intending to plant a bomb in Gibraltar'.[244]

In order to succeed in claiming pecuniary losses, the applicant must establish a causal link between the violation and the losses claimed. Awards may include loss of earnings (past and future), loss of pension scheme benefits, fines and taxes imposed, costs incurred, loss of inheritance and loss of the value of land. Awards for non-pecuniary damage may include elements in respect of pain and suffering, anguish and distress, trauma, anxiety, frustration, feelings of isolation, helplessness and injustice and for loss of opportunity, reputation or relationship.

If one or more heads of damage cannot be calculated precisely or if the distinction between pecuniary and non-pecuniary damage proves difficult, the Court may decide to make a global assessment.[245]

4.2.2 Restitution in Property Cases

In cases of unlawful expropriation of immovable property where the Court finds a violation of the Convention, it may order the return of the property to the applicants and also hold that should the Respondent State fail to do so it should pay the applicants, in respect of pecuniary damage, an amount corresponding to the current value of the property. For example, in *Strain and Others v. Romania*[246] concerning the failure of the Respondent State to return to the applicants part of their property that was nationalised in the 1950s, the Court found a violation of Article 1 Protocol 1 of the Convention and ordered Romania to return the property to the applicants or, if it failed to so, to pay the applicants the amount, in pecuniary damage, corresponding to the current value of their flat. In such cases, it is suggested that the applicant(s) submit a detailed valuation of the property expropriated.

244 *McCann and Others v. UK* (1996) 21 EHRR 97, para 219.

245 *Comingersoll v. Portugal* App No. 35382/97 (ECtHR, 6 April 2000) para 29.

246 *Strain and Others v. Romania* App No. 57001/00 (ECtHR, 21 July 2003) paras 74-75.

4.2.3 Release of a Person Unlawfully Detained

In cases where the Court has found a violation of Article 5 of the Convention in relation to the applicant's continuing arbitrary detention, it may request the authorities of the State party to take all the necessary measures to put an end to the arbitrary detention of the applicant(s) still imprisoned and secure their immediate release.[247]

4.2.4 Re-hearings in Criminal Proceedings

The Court is placing increasing pressure on Member States to hold a re-hearing in the domestic proceedings following a finding of a Convention violation in the course of those proceedings. Re-examination of a case by the domestic authorities or the re-opening of proceedings will often be the most effective way of achieving '*restitutio in integrum*'. For example, in a series of judgments against Turkey, which found that the applicants had been convicted by a court which was not independent and impartial within the meaning of Article 6(1) of the Convention, the Court recommended that the most appropriate form of redress would be for them to be re-tried by an independent and impartial court at an early date.[248] However, such recommendations do not seem to have been adopted in practice.

In the Case of *Öcalan v. Turkey*,[249] the Grand Chamber endorsed this general approach, but found that the specific remedial measure, if any, required of a Respondent State in order to discharge its obligations under Article 46 of the Convention had to depend on the particular circumstances of the individual case and be determined in the light of the terms of the Court's judgment in that case and with due regard to the case law of the Court.

4.2.5 Costs and Expenses

The Court may award an applicant their costs provided that each of the following conditions is satisfied:

1) that the costs are actually incurred;
2) that they are necessarily incurred; and
3) that they are reasonable as to quantum.

247 *Ilascu and Others v. Russia and Moldova* App No. 48787/99 (ECtHR, 8 July 2004) para 221.

248 *Gençel v. Turkey* App No. 53431/99 (ECtHR, 23 October 2003); *see also Somogyi v. Italy* App No. 67972/01 (ECtHR, 18 May 2004).

249 *Öcalan v. Turkey* App No. 46221/99 (ECtHR, 12 May 2005).

In addition to the costs of the Court proceedings, a successful applicant may seek to recover from the Court costs incurred in domestic proceedings, which were aimed at obtaining redress in respect of the Convention violation.[250] Domestic fee scales may be relevant, but they are not binding on the Court.

It is essential to submit to the Court detailed bills of costs setting out the tasks carried out, the hours worked, the hourly rates and details of all expenses. Costs will not be deemed to have been incurred where a legal representative has acted free of charge. Therefore, they cannot in those circumstances be claimed under Article 41 of the Convention.[251] A suggested format can be found at **Annex G**.

If the applicant has not succeeded in establishing a violation of the Convention in respect of part of their case, this may be a factor in the Court reducing the costs sought.

Costs awards may be expressed to be inclusive or exclusive of VAT and any sums previously paid by the Court, as legal aid will be deductible.

There is no provision in the Convention for costs to be awarded against an unsuccessful applicant.

When the judgment becomes final, the Applicant(s) should submit their bank details to the Directorate General for payment of the just satisfaction, as well as the bank details of their representatives for payment of the costs and expenses, as applicable. These should be sent to:

Department for the Execution of Judgments
Directorate General II – Human Rights
Council of Europe
F-67075 STRASBOURG CEDEX
FRANCE
Tel.: +33 (0)3 90 21 55 54
Fax: +33 (0)3 88 41 27 93
E-mail: DGII.Execution@coe.int

250 See, for example, *Lustig-Prean and Beckett v. UK* App Nos. 31417/96 and 32377/96 (ECtHR, 27 September 1999) paras 30-33.

251 See, for example, *McCann v. UK* (1995) 21 EHRR 97 para 221.

If you wish to obtain or communicate information concerning the payment of just satisfaction that the Court has awarded to you or submit a complaint, please contact:

Council of Europe
DGI - Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR
Just Satisfaction Section
F-67075 Strasbourg Cedex
FRANCE

+33(0)3.88.41.27.93
dgi_execution_just_satisfaction@coe.int

For general information:
+33 (0)3 90 21 55 54
+33 (0)3 88 41 27 93
dgi-execution@coe.int

4.3. Enforcement

The Member States undertake to abide by the final judgment of the Court in any case to which they are parties (Article 46(1) of the Convention). However, the standard of protection provided by the ECtHR cannot be maintained if Member States refuse or delay the execution of the Court's final judgments in cases to which they are parties, as the final judgments issued by the Court are legally binding but essentially declaratory.[252] Thus, in cases where the Court finds that a violation of the Convention stems directly from contested legislation it cannot annul or repeal that legislation.[253] It is up to the Respondent State to choose the means to fulfil the obligations arising from Article 46 of the Convention.[254]

Manole and Others v. Moldova[255] concerned the censorship and political pressure to which journalists working for the State broadcasting company were subjected. For

252 Article 46 para 1 ECHR; see, for example, *Marckx v. Belgium* App No. 6833/74 (ECtHR, 13 June 1979).

253 Ibid.

254 Report on the execution of judgments of the European Court of Human Rights, on behalf of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Jurgens, Doc. 8808, (2000) 21 4-7 HRLJ 275.

255 *Manole and Others v. Moldova* App No. 13963/02 (ECtHR, 17 September 2009).

the first time, the Court called upon a State to take general measures as soon as possible, including legislative reform, to remedy the situation that had given rise to a violation of Article 10. It added that the legal framework to be instituted must be in conformity with the recommendations of the CoM and those of an expert appointed following an agreement between the Moldovan authorities and the Secretary General of the Council of Europe.

The Court has also had to deal with cases disclosing systemic problems in relation to medical care in prison. For example, in *Poghosyan v. Georgia*,[256] the Court noted the systemic nature of the lack of medical care in Georgian prisons, particularly regarding the treatment of persons with Hepatitis C, and urged Georgia to 'rapidly' take legislative and administrative measures in order to prevent the transmission of the disease in prisons, to introduce a testing programme and to guarantee the provision of care for those suffering from the disease. The case of *Sławomir Musiał v. Poland*[257] concerned the inadequate medical care provided to an accused person suffering from epilepsy and various mental disorders who was detained in a succession of ordinary prisons. The Court considered that, in view of the seriousness and the systemic nature of the problem of overcrowding and the poor living and sanitary conditions in Polish detention facilities, the necessary legislative and administrative measures should be taken rapidly to ensure appropriate conditions of detention, particularly for prisoners who needed special care owing to their state of health.

4.3.1 Committee of Ministers

The Committee of Ministers is the body entrusted with the supervision of the execution of the judgments and friendly settlement agreements.[258] Every member state gets one representative to represent their country in the Committee (Article 14 Statute of the Council of Europe). Even though these representatives are in principle the ministers for foreign affairs of each state, in practice their permanent representations in Strasbourg are usually the ones taking their place.[259] The Committee is assisted in its task by the Directorate General of Human Rights.

256 *Poghosyan v. Georgia* App No. 9870/07 (ECtHR, 24 February 2009).

257 *Sławomir Musiał v. Poland* App No. 28300/06 (ECtHR, 20 January 2009).

258 European Convention on Human Rights, Article 39(4) and Article 46(2).

259 European Implementation Network, 'Implementation of Judgments of the European Court of Human Rights; A Handbook for NGOs, injured parties and their legal advisers' (2018) 3.

Due to the vast amounts of cases brought to the Court, the Committee of Ministers' supervision process and implementation of judgments are prioritised between leading and repetitive cases. Such a framework is beneficial for highlighting cases that have been identified as revealing new structural or systemic problems, either by the Court in its judgments or by the Committee of Ministers during the course of its supervision. Leading cases ideally lead to general measures that would prevent similar violations in the future.

4.3.2 Procedure and Legal Basis

The legal basis for the Committee's powers can be found in Articles 39 and 46 of the Convention. In addition to this the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlement (hereafter: Rules of the Committee) provide guidance on the execution of the Convention.[260]

Enforcement starts after a judgment becomes final. From that moment the state concerned has six months to come up with an action plan, followed by an action report.[261]

Rule 2, Rules of the Committee determines that supervision of the final judgments is carried out by the Committee of Ministers in six human rights meetings during the year, the agenda of which is public. Cases can be given priority when they caused grave consequences for the injured party, or concern structural issues (Rule 4, Rules of the Committee). Moreover, every case will eventually be classified under the 'standard' or 'enhanced' supervision procedure. Cases will be placed under enhanced supervision when they require urgent individual measures, reveal important structural problems, or concern inter-state cases.[262] This procedure allows the Committee to more closely follow progress of the execution of a case and engage in dialogue with the national authorities concerned.[263]

260 The Rules of the Committee can be found here: https://rm.coe.int/16806eebf0 .

261 European Implementation Network, 'Implementation of Judgments of the European Court of Human Rights; A Handbook for NGOs, injured parties and their legal advisers' (2018) 4.

262 'The supervision process' (Council of Europe) <https://www.coe.int/en/web/execution/the-supervision-process> accessed 1 December 2022; Rule 4, Rules of the Committee.

263 'Glossary of Terms' (Council of Europe) <https://www.coe.int/en/web/execution/glossary> accessed 1 December 2022.

The Committee will base its supervisory conclusions on information provided to them by the Member States concerned, whom they will request to provide the information (Rule 6(1), Rules of the Committee). Additionally, the Committee is obliged to consider all communications from injured parties (Rule 9(1), Rules of the Committee). The Committee also has the discretion to consider communications from non-governmental organisations, international intergovernmental organisations and national institutions for the promotion and protection of human rights, as well as any institution or body further allowed to intervene in the procedure before the Court (Rule 9(2), (3) and (4), Rules of the Committee).

In determining whether a judgment has been adequately executed, the committee shall look at whether any just satisfaction has been paid (Rule 6(2)(a), Rules of the Committee). With regards to other measures, the Committee takes into account the discretion of the High Contracting party in deciding how to execute the judgment. However, Rule 6(b), Rules of the Committee, provides a test to establish whether the party has complied with the judgment. In that respect, individual measures need to 'ensure that the violation has ceased and that the injured party is put, as far as possible, in the same situation as that party enjoyed prior to the violation', general measures have to prevent 'new violations similar to that or those found or putting an end to continuing violations'.[264] As of 2009, the Court has the power to make suggestions for the execution of judgments (under Article 46 of the Convention) under the pilot-judgment. In 2020, 12 such suggestions were made. This number was slightly lower in 2021, namely 11.[265] These will of course be taken into consideration when the Committee supervises the execution process. Pilot-judgment solutions can be straightforward; in the cases of *Kavala v. Turkey* and *Demirtaş v. Turkey* the Court simply ordered Turkey to put an end to the applicant's detention and to secure his immediate release. In other cases, the Court will simply suggest how to utilise existing laws to bring practices in line with the Convention. An example of this is the Case of *Willems and Gorjon v. Belgium*. In this case, the Court ruled that Article 6 of the Convention had been violated because the Belgian Court of Cassation displayed excessive formalism when ruling certain appeals inadmissible. The Court suggested that based on standard case-law, this could be remedied by simply reopening the

264 Rule 6(b)(i) and (ii), Rules of the Committee.

265 Council of Europe, 'Annual report 2020 of the European Court of Human Rights' (2020) 71; European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 78.

proceedings. It pointed to the specific possibility for that in the Belgian Criminal Code.[266] However, in other cases the solution might not be clear. In those instances, , the Court will likely emphasise the discretion of the Member States in taking measures and only indicate the end result. The cases of *Bagirov v. Azerbaijan and Mammadov and Others v. Azerbaijan* constitute examples of this. In the former, a lawyer's freedom of expression was considered violated after he was suspended for publicly criticising police brutality. The Court simply indicated that the applicant's professional activities had to be restored and that this had to be done in a feasible, timely, adequate, and sufficient manner to put him in a position as similar as to where he had been before this disbarment. No specific measures were suggested on how this could be achieved. In the case of Mammadov on, the Court only pointed to the need to enact an alternative service system for conscientious objectors of military service without further indicating what such a system should look like.[267]

Publicity plays a large role in the enforcement of the convention system: in addition to the agenda of the human rights meetings being public (Rule 2(1), Rules of the Committee) of the Committee, committee decisions, as well as annual reports on activities (Rule 5, 8(4), Rules of the Committee, and Rule 14, Rules of the Committee for friendly settlements) are published too. In principle, the information and documents provided by the Member State, the injured party, and third parties such as NGOs shall be made available to the public at the latest ten working days after notification to the Member State concerned (Rule 8(2), Rule 9(6), Rules of the Committee). However, the Committee can opt for confidentiality to protect legitimate public or private interests (Rule 8(2), Rules of the Committee). Three scenarios in Rule 8(3) describe when this might be the case. Scenarios include reasoned requests for confidentiality made at the time the information is submitted by the party submitting the information (Rule 3(a), Rules of the Committee), as well as 'the interest of an injured.. or third party not to have their identity.. disclosed' (Rule 3(b), Rules of the Committee). In case anonymity was already granted during the Court process according to the Rules of Court 47 paragraph 4, anonymity shall be respected during the enforcement proceedings as well unless the party concerned expressly requests otherwise (Rule 8(5), Rules of the Committee).

266 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 78.

267 Council of Europe, 'Annual report 2020 of the European Court of Human Rights' (2020) 73.

Until the Committee has ensured that the Member State has complied with the judgment, the case shall remain on the agenda of the human rights meetings (Rule 7(1), Rules of the Committee). In the meantime, the Committee has the power to adopt interim resolutions '.. to provide information on the state of progress of the execution and where appropriate, to express concern and/or to make suggestions with respect to the execution' (Rule 16 of the Committee, Rules of the Committee). Supervision of a case is completed upon the issuance of a final resolution by the Committee (Rule 17, Rules of the Committee). At the end of 2021, 5533 cases were pending before the Committee. This marked one of the lowest numbers since 2007.[268]

4.3.3 Extra Measures

Since Protocol No. 14 entered into force, the Committee has two extra tools that are likely to help it influence Governments of Respondent States with regards to the execution of the Court's judgments.[269]

Article 46(3) of the Convention provides that in cases where the Committee considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation.[270] A majority vote of two-thirds is required for this (Rule 10(1), Rules of Committee).

Article 46(4) of the Convention provides that in cases where the Committee of Ministers considers that a Respondent State refuses to execute a judgment in a case to which it is a party, it may refer to the Court the question of whether the Respondent State has failed to fulfil its obligations under Article 46(1) and bring infringements proceedings before the Court.[271] This procedure is to be invoked only in the most exceptional cases (more on that later).

268 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 11.

269 See also the proposals in Resolution 1226 (2000), Execution of Judgments of the European Court on Human Rights, Texts adopted by the Assembly, 28 September 2000, reproduced in (2000 21 4-7 HRLJ 273). The Parliamentary Assembly has also undertaken efforts to encourage the timely execution of the Court's judgments by holding debates in which non-implementing governments are publicly called to account, see Resolution 1411 (2004) (provisional edition), text adopted by the Standing Committee acting on behalf of the Assembly on 23 November 2004.

270 See Protocol No. 14 and Explanatory Report.

271 See Protocol No. 14 and Explanatory Report.

4.3.4 Practical Issues Persist

Although Respondent States are usually willing to pay the just satisfaction and try to abide by their obligation under Article 46(1) of the Convention, there are also many occasions where a Respondent State refuses to execute a final judgment, or delays in doing so. There may be political, budgetary or other reasons why execution does not take place, such as in connection with the scale of the reforms required. The Committee may take various steps in order to assist execution, such as diplomatic initiatives or the issuance of interim resolutions. If problems persist, the Committee may issue more strongly-worded resolutions urging the Respondent State to comply with the judgment, ultimately recalling the unconditional nature of the obligation to comply with the Court's judgments and stressing that compliance is a condition of membership of the Council of Europe.

In recent years, non-execution of judgment has become a prominent issue for the Court as also exemplified by the Brussels and Copenhagen declarations. In 2021, the council reported instances of serious delays regarding the payment of just satisfaction. However, non-enforcement takes place in a variety of ways. An often recurring theme is the failure to provide (all) information on the measures taken in execution of the judgment, or providing that information after the deadline. Whereas in 2019, delays were only present in 1423 cases, this increased to 1602, and even 1772 cases in 2020 and 2021 respectively. Overall, the Committee had a record number of cases under its examination in 2021.[272] The cases of, and *Mahmudov and Agazade Group v. Azerbaijan, Khadija Ismayilova group v. Azerbaijan, Bati and others group v. Turkey* provide examples of this. In the *Mahmudov and Agazade* group cases the government did send in an action plan to remedy violations following an arbitrary application of the law on defamation. However, this was sent in so belatedly that the Committee was not able to examine it before its human rights meeting. Moreover, detailed information on possible general measures aimed at amending the legislation was missing.[273] Similar issues arose in *Bati and others group v. Turkey*. This case concerned the ineffectiveness of investigations against law enforcement officers in torture allegations. While data was provided regarding the decreasing length of investigations at the court of first instance, no data was provided for regional courts. Moreover, not enough data was provided regarding the lenient attitude of domestic courts towards state agents. This lack of information is problematic, as it refrains the Committee from fulfilling its function as a supervisor and enforcer.

In other cases, Member States refuse to comply with a judgment at all. The cases of Osman Kavala and Selahattin Demirtas, concerning the extended detention of applicants without reasonable suspicion, exemplify this. Despite repeated calls from the Committee, both applicants are still detained. In the case of Demirtas, new allegations were even lodged on the same set of facts. According to the Committee, this causes concern for the ulterior purpose of stifling pluralism and limiting freedom of political debate.[274] A similar issue arose in *Mammadli group v. Azerbaijan*. This case concerned the arrest and pre-trial detention of the applicants to punish them for their active political engagement. This was held to violate Article 18 of the Convention. However, as of 2022 the guilty verdicts still stand, and no information was provided regarding any new measures taken.[275]

However, most of the time, a judgment is only partially executed. In *Kakoli and Isaak groups v. Turkey*, the killings of Greek-Cypriots during demonstration due to excessive use of force by Turkish military officers, in combination with a lack of investigations into it were held to violate Article 2 of the Convention.[276] Some general measures were taken such as the training of military personnel on the use of firearms and the abolishment of a rule that prohibited access to wounded personnel. However, other legislation is still in need of amendments. For instance, the law still allows police to use firearms to overcome resistance in the case of insults. Moreover, regarding the individual measures Turkey has provided insufficient information to assess whether appropriate execution has taken place.

Certain themes are overrepresented in cases in which Member States have held off on complying with judgments. The main themes include the functioning of the judicial system, ill treatment by state agents or ineffective investigations, and poor detention conditions and lack of remedies.

However, not all Member States are appreciative of this fact. President Ergoğan of Turkey for instance accused the Court of issuing politically motivated rulings. In particular, Court rulings calling for the immediate release of Kurdish politician Selahattin Demirtas and Osman Kavala, both jailed for politiclally motivated charges, have

272 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 31.

273 *Mahmudov and Agazade Group v. Azerbaijan* App No. 35877/04 (CoM, 22 September 2022) CM/Del/Dec(2022)1443/H46-4.

274 *Selahattin Demirtas (No. 2) group v. Turkey* App No. 14305/17 (CoM, 22 September 2022) CM/Del/Dec(2022)1443/H46-29; *Kavala v. Turkey* App. No. 28749/18 (CoM, 22 September 2022) CM/Del/Dec(2022)1443/H46-30.

275 *Mammadli group v. Azerbaijan* (CoM, 22 September 2022) CM/ResDH(2022)251.

276 *Kakoulli and Isaak groups v.* Turkey Apps No. 28595/97, 44587/98 (CoM, 10 June 2022) CM/Del/Dec(2022)1436/H46-30.

angered President Erdoğan.[277] However, this has been a major step for recognising and shining light towards the injustices commited by Turkey on the Kurdish people.

More information and statistics on the execution of judgments can be found in the annual reports of the Council of Europe. Moreover, country-specific information is displayed in Country Fact-sheets. These documents are available on the website of the Council of Europe.[278]

4.3.5 Potential Remedies for Non-Enforcement

In light of structural non-enforcement, this leaves open the question of what instruments are available in the case of non-execution.

4.3.5.1 Rule 9 Procedures

Injured parties, NGO's, international intergovernmental organisations, and national institutions for the promotion and protection of human rights can submit communications to the Committee regarding the execution of the judgment. In doing so, they can bring cases of non-execution to the attention of the Court. The year 2021 marked a record number of 207 Rule 9 communications. The Council of Europe frames this as a positive thing because of its enhancing effect on the transparency and participatory character of the execution process.[279] However, this also means that reasons existed for more parties to make use of Rule 9.

Injured parties shall be allowed to bring Rule 9 communications only regarding the payment of just satisfaction and the taking of individual measures (Rule 9(1), Rules of the Committee). After the Department of Execution of Judgments of the ECHR (hereafter: DEJ) receives information from the Member State concerned regarding the payment of just satisfaction (as per aforementioned Rule 6, Rules of the Committee), it will be published on www.coe.int/execution. From then, injured parties have two months to bring any complaints through Rule 9 communications. This is a strict deadline, as the payment of just satisfaction will be considered closed if no communications are received.[280]

277 'Erdogan says ECtHR issues politically motivated rulings in cases involving Turkey' (SCF, 1 September 2022) < https://stockholmcf.org/erdogan-says-ecthr-issues-politically-motivated-rulings-in-cases-involving-turkey/ > Accessed 1 December 2022. .

278 The factsheets can be found here: https://www.coe.int/en/web/execution/thematic-factsheets.

279 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 37.

280 European Implementation Network, 'Implementation of Judgments of the European Court of Human Rights; A Handbook for NGOs, injured parties and their legal advisers' (2018) 9.

NGOs and national institutions for the promotion and protection of human rights have a larger mandate which allows them to submit communications regarding 'the execution of judgments' generally (Rule 9(2), Rules of the Committee). This also applies for international intergovernmental organisations whose aims and activities include the protection or promotion of human rights. However, the issues they are complaining about should fall within their competence (Rule 9(3), Rules of the Committee). In 2018, the European Implementation Network (hereafter: EIN) released a handbook for NGOs, injured parties and their legal advisers on the implementation of Judgments of the European Court of Human Right. This handbook provides practical guidance on what NGOs may address, which data they are allowed to use, and what requests they can make.[281] In addition to that, the Council of Europe released tips for drafting a submission.

Submissions should be structured in the following way (much like the decisions by the Committee):

- Introductory paragraph, including the description of the case or group of cases and of the organisation.
- Executive summary, including the main recommendations to the CM in bullet points
- Individual measures, providing any update on actions taken, e.g, payment of compensation
- General measures, e.g highlighting legislative gaps or actions which may be needed.
- Conclusion (make sure this is paraphrased correctly)[282]

More (detailed) information on this is available in the EIN's handbook as well as on the website of the Council of Europe itself.

Submissions should be addressed to the Head of the Department to the general mailbox:

Council of Europe
DGI – Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR
F-67075 Strasbourg Cedex
Franc
+33 (0)3 90 21 55 54
+33 (0)3 88 41 27 93
Dgi-execution@coe.int

281 The handbook can be found through the following link: https://www.einnetwork.org/ein-handbooks/.

282 European Implementation Network, 'Implementation of Judgments of the European Court of Human Rights; A Handbook for NGOs, injured parties and their legal advisers' (2018) 12-14.

4.3.5.2 Infringement Proceedings

When the Committee of Ministers considers that a Respondent State refuses to execute a judgment in a case to which it is a party, it may bring infringement proceedings against that state.[283] This means it will refer to the Court the question of whether the Respondent State has failed to fulfil its obligations under Article 46(1) of the Convention.[284] A majority vote of two-thirds is required for this again, as well as serving formal notice on that party at least six months before lodging the proceedings (Rule 11(1) and 9(2), Rules of the Committee).

As Rule 11(2), Rules of the Committee also confirms: infringement proceedings are only meant for exceptional circumstances. This is in line with the Council of Europe's view that 'human rights can best be protected by working with a State within the organisation'.[285] The first ever infringement proceedings were started on February 2, 2022 against Turkey for the repeated failure to comply with the Court judgments regarding Kavala and Demirtas. Despite multiple calls for their release and the ending of proceedings against them, the both of them remain in prison as of today.[286]

In case the Court finds a violation of Article 46 paragraph 1 of the Convention at the end of the infringement proceedings, the Committee will consider measures to be taken. The Convention does not provide for sanctions when a State delays or does not execute a final judgment in a case to which it is a party. However, as a last resort, Article 8 in conjunction with Article 3 of the Statute of the Council of Europe can be applied and the Committee may decide to suspend a Council of Europe member from its rights of representation or expel it in view of its persistent refusal to implement the Court's judgments. However, it remains to be seen what sanctions will be deployed against Turkey if the infringement proceedings turn out to be successful.

4.3.5.3 Convention Knowledge as a Common Ground

Ultimately, the above means that strong methods of enforcement do not exist within the Convention system. However, the Committee remains dedicated to improving the execution of judgments. In doing so, it focuses a lot on turning convention knowledge into common ground. Therefore, in September 2022 the Committee adopted guidelines on preventing and remedying violations of the European Convention on Human Rights.[287] The first aspect of prevention focuses on awareness raising and training. Extending to this, thematic fact sheets were published on topics such as children's rights, freedom of expression, and migration and asylum.[288] Moreover, solutions proposed concerned improving domestic remedies, facilitating the domestic application of the Convention and relevant case law of the Court, strengthening the role of National Human Rights Institutions and civil society organisations, as well as regulatory reform. Additionally, targeted cooperation activities belong to the options of the Committee. For instance, in 2021, the DEJ paid a visit to Azerbaijan to work together to implement judgments on the *Mammadli* group of cases.[289] Moreover, in 2021 targeted cooperation projects took place in Armenia in solving structural issues relating to violations of the right to fair trial.[290] The Council of Europe has described these activities as indispensable for the adoption of suitable and sustainable measures.[291]

Lastly, the Committee has established the importance of National Human Rights Institutes on multiple occasions.[292] For this reason, the Committee regularly invests in interaction with National Human Rights Institutes and the European Network of National Human Rights Institutions. In 2021, more interaction between the DEJ and ENNHRI took place, with the latter creating a tool hub for guidance on implementation of the Court's judgments.[293]

The issue of execution of judgment remains under consideration. In 2021, the Committee got together in Hamburg to discuss combatting non execution and persistent refusal of execution by enhancing tools.[294]

283 Art. 46(4) of the Convention.

284 See Protocol No. 14 and Explanatory Report.

285 Ovey, Clare and Robin C.A. White, *The European Convention on Human Rights* (3rd ed, Oxford University Press, 2002) 434.

286 European Court of Human Rights, 'Infringement procedure to be applied by Court in case of Kavala v. Turkey' (Press release, 23 February 2022) ECHR 057.

287 Committee of Ministers, 'Committee of Minsiters adopts guidelines on preventing and remedying violations of the European Convention on Human Rights' (*Council of Europe*, Strasbourg 27 September 2022) <https://www.coe.int/en/web/portal/-/committee-of-ministers-adopts-guidelines-on-preventing-and-remedying-violations-of-the-european-convention-on-human-rights> accessed 1 December 2022.

288 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 32.

289 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 34.

290 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 40

291 European Court of Human Rights, 'Annual Report 2021 of the European Court of Human Rights, Council of Europe' (2022) 39

292 CM/Rec(2021)1/CMRec(2021)4.

293 This guidance can be found at http://ennhri.org/implementation-of-the-european-convention-on-human-rights/

ANNEX A: EUROPEAN CONVENTION ON HUMAN RIGHTS

Convention for the Protection
of Human Rights
and Fundamental Freedoms
as amended by Protocols Nos. 11, 14 and 15

supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16

The text of the Convention is presented as amended by the provisions of Protocol No.15 (CETSNo.213) as from its entry into force on 1 August 2021 and of ProtocolNo.14 (CETSNo.194) as from its entry into force on 1June 2010. The text of the Convention had previously been amended according to the provisions of Protocol No. 3 (ETSNo.45), which entered into force on 21 September1970, of ProtocolNo.5 (ETSNo.55), which entered into force on 20 December 1971, and of Protocol No. 8 (ETS No. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS No. 44) which, in accordance with Article 5 paragraph 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols were replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS No. 140), which entered into force on 1 October 1994, was repealed and Protocol No.10 (ETS No. 146) lost its purpose.
The current state of signatures and ratifications of the Convention and its Protocols as well as the complete list of declarations and reservations are available at www.conventions.coe.int.

European Court of Human Rights Council of Europe
67075 Strasbourg cedex
France
www.echr.coe.int

The governments signatory hereto, being members of the Council of Europe,
Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948;
Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;
Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;
Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of Human Rights and Fundamental Freedoms;
Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;
Being resolved, as the governments of European countries which are likeminded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,
Affirming that the High Contracting Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in this Convention and the Protocols thereto, and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the European Court of Human Rights established by this Convention,

Have agreed as follows:

Article 1 – Obligation to Respect Human Rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

SECTION I – RIGHTS AND FREEDOMS

Article 2 – Right to Life

1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
   a) in defense of any person from unlawful violence;
   b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
   c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3 – Prohibition of Torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4 – Prohibition of Slavery and Forced Labour

1) No one shall be held in slavery or servitude.
2) No one shall be required to perform forced or compulsory labour.
3) For the purpose of this Article the term "forced or compulsory labour" shall not include:
   a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
   b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
   c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
   d) any work or service which forms part of normal civic obligations.

Article 5 – Right to Liberty and Security

1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
   a) the lawful detention of a person after conviction by a competent court;
   b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
   c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
   d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
   e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of un-sound mind, alcoholics or drug addicts or vagrants;
   f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3) Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6 – Right to a Fair Trial

1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic soci-

ety, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3) Everyone charged with a criminal offence has the following minimum rights:

a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b) to have adequate time and facilities for the preparation of his defense;

c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d) to examine or have examined witnesses against him and to obtain the attendance and examination of wit-nesses on his behalf under the same conditions as witnesses against him;

e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 – No Punishment Without Law

1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.

Article 8 – Right to Respect for Private and Family Life

1) Everyone has the right to respect for his private and family life, his home and his correspondence.

2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9 – Freedom of Thought, Conscience and Religion

1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10 – Freedom of Expression

1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 – Freedom of Assembly and Association

1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12 – Right to Marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 13 – Right to Effective Remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 – Prohibition of Discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15 – Derogation in Time of Emergency

1) In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2) No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 § 1 and 7 shall be made under this provision.
3) Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefore. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 16 – Restriction on Political Activity of Aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17 – Prohibition of Abuse of Rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18 – Limitation on use of Restrictions on Rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

SECTION II – EUROPEAN COURT OF HUMAN RIGHTS

Article 19 – Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European Court of Human Rights, hereinafter referred to as "the Court". It shall function on a permanent basis.

Article 20 – Number of Judges

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

Article 21 – Criteria for Office

1) The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence.
2) Candidates shall be less than 65 years of age at the date by which the list of three candidates has been requested by the Parliamentary Assembly, further to Article 22
3) The judges shall sit on the Court in their individual capacity.
4) During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court.

Article 22 – Election of Judges

The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party.

Article 23 – Terms of Office and Dismissal

1) The judges shall be elected for a period of nine years. They may not be re-elected.
2) The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.
3) No judge may be dismissed from office unless the other judges decide by a majority of two-thirds that that judge has ceased to fulfil the required conditions.

Article 24 – Registry and Rapporteurs

1) The Court shall have a Registry, the functions and organisation of which shall be laid down in the rules of the Court.
2) When sitting in a single-judge formation, the Court shall be assisted by rapporteurs who shall function under the authority of the President of the Court. They shall form part of the Court's Registry.

Article 25 – Plenary Court

The plenary Court shall

a) elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;
b) set up Chambers, constituted for a fixed period of time;
c) elect the Presidents of the Chambers of the Court; they may be re-elected;
d) adopt the rules of the Court;
e) elect the Registrar and one or more Deputy Registrars;
f) make any request under Article 26, paragraph 2.

Article 26 – Single-Judge Formation, Committees, Chambers and Grand Chamber

1) To consider cases brought before it, the Court shall sit in a single-judge formation, in Committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up Committees for a fixed period of time.
2) At the request of the plenary Court, the Committee of Ministers may, by a unanimous decision and for a fixed period, reduce to five the number of judges of the Chambers.
3) When sitting as a single judge, a judge shall not examine any application against the High Contracting Party in respect of which that judge has been elected.

4) There shall sit as an ex officio member of the Chamber and the Grand Chamber the judge elected in respect of the High Contracting Party concerned. If there is none or if that judge is unable to sit, a person chosen by the President of the Court from a list submitted in advance by that Party shall sit in the capacity of judge.
5) The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the High Contracting Party concerned.

Article 27 – Competence of Single Judges

1) A single judge may declare inadmissible or strike out of the Court's list of cases an application submitted under Article 34, where such a decision can be taken without further examination.
2) The decision shall be final.
3) If the single judge does not declare an application inadmissible or strike it out, that judge shall forward it to a committee or to a Chamber for further examination.

Article 28 – Competence of Committees

1) In respect of an application submitted under Article 34, a Committee may, by a unanimous vote,

   a) declare it inadmissible or strike it out of its list of cases, where such decision can be taken without further examination; or

   b) declare it admissible and render at the same time a judgment on the merits, if the underlying question in the case, concerning the interpretation or the application of the Convention or the Protocols thereto, is already the subject of well-established case-law of the Court.
2) Decisions and judgments under paragraph 1 shall be final.
3) If the judge elected in respect of the High Contracting Party concerned is not a member of the Committee, the Committee may at any stage of the proceedings invite that judge to take the place of one of the members of the Committee, having regard to all relevant factors, including whether that Party has contested the application of the procedure under paragraph 1 (b).

Article 29 – Decisions by Chambers on Admissibility and Merits

1) If no decision is taken under Article 27 or 28, or no judgment rendered under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34. The decision on admissibility may be taken separately.
2) A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33. The decision on admissibility shall be taken separately unless the Court, in exceptional cases, decides otherwise.

Article 30 – Relinquishment of Jurisdiction to the Grand Chamber

Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.

Article 31 – Powers of the Gran Chamber

The Grand Chamber shall

a) determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43;
b) decide on issues referred to the Court by the Committee of Ministers in accordance with Article 46 § 4; and
c) consider requests for advisory opinions submitted under Article 47.

Article 32 – Jurisdiction of the Court

1) The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47.
2) In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 33 – Inter-State Cases

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party.

Article 34 – Individual Cases

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 35 – Admissibility Criteria

1) The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognized rules of inter-national law, and within a period of four months from the date on which the final decision was taken.
2) The Court shall not deal with any application submitted under Article 34 that
   a) is anonymous; or
   b) is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3) The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
   a) the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application; or
   b) the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits.
4) The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

Article 36 – Third Party Intervention

1) In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.
2) The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.

3) In all cases before a Chamber or the Grand Chamber, the Council of Europe Commissioner for Human Rights may submit written comments and take part in hearings.

Article 37 – Striking out Applications

1) The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
   a) the applicant does not intend to pursue his application; or
   b) the matter has been resolved; or
   c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
   However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.
2) The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

Article 38 – Examination of the Case

The Court shall examine the case together with the representatives of the parties and, if need be, undertake an investigation, for the effective conduct of which the High Contracting Parties concerned shall furnish all necessary facilities.

Article 39 – Friendly Settlements

1) At any stage of the proceedings, the Court may place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the Protocols thereto.
2) Proceedings conducted under paragraph 1 shall be confidential.
3) If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.
4) This decision shall be transmitted to the Committee of Ministers, which shall supervise the execution of the terms of the friendly settlement as set out in the decision.

Article 40 – Public Hearings and Access to Documents

1) Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.

2) Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

Article 41 – Just Satisfaction

If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Article 42 – Judgments of the Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44, paragraph 2.

Article 43 – Referral to the Grand Chamber

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

Article 44 – Final Judgments

1) The judgment of the Grand Chamber shall be final.
2) The judgment of a Chamber shall become final:
   a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or
   b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
   c) when the panel of the Grand Chamber rejects the request to refer under Article 43.
3) The final judgment shall be published.

Article 45 – Reasons for Judgments and Decisions

1) Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible.
2) If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 46 – Binding Force and Execution of Judgments

1) The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
2) The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.
3) If the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.
4) If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.
5) If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case.

Article 47 – Advisory Opinions

1) The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the protocols thereto.
2) Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the Convention and the protocols thereto, or with any other question which the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.

3) Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.

Article 48 – Advisory Jurisdiction of the Court

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.

Article 49 – Reasons for Advisory Opinions

1) Reasons shall be given for advisory opinions of the Court.
2) If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
3) Advisory opinions of the Court shall be communicated to the Committee of Ministers.

Article 50 – Expenditure on the Court

The expenditure on the Court shall be borne by the Council of Europe.

Article 51 – Privileges and Immunities of Judges

The judges shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

SECTION III – MISCELLANEOUS PROVISIONS

Article 52 – Inquiries by the Secretary General

On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.

Article 53 – Safeguard for Existing Human Rights

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

Article 54 – Powers of the Committee of Ministers

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

Article 55 – Exclusion of Other Means of Dispute Settlement

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

Article 56 – Territorial Application

1) Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.
2) The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
3) The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.
4) Any State which has made a declaration in accordance with paragraph 1 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

Article 57 – Reservations

1) Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.
2) Any reservation made under this Article shall contain a brief statement of the law concerned.

Article 58 – Denunciation

1) A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months' notice contained in a notification addressed to the Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.
2) Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.
3) Any High Contracting Party which shall cease to be a member of the Council of Europe shall cease to be a Party to this Convention under the same conditions.
4) The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 56.

Article 59 – Signature and Ratification

1) This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary General of the Council of Europe.
2) The European Union may accede to this Convention.
3) The present Convention shall come into force after the deposit of ten instruments of ratification.
4) As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.
5) The Secretary General of the Council of Europe shall notify all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

   Done at Rome this 4th day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms

The governments signatory hereto, being members of the Council of Europe,
Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention"),

Have agreed as follows:

Article 1 – Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2 – Right to Education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3 – Right to Free Elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

Article 4 – Territorial Application

Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.
Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.
A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

Article 5 – Relationship to the Convention

As between the High Contracting Parties the provisions of Articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

Article 6 – Signature and Ratification

This Protocol shall be open for signature by the members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.
The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified.
Done at Paris on the 20th day of March 1952, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory governments.

Protocol No.4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto

The governments signatory hereto, being members of the Council of Europe,
Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as the "Convention") and in Articles 1 to 3 of the First Protocol to the Convention, signed at Paris on 20th March 1952,

Have agreed as follows:

Article 1 – Prohibition of Imprisonment for Debt

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

Article 2 – Freedom of Movement

1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2) Everyone shall be free to leave any country, including his own.
3) No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
4) The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.

Article 3 – Prohibition of Expulsion of Nationals

1) No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.
2) No one shall be deprived of the right to enter the territory of the state of which he is a national.

Article 4 – Prohibition of Collective Expulsion of Aliens

Collective expulsion of aliens is prohibited.

Article 5 – Territorial Application

1) Any High Contracting Party may, at the time of signature or ratification of this Protocol, or at any time thereafter, communicate to the Secretary General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of this Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.
2) Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may, from time to time, communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.
3) A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.
4) The territory of any State to which this Protocol applies by virtue of ratification or acceptance by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this article, shall be treated as separate territories for the purpose of the references in Articles 2 and 3 to the territory of a State.
5) Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided in Article 34 of the Convention in respect of all or any of Articles 1 to 4 of this Protocol.

Article 6 – Relationship to the Convention

As between the High Contracting Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 7 – Signature and Ratification

1) This Protocol shall be open for signature by the members of the Council of Europe who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of five instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.
2) The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all Members of the names of those who have ratified.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 16th day of September 1963, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory states.

Protocol No.6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of Death Penalty

The member States of the Council of Europe, signatory to this Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention"),

Considering that the evolution that has occurred in several member States of the Council of Europe expresses a general tendency in favour of abolition of the death penalty,

Have agreed as follows:

Article 1 – Abolition of the Death Penalty

The death penalty shall be abolished. No-one shall be condemned to such penalty or executed.

Article 2 – Death Penalty in Time of War

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

Article 3 – Prohibition of Derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 4 – Prohibition of Reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 5 – Territorial Application

1) Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2) Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt of such declaration by the Secretary General.
3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the date of receipt of such notification by the Secretary General.

Article 6 – Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

Article 7 – Signature and Ratification

The Protocol shall be open for signature by the member States of the Council of Europe, signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol unless it has, simultaneously or previously, ratified the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 8 – Entry Into Force

1) This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.
2) In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.

Article 9 – Depositary Functions

The Secretary General of the Council of Europe shall notify the member States of the Council of:

a) any signature;
b) the deposit of any instrument of ratification, acceptance or approval;
c) any date of entry into force of this Protocol in accordance with Articles 5 and 8;
d) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 28th day of April 1983, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Protocol No.7 to the Convention for the Protection of Human Rights and Fundamental Freedoms

The member States of the Council of Europe signatory hereto,
Being resolved to take further steps to ensure the collective enforcement of certain rights and freedoms by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention"),

Have agreed as follows:

Article 1 – Procedural Safeguards Relating to Expulsion of Aliens

1) An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

a) to submit reasons against his expulsion,

b) to have his case reviewed, and

c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.

2) An alien may be expelled before the exercise of his rights under paragraph 1.a, b and c of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.

Article 2 – Right of Appeal in Criminal Matters

1) Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

2) This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

Article 3 – Compensation for Wrongful Conviction

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed, or he has been pardoned, on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to the law or the practice of the State concerned, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

Article 4 – Right not to be Tried or Punished Twice

1) No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.

2) The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.

3) No derogation from this Article shall be made under Article 15 of the Convention.

Article 5 – Equality Between Spouses

Spouses shall enjoy equality of rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage, during marriage and in the event of its dissolution. This Article shall not prevent States from taking such measures as are necessary in the interests of the children.

Article 6 – Territorial Application

1) Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which the Protocol shall apply and state the extent to which it undertakes that the provisions of this Protocol shall apply to such territory or territories.

2) Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of receipt by the Secretary General of such declaration.

3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification

addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of two months after the date of receipt of such notification by the Secretary General.

4) A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

5) The territory of any State to which this Protocol applies by virtue of ratification, acceptance or approval by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this Article, may be treated as separate territories for the purpose of the reference in Article 1 to the territory of a State.

6) Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided in Article 34 of the Convention in respect of Articles 1 to 5 of this Protocol.

Article 7 – Relationship to the Convention

As between the States Parties, the provisions of Articles 1 to 6 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 8 – Signature and Ratification

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 9 – Entry Into Force

1) This Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date on which seven member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 8.

2) In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 10 – Depositary Functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

a) any signature;

b) the deposit of any instrument of ratification, acceptance or approval;

c) any date of entry into force of this Protocol in accordance with Articles 6 and 9;

d) any other act, notification or declaration relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 22nd day of November 1984, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Protocol No.12 to the Convention on the Protection of Human Rights and Fundamental Freedoms

The member States of the Council of Europe signatory hereto,
Having regard to the fundamental principle according to which all persons are equal before the law and are entitled to the equal protection of the law;
Being resolved to take further steps to promote the equality of all persons through the collective enforcement of a general prohibition of discrimination by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");
Reaffirming that the principle of non-discrimination does not prevent States Parties from taking measures in order to promote full and effective equality, provided that there is an objective and reasonable justification for those measures,

Have agreed as follows:

Article 1 – General Prohibition of Discrimination

1) The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
2) No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

Article 2 – Territorial Application

1) Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2) Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of such declaration.

3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General of the Council of Europe. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.
4) A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.
5) Any State which has made a declaration in accordance with paragraph 1 or 2 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention in respect of Article 1 of this Protocol.

Article 3 – Relationship to the Convention

As between the States Parties, the provisions of Articles 1 and 2 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 4 – Signature and Ratification

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 5 – Entry Into Force

1) This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 4.
2) In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the

expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 6 – Depositary Functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

a) any signature;
b) the deposit of any instrument of ratification, acceptance or approval;
c) any date of entry into force of this Protocol in accordance with Articles 2 and 5;
d) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Rome, this 4th day of November 2000, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Protocol No.13 to the Convention on the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty in All Circumstances

The member States of the Council of Europe signatory hereto,

Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

Article 1 – Abolition of the Death Penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Prohibition of Derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3 – Prohibition of Reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 4 – Territorial Application

1) Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2) Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5 – Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 6 – Signature and Ratification

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 7 – Entry Into Force

1) This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
2) In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 8 – Depositary Functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

a) any signature;
b) the deposit of any instrument of ratification, acceptance or approval;
c) any date of entry into force of this Protocol in accordance with Articles 4 and 7;
d) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3rd day of May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Protocol No.1 to the Convention on the Protection of Human Rights and Fundamental Freedoms

The member states of The council of Europe and other high contracting Parties To The convention for The Protection of human rights and fundamental freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention"), signatories hereto,

Having regard to the provisions of the Convention and, in particular, Article 19 establishing the European Court of Human Rights (hereinafter referred to as "the Court");

Considering that the extension of the Court's competence to give advisory opinions will further enhance the interaction between the Court and national authorities and thereby reinforce implementation of the Convention, in accordance with the principle of subsidiarity;

Having regard to Opinion No. 285 (2013) adopted by the Parliamentary Assembly of the Council of Europe on 28 June 2013,

Have agreed as follows:

Article 1

1) Highest courts and tribunals of a High Contracting Party, as specified in accordance with Article 10, may request the Court to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention or the protocols thereto.
2) The requesting court or tribunal may seek an advisory opinion only in the context of a case pending before it.
3) The requesting court or tribunal shall give reasons for its request and shall provide the relevant legal and factual background of the pending case.

Article 2

1) A panel of five judges of the Grand Chamber shall decide whether to accept the request for an advisory opinion, having regard to Article 1. The panel shall give reasons for any refusal to accept the request.
2) If the panel accepts the request, the Grand Chamber shall deliver the advisory opinion.

3) The panel and the Grand Chamber, as referred to in the preceding paragraphs, shall include ex officio the judge elected in respect of the High Contracting Party to which the requesting court or tribunal pertains. If there is none or if that judge is unable to sit, a person chosen by the President of the Court from a list submitted in advance by that Party shall sit in the capacity of judge.

Article 3

The Council of Europe Commissioner for Human Rights and the High Contracting Party to which the requesting court or tribunal pertains shall have the right to submit written comments and take part in any hearing. The President of the Court may, in the interest of the proper administration of justice, invite any other High Contracting Party or person also to submit written comments or take part in any hearing.

Article 4

1) Reasons shall be given for advisory opinions.
2) If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
3) Advisory opinions shall be communicated to the requesting court or tribunal and to the High Contracting Party to which that court or tribunal pertains.
4) Advisory opinions shall be published.

Article 5

Advisory opinions shall not be binding.

Article 6

As between the High Contracting Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 7

1) This Protocol shall be open for signature by the High Contracting Parties to the Convention, which may express their consent to be bound by:
a) signature without reservation as to ratification, acceptance or approval; or

b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2) The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 8

1) This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten High Contracting Parties to the Convention have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.

2) In respect of any High Contracting Party to the Convention which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Protocol in accordance with the provisions of Article 7.

Article 9

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 10

Each High Contracting Party to the Convention shall, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the courts or tribunals that it designates for the purposes of Article 1, paragraph 1, of this Protocol. This declaration may be modified at any later date and in the same manner.

Article 11

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and the other High Contracting Parties to the Convention of:

1) a) a any signature;
b) the deposit of any instrument of ratification, acceptance or approval;
c) any date of entry into force of this Protocol in accordance with Article 8;
d) any declaration made in accordance with Article 10; and

e) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, This 2nD Day of ocTober 2013, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the other High Contracting Parties to the Convention.

ANNEX B: APPLICATION FORM

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

ENG - 2022/2

Application Form

About this application form

This form is a formal legal document and may affect your rights and obligations. Please follow the instructions given in the "Notes for filling in the application form". Make sure you fill in all the fields applicable to your situation and provide all relevant documents.

Warning: If your application is incomplete, it will not be accepted (see Rule 47 of the Rules of Court). Please note in particular that Rule 47 § 2 (a) requires that a concise statement of facts, complaints and information about compliance with the admissibility criteria MUST be on the relevant parts of the application form itself. The completed form should enable the Court to determine the nature and scope of the application without recourse to any other submissions.

Barcode label

If you have already received a sheet of barcode labels from the European Court of Human Rights, please place one barcode label in the box below.

Reference number

If you already have a reference number from the Court in relation to these complaints, please indicate it in the box below.

A. The applicant

A.1. Individual

This section refers to applicants who are individual persons only. If the applicant is an organisation, please go to section A.2.

1. Surname
2. First name(s)
3. Date of birth — e.g. 31/12/1960 — D D M M Y Y Y Y
4. Place of birth
5. Nationality
6. Address
7. Telephone (including international dialling code)
8. Email (if any)
9. Sex — male — female

A.2. Organisation

This section should only be filled in where the applicant is a company, NGO, association or other legal entity. In this case, please also fill in section D.1.

10. Name
11. Identification number (if any)
12. Date of registration or incorporation (if any) — e.g. 27/09/2012 — D D M M Y Y Y Y
13. Activity
14. Registered address
15. Telephone (including international dialling code)
16. Email

B. State(s) against which the application is directed

17. Tick the name(s) of the State(s) against which the application is directed.

- ☐ ALB - Albania
- ☐ AND - Andorra
- ☐ ARM - Armenia
- ☐ AUT - Austria
- ☐ AZE - Azerbaijan
- ☐ BEL - Belgium
- ☐ BGR - Bulgaria
- ☐ BIH - Bosnia and Herzegovina
- ☐ CHE - Switzerland
- ☐ CYP - Cyprus
- ☐ CZE - Czech Republic
- ☐ DEU - Germany
- ☐ DNK - Denmark
- ☐ ESP - Spain
- ☐ EST - Estonia
- ☐ FIN - Finland
- ☐ FRA - France
- ☐ GBR - United Kingdom
- ☐ GEO - Georgia
- ☐ GRC - Greece
- ☐ HRV - Croatia
- ☐ HUN - Hungary
- ☐ IRL - Ireland
- ☐ ISL - Iceland
- ☐ ITA - Italy
- ☐ LIE - Liechtenstein
- ☐ LTU - Lithuania
- ☐ LUX - Luxembourg
- ☐ LVA - Latvia
- ☐ MCO - Monaco
- ☐ MDA - Republic of Moldova
- ☐ MKD - North Macedonia
- ☐ MLT - Malta
- ☐ MNE - Montenegro
- ☐ NLD - Netherlands
- ☐ NOR - Norway
- ☐ POL - Poland
- ☐ PRT - Portugal
- ☐ ROU - Romania
- ☐ RUS - Russian Federation*
- ☐ SMR - San Marino
- ☐ SRB - Serbia
- ☐ SVK - Slovak Republic
- ☐ SVN - Slovenia
- ☐ SWE - Sweden
- ☐ TUR - Türkiye
- ☐ UKR - Ukraine

* On 16 September 2022 the Russian Federation ceased to be a Party to the European Convention on Human Rights.

C. Representative(s) of the individual applicant

An individual applicant does not have to be represented by a lawyer at this stage. If the applicant is not represented please go to section E.

Where the application is lodged on behalf of an individual applicant by a non-lawyer (e.g. a relative, friend or guardian), the non-lawyer must fill in section C.1; if it is lodged by a lawyer, the lawyer must fill in section C.2. In both situations section C.3 must be completed.

C.1. Non-lawyer

18. Capacity/relationship/function

19. Surname

20. First name(s)

21. Nationality

22. Address

23. Telephone (including international dialling code)

24. Fax

25. Email

C.2. Lawyer

26. Surname

27. First name(s)

28. Nationality

29. Address

30. Telephone (including international dialling code)

31. Fax

32. Email

C.3. Authority

The applicant must authorise any representative to act on his or her behalf by signing the first box below; the designated representative must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated above to represent me in the proceedings before the European Court of Human Rights concerning my application lodged under Article 34 of the Convention.

33. Signature of applicant

34. Date e.g. 27/09/2015 D D M M Y Y Y Y

I hereby agree to represent the applicant in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

35. Signature of representative

36. Date e.g. 27/09/2015 D D M M Y Y Y Y

Electronic communication between the representative and the Court

37. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

D. Representative(s) of the applicant organisation

Where the applicant is an organisation, it must be represented before the Court by a person entitled to act on its behalf and in its name (e.g. a duly authorised director or official). The details of the representative must be set out in section D.1.

If the representative instructs a lawyer to plead on behalf of the organisation, both D.2 and D.3 must also be completed.

D.1. Organisation official

38. Capacity/relationship/function (please provide proof)

39. Surname

40. First name(s)

41. Nationality

42. Address

43. Telephone (including international dialling code)

44. Fax

45. Email

D.2. Lawyer

46. Surname

47. First name(s)

48. Nationality

49. Address

50. Telephone (including international dialling code)

51. Fax

52. Email

D.3. Authority

The representative of the applicant organisation must authorise any lawyer to act on its behalf by signing the first box below; the lawyer must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated in section D.2 above to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

53. Signature of organisation official

54. Date e.g. 27/09/2015 D D M M Y Y Y Y

I hereby agree to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

55. Signature of lawyer

56. Date e.g. 27/09/2015 D D M M Y Y Y Y

Electronic communication between the representative and the Court

57. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

Subject matter of the application

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the four-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the institution of proceedings as well as the "Notes for filling in the application form".

E. Statement of the facts

58.

Statement of the facts (continued)

59.

Statement of the facts (continued)

60.

- Please ensure that the information you include here does not exceed the space provided -

F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments

61. Article invoked	Explanation

Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)

62. Article invoked	Explanation

- Please ensure that the information you include here does not exceed the space provided -

G. Compliance with admissibility criteria laid down in Article 35 § 1 of the Convention

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the four-month time-limit.

63. Complaint	Information about remedies used and the date of the final decision

- Please ensure that the information you include here does not exceed the space provided -

64. Is or was there an appeal or remedy available to you which you have not used? ○ Yes ○ No

65. If you answered Yes above, please state which appeal or remedy you have not used and explain why not

H. Information concerning other international proceedings (if any)

66. Have you raised any of these complaints in another procedure of international investigation or settlement? ○ Yes ○ No

67. If you answered Yes above, please give a concise summary of the procedure (complaints submitted, name of the international body and date and nature of any decisions given)

68. Do you (the applicant) currently have, or have you previously had, any other applications before the Court? ○ Yes ○ No

69. If you answered Yes above, please write the relevant application number(s) in the box below

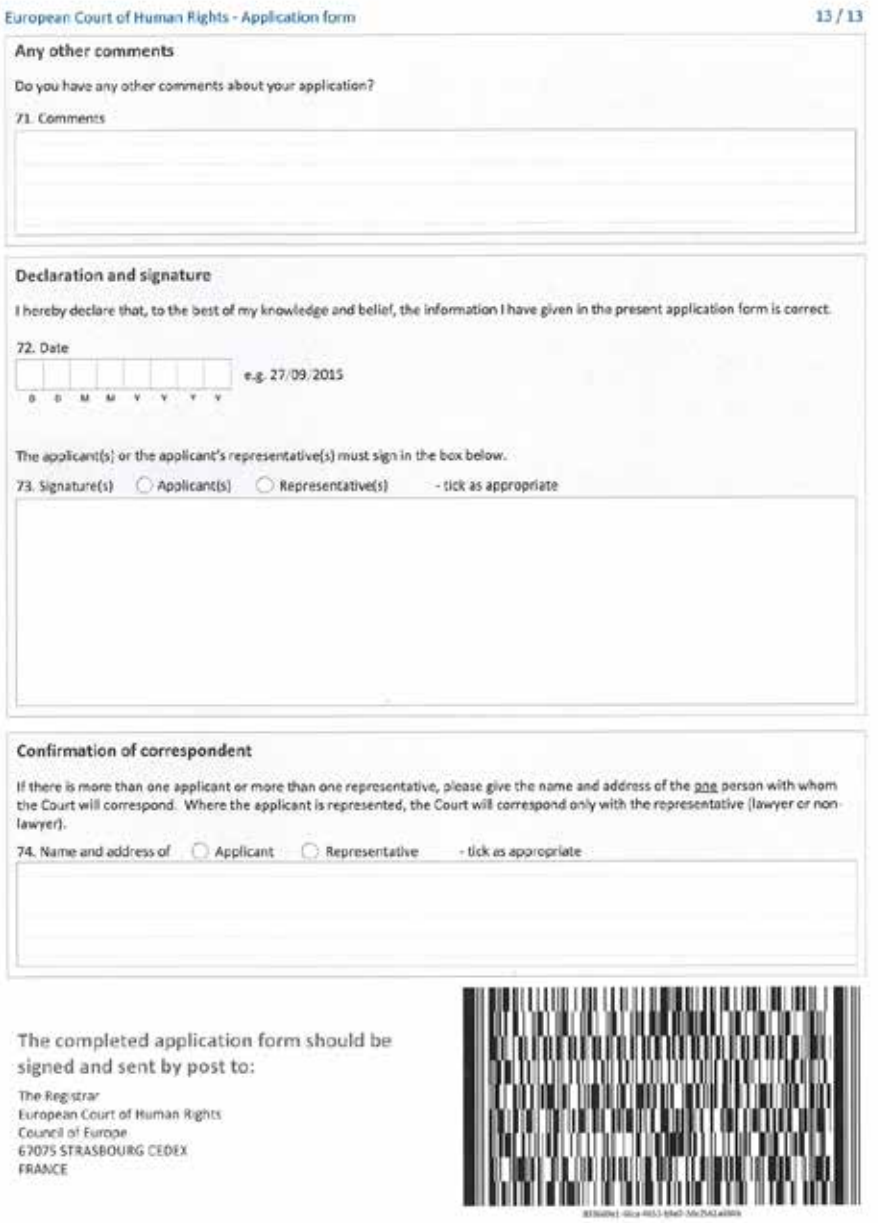
I. List of accompanying documents

You should enclose full and legible copies of all documents. No documents will be returned to you. It is thus in your interests to submit copies, not originals. You MUST:

- arrange the documents in order by date and by set of proceedings;
- number the pages consecutively; and
- NOT staple, bind or tape the documents.

70. In the box below, please list the documents in chronological order with a concise description. Indicate the page number at which each document may be found

1.		p.
2.		p.
3.		p.
4.		p.
5.		p.
6.		p.
7.		p.
8.		p.
9.		p.
10.		p.
11.		p.
12.		p.
13.		p.
14.		p.
15.		p.
16.		p.
17.		p.
18.		p.
19.		p.
20.		p.
21.		p.
22.		p.
23.		p.
24.		p.
25.		p.



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Any other comments

Do you have any other comments about your application?

71. Comments

Declaration and signature

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

72. Date

e.g. 27/09/2015

D D M M Y Y Y Y

The applicant(s) or the applicant's representative(s) must sign in the box below.

73. Signature(s) ○ Applicant(s) ○ Representative(s) - tick as appropriate

Confirmation of correspondent

If there is more than one applicant or more than one representative, please give the name and address of the one person with whom the Court will correspond. Where the applicant is represented, the Court will correspond only with the representative (lawyer or non-lawyer).

74. Name and address of ○ Applicant ○ Representative - tick as appropriate

The completed application form should be signed and sent by post to:

The Registrar
European Court of Human Rights
Council of Europe
67075 STRASBOURG CEDEX
FRANCE

Notes for Filling in Application Form

ENG – 2022

I. What you Should Know Before Filling in the Application Form

What Complaints can the Court Examine?

The European Court of Human Rights is an international court which can only examine complaints from persons, organisations and companies claiming that their rights under the European Convention on Human Rights have been infringed. The Convention is an international treaty by which a large number of European States have agreed to secure certain fundamental rights. The rights guaranteed are set out in the Convention itself, and also in Protocols Nos. 1, 4, 6, 7, 12 and 13, which only some of the States have accepted. You should read these texts, all of which are enclosed.

The Court cannot deal with every kind of complaint. Its powers are defined by the admissibility criteria set out in the Convention which limit who can complain, when and about what. More than 90% of the applications examined by the Court are declared inadmissible. You should therefore check that your complaints comply with the admissibility requirements described below.

The Court can only examine your case where

- the complaints relate to **infringements of one or more of the rights** set out in the Convention and Protocols;
- the complaints are **directed against a State which has ratified** the Convention or the Protocol in question (not all States have ratified every Protocol so check the list of ratifications on the Court's website at www.echr.coe.int/applicants);
- the complaints relate to matters which involve the responsibility of a public authority (legislature, administrative body, court of law, etc.); the Court cannot deal with complaints directed against private individuals or private organisations;
- the complaints concern **acts or events occurring after the date of ratification** by the State of the Convention or the Protocol in question (see the dates for each

State on the list of ratifications on the Court's website at www.echr.coe.int/applicants);

- you are **personally and directly affected** by the breach of a fundamental right (you have "victim status");
- you have given the domestic system the opportunity to put right the breach of your rights ("exhaustion of domestic remedies"); this generally means that before applying to the Court **you must have raised the same complaints in the national courts,** including the highest court. This involves complying with national rules of procedure, including time-limits. However, you do not have to make use of remedies which are ineffective or apply for special discretionary or extraordinary remedies outside the normal appeal procedures;
- you have lodged your complete application with the **Court within four months from the final domestic decision.** The four-month period normally runs from the date on which the decision of the highest competent national court or authority was given, or was served on you or your lawyer. Where there is no available effective remedy for a complaint, the four- month period runs from the date of the act, event or decision complained of. The four-month period is only interrupted when you send the Court a complete application which complies with the requirements of Rule 47 of the Rules of Court (see the text set out in the application pack). The period ends on the last day of the four months even if it is a Sunday or public holiday. To sum up, the application form, together with all the required information and documents, must be dispatched to the Court on or before the final day of the four-month period, so make sure you send them through the post in good time;
- your complaints are based on solid evidence; **you have to substantiate your claims** by telling your story clearly and supporting it with documents, decisions, medical reports, witness statements and other material;
- you are able to show that the matters about which you complain have interfered unjustifiably with a fundamental right. You cannot just complain that a court's decision was unfair or wrong; the Court is not a court of appeal from national courts and cannot annul or alter their decisions;
- your complaints have not already been examined by the Court or another international body.

You should also be aware that the Court receives tens of thousands of complaints every year. It does not have the resources to examine trivial or repeated complaints which have no substance and which are not the kind of cases an international supervisory body should be looking into. Such complaints may be rejected as being an abuse of the right of petition, as can also happen where applicants use offensive or insulting language.

Where the matter complained of does not cause an applicant any real harm or significant disadvantage and raises no new human rights issues that need to be addressed at an international level, the case may also be rejected.

For further information on these criteria, you can consult a lawyer or visit the Court's website, which gives information about admissibility criteria and answers to frequently asked questions.

II. How to Fill in the Application Form

The requirements of a valid application form are set out in Rule 47 of the Rules of Court (to be found in the application pack); further information is given in the Practice Direction on the institution of proceedings annexed to the Rules and available on the Court's website at http://www.echr.coe.int/applicants. Practical explanations and guidance are set out below; you are advised to read these before filling in the form if you want to avoid making mistakes that prevent your application being accepted as complete.

- BE LEGIBLE. Preferably you should type.
- FILL IN ALL FIELDS APPLICABLE TO YOUR SITUATION. If not, your application form is not complete and will not be accepted.
- Do not use symbols or abbreviations: explain your meaning clearly in words.
- BE CONCISE.

Please download the application form from the Court's website and fill it in electronically if at all possible. This will expedite the processing of your case.

Language

The Court's **official languages** are English and French but alternatively, if it is easier for you, you may write to the Registry in an official language of one of the States that have ratified the Convention. During the initial stage of the proceedings you may also receive correspondence from the Court in that language. Please note, however, that at a later stage of the proceedings, namely if the Court decides to ask the Government to submit written comments on your complaints, all correspondence from the Court will be sent in English or French and you or your representative will also be required to use English or French in your subsequent submissions.

Notes Relating to the Fields in the Application Form

For an application to be accepted by the Court, all applicable fields must be completed in the manner indicated and all the necessary documents must be provided as set out in Rule 47. Please bear this in mind when filling in the form and attaching your supporting documents. **Failure to do so will mean that your case will not be examined by the Court, no file will be opened and no documents will be kept.**

The Application Form – Section by Section

Please note that the terms used in the application form and notes are based on the Convention – any lack of gender-sensitive language is not meant to exclude anyone.

Box for the Barcode

If you have already been in correspondence with the Court on the same matter and have been given a set of barcode labels, you should stick a barcode label in the box on the left-hand side near the top of the first page of the application form.

A. The Applicant

A.1. Individual

This section applies to an applicant who is an individual person, as opposed to a legal entity such as a company or association (section A.2).

1–9. If there is more than one individual applicant, this information must be provided for each additional applicant, on a separate sheet. Please number the individual applicants if there are more than one. See also the section below on "Grouped applications and multiple applicants".

6. Address: an applicant must provide a postal address separate from that of a lawyer or representative so that the Court can make contact if necessary. An applicant who is homeless or has no fixed residence may have to give a box number or friend's details but should provide an explanation.

A.2. Organisation

This section concerns applicants that are legal entities such as a company, non-governmental organisation or association, etc. If this section is filled in, section D.1 must also be completed.

10–16. The identity and contact details of the applicant organisation must be filled in. If there is more than one such applicant, this information must be provided for each additional applicant, on a separate sheet. Please number the applicants if there are more than one.

11. Identification number: please indicate the official identification number or number assigned to the organisation in the official register or record, if any.

12. The date of registration, formation or incorporation of the entity should also be included for ease of identification, where such a procedure has been followed.

Grouped Applications and Multiple Applicants

Where an applicant or representative lodges complaints on behalf of two or more applicants whose applications are based on different facts, a separate application form should be filled in for each individual, giving all the information required. The documents relevant to each applicant should also be annexed to that individual's application form.

Where there are more than ten applicants, the representative should provide, in addition to the application forms and documents, a table setting out the required identifying details for each applicant; this table may be downloaded from the Court's website (see **www.echr.coe.int/applicants**). Where the representative is a lawyer, the table should also be provided in electronic form (on a CD-ROM or memory stick).

In cases of large groups of applicants or applications, applicants or their representatives may be directed by the Registry to provide the text of their submissions or documents by electronic or other means. Other directions may be given by the Registry as to the steps required to facilitate the effective and speedy processing of applications. Failure to comply with directions by the Registry as to the form or manner in which grouped applications or applications by multiple applicants are to be lodged may lead to the cases not being examined by the Court (see Rule 47 §§ 5.1 and 5.2).

B. State(s) Against Which the Application is Directed

17. Tick the box(es) of the State(s) against which the application is directed.

This section concerns the State(s) which you consider responsible for the matters about which you are complaining. Please bear in mind that complaints before the Court can be brought only against the countries listed, which have all joined the Convention system.

C. Representative(s) of the Individual Applicant

The person appointed as representative in this section must sign at box no. 35; the applicant must sign at box no. 33.

C.1. Non-Lawyer

18–25. Some applicants may choose not to, or may not be able to, take part in the proceedings themselves for reasons such as health or incapacity. They may be represented by a person without legal training, for example a parent representing a child, or a guardian or family member or partner representing someone whose practical or medical circumstances make it difficult to take part in the proceedings (e.g. an applicant who is in hospital or prison). The representative must indicate in what capacity he or she is representing the applicant or his or her relationship with the applicant, together with his or her identity and contact details. If you have completed section C.1, section C.2 should also be completed if you appoint a lawyer (see section C.2 below).

C.2. Lawyer

26–32. Details identifying the lawyer who is acting on behalf of the applicant before the Court must be provided, with full contact information. An applicant does not have to instruct a lawyer at the stage of lodging the application. The applicant is informed if the case reaches a stage of the proceedings where representation by a lawyer is required. At this point – after a decision by the Court to give notice of the application to the Government concerned for written observations – the applicant may be eligible for free legal aid if he or she has insufficient means to pay a lawyer's fees and if the grant of such aid is considered necessary for the proper conduct of the case. Information is sent to applicants about this at the relevant time.

C.3. Authority

This section must contain original signatures.

33. An applicant must sign the authority empowering the representative to act on his or her behalf, unless, for example, the applicant is a child or lacks legal capacity and is unable to sign. If a representative who is not a lawyer has instructed a lawyer on behalf of an applicant who is unable to sign, the representative should sign the authority on the applicant's behalf.

34 and 36. The date required is the date of signature by the individual applicant and his or her representative.

35. The lawyer or any other person who is instructed by the applicant to lodge the case before the Court must sign the authority to indicate that he or she has accepted that commission. In the absence of such signature, the Registry may continue to correspond only with the applicant due to lack of proof that the representative is in fact involved in the case. Do not send a separate authority form: the Court needs all relevant identifying and contact information to be provided on the application form itself. The applicant and his or her representative must sign this authority section at the time of preparation of the application: a lawyer should not submit the application form and a separate authority form unless there are insurmountable practical obstacles. It is only if an applicant changes lawyers or instructs a lawyer after lodging an application that the Court will accept a separate authority form – applicants should then use the separate form on the Court's website which contains all the information required. If a separate authority is sent and there is no convincing explanation of why this was unavoidable, the application will be rejected as failing to comply with Rule 47.

Electronic communication between the representative and the Court

eComms is a service initiated by the Court for communicating electronically with an applicant's representative. **The service is only activated if and when the Government are given notice of the application.**

37. The email address provided will be used to create an eComms account. It is recommended that representatives working in a law firm provide a generic email address so that the account can be used by multiple users within the firm.

You should inform the Court of any change to your eComms account email address. For more information, please refer to the terms and conditions available on the eComms website (https://ecomms.echr.coe.int), as well as the Practice Direction on electronic filing by applicants (www.echr.coe.int/practicedirections) (available in English and French only).

D. Representative(s) of the Applicant Organisation D.1. Organisation Official

38–45. An applicant organisation must act through an individual authorised to act in its name with whom the Court can correspond when necessary, such as an officer of a company, chairperson or director. This person should provide documentary

proof of his or her entitlement to bring the case on behalf of the organisation: for example, this could be, depending on the practice in the country concerned, a copy of the extract of the company register or of the chamber of commerce register, a notarised authorisation or minutes of the governing body. If proof is not available, an explanation must be provided.

Full name and contact details of the individual who has statutory or legal authority to act on behalf of the organisation must be provided in this section.

If the official representative of the organisation is also the lawyer acting for the organisation, this should be made clear by filling in both this section and section D.2.

D.2. Lawyer

46-52. Details identifying the lawyer who is acting on behalf of the applicant organisation before the Court must be provided, with full contact information. An applicant does not have to instruct a lawyer at the stage of lodging the application. The applicant is informed if the case reaches a stage of the proceedings where representation by a lawyer is required.

The person appointed as lawyer in this section must sign at box no. 55; the representative of the applicant organisation must sign at box no. 53.

D.3. Authority

This section must contain original signatures.

53. The representative of the applicant organisation must sign here to authorise a lawyer to act on behalf of the organisation.

54 and 56. The date required is the date of signature by the representative of the applicant organisation and the lawyer.

55. The lawyer who is instructed by the representative of the applicant organisation to lodge the case before the Court must sign the authority to indicate that he or she has accepted that commission. In the absence of such signature, the Registry may continue to correspond only with the representative of the applicant organisation due to lack of proof that the lawyer is in fact involved in the case.

Do not send a separate authority form: the Court needs all relevant identifying and contact information to be provided on the application form itself. The representative of the applicant organisation and the lawyer must sign this authority section at the time of preparation of the application: a lawyer should not submit the application form and a separate authority form unless there are insurmountable practical obstacles. It is only if an applicant changes lawyers or instructs a lawyer after lodging an application that the Court will accept a separate authority form – applicants should then use the separate form on the Court's website which contains all the information required. If a separate authority is sent and there is no convincing explanation of why this was unavoidable, the application will be rejected as failing to comply with Rule 47.

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You should inform the Court of any change to your eComms account email address. For more information, please refer to the terms and conditions available on the eComms website (https://ecomms.echr.coe.int), as well as the Practice Direction on electronic filing by applicants (www.echr.coe.int/practicedirections) (available in English and French only).

E, F and G: Subject Matter of the Application

58-65. Be concise. Put down the essential information concerning your case: the key facts and decisions, and how your rights have been violated, without irrelevant background or side issues. Do not include lengthy quotations: you can always give a reference to an accompanying document. The facts of your case and your complaints should be set out in the space provided in the application form so as to enable the Court to determine the nature and scope of the application without reference to any other material. This information concerning your case is essential for the proper and prompt sifting of your application and it must be included on the pages provided in the application form, not on accompanying enclosures. It should be a clear and concise statement of facts, complaints and compliance with the admissibility criteria which is easy to read, so avoid trying to cram every detail into this space. It is not acceptable to leave these pages blank with the indication to "see attached annex", for example. Failure to comply with this requirement of filling in the relevant information in the limited space provided in the application form will mean the case cannot be examined by the Court.

Extra information or explanations can, if necessary, be added to the application form in an annex (separate document). These must not exceed 20 pages in total (this does not include accompanying decisions and documents). This does not mean that you can start your submissions on the form and continue the text on additional sheets until you reach 20 pages. These 20 pages are in addition to the concise statement of facts, complaints and compliance with the admissibility criteria which must be set out in the relevant parts of the form. No new complaints can be added in such an annex, which should be used only to develop the complaints already raised on the application form itself.

Please note that if notice of an application is given to the respondent Government for their observations, the applicant is given an opportunity to submit detailed arguments in reply.

All submissions must **be wholly legible** and if, in addition to the statement of facts, complaints and compliance with admissibility criteria on the application form, further submissions are attached, they must:

if typed, be set out in a font size of at least 12 pt in the body of the text and 10 pt int he footnotes;

in the case of annexes, be set out in A4 page format with a margin of not less than 3.5 cm wide;

have pages numbered consecutively; and

be divided into numbered paragraphs.

As a general rule, any information contained in the application form and documents which are lodged with the Registry, including information about the applicant or third parties, will be **accessible to the public**. Moreover, such information may be accessible on the Internet via the Court's HUDOC database if the Court includes it in a statement of facts prepared for the notification of the case to the respondent Government, a decision on admissibility or striking out, or a judgment. Accordingly, you should only provide such details concerning your private life or that of third parties as are essential for an understanding of the case.

In addition, if you do not wish your identity to be disclosed to the public, you must say so and set out the reasons for such a departure from the normal rule of public access to information in the proceedings. The Court may authorise **anonymity** in exceptional and duly justified cases.

E. Statement of the Facts

58-60. Be clear and concise. Give exact dates.

Be chronological. Set out events in the order in which they occurred.

If your complaints relate to a number of different matters (for example different sets of court proceedings), please deal with each factual matter separately.

You must provide documents to support your case, in particular copies of relevant decisions or documentary records of any measures about which you complain: for example, a notice of eviction or a deportation order. You must also provide documentary evidence to support your claims, such as medical reports, witness statements, transcripts, documents of title to property, or records of periods spent in custody. If you cannot obtain copies of particular documents you should explain why not.

F. Statement of Alleged Violation(s) of the Convention and/or Protocols and Relevant Arguments

61-62. For each complaint raised, you must specify the Article of the Convention or Protocol invoked and give brief explanations as to how it has been infringed.

Explain as precisely as you can what your complaint under the Convention is. Indicate which Convention provision you rely on and explain why the facts that you have set out entail a violation of that provision. Explanations of this kind must be given for each individual complaint.

Example:

Article 6 § 1: the civil proceedings concerning my claim for compensation for an injury took an unreasonable length of time as they lasted over ten years, from 10 January 2002 until 25 April 2012.

G. Compliance with Admissibility Criteria Laid Down in Article 35 § 1 of the Convention (information concerning exhaustion of domestic remedies and the four-month time- limit)

63. Here you must show that you have given the State a chance to put matters right before having recourse to the international jurisdiction of the Court. This means you must explain that you have used the available effective remedies in the country concerned.

For each complaint raised under the Convention or the Protocols, please state the following:

- the exact date of the final decision, the name of the court or tribunal and the nature of the decision;
- the dates of the other lower court or tribunal decisions leading up to the final decision; and
- the case file number in the domestic proceedings.

Remember to append copies of all the decisions taken by courts or other decision-making bodies, from the lowest to the highest; you must also provide copies of your claims or applications to the courts and your statements of appeal so that you can show that you raised the substance of your Convention complaints at each level.

You must also show that you have lodged each complaint with the Court within four months of the final decision in the process of exhausting domestic remedies for that complaint. So it is crucial to identify the date of the final decision. You must provide proof of this, either through a copy of the decision containing the date or, if you did not receive a copy of the final decision on the date it was delivered or made public, proof of the date of service, for example evidence of the date of receipt, or a copy of the registered letter or envelope. Where no appropriate remedies were available, you must show that you have lodged the complaint within four months of the act, measure or decision complained of and submit documentary evidence of the date of the act, measure or decision.

64-65. Here you should state if there was an available remedy which you did not use. If so, you should give the reasons why you did not make use of it.

Further useful information about exhaustion of domestic remedies and compliance with the four- month time-limit may be found in the Practical Guide on admissibility criteria (www.echr.coe.int/applicants).

H. Information Concerning Other International Proceedings (if any)

66-67. You must indicate whether you have submitted the complaints in your application to any other procedure of international investigation or settlement, for example a United Nations body such as the ILO or the UN Human Rights Committee, or an international arbitration panel. If you have, you should give details, including the name of the body to which you submitted your complaints, the dates and details of any proceedings which took place and details of any decisions that were taken. You should also submit copies of relevant decisions and other documents.

68-69. Previous or pending applications before the Court: You should also specify whether you as an applicant have, or have had, any other applications before the Court and, if so, give the application number(s). This is vital to assist the Court in filing, retrieving and processing the different applications under your name.

I. List of Accompanying Documents

70. You must enclose a numbered and chronological list of all judgments and decisions referred to in sections E, F, G and H of the application form, as well as any other documents you wish the Court to take into consideration as evidence supporting your claims of a violation of the Convention (transcripts, witness statements, medical reports, etc.). Please indicate in the list of documents the page number at which each document may be found in the bundle so that the Court may easily find them. If the space on the application form is not sufficient, you may add a continuation sheet.

You should enclose full and legible copies of all documents referred to in the list.

No documents will be returned to you. It is thus in your interests to submit copies, not originals. You MUST:

arrange the documents in order by date and by set of proceedings; ⊡ number the pages consecutively; and

NOT staple, bind or tape the documents.

REMINDER: It is the applicant's responsibility to take steps in good time to obtain all the information and documents required for a complete application. If you do not provide one or more of the necessary documents your application will not be regarded as complete and it will not be examined by the Court, unless you have given an adequate explanation of why you were unable to provide the missing document(s).

Please note that for safety reasons, applications containing suspicious objects will be destroyed.

Declaration and signature

This section must contain original signatures.

72-73. Each applicant, or the authorised representative, must sign the declaration. No one else can do so.

Confirmation of correspondent

74. The Registry will only correspond with one applicant or one representative, so if there are a number of applicants and no representative has been appointed, one applicant should be identified as the person with whom the Registry should correspond. Where the applicant is represented, the Registry will only correspond with one representative. So, for example, an applicant who has more than one lawyer must identify the lawyer who will conduct the correspondence with the Court.

III. Information on Lodging the Application and How it is Processed

A. Means of Lodging the Application

Applications to the Court may be made only by post (not by telephone). This means that the paper version of the application form with the original signatures of the applicant(s) and/or the authorised representative(s) must be sent by post. The receipt of a faxed application is not counted as a complete application as the Court needs to receive the original signed application form. No purpose will be served by your coming to Strasbourg in person to state your case orally.

The application form may be downloaded from the Court's website at www.echr.coe.int/applicants. Send the application form to:

The Registrar
European Court of Human Rights Council of Europe
67075 STRASBOURG CEDEX FRANCE

B. Processing of the Application

A file will be opened and correspondence and documents stored by the Court only where a complete application form with supporting documents has been received.

On receipt of the application form, the Registry of the Court will verify that it contains all the information and documents required. If it does not, you will receive a reply stating that Rule 47 has not been complied with, that no file has been opened and no documents have been kept. You will then have the option of submitting a fresh application: this means submitting a completed application form and all relevant documents and decisions, even if you have sent some of the information previously. Incomplete submissions will not be accepted.

The Registry cannot provide you with information about the law of the State against which you are making your complaint or give legal advice concerning the application and interpretation of national law.

When sending your application, you should keep a copy of the form as you have filled it in, together with the original documents, so that if the Registry informs you that the application was incomplete you will be able, if you wish, to resubmit a fresh and complete application without difficulty or undue delay. There is no guarantee that if an application form is rejected as incomplete there will be enough time for you to submit a new application before the four-month time-limit. For that reason, you should take care to submit a complete application form together with all the necessary supporting documents in good time.

If the application form submitted is complete, you may receive a reply from the Registry telling you that a file (the number of which must be mentioned in all subsequent correspondence) has been opened in your name and sending you a set of barcode labels (which you should attach to any future correspondence).

The Registry may also contact you with a request for further information or clarifications. It is in your interests to reply rapidly to any correspondence from the Registry as a newly opened file which is inactive will be destroyed after six months. Furthermore, you should note that where a case has been allocated for examination by the Court, any delay or failure to reply to correspondence from the Registry or to provide further information or documents may be taken to mean that you no longer wish to pursue your case. This may then result in the application not being examined by the Court or being declared inadmissible or struck out of the Court's list of cases.

C. No Court Fees

Your case will be dealt with free of charge. You will automatically be informed of any decision taken by the Court.

Common Mistakes in Filling in the Application Form and How to Avoid Them

MISTAKE NO. 1: not using the Court's current application form

Applicants must use the latest official Court application form. If possible, they should download the form from the Court's website. This will ensure that the applicant sets out all the information which the Court needs for examining an applicant's complaints. The downloaded form also contains a barcode at the end which facilitates the entry of an applicant's details directly into the Court's database.

Old forms will not be accepted. You can always obtain the new form by writing to the Court.

MISTAKE NO. 2: not putting a summary of the case on the application form

The Court wants applicants to put a concise and complete version or summary of their story – with facts, the alleged violations and the remedies exhausted – on the application form itself. There are three pages set aside for facts (Part E.), two pages for the violations (Part F.) and a page for the outline of remedies (Part G.). By reading this summary, the Registry can immediately assess what the case is about and allocate it to the appropriate judicial formation, speeding up the examination of complaints and preventing cases waiting years for decision.

This summary on the application form is obligatory. Do not leave the application form blank and refer to attached pages.

It is possible, but not required, for applicants to add an additional statement expanding on the facts, complaints or remedies used. This extra statement should be not more than 20 pages. It should not add new complaints or violations but only develop what is set out on the form.

Starting to set out the facts or complaints on the application form and continuing on additional sheets of paper annexed to the form is not what the Court wants. Nor is it good enough to summarise the case in a few lines on the application form and then continue for 20 pages. The Court must be able to understand, by reading just the application form, the key facts of the case, which rights have been infringed and how, and the remedies which have been exhausted and on which dates.

MISTAKE NO. 3: not attaching the decisions or documents setting out the measures at the heart of the case

Applicants have to support their complaints by documentary evidence. This means that if there is a complaint about an official act or decision, a copy of that decision or document attesting to that official act or measure must be provided. A translation of the official decision or document cannot replace a copy of that decision or document. The Court cannot just take the word of applicants for what they say has happened. So, if an applicant complains that his house is being expropriated, he must attach to the application form a copy of the official decision ordering the expropriation; if an applicant alleges that she has been refused legal aid for her child custody proceedings, she must provide a copy of the document by the decision body setting out that refusal. If there are a number of documents relating to a particular incident or procedure, an applicant should err on the side of caution and provide all that appear relevant.

If you are unable to obtain a copy of a decision or document, you should explain this in the application form. But you must show that it was practically impossible for you to obtain the document: applicants are expected to take reasonable steps to apply to authorities for copies of documents and to comply with reasonable formalities in that respect.

MISTAKE NO. 4: not providing copies of decisions and documents showing that the applicant has brought all his/her complaints before the national courts or brought his/her complaints before the Court within the four-month time-limit

The Court, as an international court, cannot examine complaints by anyone if they have not first given the national authorities, the courts in particular, the opportunity to put the matter right. This means that an applicant must bring all the matters which she or he wants to complain about before the national courts and use all the available appeals up to the highest level.

An applicant must therefore substantiate before the Court that this has been done by sending copies of all the court decisions, not just the highest appeal decision, and also copies of the grounds of appeal and written records of hearings which show that he or she raised all the allegations made before the Court in the national system. If a national court issues the decision and then a separate document setting out the reasons separately, both documents must be provided.

If you are unable to obtain a copy of a decision or document, you should explain this in the application form. But you must show that it was practically impossible for you to obtain the document: applicants are expected to take reasonable steps to apply to court registries or other authorities for copies of documents and to comply with reasonable formalities in that respect. If the final decision in the process of exhausting domestic remedies has not yet been issued, it may be premature to apply to the Court: you should obtain the text of the decision and then submit it with the completed application form to the Court.

You must also provide proof that you have lodged your case with the Court within four months from the final decision in that process of exhaustion of domestic remedies. This means you should send a copy of the decision containing the date or, if you did not receive a copy of the final decision on the date it was delivered or made public, you must send proof of the date of service, for example evidence of the date of receipt, or a copy of the registered letter or envelope. Where no remedies were available, you must show that you have lodged the complaint within four months of the act, measure or decision complained of and submit documentary evidence of the date of the act, measure or decision.

MISTAKE NO. 5: not sending the application form with the original signature at the end

The Court's application form is a legal document with legal consequences. The form with the original signature of the applicant or his or her lawyer must be provided. A photocopy of the signed version will not do. So, it also serves no purpose to fax an application form in order to lodge an application with the Court.

MISTAKE NO. 6: where companies or organisations do not fill in the details of the application form identifying their official representative

Even where an organisation or company has a lawyer, it must also set out in the relevant fields (Part D.1.) the name, contact details and function of the official in the organisation authorised to act for it in bringing the case to the Court and to sign the authority section to appoint a lawyer. This official representative might be the person specifically designated by the board, or council of administration for that purpose, or the person who is authorised generally under domestic law or the organisation's articles to act on its behalf. In a few cases, the official representative may also be a

lawyer who can act in a legal capacity. But this should also be made clear on the form. Copies of the minutes, articles, extract from a domestic register or other form of authorisation proving that the official representative has the capacity to act must also be provided.

MISTAKE NO. 7: not filling in the Statement of violations

An applicant must put down the gist of what he or she is complaining about. The Court cannot infer from the facts or domestic court documents what the applicant considers to be in breach of his or her rights. An applicant should try and identify those Articles of the Convention which cover what he or she complains about – the Articles are framed in very plain and general terms that are easily understandable, such as ill-treatment, right to liberty, fair trial rights, family life rights, freedom of expression, etc. It is crucial to write down both the Article of the Convention and in a few brief sentences how it has been infringed – the Court cannot guess what an applicant objects to or make up the complaints for him or her. For example:

Article 3 The police kept me handcuffed in a cell without heating and gave me no food for three days. I became ill and needed treatment from the doctor for bronchitis.

or Article 5 I was detained wrongfully at the border police station for three days without being told why or being allowed to phone a lawyer or my family.

or Article 6 The criminal proceedings against me lasted 9 years and 8 months for two levels of jurisdiction. Also I was not allowed to cross-examine the witness who gave the sole evidence against me.

or Article 8 My right to family life has been violated as my daughter has been adopted without my consent and without me being consulted in advance or being involved in the procedures.

MISTAKE NO. 8: leaving blank the part of the form dealing with remedies

Applicants must fill in Part G. concerning the remedies they have exhausted giving dates so that the Court can quickly see that they have complied with the four-month time-limit.

Only a summary of the remedies need be given, with the name of the court, the date and a concise description of the decision taken. For example:

Article 5 complaint about arrest by police. High Court rejected claim on 05/12/13; leave to appeal refused by Court of Appeal on 14/01/15

Article 6 complaint about neighbour dispute. County Court rejected claim on 03/04/12; Court of Appeal dismissed appeal on 04/12/14

Extra details about the court proceedings or how the courts dealt with complaints can be added in supplementary annexes if necessary.

If an applicant thinks that there were no remedies to exhaust as they were non-existent or ineffective or inaccessible in some way, the applicant should put down this reasoning briefly.

MISTAKE NO. 9: forgetting to tick the country box

An applicant has to specify the Contracting State (a European country which has signed up to the European Convention on Human Rights) which is alleged to be responsible for the breach of his or her rights. The Court's competence depends on this. It is not for the Court to "guess" from reading the application form and attached documents.

You must tick the box of at least one of the Contracting States listed in the application form for it to be complete.

MISTAKE NO. 10: forgetting to put a list of the documents on the form

An applicant must list on the application form in the space provided (carrying over to an attached sheet if the space is insufficient) all documents attached to the form. The Court must be able to find particular documents when examining the case; listing the documents, with page numbers and in chronological order, on the application form is essential for a speedy and efficient sifting of incoming cases.

MISTAKE NO. 11: sending a separate authority form instead of filling in and signing the authority section on the application form

If an applicant is represented by a lawyer or other person, both the applicant and the designated representative – whose identifying details must be indicated on the application form – must sign the authority section on the application form. The applicant's signature provides the necessary proof that the representative has been authorised by the applicant to act on the latter's behalf; the representative's signature provides confirmation that this person has in fact accepted to act for the applicant. Where the applicant is an organisation, it is the official or officer of that organisation and the lawyer who sign.

A separate authority form will not be accepted unless adequate explanations are provided as to the existence of insurmountable practical obstacles in signing the authority section on the form or it is used at a later stage to appoint a lawyer/representative after the application has been lodged with the Court.

MISTAKE NO. 12: sending the application form at the last moment before the four-month time-limit expires

If an applicant misses something out in the application form or omits a relevant document, the application form is likely to be rejected as incomplete. If the form has been sent at the last moment, this will give the applicant no time to re-submit a second and complete application form. So you are strongly advised to send your application form as soon as practicable after the last remedy in the national system has been exhausted or where there are no remedies as soon as possible after the events being complained about.

MISTAKE NO. 13: re-submitting a second incomplete application form

If the applicant's first application form was rejected as incomplete, no file is kept, neither the form nor any of the attached documents. So, merely sending the missing document or a letter with the missing information will not count: you must download a fresh application form, fill it in fully and append to that form copies of all the relevant documents, even if you have sent the documents in previous correspondence addressed to the Court.

ANNEX C: FORM OF AUTHORITY

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

ENG - 2021/1

Authority Form

Warning: This authority form should only be used if the applicant did not have a representative at the time of filling in the application form or if the applicant wishes to change the representative named in an application form already submitted to the Court. If the applicant is represented at the time of lodging the application, section C or D of the application form should be completed.

Barcode label

If you have already received a sheet of barcode labels from the European Court of Human Rights, please place one barcode label in the box below.

Reference number

If you already have a reference number from the Court in relation to these complaints, please indicate it in the box below.

1. The applicant

1.1. Individual

This section refers to applicants who are individual persons only. If the applicant is an organisation, please go to section 1.2.

1. Surname
2. First name(s)
3. Date of birth — e.g. 31/12/1960 — D D M M Y Y Y Y
4. Place of birth
5. Nationality
6. Address
7. Telephone (including international dialling code)
8. Email (if any)
9. Sex — male — female

1.2. Organisation

This section should only be filled in where the applicant is a company, NGO, association or other legal entity. In this case, please also fill in section 3.1.

10. Name
11. Identification number (if any)
12. Date of registration or incorporation (if any) — e.g. 27/09/2012 — D D M M Y Y Y Y
13. Activity
14. Registered address
15. Telephone (including international dialling code)
16. Email

2. Representative(s) of the individual applicant

Where an individual applicant is represented by a non-lawyer (e.g. a relative, friend or guardian), the non-lawyer must fill in section 2.1; if an individual applicant is represented by a lawyer, the lawyer must fill in section 2.2. In both situations section 2.3 must be completed.

2.1. Non-lawyer

17. Capacity/relationship/function
18. Surname
19. First name(s)
20. Nationality
21. Address
22. Telephone (including international dialling code)
23. Fax
24. Email

2.2. Lawyer

25. Surname
26. First name(s)
27. Nationality
28. Address
29. Telephone (including international dialling code)
30. Fax
31. Email

2.3. Authority

The applicant must authorise any representative to act on his or her behalf by signing the first box below; the designated representative must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated above to represent me in the proceedings before the European Court of Human Rights concerning my application lodged under Article 34 of the Convention.

32. Signature of applicant
33. Date — e.g. 27/09/2015 — D D M M Y Y Y Y

I hereby agree to represent the applicant in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

34. Signature of representative
35. Date — e.g. 27/09/2015 — D D M M Y Y Y Y

Electronic communication between the representative and the Court

36. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

European Court of Human Rights - Authority form 3 / 3

3. Representative(s) of the applicant organisation

Where the applicant is an organisation, it must be represented before the Court by a person entitled to act on its behalf and in its name (e.g. a duly authorised director or official). The details of the representative must be set out in section 3.1.

If the representative instructs a lawyer to plead on behalf of the organisation, both 3.2 and 3.3 must also be completed.

3.1. Organisation official

37. Capacity/relationship/function (please provide proof)

38. Surname

39. First name(s)

40. Nationality

41. Address

42. Telephone (including international dialling code)

43. Fax

44. Email

3.2. Lawyer

45. Surname

46. First name(s)

47. Nationality

48. Address

49. Telephone (including international dialling code)

50. Fax

51. Email

3.3. Authority

The representative of the applicant organisation must authorise any lawyer to act on its behalf by signing the first box below; the lawyer must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated in section 3.2 above to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

52. Signature of organisation official

53. Date e.g. 27/09/2015 D D M M Y Y Y Y

I hereby agree to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

54. Signature of lawyer

55. Date e.g. 27/09/2015 D D M M Y Y Y Y

Electronic communication between the representative and the Court

56. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

APPENDIX D: TABLE OF RATIFICATIONS

Dates of ratification (Entry into Force) of the European Convention on Human Rights and Additional Protocols as of October 2022

States	Convention	Protocol No.1	Protocol No.4	Protocol No.6	Protocol No.7	Protocol No.12	Protocol No.13
Albania	2/10/96	2/10/96	2/10/96	1/10/00	1/1/97	1/4/05	1/6/07
Andorra	22/1/96	6/5/08	6/5/08	1/2/96	1/8/08	1/9/08	1/7/03
Armenia	26/4/02	26/4/02	26/4/02	1/10/03	1/7/02	1/4/05	
Austria	3/9/58	3/9/58	18/9/69	1/3/85	1/11/88		1/5/04
Azerbaijan	15/4/02	15/4/02	15/4/02	1/5/02	1/7/02		
Belgium	14/6/55	14/6/55	21/9/70	1/1/99	1/7/12		1/10/03
Bosnia and Herzegovina	12/7/02	12/7/02	12/7/02	1/8/02	1/10/02	1/4/05	1/11/03
Bulgaria	7/9/92	7/9/92	4/11/00	1/10/99	1/2/01		1/7/03
Croatia	5/11/97	5/11/97	5/11/97	1/12/97	1/2/98	1/4/05	1/7/03
Cyprus	6/10/62	6/10/62	3/10/89	1/2/00	1/12/00	1/4/05	1/7/03
Czech Republic	1/1/93	1/1/93	1/1/93	1/1/93	1/1/93		1/11/04
Denmark	3/9/53	18/5/54	2/5/68	1/3/85	1/11/88		1/7/03
Estonia	16/4/96	16/4/96	16/4/96	1/5/98	1/7/96		1/6/04
Finland	10/5/90	10/5/90	10/5/90	1/6/90	1/8/90	1/4/05	1/3/05
France	3/5/74	3/5/74	3/5/74	1/3/86	1/11/88		1/2/08
Georgia	20/5/99	7/6/02	13/4/00	1/5/00	1/7/00	1/4/05	1/9/03
Germany	3/9/53	13/2/57	1/6/68	1/8/89			1/2/05
Greece	28/11/74	28/11/74		1/10/98	1/11/88		1/6/05
Hungary	5/11/92	5/11/92	5/11/92	1/12/92	1/2/93		1/11/03
Iceland	3/9/53	18/5/54	2/5/68	1/6/87	1/11/88		1/3/05
Ireland	3/9/53	18/5/54	29/10/68	1/7/94	1/11/01		1/7/03
Italy	26/10/55	26/10/55	27/5/82	1/1/89	1/2/92		1/7/09
Latvia	27/6/97	27/6/97	27/6/97	1/6/99	1/9/97		1/5/12
Lichtenstein	8/9/82	14/11/95	8/2/05	1/12/90	1/5/05		1/7/03
Lithuania	20/6/95	24/5/96	20/6/95	1/8/99	1/9/95		1/5/04
Luxembourg	3/9/53	18/5/54	2/5/68	1/3/85	1/7/89	1/7/06	1/7/06
Malta	23/1/67	23/1/67	5/6/02	1/4/91	1/4/03	1/4/16	1/7/03
Moldova	12/9/97	12/9/97	12/9/97	1/10/97	1/12/97		1/2/07
Monaco	30/11/05		30/11/05	1/12/05	1/2/06		1/3/06
Montenegro	6/6/06	6/6/06	6/6/06	6/6/06	6/6/06	6/6/06	6/6/06
Netherlands	31/8/54	31/8/54	23/6/82	1/5/86		1/4/05	1/6/06
Norway	3/9/53	18/5/54	2/5/68	1/11/88	1/1/89		1/12/05
Poland	19/1/93	10/10/94	10/10/94	1/11/00	1/3/03		1/9/14
Portugal	9/11/78	9/11/78	9/11/78	1/11/86	1/3/05	1/5/17	1/2/04
Romania	20/6/94	20/6/94	20/6/94	1/7/94	1/9/94	1/11/06	1/8/03
Russia	5/5/98	5/5/98	5/5/98		1/8/98		
San Marino	22/3/89	22/3/89	22/3/89	1/4/89	1/6/89	1/4/05	1/8/03
Serbia	3/3/04	3/3/04	3/3/04	1/4/04	1/6/04	1/4/05	1/7/04
Slovakia	1/1/93	1/1/93	1/1/93	1/1/93	1/1/93		1/12/05
Slovenia	28/6/94	28/6/94	28/6/94	1/7/94	1/9/94	1/11/10	1/4/04
Spain	4/10/79	27/11/90	16/9/09	1/3/85	1/12/09	1/6/08	1/4/10
Sweden	3/9/53	18/5/54	2/5/68	1/3/85	1/11/88		1/8/03
Switzerland	28/11/74			1/11/87	1/11/88		1/7/03
The former Yugoslav Republic of Macedonia	10/4/97	10/4/97	10/4/97	1/5/97	1/7/97	1/4/05	1/11/04
Turkey	18/5/54	18/5/54		1/12/03	1/8/16		1/6/06
Ukraine	11/9/97	11/9/97	11/9/97	1/5/00	1/12/97	1/7/06	1/7/03
United Kingdom	3/9/53	18/5/54		1/6/99			1/2/04

Following Russia's exclusion from the Council of Europe on 16 March 2022 as a result of the invasion against Ukraine, the Russian Federation will cease to be a High Contracting Party to the Convention from the 16 September 2022.

ANNEX E: LIST OF EUROPEAN COURT JUDGES (By Section and By Country)

List of European Court of Human Rights Judges (By Section and By Country)

Composition of the Sections (as at 08/11/2022)

A Section is an administrative entity and a Chamber is a judicial formation of the Court within a given Section. The Court has 5 Sections in which Chambers are formed. Each Section has a President, a Vice-President and a number of other judges.

Section I	Section II	Section III	Section IV	Section V
President	**President**	**President**	**President**	**President**
M. Bošnjak	A. Bårdsen	P. P. Vilanova	G. Kucsko-Stadlmayer	G. Ravarani
Vice-President	**Vice-President**	**Vice-President**	**Vice-President**	**Vice-President**
P. Paczolay*	Jovan Ilievski	G. Serghides	T. Eicke	C. Ranzoni
K. Wojtyczek	E. Kūris	Y. Grozev	F. Vehabović	S. O'Leary
A. Poláčková	P. Koskelo	J. Schukking	I. A. Motoc	M. Mits
L. Hüseynov	S. Yüksel	D. Pavli	J. F. Kjølbro	S. Mourou- Vikström
I. Jelić	L. S. Orland	P. Roosma	B. Lubarda	L. Chanturia
G. Felici	F. Krenc	I. Ktistakis	A.Harutyunyan	M. Elósegui
E.Wennerström	D. Sârcu	A. Zünd	A. Seibert-Fohr	M. Guyomar
R. Sabato	D. Derenčinović		A. M Guerra Martins	K. Šimáčkova
				M. Gnatovskyy
Section Registrar	**Section Registrar**	**Section Registrar**	**Section Registrar**	**Section Registrar**
R. Degener	H. Bakırcı	M. Blasko	A. Tamietti	V. Soloveytchik
Deputy Section Registrar	**Deputy Section Registrar**	**Deputy Section Registrar**	**Deputy Section Registrar**	**Deputy Section Registrar**
L. Tigerstedt	D. v. Arnim	O. Chernishova	I. Freiwirth	M. Keller

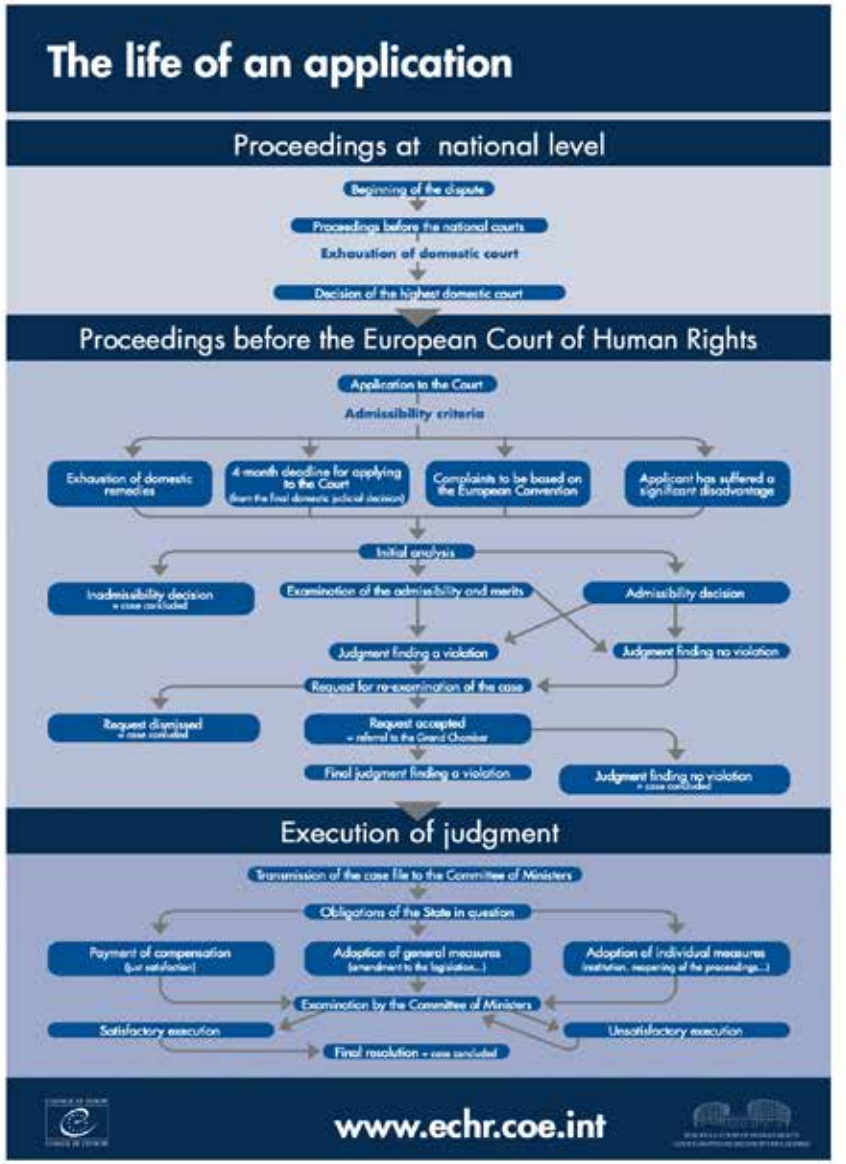
* Duty judge in charge of interim measures

Composition of the Court by Country (as at 01/11/22)

Judge (in order of precedence)	Country
Síofa O'Leary, President	Ireland
Georges Ravarani, Vice-President	Luxembourg
Marko Bošnjak, Vice-President	Slovenia
Gabriele Kucsko-Stadlmayer, Section President	Austria
Pere Pastor Vilanova, Section President	Andorra
Arnfinn Bårdsen, Section President	Norway
Krzysztof Wojtyczek	Poland
Faris Vehabović	Bosnia and Herzegovina
Egidijus Kūris	Lithuania
Iulia Antoanella Motoc	Romania
Jon Fridrik Kjølbro	Denmark
Branko Lubarda	Serbia
Yonko Grozev	Bulgaria
Carlo Ranzoni	Liechtenstein
Mārtiņš Mits	Latvia
Armen Harutyunyan	Armania
Stéphanie Mourou-Vikström	Monaco
Alena Poláčková	Slovak Republic
Pauliine Koskelo	Finland
Georgios Serghides	Cyprus
Tim Eicke	United Kingdom
Lətif Hüseynov	Azerbaijan
Jovan Ilievski	North Macedonia
Jolien Schukking	Netherlands
Péter Paczolay	Hungary
Lado Chanturia	Georgia
María Elósegui	Spain
Ivana Jelić	Montenegro
Gilberto Felici	San Marino
Darian Pavli	Albania
Erik Wennerström	Sweeden
Raffaele Sabato	Italy
Saadet Yüksel	Türkiye
Lorraine Schembri Orland	Malta
Anja Seibert-Fohr	Germany
Peeter Roosma	Estonia
Ana Maria Guerra Martins	Portugal
Mattias Guyomar	France
Ioannis Ktistakis	Greece
Andreas Zünd	Switzerland
Frédéric Krenc	Belgium
Diana Sârcu	Republic of Maldova
Kateřina Šimáčková	Czech Republic
Davor Derenčinović	Croatia
Mykola Gnatovskyy	Ukraine

* The seat of the judge elected in respect of Iceland is vacant.

ANNEX F: FLOWCHART OF EUROPEAN COURT OF HUMAN RIGHTS PROCEDURE



ANNEX G: PRECEDENT TIMESHEET AND COSTS AND EXPENSES SCHEDULE

SAMPLE
SCHEDULE OF COSTS AND EXPENSES

[Name and Address of Applicant] *[Date]*
Schedule of Costs
[Applicant(s)] v [Respondent State] (Case no [insert])
Total Costs **£ 3, 320.00**

[Name and Address of Applicant] *[Date]*
Schedule of Costs
[Applicant(s)] v [Respondent State] (Case no [insert])
Total Costs **£……**

A. Fees incurred from [*date of first writing on case*] to [*current date*] (see attached time recording schedules)

Fee earner	Number of hours	Hourly rate	Total
Fee earner A	12 hours	£150	£1,800.00
Fee earner B	9 Hours 20 mins	£150	£1,400.00
Sub-Total			**£3,200.00**

Additional fees and expenses incurred in preparing for and attending any hearing will be submitted to the Court in the event that a hearing is held in this case.

B. Administrative costs and expenses

Administrative costs and disbursements within office

- Telephone /fax (including international calls and mobile) £ 40.00
- Postage (including international courier) £ 25.00
- Photocopy/stationery £ 35.00
- Translation costs £ 20.00

Sub-Total **£120.00**

Summary

A. Legal fees
(from [*date of first writing on case*] to [*current date*])

£ 3,200.00

B. Administrative costs and expenses

£120.00

TOTAL £ 3,320.00

Payment should be made in sterling (GBP) direct to the account of:

[insert bank details]

Name	Date	Work carried out	Time taken
Fee earner A	02/09/2022	Drafting application	3 hours
Fee earner A	04/10/2022	Drafting application and submitting to court	1.5 hours
Fee earner B	26/11/2022	Considering court correspondence	10 minutes
Etc.			

ANNEX H: COPENHAGEN DECLARATION, BRUSSELS DECLARATION, BRIGHTON DECLARATION, IZMIR DECLARATION, INTERLAKEN DECLARATION AND OSLO DECLARATION[295]

Copenhagen Declaration

The High Level Conference meeting in Copenhagen on 12 and 13 April 2018 at the initiative of the Danish Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference") declares as follows:

1) The States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") reaffirm their deep and abiding commitment to the Convention, and to the fulfilment of their obligation under the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention. They also reaffirm their strong attachment to the right of individual application to the European Court of Human Rights ("the Court") as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention.
2) The Convention system has made an extraordinary contribution to the protection and promotion of human rights and the rule of law in Europe since its establishment and today it plays a central role in maintaining democratic security and improving good governance across the Continent.
3) The reform process, initiated in Interlaken in 2010 and continued through further High Level Conferences in Izmir, Brighton and Brussels, has provided an important opportunity to set the future direction of the Convention system and ensure its viability. The States Parties have underlined the need to secure an effective, focused and balanced Convention system, where they effectively implement the Convention at national level, and where the Court can focus its efforts on identifying serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention.

295 The Oslo proceedings can be found at:
https://rm.coe.int/conference-on-the-long-term-future-of-the-european-court-of-human-righ/1680695ab0

4) The reform process has been a positive exercise that has led to significant developments in the Convention system. Important results have been achieved, in particular by addressing the need for more effective national implementation, improving the efficiency of the Court and strengthening subsidiarity. Nonetheless, the Convention system still faces challenges. The States Parties remain committed to reviewing the effectiveness of the Convention system and taking all necessary steps to ensure its effective functioning, including by ensuring adequate funding.

5) It has been agreed that, before the end of 2019, the Committee of Ministers should decide whether the measures adopted so far are sufficient to assure the sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary. Approaching this deadline, it is necessary to take stock of the reform process with the goal of addressing current and future challenges.

Shared Responsibility – Ensuring a Proper Balance and Enhanced Protection

6) Throughout the reform process, the term shared responsibility has been used to describe the link between the role of the Court and the States Parties. This is vital to the proper functioning of the Convention system and, as the ultimate goal, the more effective protection of human rights in Europe.

7) In the Brighton Declaration, it was decided to add a recital to the Preamble of the Convention affirming that the States Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in the Convention and the Protocols thereto, and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the Court. In the Brussels Declaration, the importance of effective national implementation and execution of judgments was given further emphasis.

8) Focusing on the importance of Convention standards being effectively protected at national level reflects the development of the Convention system. The Convention today is incorporated, and to a large extent, embedded into the domestic legal order of the States Parties, and the Court has provided a body of case law interpreting most Convention rights. This enables the States Parties to play their Convention role of ensuring the protection of human rights to the full.

The Conference Therefore:

9) Recalls the concept of shared responsibility, which aims at achieving a balance between the national and European levels of the Convention system, and an improved protection of rights, with better prevention and effective remedies available at national level.

10) Reiterates that strengthening the principle of subsidiarity is not intended to limit or weaken human rights protection, but to underline the responsibility of national authorities to guarantee the rights and freedoms set out in the Convention. Notes, in this regard, that the most effective means of dealing with human rights violations is at the national level, and that encouraging rights-holders and decision- makers at national level to take the lead in upholding Convention standards will increase ownership of and support for human rights.

11) Strongly encourages, without any further delay, the ratification of Protocol No. 15 to the Convention by those States which have not done so.

Effective National Implementation – The Responsibility of States

12) Ineffective national implementation of the Convention, in particular in relation to serious systemic and structural human rights problems, remains the principal challenge confronting the Convention system. The overall human rights situation in Europe depends on States' actions and the respect they show for Convention requirements.

13) A central element of the principle of subsidiarity, under which national authorities are the first guarantors of the Convention, is the right to an effective remedy under Article 13 of the Convention.

14) Effective national implementation requires the engagement of and interaction between a wide range of actors to ensure that legislation, and other measures and their application in practice comply fully with the Convention. These include, in particular, members of government, public officials, parliamentarians, judges and prosecutors, as well as national human rights institutions, civil society, universities, training institutions and representatives of the legal professions.

The Conference Therefore:

15) Affirms the strong commitment of the States Parties to fulfil their responsibility to implement and enforce the Convention at national level.

16) Calls upon the States Parties to continue strengthening the implementation of the

Convention at the national level in accordance with previous declarations, especially the Brussels Declaration on "Implementation of the European Convention on Human Rights, our shared responsibility" and the report of the Committee of Ministers' Steering Committee for Human Rights on the longer-term future of the Convention system; in particular by:

a) creating and improving effective domestic remedies, whether of a specific or general nature, for alleged violations of the rights and freedoms under the Convention, especially in situations of serious systemic or structural problems;

b) ensuring, with appropriate involvement of national parliaments, that policies and legislation comply fully with the Convention, including by checking, in a systematic manner and at an early stage of the process, the compatibility of draft legislation and administrative practice in the light of the Court's jurisprudence;

c) giving high priority to professional training, notably of judges, prosecutors and other public officials, and to awareness-raising activities concerning the Convention and the Court's case law, in order to develop the knowledge and expertise of national authorities and courts with regard to the application of the Convention at the national level; and;

d) promoting translation of the Court's case law and legal materials into relevant languages, which contributes to a broader understanding of Convention principles and standards.

17) Notes the positive effects of the pilot judgment procedure as a tool for improving national implementation of the Convention by tackling systemic or structural human rights problems.

18) Reiterates the significant role that national human rights structures and stakeholders play in the implementation of the Convention, and calls upon the States Parties, if they have not already done so, to consider the establishment of an independent national human rights institution in accordance with the Paris Principles.

Execution of Judgments – A Key Obligation

19) The States Parties have undertaken to abide by the final judgments of the Court in any case to which they are a party. Through its supervision, the Committee of Ministers ensures that proper effect is given to the judgments of the Court, including by the implementation of general measures to resolve wider systemic issues.

20) A strong political commitment by the States Parties to execute judgments is of vital

importance. The failure to execute judgments in a timely manner can negatively affect the applicant(s), create additional workload for the Court and the Committee of Ministers, and undermine the authority and credibility of the Convention system. Such failures must be confronted in an open and determined manner.

The Conference Therefore:

21) Reiterates the States Parties' strong commitment to the full, effective and prompt execution of judgments.

22) Reaffirms the Brussels Declaration as an important instrument dealing with the issue of execution of judgments and endorses the recommendations contained therein.

23) Calls on the States Parties to take further measures when necessary to strengthen the capacity for effective and rapid execution of judgments at the national level, including through the use of inter- State co-operation.

24) Strongly encourages the Committee of Ministers to continue to use all the tools at its disposal when performing the important task of supervising the execution of judgments, including the procedures under Article 46 (3) and (4) of the Convention keeping in mind that it was foreseen that they would be used sparingly and in exceptional circumstances respectively.

25) Encourages the Committee of Ministers to consider the need to further strengthen the capacity for offering rapid and flexible technical assistance to States Parties facing the challenge of implementing Court judgments, in particular pilot judgments.

European Supervision – The Role of The Court

26) The Court provides a safeguard for violations that have not been remedied at national level and authoritatively interprets the Convention in accordance with relevant norms and principles of public international law, and, in particular, in the light of the Vienna Convention on the Law of Treaties, giving appropriate consideration to present-day conditions.

27) The quality and in particular the clarity and consistency of the Court's judgments are important for the authority and effectiveness of the Convention system. They provide a framework for national authorities to effectively apply and enforce Convention standards at domestic level.

28) The principle of subsidiarity, which continues to develop and evolve in the Court's jurisprudence, guides the way in which the Court conducts its review.

a) The Court, acting as a safeguard for individuals whose rights and freedoms are not secured at the national level, may deal with a case only after all domestic remedies have been exhausted. It does not act as a court of fourth instance.

b) The jurisprudence of the Court makes clear that States Parties enjoy a margin of appreciation in how they apply and implement the Convention, depending on the circumstances of the case and the rights and freedoms engaged. This reflects that the Convention system is subsidiary to the safeguarding of human rights at national level and that national authorities are in principle better placed than an international court to evaluate local needs and conditions.

c) The Court's jurisprudence on the margin of appreciation recognises that in applying certain Convention provisions, such as Articles 8-11, there may be a range of different but legitimate solutions which could each be compatible with the Convention depending on the context. This may be relevant when assessing the proportionality of measures restricting the exercise of rights or freedoms under the Convention. Where a balancing exercise has been undertaken at the national level in conformity with the criteria laid down in the Court's jurisprudence, the Court has generally indicated that it will not substitute its own assessment for that of the domestic courts, unless there are strong reasons for doing so.

d) The margin of appreciation goes hand in hand with supervision under the Convention system, and the decision as to whether there has been a violation of the Convention ultimately rests with the Court.

The Conference Therefore:

29) Welcomes efforts taken by the Court to enhance the clarity and consistency of its judgments.

30) Appreciates the Court's efforts to ensure that the interpretation of the Convention proceeds in a careful and balanced manner.

31) Welcomes the further development of the principle of subsidiarity and the doctrine of the margin of appreciation by the Court in its jurisprudence.

32) Welcomes the Court's continued strict and consistent application of the criteria concerning admissibility and jurisdiction, including by requiring applicants to be more diligent in raising their Convention complaints domestically, and making full use of the opportunity to declare applications inadmissible where applicants have not suffered a significant disadvantage.

Interaction Between The National and European Level – The Need for Dialogue

33) For a system of shared responsibility to be effective, there must be good interaction between the national and European level. This implies, in keeping with the independence of the Court and the binding nature of its judgments, a constructive and continuous dialogue between the States Parties and the Court on their respective roles in the implementation and development of the Convention system, including the Court's development of the rights and obligations set out in the Convention. Civil society should be involved in this dialogue. Such interaction may anchor the development of human rights more solidly in European democracies.

34) An important way for the States Parties to engage in a dialogue with the Court is through third-party interventions. Encouraging the States Parties, as well as other stakeholders, to participate in relevant proceedings before the Court, stating their views and positions, can provide a means for strengthening the authority and effectiveness of the Convention system.

35) By determining serious questions affecting the interpretation of the Convention and serious issues of general importance, the Grand Chamber plays a central role in ensuring transparency and facilitating dialogue on the development of the case law.

The Conference Therefore:

36) Underlines the need for dialogue, at both judicial and political levels, as a means of ensuring a stronger interaction between the national and European levels of the system.

37) Welcomes:

a) the future coming into effect of Protocol No. 16 to the Convention;

b) the Court's creation of the Superior Courts Network to ensure the exchange of information on Convention case law and encourages its further development;

c) an ongoing constructive dialogue between the Government Agents and the Registry of the Court ensuring proper consultations on new procedures and working methods; and

d) the use of thematic discussions in the Committee of Ministers on major issues relating to the execution of judgments.

38) Invites the Court to adapt its procedures to make it possible for other States Parties to indicate their support for the referral of a Chamber case to the Grand Chamber when

relevant. Expressing such support may be useful to draw the attention of the Court to the existence of a serious issue of general importance within the meaning of Article 43 (2) of the Convention.

39) Encourages the Court to support increased third-party interventions, in particular in cases before the Grand Chamber, by:

a) appropriately giving notice in a timely manner of upcoming cases that could raise questions of principle; and

b) ensuring that questions to the parties are made available at an early stage and formulated in a manner that sets out the issues of the case in a clear and focused way.

40) Encourages the States Parties to increase coordination and co-operation on third-party interventions, including by building the necessary capacity to do so and by communicating more systematically through the Government Agents Network on cases of potential interest for other States Parties.

41) Appreciates the Danish Chairmanship's invitation to organise and host, before the end of 2018, an informal meeting of the States Parties and other stakeholders, as a follow up to the 2017 High-Level Expert Conference in Kokkedal, where general developments in the jurisprudence of the Court can be discussed, with respect for the independence of the Court and the binding character of its judgments.

The Caseload Challenge – The Need for Further Action

42) Improving the Convention system's ability to deal with the increasing number of applications has been a principal aim of the current reform process from the very beginning.

43) When the Interlaken process was initiated, the number of applications pending before the Court amounted to more than 140,000. Since then, the Court has managed to reduce this number considerably despite a continuous high number of new applications. This development testifies to the high ability of the Court to reform and streamline its working methods.

44) Despite notable results, the Court's caseload still gives reason for serious concern. A core challenge lies in bringing down the large backlog of Chamber cases. Having regard to the Court's current annual output in respect of such cases, this may take a number of years.

44) The challenges posed to the Convention system by situations of conflict and crisis in Europe must also be acknowledged. In this regard, it is the Court's present practice, where an inter-State case is pending, that individual applications raising the same

issues or deriving from the same underlying circumstances are, in principle and in so far as practicable, not decided before the overarching issues stemming from the inter-State proceedings have been determined in the inter-State case.

45) The entry into force of Protocol No. 16 is likely to add further to the Court's workload in the short to medium term but should ultimately reduce it in the longer term perspective.

The Conference Therefore:

47) Welcomes the efforts of the Court to bring down the backlog, including by continuously reviewing and developing its working methods.

48) Recalls that the right of individual application remains a cornerstone of the Convention system. Any future reforms and measures should be guided by the need to enhance further the ability of the Convention system to address Convention violations promptly and effectively.

49) Expresses serious concern about the large number of applications still pending before the Court. Notes that further steps will need to be taken over the coming years in order to further enhance the ability of the Court to manage its caseload. This will require a combined effort of all actors involved: the States Parties in reducing the influx of cases by effectively implementing the Convention and executing the Court's judgments; the Court in processing applications; and the Committee of Ministers in supervising the execution of judgments.

50) Notes the approach taken by the Court in seeking to focus judicial resources on the cases raising the most important issues and having the most impact as regards identifying dysfunction in national human rights protection. Encourages the Court, in co-operation and dialogue with the States Parties, to continue to explore all avenues to manage its caseload, following a clear policy of priority, including through procedures and techniques aimed at processing and adjudicating the more straightforward applications under a simplified procedure, while duly respecting the rights of all parties to the proceedings.

51) Calls upon the Committee of Ministers to assist the States Parties in solving systemic and structural problems at national level and to consider the most effective means to address the challenge of a massive influx of repetitive applications arising from the non-execution of pilot judgments, which can place a significant burden on the Court without necessarily helping to resolve the underlying issue.

52) Acknowledges the importance of retaining a sufficient budget for the Court, as well as the Department for the Execution of Judgments, to solve present and future challenges.

53) Calls upon the States Parties to support temporary secondments of judges, prosecutors and other highly qualified legal experts to the Court and to consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account.

54) Invites the Committee of Ministers, in consultation with the Court, and other stakeholders, to finalise its analysis, as envisaged in the Brighton Declaration, before the end of 2019, of the prospects of obtaining a balanced case-load, inter alia, by:

a) conducting a comprehensive analysis of the Court's backlog, identifying and examining the causes of the influx of cases from the States Parties so that the most appropriate solutions may be found at the level of the Court and the States Parties;

b) exploring how to facilitate the prompt and effective handling of cases, particularly repetitive cases, that the parties are open to settle through a friendly settlement or a unilateral declaration; and

c) exploring ways to handle more effectively cases related to inter-State disputes, as well as individual applications arising out of situations of inter-State conflict, without thereby limiting the jurisdiction of the Court, taking into consideration the specific features of these categories of cases inter alia regarding the establishment of facts.

The Selection and Election of Judges – The Importance of Co-Operation

55) A central challenge for ensuring the long-term effectiveness of the Convention system is to ensure that the judges of the Court enjoy the highest authority in national and international law.

56) As part of the current reform process, the Committee of Ministers has addressed this challenge, inter alia, by the creation of the Advisory Panel of Experts on Candidates for Election as Judge to the Court ('the Panel') and by the adoption of guidelines on the selection of candidates. The Parliamentary Assembly has also taken important steps to address the challenge, most notably by the establishment of the Committee on the Election of Judges to the European Court of Human Rights.

57) As concluded by the Steering Committee for Human Rights in its 2017 report, addressing the entire process of selection and election of judges, although progress has been made, there is still room for improvement in several areas.

The Conference Therefore:

58) Welcomes the advances already made towards ensuring that the judges of the Court enjoy the highest authority in national and international law.

59) Calls on the States Parties to ensure that candidates included on the lists of three candidates for election as judge to the Court all are of the highest quality fulfilling the criteria set out in Article 21 of the Convention. In particular, the national selection procedures should be in line with the recommendations set out by the Committee of Ministers in the above-mentioned guidelines on the selection of candidates.

60) Calls on the Committee of Ministers and the Parliamentary Assembly to work together, in a full and open spirit of co-operation in the interests of the effectiveness and credibility of the Convention system, to consider the whole process by which judges are selected and elected to the Court with a view to ensuring that the process is fair, transparent and efficient, and that the most qualified and competent candidates are elected. The 2017 report of the Steering Committee for Human Rights should serve as a source of reference for this exercise.

61) Underlines the importance of the States Parties consulting the Panel within the agreed three-month time-limit before presenting to the Parliamentary Assembly lists of three candidates for election as judge to the Court, promptly responding to requests for information from the Panel, and fully considering and responding to the opinion of the Panel; and in particular:

a) calls on the States Parties not to forward lists of candidates to the Parliamentary Assembly where the Panel has not yet expressed a view, and if the Panel has expressed a negative opinion in relation to one or more of the candidates, to give this appropriate weight; and

b) encourages the Parliamentary Assembly to refuse to consider lists of candidates unless the Panel has had the full opportunity to express its view, and to fully consider the opinions expressed by the Panel.

62) Encourages the Parliamentary Assembly to take into account the suggestions made in the 2017 report from the Steering Committee for Human Rights when amending the Assembly's Rules of Procedure.

Accession by the European Union

63) The States Parties reaffirm the importance of the accession of the European Union to the Convention as a way to improve the coherence of human rights protection in

Europe, and call upon the European Union institutions to take the necessary steps to allow the process foreseen by Article 6 § 2 of the Treaty of the European Union to be completed as soon as possible. In this connection, they welcome the regular contacts between the European Court of Human Rights and the Court of Justice of the European Union and, as appropriate, the increasing convergence of interpretation by the two courts with regard to human rights in Europe.

Further Measures

64) This Declaration addresses the present challenges facing the Convention system. As the current reform has shown, it will require a continued and focused effort by the States Parties, the Court, the Committee of Ministers, the Parliamentary Assembly and the Secretary General to secure the future effectiveness of the European human rights system, building on the results achieved and meeting new challenges as they arise.

65) Protocols Nos. 15 and 16 can both be expected to have important and significant effects on the Convention system, and point to a clear direction for its future. Their effects will, however, be seen only in the longer term.

The Conference Therefore:

66) Calls on the Committee of Ministers, as a follow-up to the 2019 deadline and without prejudice to the priorities of upcoming Chairmanships of the Committee of Ministers, to prepare a timetable for the preparation and implementation of any further changes required, including an examination of the effect of Protocols Nos. 15 and 16.

General and Final Provisions

67) The Conference:

a) Invites the Danish Chairmanship to transmit the present Declaration to the Committee of Ministers;

b) Invites the States Parties, the Court, the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe to give full effect to this Declaration, and follow up as appropriate on measures they have taken; and

c) Invites the future Chairmanships of the Committee of Ministers to ensure the future impetus of the reform process and the implementation of the Convention.

Brussels Declaration

High-level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility"

27 March 2015

The High-level Conference meeting in Brussels on 26 and 27 March 2015 at the initiative of the Belgian Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference"):

Reaffirms the deep and abiding commitment of the States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and their strong attachment to the right of individual application to the European Court of Human Rights ("the Court") as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention;

Acknowledges the extraordinary contribution of the Convention system to the protection and promotion of human rights in Europe since its establishment and reaffirms its central role in maintaining democratic stability across the Continent;

Recalls, in this respect, the interdependence between the Convention and the other activities of the Council of Europe in the field of human rights, the rule of law and democracy, the objective being to develop the common democratic and legal space founded on respect for human rights and fundamental freedoms;

Reaffirms the principles of the Interlaken, Izmir and Brighton Declarations and welcomes the very encouraging results achieved to date by the Council of Europe in the framework of the reform of the Convention system, through the implementation of these declarations;

Welcomes, in particular, the efforts of the Court as regards the swift implementation of Protocol No. 14 to the Convention, which entered into force on 1 June 2010, and that the backlog of manifestly inadmissible cases is expected to be cleared in 2015;

Welcomes, in the light of the positive results obtained, the new working methods of the Committee of Ministers for the supervision of the execution of the Court's judgments, which entered into force on 1 January 2011 and which inter alia strengthen the principle of subsidiarity;

Reiterates the subsidiary nature of the supervisory mechanism established by the Convention and in particular the primary role played by national authorities, namely governments, courts and parliaments, and their margin of appreciation in guaranteeing and protecting human rights at national level, while involving National Human Rights Institutions and civil society where appropriate;

Underlines the obligations of States Parties under Article 34 of the Convention not to hinder the exercise of the right to individual application, including by observing Rule 39 of the Rules of the Court regarding interim measures, and under Article 38 of the Convention to furnish all necessary facilities to the Court during the examination of the cases;

Underlines the importance of Article 46 of the Convention on the binding force of the Court's judgments, which stipulates that the States Parties undertake to abide by the final judgments of the Court in any case to which they are parties;

Stresses the importance of further promoting knowledge of and compliance with the Convention within all the institutions of the States Parties, including the courts and parliaments, pursuant to the principle of subsidiarity; Recalls in this context that the execution of the Court's judgments may require the involvement of the judiciary and parliaments;

Whilst noting the progress achieved by States Parties with regard to the execution of judgments, emphasises the importance of the full, effective and prompt execution of judgments and of a strong political commitment by the States Parties in this respect, thus strengthening the credibility of the Court and the Convention system in general;

Is convinced that further to the improvements already carried out, emphasis must now be placed on the current challenges, in particular the repetitive applications resulting from the non-execution of Court judgments, the time taken by the Court to consider and decide upon potentially well-founded cases, the growing number of judgments under supervision by the Committee of Ministers and the difficulties of States Parties in executing certain judgments due to the scale, nature or cost of the problems raised. To this end, additional measures are necessary in order to:

1) continue to enable the Court to reduce the backlog of well-founded and repetitive cases and to rule on potentially well-founded new cases, particularly those concerning serious violations of human rights, within a reasonable time;
2) ensure the full, effective and prompt execution of the judgments of the Court;

3) guarantee full and effective supervision of execution of all judgments by the Committee of Ministers and

develop, in co-operation with States Parties, bilateral dialogue and assistance by the Council of Europe in the execution process.

The Conference Therefore:

1) Reaffirms the strong attachment of the States Parties to the Convention to the right of individual application;
2) Reiterates the firm determination of the States Parties to fulfil their primary obligation to ensure that the rights and freedoms set forth in the Convention and its protocols are fully secured at national level, in accordance with the principle of subsidiarity;
3) Invites each stakeholder to ensure that the necessary means are available to fulfil its role in the implementation of the Convention, in conformity with the Convention providing for shared responsibility between the States Parties, the Court and the Committee of Ministers;
4) Welcomes the work carried out by the Court in particular regarding the dissemination of its judgments and decisions, through its information notes, its practical guide on admissibility, as well as its case-law guides and thematic factsheets;
5) Reaffirms the need to maintain the independence of the judges and to preserve the impartiality, quality and authority of the Court;
6) Acknowledges the role of the Registry of the Court in maintaining the highest efficiency in the management of applications and in the implementation of the reform process;
7) Invites the Court to remain vigilant in upholding the States Parties' margin of appreciation;
8) Stresses the need to find, both at the level of the Court and in the framework of the execution of judgments, effective solutions for dealing with repetitive cases;
9) Encourages in this regard States Parties to give priority to alternative procedures to litigation such as friendly settlements and unilateral declarations;
10) Recalling Article 46 of the Convention, stresses that full, effective and prompt execution by the States Parties of final judgments of the Court is essential;
11) Reiterates the importance of the Committee of Ministers respecting the States Parties' freedom to choose the means of full and effective execution of the Court's judgments;
12) Calls for enhancing, at the level of both the Committee of Ministers and the States

Parties, in accordance with the principle of subsidiarity, the effectiveness of the system of supervision of the execution of the Court's judgments;

13) Encourages the bodies of the Council of Europe to increase and improve their activities of co-operation and bilateral dialogue with States Parties with regard to the implementation of the Convention, including by facilitating access to information on good practices, and invites States Parties to make full use of the said activities;

14) Calls on the States Parties to sign and ratify Protocol No. 15 amending the Convention as soon as possible and to consider signing and ratifying Protocol No. 16;

15) Reaffirms the importance of the accession of the European Union to the Convention and encourages the finalisation of the process at the earliest opportunity;

16) Takes note of the work currently being carried out by the Steering Committee for Human Rights (CDDH), as a follow-up to the Brighton Declaration, on the reform of the Convention system and its long-term future, the results of which are foreseen in December 2015;

17) Adopts the present Declaration in order to give political impetus to the current reform process to ensure the long-term effectiveness of the Convention system.

Action Plan:

A. Interpretation and Application of the Convention by the Court

1) Bearing in mind the jurisdiction of the Court to interpret and apply the Convention, the Conference underlines the importance of clear and consistent case-law as well as the Court's interactions with the national authorities and the Committee of Ministers, and in this regard:

a) encourages the Court to continue to develop its co-operation and exchange of information on a regular basis with the States Parties and the Committee of Ministers, especially as regards repetitive and pending applications;

b) welcomes the Court's dialogue with the highest national courts and the setting-up of a network facilitating information exchange on its judgments and decisions with national courts, and invites the Court to deepen this dialogue further;

c) welcomes the intention expressed by the Court to provide brief reasons for the inadmissibility decisions of a single judge, and invites it to do so as from January 2016;

d) invites the Court to consider providing brief reasons for its decisions indicating provisional measures and decisions by its panel of five judges on refusal of referral requests.

2) Recalling the remaining challenges, including the repetitive cases, the Conference underlines the importance of an efficient control of the observance of the engagements undertaken by States Parties under the Convention and, in this regard, supports:

a) further exploration and use of efficient case-management practices by the Court in particular its prioritisation categories for the examination of cases, according to, among other things, their level of importance and urgency, and its pilot-judgment procedure;

b) the continued consideration by the Court, in consultation with the Committee of Ministers and the States Parties, in particular through their government agents and legal experts, of the improvement of its functioning, including for appropriate handling of repetitive cases, while ensuring timely examination of well-founded, non-repetitive cases;

c) greater transparency on the state of the proceedings before the Court in order that the parties can have better knowledge of their procedural progress.

B. Implementation of the Convention at National Level

The Conference recalls the primary responsibility of the States Parties to ensure the application and effective implementation of the Convention and, in this regard, reaffirms that the national authorities and, in particular, the courts are the first guardians of human rights ensuring the full, effective and direct application of the Convention – in the light of the Court's case law – in their national legal system, in accordance with the principle of subsidiarity.

The Conference calls upon the States Parties to:

1) Prior to and independently of the processing of cases by the Court:

a) ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria;

b) increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights

Education for Legal Professionals (HELP) programme of the Council of Europe, as well as to the training programmes of the Court and to its publications;

c) promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system;

d) take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law;

e) ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention;

f) consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court;

g) consider the establishment of an independent National Human Rights Institution.

2) After the Court's judgments:

a) continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions;

b) in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court;

c) develop and deploy sufficient resources at national level with a view to the full and effective execution of all judgments, and afford appropriate means and authority to the government agents or other officials responsible for co-ordinating the execution of judgments;

d) attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties;

e) foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures;

f) promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required;

g) within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages;

h) in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments;

i) establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchange, hearings or the transmission of annual or thematic reports or newsletters;

j) consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society.

C. Supervision of the Execution of Judgments

The Conference underlines the importance of the efficient supervision of the execution of judgments in order to ensure the long-term sustainability and credibility of the Convention system and, for this purpose:

1) Encourages the Committee of Ministers to:

a) continue to use, in a graduated manner, all the tools at its disposal, including interim resolutions, and to consider the use, where necessary, of the procedures foreseen under Article 46 of the Convention, when the conditions have been satisfied;

b) develop, in this context, the resources and tools available, including by adding appropriate political leverage to its technical support, in order to deal with the cases of non-execution;

c) promote the development of enhanced synergies with the other Council of Eu-

rope stakeholders within the framework of their competencies – primarily the Court, the Parliamentary Assembly and the Commissioner for Human Rights;

d) explore possibilities to further enhance the efficiency of its Human Rights meetings, including - but not limited to - the chairmanship as well as the length and frequency of meetings, while reaffirming the intergovernmental nature of the process;

e) consider extending "Rule 9" of its Rules for the supervision of the execution of judgments and of the terms of friendly settlements to include written communications from international organisations or bodies identified for this purpose by the Committee of Ministers, while appropriately ensuring the governments' right of reply;

f) encourage, as required, the presence in its Human Rights meetings of representatives of national authorities who have competence, authority and expertise in the subjects under discussion;

g) consider thematic discussions on major issues relating to the execution of a number of judgments, so as to foster an exchange of good practices between States Parties facing similar difficulties;

h) take greater account, where appropriate, of the work of other monitoring and advisory bodies;

i) continue to increase transparency in the judgment execution process in order to promote further exchanges with all the parties involved;

j) support an increase in the resources of the Department for the Execution of Judgments, in order to allow it to fulfil its primary role, including its advisory functions, and to ensure co-operation and bilateral dialogue with the States Parties, by providing for more permanent personnel whose expertise would cover the national legal systems, as well as to encourage States Parties to consider the secondment of national judges or officials.

2) Encourages the Secretary General and, through him, the Department for the Execution of Judgments to:

a) facilitate availability of information, regularly updated, on the state of the execution of judgments by improving its IT tools, including its databases and, as the Court has done, produce thematic and country factsheets;

b) distribute a handbook to assist States Parties in the preparation of their action plans and reports;

c) continue the process of reflection on the recommendations of the External Audit;

d) enhance, when necessary, bilateral dialogue with States Parties, in particular by means of early assessment of action plans or action reports and through working meetings, involving all relevant national stakeholders, to promote, in full respect of the principle of subsidiarity, a common approach concerning judgments with regard to the measures required to secure compliance.

3) Also encourages:

a) all the relevant Council of Europe stakeholders to take into account to a larger extent issues relating to the execution of judgments in their programmes and co-operation activities and, to this end, to establish appropriate links with the Department for the Execution of Judgments;

b) all intergovernmental committees of the Council of Europe to take pertinent aspects of the Convention into consideration in their thematic work;

c) the Secretary General to evaluate the Council of Europe co-operation and assistance activities relating to the implementation of the Convention so as to move towards more targeted and institutionalised co-operation;

d) the Secretary General to continue, on a case-by-case basis, to use his/her authority in order to facilitate the execution of judgments raising complex and/or sensitive issues at the national level, including through the exercise of the powers entrusted to him/her under Article 52 of the Convention;

e) the Commissioner for Human Rights, in the exercise of his/her functions – and in particular in his/her country visits – to continue to address with the States Parties, on a case-by-case basis, issues relating to the execution of judgments;

f) the Parliamentary Assembly of the Council of Europe to continue to produce reports on the execution of judgments, to organise awareness-raising activities for members of national parliaments on implementation of the Convention and to encourage national parliaments to follow in a regular and efficient manner the execution of judgments.

Implementation of the Action Plan:

In order to implement this Action Plan, the Conference:

1) first and foremost calls on the States Parties, the Committee of Ministers, the Secretary General and the Court to give full effect to this plan;

2) calls on the Committee of Ministers to decide, at the Ministerial Session on 19 May

2015, to take stock of the implementation of, and make an inventory of good practices relating to, Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights and, if appropriate, provide for updating the Recommendation in the light of practices developed by the States Parties;

3) calls on the States Parties to adopt, in the light of this Action Plan, possible new measures to improve their judgment execution process and to provide the Committee of Ministers with information on this subject before the end of June 2016;

4) encourage all States Parties to examine, together with the Department for the Execution of Judgments, all their pending cases, identify those that can be closed and the remaining major problems and, on the basis of this analysis, work towards progressively absorbing the backlog of pending cases;

5) calls, in particular, on the Committee of Ministers and the States Parties to involve, where appropriate, civil society and National Human Rights Institutions in the implementation of the Action Plan;

6) invites the Committee of Ministers to evaluate, while respecting the calendar set out in the Interlaken Declaration, the extent to which implementation of this Action Plan has improved the effectiveness of the Convention system. On the basis of this evaluation, the Committee of Ministers should decide, before the end of 2019, on whether more far-reaching changes are necessary;

7) asks the Belgian Chairmanship to transmit this Declaration and the Proceedings of the Brussels Conference to the Committee of Ministers;

8) invites the future Chairmanships of the Committee of Ministers to monitor implementation of this Action Plan.

Brighton Declaration

High Level Conference on the Future of the European Court of Human Rights

The High Level Conference meeting at Brighton on 19 and 20 April 2012 at the initiative of the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference") declares as follows:

1) The States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") reaffirm their deep and abiding commitment to the Convention, and to the fulfilment of their obligation under the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention.

2) The States Parties also reaffirm their attachment to the right of individual application to the European Court of Human Rights ("the Court") as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention. The Court has made an extraordinary contribution to the protection of human rights in Europe for over 50 years.

3) The States Parties and the Court share responsibility for realising the effective implementation of the Convention, underpinned by the fundamental principle of subsidiarity. The Convention was concluded on the basis, inter alia, of the sovereign equality of States. States Parties must respect the rights and freedoms guaranteed by the Convention, and must effectively resolve violations at the national level. The Court acts as a safeguard for violations that have not been remedied at the national level. Where the Court finds a violation, States Parties must abide by the final judgment of the Court.

4) The States Parties and the Court also share responsibility for ensuring the viability of the Convention mechanism. The States Parties are determined to work in partnership with the Court to achieve this, drawing also on the important work of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe as well as the Commissioner for Human Rights and the other institutions and bodies of the Council of Europe, and working in a spirit of co-operation with civil society and National Human Rights Institutions.

5) The High Level Conference at Interlaken ("the Interlaken Conference") in its Declaration of 19 February 2010 noted with deep concern that the deficit between appli-

cations introduced and applications disposed of continued to grow; it considered that this situation caused damage to the effectiveness and credibility of the Convention and its supervisory mechanism and represented a threat to the quality and the consistency of the case law and the authority of the Court. The High Level Conference at Izmir ("the Izmir Conference") in its Declaration of 27 April 2011 welcomed the concrete progress achieved following the Interlaken Conference. The States Parties are very grateful to the Swiss and Turkish Chairmanships of the Committee of Ministers for having convened these conferences, and to all those who have helped fulfil the action and follow-up plans.

6) The results so far achieved within the framework of Protocol No. 14 are encouraging, particularly as a result of the measures taken by the Court to increase efficiency and address the number of clearly inadmissible applications pending before it. However, the growing number of potentially well-founded applications pending before the Court is a serious problem that causes concern. In light of the current situation of the Convention and the Court, the relevant steps foreseen by the Interlaken and Izmir Conferences must continue to be fully implemented, and the full potential of Protocol No. 14 exploited. However, as noted by the Izmir Conference, Protocol No. 14 alone will not provide a lasting and comprehensive solution to the problems facing the Convention system. Further measures are therefore also needed to ensure that the Convention system remains effective and can continue to protect the rights and freedoms of over 800 million people in Europe.

A. Implementation of The Convention at National Level

7) The full implementation of the Convention at national level requires States Parties to take effective measures to prevent violations. All laws and policies should be formulated, and all State officials should discharge their responsibilities, in a way that gives full effect to the Convention. States Parties must also provide means by which remedies may be sought for alleged violations of the Convention. National courts and tribunals should take into account the Convention and the case law of the Court. Collectively, these measures should reduce the number of violations of the Convention. They would also reduce the number of well-founded applications presented to the Court, thereby helping to ease its workload.

8) The Council of Europe plays a crucial role in assisting and encouraging national implementation of the Convention, as part of its wider work in the field of human

rights, democracy and the rule of law. The provision of technical assistance upon request to States Parties, whether provided by the Council of Europe or bilaterally by other States Parties, disseminates good practice and raises the standards of human rights observance in Europe. The support given by the Council of Europe should be provided in an efficient manner with reference to defined outcomes, in co-ordination with the wider work of the organisation.

9) The Conference therefore:

a) Affirms the strong commitment of the States Parties to fulfil their primary responsibility to implement the Convention at national level;

b) Strongly encourages the States Parties to continue to take full account of the recommendations of the Committee of Ministers on the implementation of the Convention at national level in their development of legislation, policies and practices to give effect to the Convention;

c) In particular, expresses the determination of the States Parties to ensure effective implementation of the Convention at national level by taking the following specific measures, so far as relevant:

i) Considering the establishment, if they have not already done so, of an independent National Human Rights Institution;

ii) Implementing practical measures to ensure that policies and legislation comply fully with the Convention, including by offering to national parliaments information on the compatibility with the Convention of draft primary legislation proposed by the Government;

iii) Considering the introduction if necessary of new domestic legal remedies, whether of a specific or general nature, for alleged violations of the rights and freedoms under the Convention;

iv) Enabling and encouraging national courts and tribunals to take into account the relevant principles of the Convention, having regard to the case law of the Court, in conducting proceedings and formulating judgments; and in particular enabling litigants, within the appropriate parameters of national judicial procedure but without unnecessary impediments, to draw to the attention of national courts and tribunals any relevant provisions of the Convention and jurisprudence of the Court;

v) Providing public officials with relevant information about the obligations under the Convention; and in particular training officials working in the justice

system, responsible for law enforcement, or responsible for the deprivation of a person's liberty in how to fulfil obligations under the Convention;

vi) Providing appropriate information and training about the Convention in the study, training and professional development of judges, lawyers and prosecutors; and

vii) Providing information on the Convention to potential applicants, particularly about the scope and limits of its protection, the jurisdiction of the Court and the admissibility criteria;

d) Encourages the States Parties, if they have not already done so, to:

i) Ensure that significant judgments of the Court are translated or summarised into national languages where this is necessary for them to be properly taken into account;

ii) Translate the Court's Practical Guide on Admissibility Criteria into national languages; and

iii) Consider making additional voluntary contributions to the human rights programmes of the Council of Europe or to the Human Rights Trust Fund;

e) Encourages all States Parties to make full use of technical assistance, and to give and receive upon request bilateral technical assistance in a spirit of open co-operation for the full protection of human rights in Europe;

f) Invites the Committee of Ministers:

i) To consider how best to ensure that requested technical assistance is provided to States Parties that most require it;

ii) Further to sub-paragraphs c(iii) and (iv) above, to prepare a guide to good practice in respect of domestic remedies; and

iii) Further to sub-paragraph c(v) above, to prepare a toolkit that States Parties could use to inform their public officials about the State's obligations under the Convention;

g) Invites the Secretary General to propose to States Parties, through the Committee of Ministers, practical ways to improve:

i) The delivery of the Council of Europe's technical assistance and co-operation programmes;

ii) The co-ordination between the various Council of Europe actors in the provision of assistance; and

iii) The targeting of relevant technical assistance available to each State Party on a bilateral basis, taking into account particular judgments of the Court;

h) Invites the Court to indicate those of its judgments that it would particularly recommend for possible translation into national languages; and

i) Reiterates the importance of co-operation between the Council of Europe and the European Union, in particular to ensure the effective implementation of joint programmes and coherence between their respective priorities in this field.

B. Interaction Between The Court and National Authorities

10) The States Parties to the Convention are obliged to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, and to provide an effective remedy before a national authority for everyone whose rights and freedoms are violated. The Court authoritatively interprets the Convention. It also acts as a safeguard for individuals whose rights and freedoms are not secured at the national level.

11) The jurisprudence of the Court makes clear that the States Parties enjoy a margin of appreciation in how they apply and implement the Convention, depending on the circumstances of the case and the rights and freedoms engaged. This reflects that the Convention system is subsidiary to the safeguarding of human rights at national level and that national authorities are in principle better placed than an international court to evaluate local needs and conditions. The margin of appreciation goes hand in hand with supervision under the Convention system. In this respect, the role of the Court is to review whether decisions taken by national authorities are compatible with the Convention, having due regard to the State's margin of appreciation.

12) The Conference therefore:

a) Welcomes the development by the Court in its case law of principles such as subsidiarity and the margin of appreciation, and encourages the Court to give great prominence to and apply consistently these principles in its judgments;

b) Concludes that, for reasons of transparency and accessibility, a reference to the principle of subsidiarity and the doctrine of the margin of appreciation as developed in the Court's case law should be included in the Preamble to the Convention and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013, while recalling the States Parties' commitment to give full effect to their obligation to secure the rights and freedoms defined in the Convention;

c) Welcomes and encourages open dialogues between the Court and States Parties as a means of developing an enhanced understanding of their respective roles in carrying out their shared responsibility for applying the Convention, including particularly dialogues between the Court and:

i) The highest courts of the States Parties;

ii) The Committee of Ministers, including on the principle of subsidiarity and on the clarity and consistency of the Court's case law; and

iii) Government Agents and legal experts of the States Parties, particularly on procedural issues and through consultation on proposals to amend the Rules of Court;

d) Notes that the interaction between the Court and national authorities could be strengthened by the introduction into the Convention of a further power of the Court, which States Parties could optionally accept, to deliver advisory opinions upon request on the interpretation of the Convention in the context of a specific case at domestic level, without prejudice to the non-binding character of the opinions for the other States Parties; invites the Committee of Ministers to draft the text of an optional protocol to the Convention with this effect by the end of 2013; and further invites the Committee of Ministers thereafter to decide whether to adopt it; and

e) Recalls that the Izmir Conference invited the Committee of Ministers to consider further the question of interim measures under Rule 39 of the Rules of the Court; and invites the Committee of Ministers to assess both whether there has been a significant reduction in their numbers and whether applications in which interim measures are applied are now dealt with speedily, and to propose any necessary action.

C. Applications to The Court

13) The right of individual application is a cornerstone of the Convention system. The right to present an application to the Court should be practically realisable, and States Parties must ensure that they do not hinder in any way the effective exercise of this right.

14) The admissibility criteria in Article 35 of the Convention define which applications the Court should consider further on their merits. They should provide the Court with practical tools to ensure that it can concentrate on those cases in which the principle or the significance of the violation warrants its consideration. It is for the Court to decide on the admissibility of applications. It is important in doing so that

the Court continues to apply strictly and consistently the admissibility criteria, in order to reinforce confidence in the rigour of the Convention system and to ensure that unnecessary pressure is not placed on its workload.

15) The Conference therefore:

a) Welcomes the Court's suggestion that the time limit under Article 35(1) of the Convention within which an application must be made to the Court could be shortened; concludes that a time limit of four months is appropriate; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013;

b) Welcomes the stricter application of the time limit in Article 35(1) of the Convention envisaged by the Court; and reiterates the importance of the Court applying fully, consistently and foreseeably all the admissibility criteria including the rules regarding the scope of its jurisdiction, both to ensure the efficient application of justice and to safeguard the respective roles of the Court and national authorities;

c) Concludes that Article 35(3)(b) of the Convention should be amended to remove the words "and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal"; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013;

d) Affirms that an application should be regarded as manifestly ill-founded within the meaning of Article 35(3)(a), inter alia, to the extent that the Court considers that the application raises a complaint that has been duly considered by a domestic court applying the rights guaranteed by the Convention in light of well-established case law of the Court including on the margin of appreciation as appropriate, unless the Court finds that the application raises a serious question affecting the interpretation or application of the Convention; and encourages the Court to have regard to the need to take a strict and consistent approach in declaring such applications inadmissible, clarifying its case law to this effect as necessary;

e) Welcomes the increased provision by the Court of information to applicants on its procedures, and particularly on the admissibility criteria;

f) Invites the Court to make specific provision in the Rules of Court for a separate decision to be made on admissibility at the request of the respondent Government when there is a particular interest in having the Court rule on the effectiveness of a domestic remedy which is at issue in the case; and

g) Invites the Court to develop its case law on the exhaustion of domestic remedies so as to require an applicant, where a domestic remedy was available to them, to have

argued before the national courts or tribunals the alleged violation of the Convention rights or an equivalent provision of domestic law, thereby allowing the national courts an opportunity to apply the Convention in light of the case law of the Court.

D. Processing of Applications

16) The number of applications made each year to the Court has doubled since 2004. Very large numbers of applications are now pending before all of the Court's primary judicial formations. Many applicants, including those with a potentially well-founded application, have to wait for years for a response.

17) In light of the importance of the right of individual application, the Court must be able to dispose of inadmissible applications as efficiently as possible, with the least impact on its resources. The Court has already taken significant steps to achieve this within the framework of Protocol No. 14, which are to be applauded.

18) Repetitive applications mostly arise from systemic or structural issues at the national level. It is the responsibility of a State Party, under the supervision of the Committee of Ministers, to ensure that such issues and resulting violations are resolved as part of the effective execution of judgments of the Court.

19) The increasing number of cases pending before the Chambers of the Court is also a matter of serious concern. The Court should be able to focus its attention on potentially well-founded new violations.

20) The Conference therefore:

a) Welcomes the advances already made by the Court in its processing of applications, particularly the adoption of:

i) Its priority policy, which has helped it focus on the most important and serious cases; and

ii) Working methods that streamline procedures particularly for the handling of inadmissible and repetitive cases, while maintaining appropriate judicial responsibility;

b) Notes with appreciation the Court's assessment that it could dispose of the outstanding clearly inadmissible applications pending before it by 2015; acknowledges the Court's request for the further secondment of national judges and high-level independent lawyers to its Registry to allow it to achieve this; and encourages the States Parties to arrange further such secondments;

c) Expresses continued concern about the large number of repetitive applications pending before the Court; welcomes the continued use by the Court of proactive measures, particularly pilot judgments, to dispose of repetitive violations in an efficient manner; and encourages the States Parties, the Committee of Ministers and the Court to work together to find ways to resolve the large numbers of applications arising from systemic issues identified by the Court, considering the various ideas that have been put forward, including their legal, practical and financial implications, and taking into account the principle of equal treatment of all States Parties;

d) Building on the pilot judgment procedure, invites the Committee of Ministers to consider the advisability and modalities of a procedure by which the Court could register and determine a small number of representative applications from a group of applications that allege the same violation against the same respondent State Party, such determination being applicable to the whole group;

e) Notes that, to enable the Court to decide in a reasonable time the applications pending before its Chambers, it may be necessary in the future to appoint additional judges to the Court; further notes that these judges may need to have a different term of office and/or a different range of functions from the existing judges of the Court; and invites the Committee of Ministers to decide by the end of 2013 whether or not to proceed to amend the Convention to enable the appointment of such judges following a unanimous decision of the Committee of Ministers acting on information received from the Court;

f) Invites the Court to consult the States Parties as it considers applying a broader interpretation of the concept of well-established case law within the meaning of Article 28(1) of the Convention, so as to adjudicate more cases under a Committee procedure, without prejudice to the appropriate examination of the individual circumstances of the case and the non-binding character of judgments against another State Party;

g) Invites the Court to consider, in consultation with the States Parties, civil society and National Human Rights Institutions, whether:

i) In light of the experience of the pilot project, further measures should be put in place to facilitate applications to be made online, and the procedure for the communication of cases consequently simplified, whilst ensuring applications continue to be accepted from applicants unable to apply online;

ii) The form for applications to the Court could be improved to facilitate the better presentation and handling of applications;

iii) Decisions and judgments of the Court could be made available to the parties to the case a short period of time before their delivery in public; and

iv) The claim for and comments on just satisfaction, including costs, could be submitted earlier in proceedings before the Chamber and Grand Chamber;

h) Envisages that the full implementation of these measures with appropriate resources should in principle enable the Court to decide whether to communicate a case within one year, and thereafter to make all communicated cases the subject of a decision or judgment within two years of communication;

i) Further expresses the commitment of the States Parties to work in partnership with the Court to achieve these outcomes; and

j) Invites the Committee of Ministers, in consultation with the Court, to set out how it will determine whether, by 2015, these measures have proven sufficient to enable the Court successfully to address its workload, or if further measures are thereafter needed.

E. Judges and Jurisprudence of The Court

21) The authority and credibility of the Court depend in large part on the quality of its judges and the judgments they deliver.

22) The high calibre of judges elected to the Court depends on the quality of the candidates that are proposed to the Parliamentary Assembly for election. The States Parties' role in proposing candidates of the highest possible quality is therefore of fundamental importance to the continued success of the Court, as is a high-quality Registry, with lawyers chosen for their legal capability and their knowledge of the law and practice of States Parties, which provides invaluable support to the judges of the Court.

23) Judgments of the Court need to be clear and consistent. This promotes legal certainty. It helps national courts apply the Convention more precisely, and helps potential applicants assess whether they have a well-founded application. Clarity and consistency are particularly important when the Court addresses issues of general principle. Consistency in the application of the Convention does not require that States Parties implement the Convention uniformly. The Court has indicated that it is considering an amendment to the Rules of Court making it obligatory for a Chamber to relinquish jurisdiction where it envisages departing from settled case law.

24) A stable judiciary promotes the consistency of the Court. It is therefore in principle undesirable for any judge to serve less than the full term of office provided for in the Convention.

25) The Conference therefore:

a) Welcomes the adoption by the Committee of Ministers of the Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights, and encourages the States Parties to implement them;

b) Welcomes the establishment of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights; notes that the Committee of Ministers has decided to review the functioning of the Advisory Panel after an initial three-year period; and invites the Parliamentary Assembly and the Committee of Ministers to discuss how the procedures for electing judges can be further improved;

c) Welcomes the steps that the Court is taking to maintain and enhance the high quality of its judgments and in particular to ensure that the clarity and consistency of judgments are increased even further; welcomes the Court's long-standing recognition that it is in the interests of legal certainty, foreseeability and equality before the law that it should not depart without cogent reason from precedents laid down in previous cases; and in particular, invites the Court to have regard to the importance of consistency where judgments relate to aspects of the same issue, so as to ensure their cumulative effect continues to afford States Parties an appropriate margin of appreciation;

d) In light of the central role played by the Grand Chamber in achieving consistency in the Court's jurisprudence, concludes that Article 30 of the Convention should be amended to remove the words "unless one of the parties to the case objects"; invites the Committee of Ministers to adopt the necessary amending instrument, and to consider whether any consequential changes are required, by the end of 2013; and encourages the States Parties to refrain from objecting to any proposal for relinquishment by a Chamber pending the entry into force of the amending instrument;

e) Invites the Court to consider whether the composition of the Grand Chamber would be enhanced by the ex officio inclusion of the Vice Presidents of each Section; and

f) Concludes that Article 23(2) of the Convention should be amended to replace the age limit for judges by a requirement that judges must be no older than 65 years of age at the date on which their term of office commences; and invites the Committee of Ministers to adopt the necessary amending instrument by the end of 2013.

F. Execution of Judgments of The Court

26) Each State Party has undertaken to abide by the final judgments of the Court in any case to which they are a party. Through its supervision, the Committee of Ministers ensures that proper effect is given to the judgments of the Court, including by the implementation of general measures to resolve wider systemic issues.

27) The Committee of Ministers must therefore effectively and fairly consider whether the measures taken by a State Party have resolved a violation. The Committee of Ministers should be able to take effective measures in respect of a State Party that fails to comply with its obligations under Article 46 of the Convention. The Committee of Ministers should pay particular attention to violations disclosing a systemic issue at national level, and should ensure that States Parties quickly and effectively implement pilot judgments.

28) The Committee of Ministers is supervising the execution of an ever-increasing number of judgments. As the Court works through the potentially well-founded applications pending before it, the volume of work for the Committee of Ministers can be expected to increase further.

29) The Conference therefore:

a) Encourages the States Parties:

i) to develop domestic capacities and mechanisms to ensure the rapid execution of the Court's judgments, including through implementation of Recommendation 2008(2) of the Committee of Ministers, and to share good practices in this respect;

ii) to make action plans for the execution of judgments as widely accessible as possible, including where possible through their publication in national languages; and

iii) to facilitate the important role of national parliaments in scrutinising the effectiveness of implementation measures taken;

b) Reiterates the invitation made by the Interlaken and Izmir Conferences to the Committee of Ministers to apply fully the principle of subsidiarity by which the States Parties may choose how to fulfil their obligations under the Convention;

c) Invites the Committee of Ministers to continue to consider how to refine its procedures so as to ensure effective supervision of the execution of judgments, in particular through:

i) more structured consideration of strategic and systemic issues at its meetings; and

ii) stronger publicity about its meetings;

d) Invites the Committee of Ministers to consider whether more effective measures are needed in respect of States that fail to implement judgments of the Court in a timely manner; and

e) Welcomes the Parliamentary Assembly's regular reports and debates on the execution of judgments.

G. Longer-Term future of The Convention System and The Court

30) This Declaration addresses the immediate issues faced by the Court. It is however also vital to secure the future effectiveness of the Convention system. To achieve this, a process is needed to anticipate the challenges ahead and develop a vision for the future of the Convention, so that future decisions are taken in a timely and coherent manner.

31) As part of this process, it may be necessary to evaluate the fundamental role and nature of the Court. The longer-term vision must secure the viability of the Court's key role in the system for protecting and promoting human rights in Europe. The right of individual application remains a cornerstone of the Convention system. Future reforms must enhance the ability of the Convention system to address serious violations promptly and effectively.

32) Effective implementation of the Convention at national level will permit the Court in the longer term to take on a more focussed and targeted role. The Convention system must support States in fulfilling their primary responsibility to implement the Convention at national level.

33) In response to more effective implementation at the national level, the Court should be in a position to focus its efforts on serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention, and hence would need to remedy fewer violations itself and consequently deliver fewer judgments.

34) The Interlaken Conference invited the Committee of Ministers to evaluate, during the years 2012 to 2015, to what extent the implementation of Protocol No. 14 and of the Interlaken Action Plan had improved the situation of the Court. It provided that, on the basis of this evaluation, the Committee of Ministers should decide before the end of 2015 whether there is a need for further action. It further provided that, before the end of 2019, the Committee of Ministers should decide on whether the measures

adopted have proven to be sufficient to assure sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary.

35) The Conference therefore:

a) Welcomes the process of reflection on the longer-term future of the Court begun at the Interlaken Conference and continued at the Izmir Conference; and welcomes the contribution of the informal Wilton Park conference to this reflection;

b) Invites the Committee of Ministers to determine by the end of 2012 the process by which it will fulfil its further mandates under this Declaration and the Declarations adopted by the Interlaken and Izmir Conferences;

c) Invites the Committee of Ministers, in the context of the fulfilment of its mandate under the Declarations adopted by the Interlaken and Izmir Conferences, to consider the future of the Convention system, this consideration encompassing future challenges to the enjoyment of the rights and freedoms guaranteed by the Convention and the way in which the Court can best fulfil its twin role of acting as a safeguard for individuals whose rights and freedoms are not secured at the national level and authoritatively interpreting the Convention;

d) Proposes that the Committee of Ministers carry out this task within existing structures, while securing the participation and advice of external experts as appropriate in order to provide a wide range of expertise and to facilitate the fullest possible analysis of the issues and possible solutions;

e) Envisages that the Committee of Ministers will, as part of this task, carry out a comprehensive analysis of potential options for the future role and function of the Court, including analysis of how the Convention system in essentially its current form could be preserved, and consideration of more profound changes to how applications are resolved by the Convention system with the aim of reducing the number of cases that have to be addressed by the Court.

f) Further invites the States Parties, including through the Committee of Ministers, to initiate comprehensive examination of:

i) the procedure for the supervision of the execution of judgments of the Court, and the role of the Committee of Ministers in this process; and

ii) the affording of just satisfaction to applicants under Article 41 of the Convention; and

g) As a first step, invites the Committee of Ministers to reach an interim view on these issues by the end of 2015.

H. General and Final Provisions

36) The accession of the European Union to the Convention will enhance the coherent application of human rights in Europe. The Conference therefore notes with satisfaction progress on the preparation of the draft accession agreement, and calls for a swift and successful conclusion to this work.

37) The Conference also notes with appreciation the continued consideration, as mandated by the Interlaken and Izmir Conferences, as to whether a simplified procedure for amending provisions of the Convention relating to organisational matters could be introduced, whether by means of a Statute for the Court or a new provision in the Convention, and calls for a swift and successful conclusion to this work that takes full account of the constitutional arrangements of the States Parties.

38) Where decisions to give effect to this Declaration have financial implications for the Council of Europe, the Conference invites the Court and the Committee of Ministers to quantify these costs as soon as possible, taking into account the budgetary principles of the Council of Europe and the need for budgetary caution.

39) The Conference:

a) Invites the United Kingdom Chairmanship to transmit the present Declaration and the Proceedings of the Conference to the Committee of Ministers;

b) Invites the States Parties, the Committee of Ministers, the Court and the Secretary General of the Council of Europe to give full effect to this Declaration; and

c) Invites the future Chairmanships of the Committee of Ministers to ensure the future impetus of the reform of the Court and the implementation of the Convention.

Izmir Declaration

High Level Conference on the Future of the European Court of Human Rights
organised within the framework of the Turkish Chairmanship of the Committee of Ministers of the Council of Europe

Turkey 26 – 27 April 2011

The High Level Conference meeting at Izmir on 26 and 27 April 2011 at the initiative of the Turkish Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference"),

1) Realling the strong commitment of the States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and to the control mechanism it established;
2) Expressing its determination to ensure the effectiveness of this mechanism in the short, medium and long terms;
3) Recognising again the extraordinary contribution of the European Court of Human Rights ("the Court") to the protection of human rights in Europe;
4) Reaffirming the principles set out in the Declaration and Action Plan adopted at the Interlaken High- Level Conference on 19 February 2010 and expressing the resolve to maintain the momentum of the Interlaken process within the agreed timeframe;
5) Recalling that the subsidiary character of the Convention mechanism constitutes a fundamental and transversal principle which both the Court and the States Parties must take into account;
6) Recalling also the shared responsibility of both the Court and the States Parties in guaranteeing the viability of the Convention mechanism:
7) Noting with concern the continuing increase in the number of applications brought before the Court;
8) Considering that the provisions introduced by Protocol No. 14, while their potential remains to be fully exploited and the results so far achieved are encouraging, will not provide a lasting and comprehensive solution to the problems facing the Convention system;
9) Welcoming the ongoing negotiations on the modalities of European Union accession to the Convention;

10) Welcoming the concrete progress achieved following the Interlaken Conference;
11) Considering, however, that maintaining the effectiveness of the mechanism requires further measures, also in the light of the preliminary contribution by the President of the Court to the Conference and the opinion adopted by the Plenary Court for the Conference;
12) Expressing concern that since the Interlaken Conference, the number of interim measures requested in accordance with Rule 39 of the Rules of Court has greatly increased, thus further increasing the workload of the Court;
13) Taking into account that some States Parties have expressed interest in a procedure allowing the highest national courts to request advisory opinions from the Court concerning the interpretation and application of the Convention;
14) Considering, in the light of the above, that it is time to take stock of the progress achieved so far to consider further steps in the pursuit of the Interlaken objectives and to respond to the new concerns and expectations that have become apparent since the Interlaken Conference;
15) Recalling the need to pursue long-term strategic reflections about the future role of the Court in order to ensure sustainable functioning of the Convention mechanism;

The Conference:

1) Proposes, firstly, to take stock, in accordance with the Interlaken Action Plan, of the proposals that do not require amendment of the Convention and, secondly, having also regard to recent developments, to take necessary measures;
2) Welcomes the measures already taken by the Court so far to implement Protocol No.14 and follow up the Interlaken Declaration, including the adoption of a priority policy;
3) Takes note of the fact that the provisions introduced by Protocol No. 14 will not by themselves allow for a balance between incoming cases and output so as to ensure effective treatment of the constantly growing number of applications, and consequently underlines the urgency of adopting further measures;
4) Considers that the admissibility criteria are an essential tool in managing the Court's caseload and in giving practical effect to the principle of subsidiarity; stresses the importance that they are given full effect by the Court and notes, in this regard, that the new admissibility criterion adopted in Protocol No. 14, which has not yet had the effect intended, is about to be shaped by the upcoming case law and remains to be

evaluated with a view to its improvement, and invites the Committee of Ministers to initiate work to reflect on possible ways of rendering the admissibility criteria more effective and on whether it would be advisable to introduce new criteria, with a view to furthering the effectiveness of the Convention mechanism;

5) Reaffirms the importance of a consistent application of the principles of interpretation;

6) Welcomes the recent creation of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights, responsible for examining the candidatures proposed by States Parties before they are transmitted to the Parliamentary Assembly of the Council of Europe;

7) Invites the Committee of Ministers to continue its reflection on the criteria for office as judge of the Court and on the selection procedures at national and international level, in order to encourage applications by good potential candidates and to ensure a sustainable recruitment of competent judges with relevant experience and the impartiality and quality of the Court;

8) Notes with interest the adoption of a new approach in relation to the supervision of execution of Court judgments by the Committee of Ministers;

9) Adopts the Follow-up Plan below as an instrument, which builds on the Interlaken Action Plan while taking into account recent developments in the Council of Europe, the Court, and the Committee of Ministers as well as the concerns and expectations that have emerged since the Interlaken Conference.

Follow-up Plan

A. Right of Individual Petition

The Conference:

1) Reaffirms the attachment of the States Parties to the right of individual petition as a cornerstone of the Convention mechanism and considers in this context that appropriate measures must be taken rapidly to dissuade clearly inadmissible applications, without, however, preventing well-founded applications from being examined by the Court, and to ensure that cases are dealt with in accordance with the principle of subsidiarity;

2) Reiterates the call made for the consideration of additional measures with regard to access to the Court in the Interlaken Declaration and therefore invites the Committee of Ministers to continue to examine the issue of charging fees to applicants and other possible new procedural rules or practices concerning access to the Court;

3) Welcoming the improvements in the practice of interim measures already put in place by the Court and recalling that the Court is not an immigration Appeals Tribunal or a Court of fourth instance, emphasises that the treatment of requests for interim measures must take place in full conformity with the principle of subsidiarity and that such requests must be based on an assessment of the facts and circumstances in each individual case, followed by a speedy examination of, and ruling on, the merits of the case or of a lead case. In this context, the Conference:

- Stresses the importance of States Parties providing national remedies, where necessary with suspensive effect, which operate effectively and fairly and provide a proper and timely examination of the issue of risk in accordance with the Convention and in light of the Court's case law; and, while noting that they may challenge interim measures before the Court, reiterates the requirement for States Parties to comply with them;
- Underlines that applicants and their representatives should fully respect the Practice Direction on Requests for Interim Measures for their cases to be considered, and invites the Court to draw the appropriate conclusions if this Direction is not respected;
- Invites the Court, when examining cases related to asylum and immigration, to assess and take full account of the effectiveness of domestic procedures and, where these procedures are seen to operate fairly and with respect for human rights, to avoid intervening except in the most exceptional circumstances;
- Further invites the Court to consider, with the State Parties, how best to combine the practice of interim measures with the principle of subsidiarity, and to take steps, including the consideration of putting in place a system, if appropriate, to trigger expedited consideration, on the basis of a precise and limited timeframe, of the merits of cases, or of a lead case, in which interim measures have been applied;

4) Welcomes the contribution of the Secretary General, which recommends the provision to potential applicants and their legal representatives of objective and comprehensive information on the Convention and the case-law of the Court, in particular on the application procedure and the admissibility criteria, along with the detailed handbook on admissibility and the checklist prepared by the Registry of the Court, in order to avoid, insofar as possible, clearly inadmissible applications;

5) Calls on the Secretary General to implement rapidly, where necessary in co-operation with the European Union, the proposals regarding the provision of information and training contained in the report which he has submitted to the Committee of Ministers.

B. Implementation of The Convention at National Level

The Conference:

1) Reiterates calls made in this respect in the Interlaken Declaration and more particularly invites the States Parties to:

a) Ensure that effective domestic remedies exist, be they of a specific nature or a general domestic remedy, providing for a decision on an alleged violation of the Convention and, where necessary, its redress;

b) Co-operate fully with the Committee of Ministers in the framework of the new methods of supervision of execution of judgments of the Court;

c) Ensure that the programmes for professional training of judges, prosecutors and other law- enforcement officials as well as members of security forces contain adequate information regarding the well-established case-law of the Court concerning their respective professional fields;

d) Consider contributing to translation into their national language of the Practical Guide on Admissibility Criteria prepared by the Registry of the Court;

e) Consider contributing to the Human Rights Trust Fund.

2) Invites the States Parties to devote all the necessary attention to the preparation of the national reports that they must present by the end of 2011, describing measures taken to implement relevant parts of the Interlaken Declaration and how they intend to address possible shortcomings, in order that these reports provide a solid basis for subsequent improvements at national level.

C. Filtering

The Conference:

1) Notes with satisfaction the first encouraging results of the implementation of the new single-judge formation. It nevertheless considers that, beyond measures already taken or under examination, new provisions concerning filtering should be put in place;

2) As regards short term measures, invites the Court to consider and evaluate the system of filtering by judges, of the existing bench who dedicate their working time to single-judge work for a short period, and to continue to explore further possibilities of filtering not requiring amendment to the Convention;

3) As regards long-term measures, invites the Committee of Ministers to continue its reflection on more efficient filtering systems that would, if necessary, require amendments to the Convention. In this context, it recalls that specific proposals for such a filtering mechanism that would require amendments to the Convention have to be prepared by April 2012.

D. Advisory Opinions

The Conference:

1) Bearing in mind the need for adequate national measures to contribute actively to diminishing the number of applications, invites the Committee of Ministers to reflect on the advisability of introducing a procedure allowing the highest national courts to request advisory opinions from the Court concerning the interpretation and application of the Convention that would help clarify the provisions of the Convention and the Court's case-law, thus providing further guidance in order to assist States Parties in avoiding future violations;

2) Invites the Court to assist the Committee of Ministers in its consideration of the issue of advisory opinions.

E. Repetitive Applications

The Conference, whilst reiterating the calls made in the Interlaken Action Plan concerning repetitive applications and noting with satisfaction the first encouraging results of the new competences of committees of three judges:

1) Invites the States Parties to give priority to the resolution of repetitive cases by way of friendly settlements or unilateral declarations where appropriate;

2) Underlines the importance of the active assistance of the Court to States Parties in their efforts to reach friendly settlements and to make unilateral declarations where appropriate and encourages the Court's role in this respect as well as the need for creating awareness of friendly settlements as an integral part in the Convention for settling disputes between parties to proceedings before the Court;

3) Considers that the Court, when referring to its "well-established case-law" must take account of legislative and factual circumstances and developments in the respondent State;

4) Welcomes the ongoing work of the Committee of Ministers on the elaboration of specific proposals that would require amendment to the Convention, in order to increase the Court's case-processing capacity, and considers that the proposals made should also enable the Court to adjudicate repetitive cases within a reasonable time;

5) Welcomes the new Rule 61 of the Rules of the Court adopted by the Court on the pilot-judgment procedure.

F. The Court

The Conference:

1) Assures the Court of its full support to realise the Interlaken objectives;
2) Reiterating the calls made in the Interlaken Action Plan and considering that the authority and credibility of the Court constitute a constant focus and concern of the States Parties, invites the Court to:

   a) Apply fully, consistently and foreseeably all admissibility criteria and the rules regarding the scope of its jurisdiction, ratione temporis, ratione loci, ratione personae and ratione materiae;

   b) Give full effect to the new admissibility criterion in accordance with the principle, according to which the Court is not concerned by trivial matters (de minimis non curat praetor);

   c) Confirm in its case law that it is not a fourth-instance court, thus avoiding the re-examination of issues of fact and law decided by national courts;

   d) Establish and make public rules foreseeable for all the parties concerning the application of Article 41 of the Convention, including the level of just satisfaction which might be expected in different circumstances;

   e) Consider that decisions of the panels of five judges to reject requests for referral of cases to the Grand Chamber are clearly reasoned, thereby avoiding repetitive requests and ensuring better understanding of Chamber judgments;

   f) Organise meetings with Government agents on a regular basis so as to further good co- operation;

   g) Present to the Committee of Ministers proposals, on a budget-neutral basis, for the creation of a training unit for lawyers and other professionals;
3) Notes with satisfaction the arrangements made within the Registry of the Court that have allowed better management of budgetary and human resources;
4) Welcomes the production by the Court's Registry of a series of thematic factsheets dealing with different case-law issues and encourages the Court to pursue this work in relation to its case-law on other substantive and procedural provisions which are frequently invoked by applicants;
5) Encourages furthermore the States Parties to second national judges and, where appropriate, other high-level independent lawyers to the Registry of the Court.

G. Simplified Procedure for Amendment of The Convention

The Conference, taking account of the work that has followed the Interlaken Conference at different levels within the Council of Europe, invites the Committee of Ministers to pursue preparatory work for elaboration of a simplified procedure for amending provisions relating to organisational matters, including reflection on the means of its introduction, i.e. a Statute for the Court or a new provision in the Convention.

H. Supervision of The Execution of Judgments

The Conference:

1) Expects that new standard and enhanced procedures for supervision of the execution of judgments will bear fruit and welcomes the decision of the Committee of Ministers to assess their effectiveness at the end of 2011;
2) Reiterates the calls made by the Interlaken Conference concerning the importance of execution of judgments and invites the Committee of Ministers to apply fully the principle of subsidiarity, by which the States Parties have in particular the choice of means to deploy in order to conform to their obligations under the Convention;
3) Recalls the special role given to the Committee of Ministers in exercising its supervisory function under the Convention and underlines the requirement to carry out its supervision only on the basis of a legal analysis of the Court's judgments.

I. Accession of The European Union to The Convention

The Conference welcomes the progress made in the framework of negotiations on accession of the European Union to the Convention and encourages all the parties to conclude this work in order to transmit to the Committee of Ministers as soon as possible a draft agreement on accession and the proposals on necessary amendments to the Convention.

Implementation

The Conference:

1) Invites the States Parties, the Committee of Ministers, the Court and the Secretary General to ensure implementation of the present Follow-up Plan, which builds on the Interlaken Action Plan;
2) Invites the Committee of Ministers to:

a) Continue its reflection on the issue of charging fees to applicants, including other possible new procedural rules or practices concerning access to the Court, and on more efficient filtering systems that would, if necessary, require amendments to the Convention;

b) Reflect on the advisability of introducing a procedure allowing the highest national courts to request advisory opinions from the Court;

c) Pursue preparatory work for elaboration of a simplified amendment procedure for provisions relating to organisational matters, including reflection on the means of its introduction, i.e. a Statute for the Court or a new provision in the Convention.

3) Invites the Court to consider and evaluate the system of filtering by judges, of the existing bench who dedicate their working time to single-judge work for a short period, and to continue to explore further possibilities of filtering not requiring amendment to the Convention;

4) As regards Rule 39, expresses its expectation that the implementation of the approach set out in paragraph A3 will lead to a significant reduction in the number of interim measures granted by the Court, and to the speedy resolution of those applications in which they are, exceptionally, applied, with progress achieved within one year. The Committee of Ministers is invited to revert to the question in one year's time;

5) Invites the States Parties, the Committee of Ministers, the Court and the Secretary General to pursue long-term strategic reflections about the future role of the Court;

6) Invites the Committee of Ministers and the States Parties to consult with civil society during the implementation of the present Follow-up Plan, where appropriate, involving it in long-term strategic reflections about the future role of the Court;

7) Reminds the States Parties of their commitment to submit, by the end of 2011, a report on the measures taken to implement the relevant parts of the Interlaken Declaration and the present Declaration;

8) Invites the Committee of Ministers to confer on the relevant committees of experts the mandates necessary in order that they pursue their work on the implementation of the Interlaken Action Plan in accordance with the calendar defined therein and in the light of the goals set out in the present Declaration;

9) Asks the Turkish Chairmanship to transmit the present Declaration and the Proceedings of the Izmir Conference to the Committee of Ministers;

10) Invites the future Chairmanships to follow-up the implementation of the present Declaration jointly with the Interlaken Declaration.

Interlaken Declaration

High Level Conference on the Future of the European Court of Human Rights

The High Level Conference meeting at Interlaken on 18 and 19 February 2010 at the initiative of the Swiss Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference"):

PP 1 Expressing the strong commitment of the States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and the European Court of Human Rights ("the Court");

PP 2 Recognising the extraordinary contribution of the Court to the protection of human rights in Europe;

PP 3 Recalling the interdependence between the supervisory mechanism of the Convention and the other activities of the Council of Europe in the field of human rights, the rule of law and democracy;

PP 4 Welcoming the entry into force of Protocol No. 14 to the Convention on 1 June 2010;

PP 5 Noting with satisfaction the entry into force of the Treaty of Lisbon, which provides for the accession of the European Union to the Convention;

PP 6 Stressing the subsidiary nature of the supervisory mechanism established by the Convention and notably the fundamental role which national authorities, i.e. governments, courts and parliaments, must play in guaranteeing and protecting human rights at the national level;

PP 7 Noting with deep concern that the number of applications brought before the Court and the deficit between applications introduced and applications disposed of continues to grow;

PP 8 Considering that this situation causes damage to the effectiveness and credibility of the Convention and its supervisory mechanism and represents a threat to the quality and the consistency of the case-law and the authority of the Court;

PP 9 Convinced that over and above the improvements already carried out or envisaged additional measures are indispensable and urgently required in order to:

i) achieve a balance between the number of judgments and decisions delivered by the Court and the number of incoming applications;

ii) enable the Court to reduce the backlog of cases and to adjudicate new cases within a reasonable time, particularly those concerning serious violations of human right;

iii) ensure the full and rapid execution of judgments of the Court and the effectiveness of its supervision by the Committee of Ministers;

PP 10 Considering that the present Declaration seeks to establish a roadmap for the reform process towards long-term effectiveness of the Convention system;

The Conference:

1) Reaffirms the commitment of the States Parties to the Convention to the right of individual petition;
2) Reiterates the obligation of the States Parties to ensure that the rights and freedoms set forth in the Convention are fully secured at the national level and calls for a strengthening of the principle of subsidiarity;
3) Stresses that this principle implies a shared responsibility between the States Parties and the Court;
4) Stresses the importance of ensuring the clarity and consistency of the Court's case-law and calls, in particular, for a uniform and rigorous application of the criteria concerning admissibility and the Court's jurisdiction;
5) Invites the Court to make maximum use of the procedural tools and the resources at its disposal;
6) Stresses the need for effective measures to reduce the number of clearly inadmissible applications, the need for effective filtering of these applications and the need to find solutions for dealing with repetitive applications;
7) Stresses that full, effective and rapid execution of the final judgments of the Court is indispensable;
8) Reaffirms the need for maintaining the independence of the judges and preserving the impartiality and quality of the Court;
9) Calls for enhancing the efficiency of the system to supervise the execution of the Court's judgments;
10) Stresses the need to simplify the procedure for amending Convention provisions of an organisational nature;
11) Adopts the following Action Plan as an instrument to provide political guidance for the process towards long-term effectiveness of the Convention system.

Action Plan

A. Right of Individual Petition

1) The Conference reaffirms the fundamental importance of the right of individual petition as a cornerstone of the Convention system which guarantees that alleged violations that have not been effectively dealt with by national authorities can be brought before the Court.
2) With regard to the high number of inadmissible applications, the Conference invites the Committee of Ministers to consider measures that would enable the Court to concentrate on its essential role of guarantor of human rights and to adjudicate well-founded cases with the necessary speed, in particular those alleging serious violations of human rights.
3) With regard to access to the Court, the Conference calls upon the Committee of Ministers to consider any additional measure which might contribute to a sound administration of justice and to examine in particular under what conditions new procedural rules or practices could be envisaged, without deterring well-founded applications.

B. Implementation of the Convention at the National Level

4) The Conference recalls that it is first and foremost the responsibility of the States Parties to guarantee the application and implementation of the Convention and consequently calls upon the States Parties to commit themselves to:

a) continuing to increase, where appropriate in co-operation with national human rights institutions or other relevant bodies, the awareness of national authorities of the Convention standards and to ensure their application;

b) fully executing the Court's judgments, ensuring that the necessary measures are taken to prevent further similar violations;

c) taking into account the Court's developing case-law, also with a view to considering the conclusions to be drawn from a judgment finding a violation of the Convention by another State, where the same problem of principle exists within their own legal system;

d) ensuring, if necessary by introducing new legal remedies, whether they be of a specific nature or a general domestic remedy, that any person with an arguable claim that their rights and freedoms as set forth in the Convention have been violated has

available to them an effective remedy before a national authority providing adequate redress where appropriate;

e) considering the possibility of seconding national judges and, where appropriate, other high-level independent lawyers, to the Registry of the Court;

f) ensuring review of the implementation of the recommendations adopted by the Committee of Ministers to help States Parties to fulfil their obligations.

5) The Conference stresses the need to enhance and improve the targeting and coordination of other existing mechanisms, activities and programmes of the Council of Europe, including recourse by the Secretary General to Article 52 of the Convention.

C. Filtering

6) The Conference:

a) calls upon States Parties and the Court to ensure that comprehensive and objective information is provided to potential applicants on the Convention and the Court's case-law, in particular on the application procedures and admissibility criteria. To this end, the role of the Council of Europe information offices could be examined by the Committee of Ministers;

b) stresses the interest for a thorough analysis of the Court's practice relating to applications declared inadmissible;

c) recommends, with regard to filtering mechanisms,

i) to the Court to put in place, in the short term, a mechanism within the existing bench likely to ensure effective filtering;

ii) to the Committee of Ministers to examine the setting up of a filtering mechanism within the Court going beyond the single judge procedure and the procedure provided for in i).

D. Repetitive Applications

7) The Conference:

a) calls upon States Parties to:

i) facilitate, where appropriate, within the guarantees provided for by the Court and, as necessary, with the support of the Court, the adoption of friendly settlements and unilateral declarations;

ii) cooperate with the Committee of Ministers, after a final pilot judgment, in order to adopt and implement general measures capable of remedying effectively the structural problems at the origin of repetitive cases.

b) stresses the need for the Court to develop clear and predictable standards for the "pilot judgment" procedure as regards selection of applications, the procedure to be followed and the treatment of adjourned cases, and to evaluate the effects of applying such and similar procedures;

c) calls upon the Committee of Ministers to:

i) consider whether repetitive cases could be handled by judges responsible for filtering (see above Section C);

ii) bring about a cooperative approach including all relevant parts of the Council of Europe in order to present possible options to a State Party required to remedy a structural problem revealed by a judgment.

E. The Court

8) Stressing the importance of maintaining the independence of the judges and of preserving the impartiality and quality of the Court, the Conference calls upon States Parties and the Council of Europe to:

a) ensure, if necessary by improving the transparency and quality of the selection procedure at both national and European levels, full satisfaction of the Convention's criteria for office as a judge of the Court, including knowledge of public international law and of the national legal systems as well as proficiency in at least one official language. In addition, the Court's composition should comprise the necessary practical legal experience;

b) grant to the Court, in the interest of its efficient functioning, the necessary level of administrative autonomy within the Council of Europe.

9) The Conference, acknowledging the responsibility shared between the States Parties and the Court, invites the Court to:

a) avoid reconsidering questions of fact or national law that have been considered and decided by national authorities, in line with its case-law according to which it is not a fourth instance court;

b) apply uniformly and rigorously the criteria concerning admissibility and jurisdiction and take fully into account its subsidiary role in the interpretation and application of the Convention;

c) give full effect to the new admissibility criterion provided for in Protocol No. 14 and to consider other possibilities of applying the principle de minimis non curat praetor.

10) With a view to increasing its efficiency, the Conference invites the Court to continue improving its internal structure and working methods and making maximum use of the procedural tools and the resources at its disposal. In this context, it encourages the Court in particular to:

a) make use of the possibility to request the Committee of Ministers to reduce to five members the number of judges of the Chambers, as provided by Protocol No. 14;

b) pursue its policy of identifying priorities for dealing with cases and continue to identify in its judgments any structural problem capable of generating a significant number of repetitive applications.

F. Supervision of Execution of Judgments

11) The Conference stresses the urgent need for the Committee of Ministers to:

a) develop the means which will render its supervision of the execution of the Court's judgments more effective and transparent. In this regard, it invites the Committee of Ministers to strengthen this supervision by giving increased priority and visibility not only to cases requiring urgent individual measures, but also to cases disclosing major structural problems, attaching particular importance to the need to establish effective domestic remedies;

b) review its working methods and its rules to ensure that they are better adapted to present-day realities and more effective for dealing with the variety of questions that arise.

G. Simplified Procedure for Amending the Convention

12) The Conference calls upon the Committee of Ministers to examine the possibility of introducing by means of an amending Protocol a simplified procedure for any future amendment of certain provisions of the Convention relating to organisational issues. This simplified procedure may be introduced through, for example:

a) a Statute for the Court;

b) a new provision in the Convention similar to that found in Article 41(d) of the Statute of the Council of Europe.

Implementation

In order to implement the Action Plan, the Conference:

1) calls upon the States Parties, the Committee of Ministers, the Court and the Secretary General to give full effect to the Action Plan;

2) calls in particular upon the Committee of Ministers and the States Parties to consult with civil society on effective means to implement the Action Plan;

3) calls upon the States Parties to inform the Committee of Ministers, before the end of 2011, of the measures taken to implement the relevant parts of this Declaration;

4) invites the Committee of Ministers to follow-up and implement by June 2011, where appropriate in co-operation with the Court and giving the necessary terms of reference to the competent bodies, the measures set out in this Declaration that do not require amendment of the Convention;

5) invites the Committee of Ministers to issue terms of reference to the competent bodies with a view to preparing, by June 2012, specific proposals for measures requiring amendment of the Convention; these terms of reference should include proposals for a filtering mechanism within the Court and the study of measures making it possible to simplify the amendment of the Convention;

6) invites the Committee of Ministers to evaluate, during the years 2012 to 2015, to what extent the implementation of Protocol No. 14 and of the Interlaken Action Plan has improved the situation of the Court. On the basis of this evaluation, the Committee of Ministers should decide, before the end of 2015, on whether there is a need for further action. Before the end of 2019, the Committee of Ministers should decide on whether the measures adopted have proven to be sufficient to assure sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary;

7) asks the Swiss Chairmanship to transmit the present Declaration and the Proceedings of the Interlaken Conference to the Committee of Ministers;

8) invites the future Chairmanships of the Committee of Ministers to follow-up on the implementation of the present Declaration.

ANNEX I: RULES OF COURT

Rules of Court, updated on 3 October 2022

The European Court of Human Rights,
Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto,
Makes the present Rules:

Rule 1[296] – Definitions

For the purposes of these Rules unless the context otherwise requires:
a) the term "Convention" means the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;
b) he expression "plenary Court" means the European Court of Human Rights sitting in plenary session;
c) the expression "Grand Chamber" means the Grand Chamber of seventeen judges constituted in pursuance of Article 26 § 1 of the Convention;
d) the term "Section" means a Chamber set up by the plenary Court for a fixed period in pursuance of Article 25 (b) of the Convention and the expression "President of the Section" means the judge elected by the plenary Court in pursuance of Article 25 (c) of the Convention as President of such a Section;
e) the term "Chamber" means any Chamber of seven judges constituted in pursuance of Article 26 § 1 of the Convention and the expression "President of the Chamber" means the judge presiding over such a "Chamber";
f) the term "Committee" means a Committee of three judges set up in pursuance of Article 26 § 1 of the Convention and the expression "President of the Committee" means the judge presiding over such a "Committee";
g) the expression "single-judge formation" means a single judge sitting in accordance with Article 26 § 1 of the Convention;
h) the term "Court" means either the plenary Court, the Grand Chamber, a Section, a Chamber, a Committee, a single judge or the panel of five judges referred to in Article 43 § 2 of the Convention and in Article 2 of Protocol No. 16 thereto;

296 As amended by the Court on 7 July 2003, 13 November 2006 and 19 September 2016.

i) the expression "*ad hoc* judge" means any person chosen in pursuance of Article 26 § 4 of the Convention and in accordance with Rule 29 to sit as a member of the Grand Chamber or as a member of a Chamber;
j) the terms "judge" and "judges" mean the judges elected by the Parliamentary Assembly of the Council of Europe or ad hoc judges;
k) the expression "Judge Rapporteur" means a judge appointed to carry out the tasks provided for in Rules 48 and 49;
l) the term "non-judicial rapporteur" means a member of the Registry charged with assisting the single-judge formations provided for in Article 24 § 2 of the Convention;
m) the term "delegate" means a judge who has been appointed to a delegation by the Chamber and the expression "head of the delegation" means the delegate appointed by the Chamber to lead its delegation;
n) the term "delegation" means a body composed of delegates, Registry members and any other person appointed by the Chamber to assist the delegation;
o) the term "Registrar" denotes the Registrar of the Court or the Registrar of a Section according to the context;
p) the terms "party" and "parties" mean
the applicant or respondent Contracting Parties;
the applicant (the person, non-governmental organisation or group of individuals) that lodged a complaint under Article 34 of the Convention;
q) the expression "third party" means any Contracting Party or any person concerned or the Council of Europe Commissioner for Human Rights who, as provided for in Article 36 §§ 1, 2 and 3 of the Convention and in Article 3 of Protocol No. 16, has exercised the right to submit written comments and take part in a hearing, or has been invited to do so;
r) the terms "hearing" and "hearings" mean oral proceedings held on the admissibility and/or merits of an application or in connection with a request for revision or an advisory opinion, a request for interpretation by a party or by the Committee of Ministers, or a question whether there has been a failure to fulfil an obligation which may be referred to the Court by virtue of Article 46 § 4 of the Convention;
s) the expression "Committee of Ministers" means the Committee of Ministers of the Council of Europe;
t) the terms "former Court" and "Commission" mean respectively the European Court and European Commission of Human Rights set up under former Article 19 of the Convention.

Title I - Organisation and Working of the Court

CHAPTER I – JUDGES

Rule 2[297] – Calculation of Term of Office

1) Where the seat is vacant on the date of the judge's election, or where the election takes place less than three months before the seat becomes vacant, the term of office shall begin as from the date of taking up office which shall be no later than three months after the date of election.
2) Where the judge's election takes place more than three months before the seat becomes vacant, the term of office shall begin on the date on which the seat becomes vacant.
3) In accordance with Article 23 § 2 of the Convention, an elected judge shall hold office until a successor has taken the oath or made the declaration provided for in Rule 3.

Rule 3 – Oath or Solemn Declaration

1) Before taking up office, each elected judge shall, at the first sitting of the plenary Court at which the judge is present or, in case of need, before the President of the Court, take the following oath or make the following solemn declaration:
"I swear" – or "I solemnly declare" – "that I will exercise my functions as a judge honourably, independently and impartially and that I will keep secret all deliberations."
2) This act shall be recorded in minutes.

Rule 4[298] – Incompatible Activities

1) In accordance with Article 21 § 4 of the Convention, the judges shall not during their term of office engage in any political or administrative activity or any professional activity which is incompatible with their independence or impartiality or with the demands of a full-time office. Each judge shall declare to the President of the Court any additional activity. In the event of a disagreement between the President and the judge concerned, any question arising shall be decided by the plenary Court.
2) A former judge shall not represent a party or third party in any capacity in proceedings before the Court relating to an application lodged before the date on which he or she ceased to hold office. As regards applications lodged subsequently, a former judge may not represent a party or third party in any capacity in proceedings before the Court until a period of two years from the date on which he or she ceased to hold office has elapsed.

Rule 5[299] – Precedence

1) Elected judges shall take precedence after the President and Vice-Presidents of the Court and the Presidents of the Sections, according to the date of their taking up office in accordance with Rule 2 §§ 1 and 2.
2) Vice-Presidents of the Court elected to office on the same date shall take precedence according to the length of time they have served as judges. If the length of time they have served as judges is the same, they shall take precedence according to age. The same rule shall apply to Presidents of Sections.
3) Judges who have served the same length of time shall take precedence according to age. 4. *Ad hoc* judges shall take precedence after the elected judges according to age.

Rule 6 – Resignation

Resignation of a judge shall be notified to the President of the Court, who shall transmit it to the Secretary General of the Council of Europe. Subject to the provisions of Rules 24 § 4 in fine and 26 § 3, resignation shall constitute vacation of office.

Rule 7 – Dismissal From Office

No judge may be dismissed from his or her office unless the other judges, meeting in plenary session, decide by a majority of two-thirds of the elected judges in office that he or she has ceased to fulfil the required conditions. He or she must first be heard by the plenary Court. Any judge may set in motion the procedure for dismissal from office.

297 As amended by the Court on 13 November 2006 and 2 April 2012.
298 As amended by the Court on 29 March 2010 and 1 June 2015.
299 As amended by the Court on 14 May 2007.

CHAPTER II[300] – PRESIDENCY OF THE COURT AND THE ROLE OF THE BUREAU

Rule 8[301] – Election of the President and Vice-Presidents of the Court and the Presidents and Vice-Presidents of the Sections

1) The plenary Court shall elect its President and two Vice-Presidents for a period of three years as well as the Presidents of the Sections for a period of two years, provided that such periods shall not exceed the duration of their terms of office as judges.
2) Each Section shall likewise elect a Vice-President for a period of two years, provided that such period shall not exceed the duration of his or her term of office as judge.
3) A judge elected in accordance with paragraphs 1 or 2 above may be re-elected but only once to the same level of office.
4) The Presidents and Vice-Presidents shall continue to hold office until the election of their successors.
5) The elections referred to in paragraph 1 of this Rule shall be by secret ballot. Only the elected judges who are present shall take part. If no candidate receives an absolute majority of the votes cast, an additional round or rounds shall take place until one candidate has achieved an absolute majority. After the first round, any candidate receiving fewer than five votes shall be eliminated, and the vote shall take place between the remaining candidates. If none of the candidates has received fewer than five votes in the first round, the candidate who has received the least number of votes shall be eliminated. In each subsequent round, the candidate who has received the least number of votes shall be eliminated. If there is more than one candidate in this position, only the candidate who is lowest in the order of precedence in accordance with Rule 5 shall be eliminated. If there are only two candidates left and in two rounds of voting neither of them has achieved an absolute majority of the votes cast, the candidate who obtains a majority of the votes cast in the next round, excluding blank and invalid votes, shall be elected. In the event of a tie between two candidates in the final round, preference shall be given to the judge having precedence in accordance with Rule 5.
6) The rules set out in the preceding paragraph shall apply to the elections referred to in paragraph 2 of this Rule. However, where more than one round of voting is required until one candidate has achieved the required majority, only the candidate who has received the least number of votes shall be eliminated after each round.

300 As amended by the Court on 7 July 2003.

301 As amended by the Court on 7 November 2005, 20 February 2012, 14 January 2013, 14 April 2014, 1 June 2015, 19 September 2016, 2 June 2021 and 30 May 2022.

Rule 9 – Functions of the President of the Court

1) The President of the Court shall direct the work and administration of the Court. The President shall represent the Court and, in particular, be responsible for its relations with the authorities of the Council of Europe.
2) The President shall preside at plenary meetings of the Court, meetings of the Grand Chamber and meetings of the panel of five judges.
3) The President shall not take part in the consideration of cases being heard by Chambers except where he or she is the judge elected in respect of a Contracting Party concerned.

Rule 9A[302] – Role of the Bureau

1) a) The Court shall have a Bureau, composed of the President of the Court, the Vice-Presidents of the Court and the Section Presidents. Where a Vice-President or a Section President is unable to attend a Bureau meeting, he or she shall be replaced by the Section Vice-President or, failing that, by the next most senior member of the Section according to the order of precedence established in Rule 5.
   b) The Bureau may request the attendance of any other member of the Court or any other person whose presence it considers necessary.
2) The Bureau shall be assisted by the Registrar and the Deputy Registrars.
3) The Bureau's task shall be to assist the President in carrying out his or her function in directing the work and administration of the Court. To this end the President may submit to the Bureau any administrative or extra-judicial matter which falls within his or her competence.
4) The Bureau shall also facilitate coordination between the Court's Sections.
5) The President may consult the Bureau before issuing practice directions under Rule 32 and before approving general instructions drawn up by the Registrar under Rule 17 § 4.

302 Inserted by the Court on 7 July 2003.mber 2016, 2 June 2021 and 30 May 2022.

6) The Bureau may report on any matter to the Plenary. It may also make proposals to the Plenary.
7) A record shall be kept of the Bureau's meetings and distributed to the Judges in both the Court's official languages. The secretary to the Bureau shall be designated by the Registrar in agreement with the President.

Rule 10 – Functions of the Vice-Presidents of the Court

The Vice-Presidents of the Court shall assist the President of the Court. They shall take the place of the President if the latter is unable to carry out his or her duties or the office of President is vacant, or at the request of the President. They shall also act as Presidents of Sections.

Rule 11 – Replacement of the President and the Vice-Presidents of the Court

If the President and the Vice-Presidents of the Court are at the same time unable to carry out their duties or if their offices are at the same time vacant, the office of President of the Court shall be assumed by a President of a Section or, if none is available, by another elected judge, in accordance with the order of precedence provided for in Rule 5.

Rule 12[303] – Presidency of Sections and Chambers

The Presidents of the Sections shall preside at the sittings of the Section and Chambers of which they are members and shall direct the Sections' work. The Vice-Presidents of the Sections shall take their place if they are unable to carry out their duties or if the office of President of the Section concerned is vacant, or at the request of the President of the Section. Failing that, the judges of the Section and the Chambers shall take their place, in the order of precedence provided for in Rule 5.

Rule 13[304] – Inability to Preside

Judges of the Court may not preside in cases in which the Contracting Party of which they are nationals or in respect of which they were elected is a party, or in cases where they sit as a judge appointed by virtue of Rule 29 § 1 (a) or Rule 30 § 1.

303 As amended by the Court on 17 June and 8 July 2002.
304 As amended by the Court on 4 July 2005.

Rule 14 – Balanced Representation of the Sexes

In relation to the making of appointments governed by this and the following chapter of the present Rules, the Court shall pursue a policy aimed at securing a balanced representation of the sexes.

CHAPTER III – THE REGISTRY

Rule 15[305] – Election of the Registrar

1) The plenary Court shall elect its Registrar. The candidates shall be of high moral character and must possess the legal, managerial and linguistic knowledge and experience necessary to carry out the functions attaching to the post.
2) The Registrar shall be elected for a term of five years and may be re-elected. The Registrar may not be dismissed from office, unless the judges, meeting in plenary session, decide by a majority of two-thirds of the elected judges in office that the person concerned has ceased to fulfil the required conditions. He or she must first be heard by the plenary Court. Any judge may set in motion the procedure for dismissal from office.
3) The elections referred to in this Rule shall be by secret ballot; only the elected judges who are present shall take part. If no candidate receives an absolute majority of the votes cast, an additional round or rounds of voting shall take place until one candidate has achieved an absolute majority. After each round, any candidate receiving fewer than five votes shall be eliminated; and if more than two candidates have received five votes or more, the one who has received the least number of votes shall also be eliminated. In the event of a tie in an additional round of voting, preference shall be given, firstly, to the female candidate, if any, and, secondly, to the older candidate.
4) Before taking up office, the Registrar shall take the following oath or make the following solemn declaration before the plenary Court or, if need be, before the President of the Court:
"I swear" – or "I solemnly declare" – "that I will exercise loyally, discreetly and conscientiously the functions conferred upon me as Registrar of the European Court of Human Rights."
This act shall be recorded in minutes.

305 As amended by the Court on 14 April 2014.

Rule 16[306] – Election of the Deputy Registrars

1) The plenary Court shall also elect one or more Deputy Registrars on the conditions and in the manner and for the term prescribed in the preceding Rule. The procedure for dismissal from office provided for in respect of the Registrar shall likewise apply. The Court shall first consult the Registrar in both these matters.
2) Before taking up office, a Deputy Registrar shall take an oath or make a solemn declaration before the plenary Court or, if need be, before the President of the Court, in terms similar to those prescribed in respect of the Registrar. This act shall be recorded in minutes.

Rule 17 – Functions of the Registrar

1) The Registrar shall assist the Court in the performance of its functions and shall be responsible for the organisation and activities of the Registry under the authority of the President of the Court.
2) The Registrar shall have the custody of the archives of the Court and shall be the channel for all communications and notifications made by, or addressed to, the Court in connection with the cases brought or to be brought before it.
3) The Registrar shall, subject to the duty of discretion attaching to this office, reply to requests for information concerning the work of the Court, in particular to enquiries from the press.
4) General instructions drawn up by the Registrar, and approved by the President of the Court, shall regulate the working of the Registry.

Rule 18[307] – Organisation of the Registry

1) The Registry shall consist of Section Registries equal to the number of Sections set up by the Court and of the departments necessary to provide the legal and administrative services required by the Court.
2) The Section Registrar shall assist the Section in the performance of its functions and may be assisted by a Deputy Section Registrar.
3) The officials of the Registry shall be appointed by the Registrar under the authority of the President of the Court. The appointment of the Registrar and Deputy Registrars shall be governed by Rules 15 and 16 above.

306 Ibid.

307 As amended by the Court on 13 November 2006 and 2 April 2012.

Rule 18A[308] – Non-judicial rapporteurs

1) When sitting in a single-judge formation, the Court shall be assisted by non-judicial rapporteurs who shall function under the authority of the President of the Court. They shall form part of the Court's Registry.
2) The non-judicial rapporteurs shall be appointed by the President of the Court on a proposal by the Registrar. Section Registrars and Deputy Section Registrars, as referred to in Rule 18 § 2, shall act *ex officio* as non-judicial rapporteurs.

Rule 18B[309] – Jurisconsult

For the purposes of ensuring the quality and consistency of its case-law, the Court shall be assisted by a Jurisconsult. He or she shall be a member of the Registry. The Jurisconsult shall provide opinions and information, in particular to the judicial formations and the members of the Court.

CHAPTER IV – THE WORKING OF THE COURT

Rule 19 – Seat of the Court

1) The seat of the Court shall be at the seat of the Council of Europe at Strasbourg. The Court may, however, if it considers it expedient, perform its functions elsewhere in the territories of the member States of the Council of Europe.
2) The Court may decide, at any stage of the examination of an application, that it is necessary that an investigation or any other function be carried out elsewhere by it or one or more of its members.

Rule 20 – Sessions of the Plenary Court

1) The plenary sessions of the Court shall be convened by the President of the Court whenever the performance of its functions under the Convention and under these Rules so requires. The President of the Court shall convene a plenary session if at least one-third of the members of the Court so request, and in any event once a year to consider administrative matters.
2) The quorum of the plenary Court shall be two-thirds of the elected judges in office.
3. If there is no quorum, the President shall adjourn the sitting.

308 Inserted by the Court on 13 November 2006 and amended on 14 January 2013.

309 Inserted by the Court on 23 June 2014.

Rule 21 – Other sessions of the Court

1) The Grand Chamber, the Chambers and the Committees shall sit full time. On a proposal by the President, however, the Court shall fix session periods each year.
2) Outside those periods the Grand Chamber and the Chambers shall be convened by their Presidents in cases of urgency.

Rule 22 – Deliberations

1) The Court shall deliberate in private. Its deliberations shall remain secret.
2) Only the judges shall take part in the deliberations. The Registrar or the designated substitute, as well as such other officials of the Registry and interpreters whose assistance is deemed necessary, shall be present. No other person may be admitted except by special decision of the Court.
3) Before a vote is taken on any matter in the Court, the President may request the judges to state their opinions on it.

Rule 23 – Votes

1) The decisions of the Court shall be taken by a majority of the judges present. In the event of a tie, a fresh vote shall be taken and, if there is still a tie, the President shall have a casting vote. This paragraph shall apply unless otherwise provided for in these Rules.
2) The decisions and judgments of the Grand Chamber and the Chambers shall be adopted by a majority of the sitting judges. Abstentions shall not be allowed in final votes on the admissibility and merits of cases.
3) As a general rule, votes shall be taken by a show of hands. The President may take a roll-call vote, in reverse order of precedence.
4) Any matter that is to be voted upon shall be formulated in precise terms.

Rule 23A[310] – Decision by tacit agreement

Where it is necessary for the Court to decide a point of procedure or any other question other than at a scheduled meeting of the Court, the President may direct that a draft decision be circulated among the judges and that a deadline be set for their comments on the draft. In the absence of any objection from a judge, the proposal shall be deemed to have been adopted at the expiry of the deadline.

310 Inserted by the Court on 13 December 2004.

CHAPTER V – THE COMPOSITION OF THE COURT

Rule 24[311] – Composition of the Grand Chamber

1) The Grand Chamber shall be composed of seventeen judges and at least three substitute judges.
2) **a)** The Grand Chamber shall include the President and the Vice-Presidents of the Court and the Presidents of the Sections. Any Vice-President of the Court or President of a Section who is unable to sit as a member of the Grand Chamber shall be replaced by the Vice-President of the relevant Section.
b) The judge elected in respect of the Contracting Party concerned or, where appropriate, the judge designated by virtue of Rule 29 or Rule 30 shall sit as an ex officio member of the Grand Chamber in accordance with Article 26 §§ 4 and 5 of the Convention.
c) In cases referred to it under Article 43 of the Convention, the Grand Chamber shall not include any judge who sat in the Chamber which rendered the judgment in the case so referred, with the exception of the President of that Chamber and the judge who sat in respect of the State Party concerned, or any judge who sat in the Chamber or Chambers which ruled on the admissibility of the application.
d) The judges and substitute judges who are to complete the Grand Chamber in each case referred to it shall be designated from among the remaining judges by a drawing of lots by the President of the Court in the presence of the Registrar. The modalities for the drawing of lots shall be laid down by the Plenary Court, having due regard to the need for a geographically balanced composition reflecting the different legal systems among the Contracting Parties.
e) In examining a request under Article 46 § 4 of the Convention, the Grand Chamber shall include, in addition to the judges referred to in paragraph 2 (a) and (b) of this Rule, the members of the Chamber or Committee which rendered the judgment in the case concerned. If the judgment was rendered by a Grand Chamber, the Grand Chamber shall be constituted as the original Grand Chamber. In all cases, including those where it is not possible to reconstitute the original Grand Chamber, the judges and substitute judges who are to complete the Grand Chamber shall be designated in accordance with paragraph 2 (d) of this Rule.

311 As amended by the Court on 8 December 2000, 13 December 2004, 4 July and 7 November 2005, 29 May and 13 November 2006, 6 May 2013, 19 September 2016 and 11 October 2021.

f) In examining a request for an advisory opinion under Article 47 of the Convention, the Grand Chamber shall be constituted in accordance with the provisions of paragraph 2 (a) and (d) of this Rule.

g) In examining a request for an advisory opinion under Protocol No. 16 to the Convention, the Grand Chamber shall be constituted in accordance with the provision of paragraph 2 (a), (b) and (d) of this Rule and include the judge designated as Judge Rapporteur under Rule 93 § 1.1 (b).

3) If any judges are prevented from sitting, they shall be replaced by the substitute judges in the order in which the latter were selected under paragraph 2 (d) of this Rule. Until such replacement takes place, substitute judges shall not take part in the vote.

4) The judges and substitute judges designated in accordance with the above provisions shall continue to sit in the Grand Chamber for the consideration of the case until the proceedings have been completed. Even after the end of their terms of office, they shall continue to deal with the case if they have participated in the consideration of the merits. These provisions shall also apply to proceedings relating to advisory opinions.

5) **a)** The panel of five judges of the Grand Chamber called upon to consider a referral request submitted under Article 43 of the Convention shall be composed of

- The President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;
- Two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;
- Two judges designated by rotation from among the judges elected by the remaining Sections to serve on the panel for a period of six months;
- At least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.

b) When considering a referral request, the panel shall not include any judge who took part in the consideration of the admissibility or merits of the case in question.

c) No judge elected in respect of, or who is a national of, a Contracting Party concerned by a referral request may be a member of the panel when it examines that request. An elected judge appointed pursuant to Rules 29 or 30 shall likewise be excluded from consideration of any such request.

d) Any member of the panel unable to sit, for the reasons set out in (b) or (c) shall be replaced by a substitute judge designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.

e) When considering a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention, the panel shall be composed in accordance with the provisions of Rule 93.

Rule 25 – Setting-up of Sections

1) The Chambers provided for in Article 25 (b) of the Convention (referred to in these Rules as "Sections") shall be set up by the plenary Court, on a proposal by its President, for a period of three years with effect from the election of the presidential office-holders of the Court under Rule 8. There shall be at least four Sections.

2) Each judge shall be a member of a Section. The composition of the Sections shall be geographically and gender balanced and shall reflect the different legal systems among the Contracting Parties.

3) Where a judge ceases to be a member of the Court before the expiry of the period for which the Section has been constituted, the judge's place in the Section shall be taken by his or her successor as a member of the Court.

4) The President of the Court may exceptionally make modifications to the composition of the Sections if circumstances so require.

5) On a proposal by the President, the plenary Court may constitute an additional Section.

Rule 26[312] – Constitution of Chambers

1) The Chambers of seven judges provided for in Article 26 § 1 of the Convention for the consideration of cases brought before the Court shall be constituted from the Sections as follows.

a) Subject to paragraph 2 of this Rule and to Rule 28 § 4, last sentence, the Chamber shall in each case include the President of the Section and the judge elected in respect of any Contracting Party concerned. If the latter judge is not a member of the Section to which the application has been assigned under Rules 51 or 52, he or she shall sit as an *ex officio* member of the Chamber in accordance with Article 26 § 4 of the Convention. Rule 29 shall apply if that judge is unable to sit or withdraws.

312 As amended by the Court on 17 June and 8 July 2002 and 6 May 2013.

b) The other members of the Chamber shall be designated by the President of the Section in rotation from among the members of the relevant Section.

c) The members of the Section who are not so designated shall sit in the case as substitute judges.

2) The judge elected in respect of any Contracting Party concerned or, where appropriate, another elected judge or *ad hoc* judge appointed in accordance with Rules 29 and 30 may be dispensed by the President of the Chamber from attending meetings devoted to preparatory or procedural matters. For the purposes of such meetings the first substitute judge shall sit.

3) Even after the end of their terms of office, judges shall continue to deal with cases in which they have participated in the consideration of the merits.

Rule 27[313] – Committees

1) Committees composed of three judges belonging to the same Section shall be set up under Article 26 § 1 of the Convention. After consulting the Presidents of the Sections, the President of the Court shall decide on the number of Committees to be set up.

2) The Committees shall be constituted for a period of twelve months by rotation among the members of each Section, excepting the President of the Section.

3) The judges of the Section, including the President of the Section, who are not members of a Committee may, as appropriate, be called upon to sit. They may also be called upon to take the place of members who are unable to sit.

4) The President of the Committee shall be the member having precedence in the Section.

Rule 27A[314] – Single-judge formation

1) A single-judge formation shall be introduced in pursuance of Article 26 § 1 of the Convention. After consulting the Bureau, the President of the Court shall decide on the number of single judges to be appointed and shall appoint them in respect of one or more Contracting Parties.

313 As amended by the Court on 13 November 2006 and 16 November 2009.

314 Inserted by the Court on 13 November 2006 and amended on 14 January 2013 and 9 September 2019.

2) The following shall also sit as single judges

(a) the Presidents of the Sections when exercising their competences under Rule 54 §§ 2 (b) and 3;

b) Vice-Presidents of Sections appointed to decide on requests for interim measures in accordance with Rule 39 § 4.

3) In accordance with Article 26 § 3 of the Convention, a judge may not examine as a single judge any application against the Contracting Party in respect of which that judge has been elected. In addition, a judge may not examine as a single judge any application against a Contracting Party of which that judge is a national.

4) Single judges shall be appointed for a period of twelve months. They shall continue to carry out their other duties within the Sections of which they are members in accordance with Rule 25 § 2.

5) Pursuant to Article 24 § 2 of the Convention, when deciding, each single judge shall be assisted by a non-judicial rapporteur.

Rule 28[315] – Inability to sit, withdrawal or exemption

1) Any judge who is prevented from taking part in sittings which he or she has been called upon to attend shall, as soon as possible, give notice to the President of the Chamber.

2) A judge may not take part in the consideration of any case if

a) he or she has a personal interest in the case, including a spousal, parental or other close family, personal or professional relationship, or a subordinate relationship, with any of the parties;

b) he or she has previously acted in the case, whether as the Agent, advocate or adviser of a party or of a person having an interest in the case, or as a member of another national or international tribunal or commission of inquiry, or in any other capacity;

c) he or she, being an *ad hoc* judge or a former elected judge continuing to sit by virtue of Rule 26 §3, engages in any political or administrative activity or any professional activity which is incompatible with his or her independence or impartiality;

d) he or she has expressed opinions publicly, through the communications media, in writing, through his or her public actions or otherwise, that are objectively capable of adversely affecting his or her impartiality;

315 As amended by the Court on 17 June and 8 July 2002, 13 December 2004, 13 November 2006 and 6 May 2013.

e) for any other reason, his or her independence or impartiality may legitimately be called into doubt.

3) If a judge withdraws for one of the said reasons, he or she shall notify the President of the Chamber, who shall exempt the judge from sitting.

4) In the event of any doubt on the part of the judge concerned or the President as to the existence of one of the grounds referred to in paragraph 2 of this Rule, that issue shall be decided by the Chamber. After hearing the views of the judge concerned, the Chamber shall deliberate and vote, without that judge being present. For the purposes of the Chamber's deliberations and vote on this issue, he or she shall be replaced by the first substitute judge in the Chamber. The same shall apply if the judge sits in respect of any Contracting Party concerned in accordance with Rules 29 and 30.

5) The provisions above shall apply also to a judge's acting as a single judge or participation in a Committee, save that the notice required under paragraphs 1 or 3 of this Rule shall be given to the President of the Section.

Rule 29[316] – Ad hoc Judges

1) **a)** If the judge elected in respect of a Contracting Party concerned is unable to sit in the Chamber, withdraws, or is exempted, or if there is none, the President of the Chamber shall appoint an *ad hoc* judge, who is eligible to take part in the consideration of the case in accordance with Rule 28, from a list submitted in advance by the Contracting Party containing the names of three to five persons whom the Contracting Party has designated as eligible to serve as *ad hoc* judges for a renewable period of four years and as satisfying the conditions set out in paragraph 1 (c) of this Rule.
The list shall include both sexes and shall be accompanied by biographical details of the persons whose names appear on the list. The persons whose names appear on the list may not represent a party or a third party in any capacity in proceedings before the Court.
b) The procedure set out in paragraph 1 (a) of this Rule shall apply if the person so appointed is unable to sit or withdraws.
c) An *ad hoc* judge shall possess the qualifications required by Article 21 § 1 of the Convention and must be in a position to meet the demands of availability and attendance provided for in paragraph 5 of this Rule. For the duration of their appointment, an ad hoc judge shall not represent any party or third party in any capacity in proceedings before the Court.

316 As amended by the Court on 17 June and 8 July 2002, 13 November 2006, 29 March 2010, 6 May 2013, 19 September 2016, 16 April 2018 and 3 June 2019.

2) The President of the Chamber shall appoint another elected judge to sit as an ad hoc judge where **(a)** at the time of notice being given of the application under Rule 54 § 2 (b), the Contracting Party
concerned has not supplied the Registrar with a list as described in paragraph 1 (a) of this Rule, or
b) the President of the Chamber finds that less than three of the persons indicated in the list satisfy the conditions laid down in paragraph 1 (c) of this Rule.

3) The President of the Chamber may decide not to appoint an *ad hoc* judge pursuant to paragraph 1 (a) or 2 of this Rule until notice of the application is given to the Contracting Party under Rule 54 § 2 (b). Pending the decision of the President of the Chamber, the first substitute judge shall sit.

4) An ad hoc judge shall, at the beginning of the first sitting held to consider the case after the judge has been appointed, take the oath or make the solemn declaration provided for in Rule 3. This act shall be recorded in minutes.

5) Ad hoc judges are required to make themselves available to the Court and, subject to Rule 26 § 2, to attend the meetings of the Chamber.

6) The provisions of this Rule shall apply mutatis mutandis to proceedings before a panel of the Grand Chamber in connection with a request for an advisory opinion submitted under Article 1 of Protocol No. 16 to the Convention, as well as to proceedings before the Grand Chamber constituted to examine requests accepted by the panel.

Rule 30[317] – Common Interest

1) If two or more applicant or respondent Contracting Parties have a common interest, the President of the Chamber may invite them to agree to appoint a single judge elected in respect of one of the Contracting Parties concerned as common-interest judge who will be called upon to sit *ex officio*. If the Parties are unable to agree, the President shall choose the common-interest judge by lot from the judges proposed by the Parties.

2) The President of the Chamber may decide not to invite the Contracting Parties concerned to make an appointment under paragraph 1 of this Rule until notice of the application has been given under Rule 54 § 2.

3) In the event of a dispute as to the existence of a common interest or as to any related matter, the Chamber shall decide, if necessary after obtaining written submissions from the Contracting Parties concerned.

317 As amended by the Court on 7 July 2003.

Title II – Procedure

CHAPTER I – GENERAL RULES

Rule 31 – Possibility of Particular Derogations

The provisions of this Title shall not prevent the Court from derogating from them for the consideration of a particular case after having consulted the parties where appropriate.

Rule 32 – Practice Directions

The President of the Court may issue practice directions, notably in relation to such matters as appearance at hearings and the filing of pleadings and other documents.

Rule 33[318] – Public Character of Documents

1) All documents deposited with the Registry by the parties or by any third party in connection with an application, except those deposited within the framework of friendly-settlement negotiations as provided for in Rule 62, shall be accessible to the public in accordance with arrangements determined by the Registrar, unless the President of the Chamber, for the reasons set out in paragraph 2 of this Rule, decides otherwise, either of his or her own motion or at the request of a party or any other person concerned.
2) Public access to a document or to any part of it may be restricted in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties or of any person concerned so require, or to the extent strictly necessary in the opinion of the President of the Chamber in special circumstances where publicity would prejudice the interests of justice.
3) Any request for confidentiality made under paragraph 1 of this Rule must include reasons and specify whether it is requested that all or part of the documents be inaccessible to the public.

318 As amended by the Court on 17 June and 8 July 2002, 7 July 2003, 4 July 2005, 13 November 2006, 14 May 2007 and 4 November 2019.

Rule 34[319] – Use of Languages

1) The official languages of the Court shall be English and French.
2) In connection with applications lodged under Article 34 of the Convention, and for as long as no Contracting Party has been given notice of such an application in accordance with these Rules, all communications with and oral and written submissions by applicants or their representatives, if not in one of the Court's official languages, shall be in one of the official languages of the Contracting Parties. If a Contracting Party is informed or given notice of an application in accordance with these Rules, the application and any accompanying documents shall be communicated to that State in the language in which they were lodged with the Registry by the applicant.
3) a) All communications with and oral and written submissions by applicants or their representatives in respect of a hearing, or after notice of an application has been given to a Contracting Party, shall be in one of the Court's official languages, unless the President of the Chamber grants leave for the continued use of the official language of a Contracting Party.
   b) If such leave is granted, the Registrar shall make the necessary arrangements for the interpretation and translation into English or French of the applicant's oral and written submissions respectively, in full or in part, where the President of the Chamber considers it to be in the interests of the proper conduct of the proceedings.
   c) Exceptionally the President of the Chamber may make the grant of leave subject to the condition that the applicant bear all or part of the costs of making such arrangements.
   d) Unless the President of the Chamber decides otherwise, any decision made under the foregoing provisions of this paragraph shall remain valid in all subsequent proceedings in the case, including those in respect of requests for referral of the case to the Grand Chamber and requests for interpretation or revision of a judgment under Rules 73, 79 and 80 respectively.
4) a) All communications with and oral and written submissions by a Contracting Party which is a party to the case shall be in one of the Court's official languages. The President of the Chamber may grant the Contracting Party concerned leave to use one of its official languages for its oral and written submissions.
   b) If such leave is granted, it shall be the responsibility of the requesting Party
      i) to file a translation of its written submissions into one of the official languages of the Court within a time-limit to be fixed by the President of the Chamber. Should that Party not file the translation within that time-limit, the Registrar may make the necessary

319 As amended by the Court on 13 December 2004 and 19 September 2016.

arrangements for such translation, the expenses to be charged to the requesting Party;

ii) to bear the expenses of interpreting its oral submissions into English or French. The Registrar shall be responsible for making the necessary arrangements for such interpretation.

c) The President of the Chamber may direct that a Contracting Party which is a party to the case shall, within a specified time, provide a translation into, or a summary in, English or French of all or certain annexes to its written submissions or of any other relevant document, or of extracts therefrom.

d) The preceding sub-paragraphs of this paragraph shall also apply, mutatis mutandis, to third- party intervention under Rule 44 and to the use of a non-official language by a third party.

5) The President of the Chamber may invite the respondent Contracting Party to provide a translation of its written submissions in the or an official language of that Party in order to facilitate the applicant's understanding of those submissions.

6) Any witness, expert or other person appearing before the Court may use his or her own language if he or she does not have sufficient knowledge of either of the two official languages. In that event the Registrar shall make the necessary arrangements for interpreting or translation.

7) In respect of a request for an advisory opinion under Article 1 of Protocol No. 16 to the Convention, the requesting court or tribunal may submit the request as referred to in Rule 92 to the Court in the national official language used in the domestic proceedings. Where the language is not an official language of the Court, an English or French translation of the request shall be filed within a time-limit to be fixed by the President of the Court.

Rule 35 – Representation of Contracting Parties

The Contracting Parties shall be represented by Agents, who may have the assistance of advocates or advisers.

Rule 36[320] – Representation of Applicants

1) Persons, non-governmental organisations or groups of individuals may initially present applications under Article 34 of the Convention themselves or through a representative.

320 As amended by the Court on 7 July 2003 and 7 February 2022

2) Following notification of the application to the respondent Contracting Party under Rule 54 § 2 (b), the applicant should be represented in accordance with paragraph 4 of this Rule, unless the President of the Chamber decides otherwise.

3) The applicant must be so represented at any hearing decided on by the Chamber, unless the President of the Chamber exceptionally grants leave to the applicant to present his or her own case, subject, if necessary, to being assisted by an advocate or other approved representative.

4) **a)** The representative acting on behalf of the applicant pursuant to paragraphs 2 and 3 of this Rule shall be an advocate authorised to practise in any of the Contracting Parties and resident in the territory of one of them, or any other person approved by the President of the Chamber.

b) If the representative of a party in the proceedings makes abusive, frivolous, vexatious, misleading or prolix submissions, the President of the Chamber may refuse to accept all or part of the submissions or make any other order which he or she considers it appropriate to make, without prejudice to Article 35 § 3 of the Convention.

c) In exceptional circumstances and at any stage of the proceedings in the examination of an application, the President of the Chamber may, where he or she considers that the circumstances or the conduct of the advocate or other person appointed under paragraph 4 (a) of this Rule so warrant, direct that the latter may no longer represent or assist the applicant in those proceedings and that the applicant should seek alternative representation. Before such an order is made, the representative must be given the opportunity to comment.

5) **a)** The advocate or other approved representative, or the applicant in person who seeks leave to present his or her own case, must even if leave is granted under the following sub-paragraph have an adequate understanding of one of the Court's official languages.

b) If he or she does not have sufficient proficiency to express himself or herself in one of the Court's official languages, leave to use one of the official languages of the Contracting Parties may be given by the President of the Chamber under Rule 34 § 3.

Rule 37[321] – Communications, Notifications and Summonses

1) Communications or notifications addressed to the Agents or advocates of the parties shall be deemed to have been addressed to the parties.

321 As amended by the Court on 7 July 2003.

2) If, for any communication, notification or summons addressed to persons other than the Agents or advocates of the parties, the Court considers it necessary to have the assistance of the Government of the State on whose territory such communication, notification or summons is to have effect, the President of the Court shall apply directly to that Government in order to obtain the necessary facilities.

Rule 38 – Written Pleadings

1) No written observations or other documents may be filed after the time-limit set by the President of the Chamber or the Judge Rapporteur, as the case may be, in accordance with these Rules. No written observations or other documents filed outside that time-limit or contrary to any practice direction issued under Rule 32 shall be included in the case file unless the President of the Chamber decides otherwise.
2) For the purposes of observing the time-limit referred to in paragraph 1 of this Rule, the material date is the certified date of dispatch of the document or, if there is none, the actual date of receipt at the Registry.

Rule 38A[322] – Examination of matters of procedure

Questions of procedure requiring a decision by the Chamber shall be considered simultaneously with the examination of the case, unless the President of the Chamber decides otherwise.

Rule 39[323] – Interim Measures

1) The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may, at the request of a party or of any other person concerned, or of their own motion, indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings.
2) Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.
3) The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may request information from the parties on any matter connected with the implementation of any interim measure indicated.

322 Inserted by the Court on 17 June and 8 July 2002.

323 As amended by the Court on 4 July 2005, 16 January 2012 and 14 January 2013.

4) The President of the Court may appoint Vice-Presidents of Sections as duty judges to decide on requests for interim measures.

Rule 40 – Urgent Notification of an Application

In any case of urgency the Registrar, with the authorisation of the President of the Chamber, may, without prejudice to the taking of any other procedural steps and by any available means, inform a Contracting Party concerned in an application of the introduction of the application and of a summary of its objects.

Rule 41 – Order of Dealing With Cases

In determining the order in which cases are to be dealt with, the Court shall have regard to the importance and urgency of the issues raised on the basis of criteria fixed by it. The Chamber, or its President, may, however, derogate from these criteria so as to give priority to a particular application.

Rule 42[324] – Joinder and Simultaneous Examination of Applications (former Rule 43)

1) The Chamber may, either at the request of the parties or of its own motion, order the joinder of two or more applications.
2) The President of the Chamber may, after consulting the parties, order that the proceedings in applications assigned to the same Chamber be conducted simultaneously, without prejudice to the decision of the Chamber on the joinder of the applications.

Rule 43[325] – Striking out and Restoration to the List (former Rule 44)

1) The Court may at any stage of the proceedings decide to strike an application out of its list of cases in accordance with Article 37 of the Convention.
2) When an applicant Contracting Party notifies the Registrar of its intention not to proceed with the case, the Chamber may strike the application out of the Court's list under Article 37 of the Convention if the other Contracting Party or Parties concerned in the case agree to such discontinuance.

324 As amended by the Court on 17 June and 8 July 2002 and 29 June 2009.

325 As amended by the Court on 17 June and 8 July 2002, 7 July 2003, 13 November 2006 and 2 April 2012.

3) If a friendly settlement is effected in accordance with Article 39 of the Convention, the application shall be struck out of the Court's list of cases by means of a decision. In accordance with Article 39 § 4 of the Convention, this decision shall be transmitted to the Committee of Ministers, which shall supervise the execution of the terms of the friendly settlement as set out in the decision. In other cases provided for in Article 37 of the Convention, the application shall be struck out by means of a judgment if it has been declared admissible or, if not declared admissible, by means of a decision. Where the application has been struck out by means of a judgment, the President of the Chamber shall forward that judgment, once it has become final, to the Committee of Ministers in order to allow the latter to supervise, in accordance with Article 46 § 2 of the Convention, the execution of any undertakings which may have been attached to the discontinuance or solution of the matter.

4) When an application has been struck out in accordance with Article 37 of the Convention, the costs shall be at the discretion of the Court. If an award of costs is made in a decision striking out an application which has not been declared admissible, the President of the Chamber shall forward the decision to the Committee of Ministers.

5) Where an application has been struck out in accordance with Article 37 of the Convention, the Court may restore it to its list if it considers that exceptional circumstances so justify.

Rule 44[326] – Third-Party Intervention

1) a) When notice of an application lodged under Article 33 or 34 of the Convention is given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), a copy of the application shall at the same time be transmitted by the Registrar to any other Contracting Party one of whose nationals is an applicant in the case. The Registrar shall similarly notify any such Contracting Party of a decision to hold an oral hearing in the case.

b) If a Contracting Party wishes to exercise its right under Article 36 § 1 of the Convention to submit written comments or to take part in a hearing, it shall so advise the Registrar in writing not later than twelve weeks after the transmission or notification referred to in the preceding sub-paragraph. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

326 As amended by the Court on 7 July 2003, 13 November 2006, 19 September 2016 and 3 June 2022.

2) If the Council of Europe Commissioner for Human Rights wishes to exercise the right under Article 36 § 3 of the Convention to submit written observations or take part in a hearing, he or she shall so advise the Registrar in writing not later than twelve weeks after transmission of the application to the respondent Contracting Party or notification to it of the decision to hold an oral hearing. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.
Should the Commissioner for Human Rights be unable to take part in the proceedings before the Court himself, he or she shall indicate the name of the person or persons from his or her Office whom he or she has appointed to represent him. He or she may be assisted by an advocate.

3) a) Once notice of an application has been given to the respondent Contracting Party under Rules 51 § 1 or 54 § 2 (b), the President of the Chamber may, in the interests of the proper administration of justice, as provided in Article 36 § 2 of the Convention, invite, or grant leave to, any Contracting Party which is not a party to the proceedings, or any person concerned who is not the applicant, to submit written comments or, in exceptional cases, to take part in a hearing.
b) Requests for leave for this purpose must be duly reasoned and submitted in writing in one of the official languages as provided in Rule 34 § 4 not later than twelve weeks after notice of the application has been given to the respondent Contracting Party. Another time-limit may be fixed by the President of the Chamber for exceptional reasons.

4) a) In cases to be considered by the Grand Chamber, the periods of time prescribed in the preceding paragraphs shall run from the publication on the Court's website of the information on the decision of the Chamber under Rule 72 § 1 to relinquish jurisdiction in favour of the Grand Chamber or on the decision of the panel of the Grand Chamber under Rule 73 § 2 to accept a request by a party for referral of the case to the Grand Chamber.
b) The time-limits laid down in this Rule may exceptionally be extended by the President of the Chamber if sufficient cause is shown.

5) Any invitation or grant of leave referred to in paragraph 3 (a) of this Rule shall be subject to any conditions, including time-limits, set by the President of the Chamber. Where such conditions are not complied with, the President may decide not to include the comments in the case file or to limit participation in the hearing to the extent that he or she considers appropriate.

6) Written comments submitted under this Rule shall be drafted in one of the official languages as provided in Rule 34 § 4. They shall be forwarded by the Registrar to the parties to the case, who shall be entitled, subject to any conditions, including time-limits, set by the President of the Chamber, to file written observations in reply or, where appropriate, to reply at the hearing.

7) The provisions of this Rule shall apply mutatis mutandis to proceedings before the Grand Chamber constituted to deliver advisory opinions under Article 2 of Protocol No. 16 to the Convention. The President of the Court shall determine the time-limits which apply to third-party interveners.

Rule 44A[327] – Duty to cooperate with the Court

The parties have a duty to cooperate fully in the conduct of the proceedings and, in particular, to take such action within their power as the Court considers necessary for the proper administration of justice. This duty shall also apply to a Contracting Party not party to the proceedings where such cooperation is necessary.

Rule 44B[328] – Failure to comply with an order of the Court

Where a party fails to comply with an order of the Court concerning the conduct of the proceedings, the President of the Chamber may take any steps which he or she considers appropriate.

Rule 44C[329] – Failure to participate effectively

1) Where a party fails to adduce evidence or provide information requested by the Court or to divulge relevant information of its own motion or otherwise fails to participate effectively in the proceedings, the Court may draw such inferences as it deems appropriate.

2) Failure or refusal by a respondent Contracting Party to participate effectively in the proceedings shall not, in itself, be a reason for the Chamber to discontinue the examination of the application.

327 Inserted by the Court on 13 December 2004.

328 Ibid.

329 Ibid.

Rule 44D[330] – Exclusion from representation or assisting before the Court

1) The President of the Court may, in exceptional circumstances, where he or she considers that the conduct of the advocate, or of the person appointed under Rule 36 § 4 a) so warrants, direct that the said advocate or other person may no longer represent or assist a party before the Court. Such exclusion order may be for a definite or indefinite period.

2) Such a decision shall be reasoned and shall be taken upon a reasoned proposal by a Chamber, after the person concerned, any Government concerned, and any Bar Association concerned, have been given the possibility of submitting comments. The person concerned, any Government concerned and any Bar Association concerned shall be informed of the decision.

3) Upon a reasoned request by the person excluded under paragraph 1, the President of the Court may, after consulting the Chamber mentioned in paragraph 2, as appropriate, as well as any Government concerned and any Bar Association concerned, restore the rights of representation. The person concerned, any Government concerned and any Bar Association concerned shall be informed of such a decision.

Rule 44E[331] – Failure to pursue an application

In accordance with Article 37 § 1 (a) of the Convention, if an applicant Contracting Party or an individual applicant fails to pursue the application, the Chamber may strike the application out of the Court's list under Rule 43.

CHAPTER II – INSTITUTION OF PROCEEDINGS

Rule 45 – Signatures

1) Any application made under Articles 33 or 34 of the Convention shall be submitted in writing and shall be signed by the applicant or by the applicant's representative.

2) Where an application is made by a non-governmental organisation or by a group of individuals, it shall be signed by those persons competent to represent that organisation or group. The Chamber or Committee concerned shall determine any question as to whether the persons who have signed an application are competent to do so.

3) Where applicants are represented in accordance with Rule 36, a power of attorney or written authority to act shall be supplied by their representative or representatives.

330 Inserted by the Court on 13 December 2004 and amended on 7 February 2022.

331 Inserted by the Court on 13 December 2004.

Rule 46[332] – Contents of an Inter-State Application

Any Contracting Party or Parties intending to bring a case before the Court under Article 33 of the Convention shall file with the Registry an application setting out

a) the name of the Contracting Party against which the application is made;

b) a statement of the facts;

c) a statement of the alleged violation(s) of the Convention and the relevant arguments;

d) a statement on compliance with the admissibility criteria (exhaustion of domestic remedies and the time-limit) laid down in Article 35 § 1 of the Convention;

e) the object of the application and a general indication of any claims for just satisfaction made under Article 41 of the Convention on behalf of the alleged injured party or parties; and

f) the name and address of the person or persons appointed as Agent; and accompanied by

g) copies of any relevant documents and in particular the decisions, whether judicial or not, relating to the object of the application.

Rule 47[333] – Contents of an Individual Application

1) An application under Article 34 of the Convention shall be made on the application form provided by the Registry, unless the Court decides otherwise. It shall contain all of the information requested in the relevant parts of the application form and set out

a) the name, date of birth, nationality and address of the applicant and, where the applicant is a legal person, the full name, date of incorporation or registration, the official registration number (if any) and the official address;

b) the name, address, telephone and fax numbers and e-mail address of the representative, if any;

c) where the applicant is represented, the dated and original signature of the applicant on the authority section of the application form; the original signature of the representative showing that he or she has agreed to act for the applicant must also be on the authority section of the application form;

d) the name of the Contracting Party or Parties against which the application is made;

e) a concise and legible statement of the facts;

f) a concise and legible statement of the alleged violation(s) of the Convention and the relevant arguments; and

g) a concise and legible statement confirming the applicant's compliance with the admissibility criteria laid down in Article 35 § 1 of the Convention.

2) **a)** All of the information referred to in paragraph 1 (e) to (g) above that is set out in the relevant part of the application form should be sufficient to enable the Court to determine the nature and scope of the application without recourse to any other document.

b) The applicant may however supplement the information by appending to the application form further details on the facts, alleged violations of the Convention and the relevant arguments. Such information shall not exceed 20 pages.

3.1) The application form shall be signed by the applicant or the applicant's representative and shall be accompanied by

a) copies of documents relating to the decisions or measures complained of, judicial or otherwise;

b) copies of documents and decisions showing that the applicant has complied with the exhaustion of domestic remedies requirement and the time-limit contained in Article 35 § 1 of the Convention;

c) where appropriate, copies of documents relating to any other procedure of international investigation or settlement;

d) where the applicant is a legal person as referred to in Rule 47 § 1 (a), a document or documents showing that the individual who lodged the application has the standing or authority to represent the applicant.

3.2) Documents submitted in support of the application shall be listed in order by date, numbered consecutively and be identified clearly.

4) Applicants who do not wish their identity to be disclosed to the public shall so indicate and shall submit a statement of the reasons justifying such a departure from the normal rule of public access to information in proceedings before the Court. The Court may authorise anonymity or grant it of its own motion.

5.1) Failure to comply with the requirements set out in paragraphs 1 to 3 of this Rule will result in the application not being examined by the Court, unless

a) the applicant has provided an adequate explanation for the failure to comply;

b) the application concerns a request for an interim measure;

c) the Court otherwise directs of its own motion or at the request of an applicant.

332 As amended by the Court on 1 June 2015.

333 As amended by the Court on 17 June and 8 July 2002, 11 December 2007, 22 September 2008, 6 May 2013 and 1 June and 5 October 2015.

5.2) The Court may in any case request an applicant to provide information or documents in any form or manner which may be appropriate within a fixed time-limit.

6) a) The date of introduction of the application for the purposes of Article 35 § 1 of the Convention shall be the date on which an application form satisfying the requirements of this Rule is sent to the Court. The date of dispatch shall be the date of the postmark.

b) Where it finds it justified, the Court may nevertheless decide that a different date shall be considered to be the date of introduction.

7) Applicants shall keep the Court informed of any change of address and of all circumstances relevant to the application.

CHAPTER III – JUDGE RAPPORTEURS

Rule 48[334] – Inter-State Applications

1) Where an application is made under Article 33 of the Convention, the Chamber constituted to consider the case shall designate one or more of its judges as Judge Rapporteur(s), who shall submit a report on admissibility when the written observations of the Contracting Parties concerned have been received.

2) The Judge Rapporteur(s) shall submit such reports, drafts and other documents as may assist the Chamber and its President in carrying out their functions.

Rule 49[335] – Individual Applications

1) Where the material submitted by the applicant is on its own sufficient to disclose that the application is inadmissible or should be struck out of the list, the application shall be considered by a single-judge formation unless there is some special reason to the contrary.

2) Where an application is made under Article 34 of the Convention and its examination by a Chamber or a Committee exercising the functions attributed to it under Rule 53 § 2 seems justified, the President of the Section to which the case has been assigned shall designate a judge as Judge Rapporteur, who shall examine the application.

334 As amended by the Court on 17 June and 8 July 2002.

335 As amended by the Court on 17 June and 8 July 2002, 4 July 2005, 13 November 2006 and 14 May 2007.

3) In their examination of applications, Judge Rapporteurs

a) may request the parties to submit, within a specified time, any factual information, documents or other material which they consider to be relevant;

b) shall, subject to the President of the Section directing that the case be considered by a Chamber or a Committee, decide whether the application is to be considered by a single-judge formation, by a Committee or by a Chamber;

c) shall submit such reports, drafts and other documents as may assist the Chamber or the Committee or the respective President in carrying out their functions.

Rule 50 – Grand Chamber Proceedings

Where a case has been submitted to the Grand Chamber either under Article 30 or under Article 43 of the Convention, the President of the Grand Chamber shall designate as Judge Rapporteur(s) one or, in the case of an inter-State application, one or more of its members.

CHAPTER IV – PROCEEDINGS ON ADMISSIBILITY

Inter-State applications

Rule 51[336] – Assignment of Applications and Subsequent Procedure

1) When an application is made under Article 33 of the Convention, the President of the Court shall immediately give notice of the application to the respondent Contracting Party and shall assign the application to one of the Sections.

2) In accordance with Rule 26 § 1 (a), the judges elected in respect of the applicant and respondent Contracting Parties shall sit as ex officio members of the Chamber constituted to consider the case. Rule 30 shall apply if the application has been brought by several Contracting Parties or if applications with the same object brought by several Contracting Parties are being examined jointly under Rule 42.

3) On assignment of the case to a Section, the President of the Section shall constitute the Chamber in accordance with Rule 26 § 1 and shall invite the respondent Contracting Party to submit its observations in writing on the admissibility of the application. The observations so obtained shall be communicated by the Registrar to the applicant Contracting Party, which may submit written observations in reply.

336 As amended by the Court on 17 June and 8 July 2002.

4) Before the ruling on the admissibility of the application is given, the Chamber or its President may decide to invite the Parties to submit further observations in writing.
5) A hearing on the admissibility shall be held if one or more of the Contracting Parties concerned so requests or if the Chamber so decides of its own motion.
6) Before fixing the written and, where appropriate, oral procedure, the President of the Chamber shall consult the Parties.

Individual applications

Rule 52[337] – Assignment of Applications to the Sections

1) Any application made under Article 34 of the Convention shall be assigned to a Section by the President of the Court, who in so doing shall endeavour to ensure a fair distribution of cases between the Sections.
2) The Chamber of seven judges provided for in Article 26 § 1 of the Convention shall be constituted by the President of the Section concerned in accordance with Rule 26 § 1.
3) Pending the constitution of a Chamber in accordance with paragraph 2 of this Rule, the President of the Section shall exercise any powers conferred on the President of the Chamber by these Rules.

Rule 52A[338] – Procedure before a single judge

1) In accordance with Article 27 of the Convention, a single judge may declare inadmissible or strike out of the Court's list of cases an application submitted under Article 34, where such a decision can be taken without further examination. The decision shall be final. It shall contain a summary reasoning. It shall be communicated to the applicant.
2) If the single judge does not take a decision of the kind provided for in the first paragraph of the present Rule, that judge shall forward the application to a Committee or to a Chamber for further examination.

337 Ibid.

338 Inserted by the Court on 13 November 2006 and amended on 9 September 2019 and 4 November 2019.

Rule 53[339] – Procedure Before a Committee

1) In accordance with Article 28 § 1 (a) of the Convention, the Committee may, by a unanimous vote and at any stage of the proceedings, declare an application inadmissible or strike it out of the Court's list of cases where such a decision can be taken without further examination.
2) If the Committee is satisfied, in the light of the parties' observations received pursuant to Rule 54 § 2 (b), that the case falls to be examined in accordance with the procedure under Article 28 § 1 (b) of the Convention, it shall, by a unanimous vote, adopt a judgment including its decision on admissibility and, as appropriate, on just satisfaction.
3) If the judge elected in respect of the Contracting Party concerned is not a member of the Committee, the Committee may at any stage of the proceedings before it, by a unanimous vote, invite that judge to take the place of one of its members, having regard to all relevant factors, including whether that Party has contested the application of the procedure under Article 28 § 1 (b) of the Convention.
4) Decisions and judgments under Article 28 § 1 of the Convention shall be final. They shall be reasoned. Decisions may contain a summary reasoning when they have been adopted following referral by a single judge pursuant to Rule 52A § 2.
5) The decision of the Committee shall be communicated by the Registrar to the applicant as well as to the Contracting Party or Parties concerned where these have previously been involved in the application in accordance with the present Rules.
6) If no decision or judgment is adopted by the Committee, the application shall be forwarded to the Chamber constituted under Rule 52 § 2 to examine the case.
7) The provisions of Rule 42 § 1 and Rules 79 to 81 shall apply, mutatis mutandis, to proceedings before a Committee.

Rule 54[340] – Procedure Before a Chamber

1) The Chamber may at once declare the application inadmissible or strike it out of the Court's list of cases. The decision of the Chamber may relate to all or part of the application.

339 As amended by the Court on 17 June and 8 July 2002, 4 July 2005, 14 May 2007, 16 January 2012 and 4 November 2019.

340 As amended by the Court on 17 June and 8 July 2002 and 14 January 2013.

2) Alternatively, the Chamber or the President of the Section may decide to
a) request the parties to submit any factual information, documents or other material considered by the Chamber or its President to be relevant;
b) give notice of the application or part of the application to the respondent Contracting Party and invite that Party to submit written observations thereon and, upon receipt thereof, invite the applicant to submit observations in reply;
c) invite the parties to submit further observations in writing.

3) In the exercise of the competences under paragraph 2 (b) of this Rule, the President of the Section, acting as a single judge, may at once declare part of the application inadmissible or strike part of the application out of the Court's list of cases. The decision shall be final. It shall be summarily reasoned. It shall be communicated to the applicant as well as to the Contracting Party or Parties concerned by a letter containing that reasoning.

4) Paragraph 2 of this Rule shall also apply to Vice-Presidents of Sections appointed as duty judges in accordance with Rule 39 § 4 to decide on requests for interim measures. Any decision to declare inadmissible the application shall be summarily reasoned. It shall be communicated to the applicant by a letter containing that reasoning.

5) Before taking a decision on admissibility, the Chamber may decide, either at the request of a party or of its own motion, to hold a hearing if it considers that the discharge of its functions under the Convention so requires. In that event, unless the Chamber shall exceptionally decide otherwise, the parties shall also be invited to address the issues arising in relation to the merits of the application.

Rule 54A[341] – Joint examination of admissibility and merits

1) When giving notice of the application to the respondent Contracting Party pursuant to Rule 54 § 2 (b), the Chamber may also decide to examine the admissibility and merits at the same time in accordance with Article 29 § 1 of the Convention. The parties shall be invited to include in their observations any submissions concerning just satisfaction and any proposals for a friendly settlement. The conditions laid down in Rules 60 and 62 shall apply, mutatis mutandis. The Court may, however, decide at any stage, if necessary, to take a separate decision on admissibility.

341 Inserted by the Court on 17 June and 8 July 2002 and amended on 13 December 2004 and 13 November 2006.

2) If no friendly settlement or other solution is reached and the Chamber is satisfied, in the light of the parties' arguments, that the case is admissible and ready for a determination on the merits, it shall immediately adopt a judgment including the Chamber's decision on admissibility, save in cases where it decides to take such a decision separately.

Inter-State and individual Applications Rule 55 – Pleas of Inadmissibility

Any plea of inadmissibility must, in so far as its character and the circumstances permit, be raised by the respondent Contracting Party in its written or oral observations on the admissibility of the application submitted as provided in Rule 51 or 54, as the case may be.

Rule 56[342] – Decision of a Chamber

1) The decision of the Chamber shall state whether it was taken unanimously or by a majority and shall be reasoned.

2) The decision of the Chamber shall be communicated by the Registrar to the applicant. It shall also be communicated to the Contracting Party or Parties concerned and to any third party, including the Council of Europe Commissioner for Human Rights, where these have previously been informed of the application in accordance with the present Rules. If a friendly settlement is effected, the decision to strike an application out of the list of cases shall be forwarded to the Committee of Ministers in accordance with Rule 43 § 3.

Rule 57[343] – Language of the Decision

Unless the Court decides that a decision shall be given in both official languages, all decisions shall be given either in English or in French. Decisions of the Grand Chamber shall, however, be given in both official languages, and both language versions shall be equally authentic.

342 As amended by the Court on 17 June, 8 July 2002, 13 November 2006 and 4 November 2019.

343 As amended by the Court on 17 June, 8 July 2002 and 4 November 2019.

CHAPTER V – PROCEEDINGS AFTER THE ADMISSION OF AN APPLICATION

Rule 58[344] – Inter-State Applications

1) Once the Chamber has decided to admit an application made under Article 33 of the Convention, the President of the Chamber shall, after consulting the Contracting Parties concerned, lay down the time-limits for the filing of written observations on the merits and for the production of any further evidence. The President may however, with the agreement of the Contracting Parties concerned, direct that a written procedure is to be dispensed with.
2) A hearing on the merits shall be held if one or more of the Contracting Parties concerned so requests or if the Chamber so decides of its own motion. The President of the Chamber shall fix the oral procedure.

Rule 59[345] – Individual Applications

1) Once an application made under Article 34 of the Convention has been declared admissible, the Chamber or its President may invite the parties to submit further evidence and written observations.
2) Unless decided otherwise, the parties shall be allowed the same time for submission of their observations.
3) The Chamber may decide, either at the request of a party or of its own motion, to hold a hearing on the merits if it considers that the discharge of its functions under the Convention so requires.
4) The President of the Chamber shall, where appropriate, fix the written and oral procedure.

Rule 60[346] – Claims for Just Satisfaction

1) An applicant who wishes to obtain an award of just satisfaction under Article 41 of the Convention in the event of the Court finding a violation of his or her Convention rights must make a specific claim to that effect.

344 As amended by the Court on 17 June and 8 July 2002.
345 Ibid.
346 As amended by the Court on 13 December 2004.

2) The applicant must submit itemised particulars of all claims, together with any relevant supporting documents, within the time-limit fixed for the submission of the applicant's observations on the merits unless the President of the Chamber directs otherwise.
3) If the applicant fails to comply with the requirements set out in the preceding paragraphs the Chamber may reject the claims in whole or in part.
4) The applicant's claims shall be transmitted to the respondent Contracting Party for comment.

Rule 61[347] – Pilot-Judgment Procedure

1) The Court may initiate a pilot-judgment procedure and adopt a pilot judgment where the facts of an application reveal in the Contracting Party concerned the existence of a structural or systemic problem or other similar dysfunction which has given rise or may give rise to similar applications.
2) a) Before initiating a pilot-judgment procedure, the Court shall first seek the views of the parties on whether the application under examination results from the existence of such a problem or dysfunction in the Contracting Party concerned and on the suitability of processing the application in accordance with that procedure.
   b) A pilot-judgment procedure may be initiated by the Court of its own motion or at the request of one or both parties.
   c) Any application selected for pilot-judgment treatment shall be processed as a matter of priority in accordance with Rule 41 of the Rules of Court.
3) The Court shall in its pilot judgment identify both the nature of the structural or systemic problem or other dysfunction as established as well as the type of remedial measures which the Contracting Party concerned is required to take at the domestic level by virtue of the operative provisions of the judgment.
4) The Court may direct in the operative provisions of the pilot judgment that the remedial measures referred to in paragraph 3 above be adopted within a specified time, bearing in mind the nature of the measures required and the speed with which the problem which it has identified can be remedied at the domestic level.
5) When adopting a pilot judgment, the Court may reserve the question of just satisfaction either in whole or in part pending the adoption by the respondent Contracting Party of the individual and general measures specified in the pilot judgment.

347 Inserted by the Court on 21 February 2011.

6) **a)** As appropriate, the Court may adjourn the examination of all similar applications pending the adoption of the remedial measures required by virtue of the operative provisions of the pilot judgment.
b) The applicants concerned shall be informed in a suitable manner of the decision to adjourn. They shall be notified as appropriate of all relevant developments affecting their cases.
c) The Court may at any time examine an adjourned application where the interests of the proper administration of justice so require.

7) Where the parties to the pilot case reach a friendly-settlement agreement, such agreement shall comprise a declaration by the respondent Contracting Party on the implementation of the general measures identified in the pilot judgment as well as the redress to be afforded to other actual or potential applicants.

8) Subject to any decision to the contrary, in the event of the failure of the Contracting Party concerned to comply with the operative provisions of a pilot judgment, the Court shall resume its examination of the applications which have been adjourned in accordance with paragraph 6 above.

9) The Committee of Ministers, the Parliamentary Assembly of the Council of Europe, the Secretary General of the Council of Europe, and the Council of Europe Commissioner for Human Rights shall be informed of the adoption of a pilot judgment as well as of any other judgment in which the Court draws attention to the existence of a structural or systemic problem in a Contracting Party.

10) Information about the initiation of pilot-judgment procedures, the adoption of pilot judgments and their execution as well as the closure of such procedures shall be published on the Court's website.

Rule 62[348] – Friendly Settlement

1) Once an application has been declared admissible, the Registrar, acting on the instructions of the Chamber or its President, shall enter into contact with the parties with a view to securing a friendly settlement of the matter in accordance with Article 39 § 1 of the Convention. The Chamber shall take any steps that appear appropriate to facilitate such a settlement.

348 As amended by the Court on 17 June and 8 July 2002 and 13 November 2006.

2) In accordance with Article 39 § 2 of the Convention, the friendly-settlement negotiations shall be confidential and without prejudice to the parties' arguments in the contentious proceedings. No written or oral communication and no offer or concession made in the framework of the attempt to secure a friendly settlement may be referred to or relied on in the contentious proceedings.

3) If the Chamber is informed by the Registrar that the parties have agreed to a friendly settlement, it shall, after verifying that the settlement has been reached on the basis of respect for human rights as defined in the Convention and the Protocols thereto, strike the case out of the Court's list in accordance with Rule 43 § 3.

4) Paragraphs 2 and 3 apply, *mutatis mutandis*, to the procedure under Rule 54A.

Rule 62A[349] – Unilateral declaration

1) **a)** Where an applicant has refused the terms of a friendly-settlement proposal made pursuant to Rule 62, the Contracting Party concerned may file with the Court a request to strike the application out of the list in accordance with Article 37 § 1 of the Convention.
b) Such request shall be accompanied by a declaration clearly acknowledging that there has been a violation of the Convention in the applicant's case together with an undertaking to provide adequate redress and, as appropriate, to take necessary remedial measures.
c) The filing of a declaration under paragraph 1 (b) of this Rule must be made in public and adversarial proceedings conducted separately from and with due respect for the confidentiality of any friendly-settlement proceedings referred to in Article 39 § 2 of the Convention and Rule 62 § 2.

2) Where exceptional circumstances so justify, a request and accompanying declaration may be filed with the Court even in the absence of a prior attempt to reach a friendly settlement.

3) If it is satisfied that the declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue its examination of the application, the Court may strike it out of the list, either in whole or in part, even if the applicant wishes the examination of the application to be continued.

4) This Rule applies, m*utatis mutandis*, to the procedure under Rule 54A.

349 Inserted by the Court on 2 April 2012.

CHAPTER VI – HEARINGS

Rule 63[350] – Public Character of Hearings

1) Hearings shall be public unless, in accordance with paragraph 2 of this Rule, the Chamber in exceptional circumstances decides otherwise, either of its own motion or at the request of a party or any other person concerned.
2) The press and the public may be excluded from all or part of a hearing in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the Chamber in special circumstances where publicity would prejudice the interests of justice.
3) Any request for a hearing to be held in camera made under paragraph 1 of this Rule must include reasons and specify whether it concerns all or only part of the hearing.

Rule 64[351] – Conduct of Hearings

1) The President of the Chamber shall organise and direct hearings and shall prescribe the order in which those appearing before the Chamber shall be called upon to speak.
2) Any judge may put questions to any person appearing before the Chamber.

Rule 65[352] – Failure to Appear

Where a party or any other person due to appear fails or declines to do so, the Chamber may, provided that it is satisfied that such a course is consistent with the proper administration of justice, nonetheless proceed with the hearing.

Rules 66 to 69 deleted

Rule 70[353] – Verbatim Record of a Hearing

1) If the President of the Chamber so directs, the Registrar shall be responsible for the making of a verbatim record of the hearing. Any such record shall include:
   a) the composition of the Chamber;
   b) a list of those appearing before the Chamber;
   c) the text of the submissions made, questions put and replies given;
   d) the text of any ruling delivered during the hearing.
2) If all or part of the verbatim record is in a non-official language, the Registrar shall arrange for its translation into one of the official languages.
3) The representatives of the parties shall receive a copy of the verbatim record in order that they may, subject to the control of the Registrar or the President of the Chamber, make corrections, but in no case may such corrections affect the sense and bearing of what was said. The Registrar shall lay down, in accordance with the instructions of the President of the Chamber, the time-limits granted for this purpose.
4) The verbatim record, once so corrected, shall be signed by the President of the Chamber and the Registrar and shall then constitute certified matters of record.

350 As amended by the Court on 7 July 2003.
351 Ibid.
352 Ibid.
353 As amended by the Court on 17 June and 8 July 2002.

CHAPTER VII – PROCEEDINGS BEFORE THE GRAND CHAMBER

Rule 71[354] – Applicability of Procedural Provisions

1) Any provisions governing proceedings before the Chambers shall apply, mutatis mutandis, to proceedings before the Grand Chamber.
2) The powers conferred on a Chamber by Rules 54 § 5 and 59 § 3 in relation to the holding of a hearing may, in proceedings before the Grand Chamber, also be exercised by the President of the Grand Chamber.

Rule 72[355] – Relinquishment of Jurisdiction in Favour of the Grand Chamber

1) Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, the Chamber may relinquish jurisdiction in favour of the Grand Chamber.
2) Where the resolution of a question raised in a case before the Chamber might have a result inconsistent with the Court's case-law, the Chamber shall relinquish jurisdiction in favour of the Grand Chamber.
3) The Registrar shall notify the parties of the Chamber's intention to relinquish jurisdiction and invite them to submit any comments thereon within a period of two weeks from the date of notification.
4) Reasons need not be given for the decision to relinquish jurisdiction. The Registrar shall inform the parties of the Chamber's decision.

354 As amended by the Court on 17 June and 8 July 2002.
355 As amended by the Court on 6 February 2013 and 1 June 2015.

Rule 73 – Request by a Party for Referral of a Case to the Grand Chamber

1) In accordance with Article 43 of the Convention, any party to a case may exceptionally, within a period of three months from the date of delivery of the judgment of a Chamber, file in writing at the Registry a request that the case be referred to the Grand Chamber. The party shall specify in its request the serious question affecting the interpretation or application of the Convention or the Protocols thereto, or the serious issue of general importance, which in its view warrants consideration by the Grand Chamber.
2) A panel of five judges of the Grand Chamber constituted in accordance with Rule 24 § 5 shall examine the request solely on the basis of the existing case file. It shall accept the request only if it considers that the case does raise such a question or issue. Reasons need not be given for a refusal of the request.
3) If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

CHAPTER VIII – JUDGMENTS

Rule 74[356] – Contents of the Judgment

1) A judgment as referred to in Articles 28, 42 and 44 of the Convention shall contain
   a) the names of the President and the other judges constituting the Chamber or the Committee concerned, and the name of the Registrar or the Deputy Registrar;
   b) the dates on which it was adopted and delivered;
   c) a description of the parties;
   d) the names of the Agents, advocates or advisers of the parties; (e) an account of the procedure followed;
   f) the facts of the case;
   g) a summary of the submissions of the parties;
   h) the reasons in point of law;
   i) the operative provisions;
   j) the decision, if any, in respect of costs;
   k) the number of judges constituting the majority;
   l) where appropriate, a statement as to which text is authentic.
2) Any judge who has taken part in the consideration of the case by a Chamber or by the Grand Chamber shall be entitled to annex to the judgment either a separate opinion, concurring with or dissenting from that judgment, or a bare statement of dissent.

Rule 75[357] – Ruling on Just Satisfaction

1) Where the Chamber or the Committee finds that there has been a violation of the Convention or the Protocols thereto, it shall give in the same judgment a ruling on the application of Article 41 of the Convention if a specific claim has been submitted in accordance with Rule 60 and the question is ready for decision; if the question is not ready for decision, the Chamber or the Committee shall reserve it in whole or in part and shall fix the further procedure.
2) For the purposes of ruling on the application of Article 41 of the Convention, the Chamber or the Committee shall, as far as possible, be composed of those judges who sat to consider the merits of the case. Where it is not possible to constitute the original Chamber or Committee, the President of the Section shall complete or compose the Chamber or Committee by drawing lots.
3) The Chamber or the Committee may, when affording just satisfaction under Article 41 of the Convention, direct that if settlement is not made within a specified time, interest is to be payable on any sums awarded.
4) If the Court is informed that an agreement has been reached between the injured party and the Contracting Party liable, it shall verify the equitable nature of the agreement and, where it finds the agreement to be equitable, strike the case out of the list in accordance with Rule 43 § 3.

Rule 76[358] – Language of the Judgment

Unless the Court decides that a judgment shall be given in both official languages, all judgments shall be given either in English or in French. Judgments of the Grand Chamber shall, however, be given in both official languages, and both language versions shall be equally authentic.

356 As amended by the Court on 13 November 2006.

357 As amended by the Court on 13 December 2004 and 13 November 2006.

358 As amended by the Court on 17 June, 8 July 2002 and 4 November 2019.

Rule 77[359] – Signature, Delivery and Notification of the Judgment

1) Judgments shall be signed by the President of the Chamber or the Committee and the Registrar.
2) The judgment adopted by a Chamber may be read out at a public hearing by the President of the Chamber or by another judge delegated by him or her. The Agents and representatives of the parties shall be informed in due time of the date of the hearing. Otherwise, and in respect of judgments adopted by Committees, the notification provided for in paragraph 3 of this Rule shall constitute delivery of the judgment.
3) The judgment shall be transmitted to the Committee of Ministers. The Registrar shall send copies to the parties, to the Secretary General of the Council of Europe, to any third party, including the Council of Europe Commissioner for Human Rights, and to any other person directly concerned. The original copy, duly signed, shall be placed in the archives of the Court.

Rule 78 deleted

Rule 79 – Request for Interpretation of a Judgment

1) A party may request the interpretation of a judgment within a period of one year following the delivery of that judgment.
2) The request shall be filed with the Registry. It shall state precisely the point or points in the operative provisions of the judgment on which interpretation is required.
3) The original Chamber may decide of its own motion to refuse the request on the ground that there is no reason to warrant considering it. Where it is not possible to constitute the original Chamber, the President of the Court shall complete or compose the Chamber by drawing lots.
4) If the Chamber does not refuse the request, the Registrar shall communicate it to the other party or parties and shall invite them to submit any written comments within a time-limit laid down by the President of the Chamber. The President of the Chamber shall also fix the date of the hearing should the Chamber decide to hold one. The Chamber shall decide by means of a judgment.

359 As amended by the Court on 13 November 2006, 1 December 2008 and 1 June 2015.

Rule 80 – Request for Revision of a Judgment

1) A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court, within a period of six months after that party acquired knowledge of the fact, to revise that judgment.
2) The request shall mention the judgment of which revision is requested and shall contain the information necessary to show that the conditions laid down in paragraph 1 of this Rule have been complied with. It shall be accompanied by a copy of all supporting documents. The request and supporting documents shall be filed with the Registry.
3) The original Chamber may decide of its own motion to refuse the request on the ground that there is no reason to warrant considering it. Where it is not possible to constitute the original Chamber, the President of the Court shall complete or compose the Chamber by drawing lots.
4) If the Chamber does not refuse the request, the Registrar shall communicate it to the other party or parties and shall invite them to submit any written comments within a time-limit laid down by the President of the Chamber. The President of the Chamber shall also fix the date of the hearing should the Chamber decide to hold one. The Chamber shall decide by means of a judgment.

Rule 81 – Rectification of Errors in Decisions and Judgments

Without prejudice to the provisions on revision of judgments and on restoration to the list of applications, the Court may, of its own motion or at the request of a party made within one month of the delivery of a decision or a judgment, rectify clerical errors, errors in calculation or obvious mistakes.

CHAPTER IX – ADVISORY OPINIONS UNDER ARTICLES 47, 48 AND 49 OF THE CONVENTION[360]

Rule 82[361]

In proceedings relating to advisory opinions requested by the Committee of Ministers the Court shall apply, in addition to the provisions of Articles 47, 48 and 49 of the Convention, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

360 Inserted by the Court on 19 September 2016.
361 As amended by the Court on 19 September 2016.

Rule 83[362]

The request for an advisory opinion shall be filed with the Registrar. It shall state fully and precisely the question on which the opinion of the Court is sought, and also

a) the date on which the Committee of Ministers adopted the decision referred to in Article 47 § 3 of the Convention;

b) the name and address of the person or persons appointed by the Committee of Ministers to give the Court any explanations which it may require.

The request shall be accompanied by all documents likely to elucidate the question.

Rule 84[363]

1) On receipt of a request, the Registrar shall transmit a copy of it and of the accompanying documents to all members of the Court.
2) The Registrar shall inform the Contracting Parties that they may submit written comments on the request.

Rule 85[364]

1) The President of the Court shall lay down the time-limits for filing written comments or other documents.
2) Written comments or other documents shall be filed with the Registrar. The Registrar shall transmit copies of them to all the members of the Court, to the Committee of Ministers and to each of the Contracting Parties.

Rule 86

After the close of the written procedure, the President of the Court shall decide whether the Contracting Parties which have submitted written comments are to be given an opportunity to develop them at an oral hearing held for the purpose.

362 As amended by the Court on 4 July 2005.
363 Ibid.
364 Ibid.

Rule 87[365]

1) A Grand Chamber shall be constituted to consider the request for an advisory opinion.
2) If the Grand Chamber considers that the request is not within its competence as defined in Article 47 of the Convention, it shall so declare in a reasoned decision.

Rule 88[366]

1) Reasoned decisions and advisory opinions shall be given by a majority vote of the Grand Chamber. They shall mention the number of judges constituting the majority.
1B) Reasoned decisions and advisory opinions shall be given in both official languages of the Court, and both language versions shall be equally authentic.
2) Any judge may, if he or she so desires, attach to the reasoned decision or advisory opinion of the Court either a separate opinion, concurring with or dissenting from the reasoned decision or advisory opinion, or a bare statement of dissent.

Rule 89[367]

The reasoned decision or advisory opinion may be read out in one of the two official languages by the President of the Grand Chamber, or by another judge delegated by the President, at a public hearing, prior notice having been given to the Committee of Ministers and to each of the Contracting Parties. Otherwise the notification provided for in Rule 90 shall constitute delivery of the opinion or reasoned decision.

Rule 90[368]

The advisory opinion or reasoned decision shall be signed by the President of the Grand Chamber and by the Registrar. The original copy, duly signed, shall be placed in the archives of the Court. The Registrar shall send certified copies to the Committee of Ministers, to the Contracting Parties and to the Secretary General of the Council of Europe.

365 Ibid.
366 As amended by the Court on 4 July 2005 and 4 November 2019.
367 As amended by the Court on 4 July 2005.
368 As amended by the Court on 4 July 2005 and 1 June 2015.

CHAPTER X[369] – ADVISORY OPINIONS UNDER PROTOCOL NO. 16 TO THE CONVENTION

Rule 91 - General

In proceedings relating to advisory opinions requested by courts or tribunals designated by Contracting Parties pursuant to Article 10 of Protocol No. 16 to the Convention, the Court shall apply, in addition to the provisions of that Protocol, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

Rule 92 – The Introduction of a Request for an Advisory Opinion

1) In accordance with Article 1 of Protocol No. 16 to the Convention, a court or tribunal of a Contracting Party to that Protocol may request the Court to give an advisory opinion on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention and the Protocols thereto. Any such request shall be filed with the Registrar of the Court.

2.1) The request shall be reasoned and shall set out

a) the subject matter of the domestic case and its relevant legal and factual background;

b) the relevant domestic legal provisions;

c) the relevant Convention issues, in particular the rights or freedoms at stake;

d) if relevant, a summary of the arguments of the parties to the domestic proceedings on the question; and

e) if possible and appropriate, a statement of the requesting court's or tribunal's own views on the question, including any analysis it may itself have made of the question.

2.2) The requesting court or tribunal shall submit any further documents of relevance to the legal and factual background of the pending case.

2.3) The requesting court or tribunal shall notify the Registrar in the event of the withdrawal of its request. On receipt of such a notification the Court shall discontinue the proceedings.

369 Inserted by the Court on 19 September 2016.

Rule 93[370] – Examination of a Request by the Panel

1.1) The request for an advisory opinion shall be examined by a panel of five judges of the Grand Chamber. The panel shall be composed of

a) the President of the Court. If the President of the Court is prevented from sitting, he or she shall be replaced by the Vice-President of the Court taking precedence;

b) a judge designated as Judge Rapporteur in accordance with Rule 91 and, mutatis mutandis, Rule 49;

c) two Presidents of Sections designated by rotation. If the Presidents of the Sections so designated are prevented from sitting, they shall be replaced by the Vice-Presidents of their Sections;

d) the judge elected in respect of the Contracting Party to which the requesting court or tribunal pertains or, where appropriate, a judge appointed pursuant to Rule 29; and

e) at least two substitute judges designated in rotation from among the judges elected by the Sections to serve on the panel for a period of six months.

1.2) Judges serving on the panel shall continue to serve where they have participated in the examination of a request for an advisory opinion and no final decision has been taken on it at the date of expiry of their period of appointment to the panel.

2) Requests for advisory opinions shall be processed as a matter of priority in accordance with Rule 41.

3) The panel of the Grand Chamber shall accept the request if it considers that it fulfils the requirements of Article 1 of Protocol No. 16 to the Convention.

4) The panel shall give reasons for a refusal of a request.

5) The requesting court or tribunal and the Contracting Party to which it pertains shall be notified of the panel's decision to accept or refuse a request.

Rule 94[371] – Proceedings Following the Panel's Acceptance of a Request

1) Where the panel accepts a request for an advisory opinion in accordance with Rule 93, a Grand Chamber shall be constituted pursuant to Rule 24 § 2 (g) to consider the request and to deliver an advisory opinion.

2) The President of the Grand Chamber may invite the requesting court or tribunal to submit any further information which is considered necessary for clarifying the scope of the request or its own views on the question raised by the request.

370 As amended by the Court on 11 October 2021.

371 As amended by the Court on 4 November 2019 and 11 October 2021.

3) The President of the Grand Chamber may invite the parties to the domestic proceedings to submit written observations and, if appropriate, to take part in an oral hearing.

4) Written comments or other documents shall be filed with the Registrar in accordance with the time-limits laid down by the President of the Grand Chamber. The written procedure shall then be deemed to be closed.

5) The provisions in Rules 59 § 3 and 71 § 2 shall apply, *mutatis mutandis*, to proceedings before the Grand Chamber constituted to deliver advisory opinions under Article 2 of Protocol No. 16 to the Convention. At the latest after the close of the written procedure, the President of the Grand Chamber shall decide whether an oral hearing should be held.

6) Copies of any submissions filed in accordance with the provisions of Rule 44 shall be transmitted to the requesting court or tribunal, which shall have the opportunity to comment on those submissions, without this affecting the close of the written procedure.

7) Advisory opinions shall be given by a majority vote of the Grand Chamber. They shall mention the number of judges constituting the majority.

7B) Advisory opinions shall be given in both official languages of the Court, and both language versions shall be equally authentic.

8) Any judge may, if he or she so desires, attach to the advisory opinion of the Court either a separate opinion, concurring with or dissenting from the advisory opinion, or a bare statement of dissent.

9) The advisory opinion shall be signed by the President of the Grand Chamber and by the Registrar. The original copy, duly signed, shall be placed in the archives of the Court. The Registrar shall send certified copies to the requesting court or tribunal and to the Contracting Party to which that court or tribunal pertains.

10) Any third party who has intervened in the proceedings in accordance with Article 3 of Protocol No. 16 to the Convention and Rule 44 of the Rules of Court shall also receive a copy of the advisory opinion.

Rule 95 – Costs of the Advisory-Opinion Proceedings and Legal Aid

1) Where the President of the Grand Chamber has invited a party to the domestic proceedings to intervene in the advisory opinion proceedings pursuant to Rule 44 § 7 and Rule 94 § 3, the reimbursement of that party's costs and expenses shall not be decided by the Court but shall be determined in accordance with the law and practice of the Contracting Party to which the requesting court or tribunal pertains.

2) The provisions of Chapter XII shall apply *mutatis mutandis* where the President of the Grand Chamber has invited pursuant to Rules 44 § 7 and 94 § 3 a party to the domestic proceedings to intervene in the advisory opinion proceedings and that party lacks sufficient means to meet all or part of the costs entailed.

CHAPTER XI[372] – PROCEEDINGS UNDER ARTICLE 46 §§ 3, 4 AND 5 OF THE CONVENTION

Proceedings under Article 46 § 3 of the Convention

Rule 96 (former Rule 91)

Any request for interpretation under Article 46 § 3 of the Convention shall be filed with the Registrar. The request shall state fully and precisely the nature and source of the question of interpretation that has hindered execution of the judgment mentioned in the request and shall be accompanied by

a) information about the execution proceedings, if any, before the Committee of Ministers in respect of the judgment;

b) a copy of the decision referred to in Article 46 § 3 of the Convention;

c) the name and address of the person or persons appointed by the Committee of Ministers to give the Court any explanations which it may require.

Rule 97 (former Rule 92)

1) The request shall be examined by the Grand Chamber, Chamber or Committee which rendered the judgment in question.

2) Where it is not possible to constitute the original Grand Chamber, Chamber or Committee, the President of the Court shall complete or compose it by drawing lots.

Rule 98 (former Rule 93)

The decision of the Court on the question of interpretation referred to it by the Committee of Ministers is final. No separate opinion of the judges may be delivered thereto. Copies of the ruling shall be transmitted to the Committee of Ministers and to the parties concerned as well as to any third party, including the Council of Europe Commissioner for Human Rights.

Proceedings under Article 46 §§ 4 and 5 of the Convention

372 Inserted by the Court on 13 November 2006 and 14 May 2007.

Rule 99 (former Rule 94)

In proceedings relating to a referral to the Court of a question whether a Contracting Party has failed to fulfil its obligation under Article 46 § 1 of the Convention the Court shall apply, in addition to the provisions of Article 31 (b) and Article 46 §§ 4 and 5 of the Convention, the provisions which follow. It shall also apply the other provisions of these Rules to the extent to which it considers this to be appropriate.

Rule 100 (former Rule 95)

Any request made pursuant to Article 46 § 4 of the Convention shall be reasoned and shall be filed with the Registrar. It shall be accompanied by

a) the judgment concerned;

b) information about the execution proceedings before the Committee of Ministers in respect of the judgment concerned, including, if any, the views expressed in writing by the parties concerned and communications submitted in those proceedings;

c) copies of the formal notice served on the respondent Contracting Party or Parties and the decision referred to in Article 46 § 4 of the Convention;

d) the name and address of the person or persons appointed by the Committee of Ministers to give the Court any explanations which it may require;

e) copies of all other documents likely to elucidate the question.

Rule 101[373] (former Rule 96)

A Grand Chamber shall be constituted, in accordance with Rule 24 § 2 (e), to consider the question referred to the Court.

Rule 102 (former Rule 97)

The President of the Grand Chamber shall inform the Committee of Ministers and the parties concerned that they may submit written comments on the question referred.

Rule 103 (former Rule 98)

1) The President of the Grand Chamber shall lay down the time-limits for filing written comments or other documents.
2) The Grand Chamber may decide to hold a hearing.

373 As amended by the Court on 11 October 2021.

Rule 104 (former Rule 99)

The Grand Chamber shall decide by means of a judgment. Copies of the judgment shall be transmitted to the Committee of Ministers and to the parties concerned as well as to any third party, including the Council of Europe Commissioner for Human Rights.

CHAPTER XIA[374] – PUBLICATION OF JUDGMENTS, DECISIONS AND ADVISORY OPINIONS

Rule 104A - Publication on the Court's case-law database

104A. All judgments, all decisions and all advisory opinions shall be published, under the responsibility of the Registrar, on the Court's case-law database, HUDOC. However, this rule shall not apply to single judge decisions as provided by Rule 52A § 1, to decisions taken by a Section President or a Section Vice-President acting as a single judge, as provided by Rule 54 §§ 3 and 4, and to committee decisions summarily reasoned, pursuant to Rule 52A § 2; the Court shall periodically make accessible to the public general information about these decisions.

Rule 104B – Key cases

In addition, attention shall be drawn by the Registrar, in an appropriate way, to those judgments, decisions and advisory opinions that have been selected by the Bureau as key cases.

CHAPTER XII – LEGAL AID

Rule 105 (former Rule 100)

1) The President of the Chamber may, either at the request of an applicant having lodged an application under Article 34 of the Convention or of his or her own motion, grant free legal aid to the applicant in connection with the presentation of the case from the moment when observations in writing on the admissibility of that application are received from the respondent Contracting Party in accordance with Rule 54 § 2 b, or where the time-limit for their submission has expired.
2) Subject to Rule 110, where the applicant has been granted legal aid in connection with the presentation of his or her case before the Chamber, that grant shall continue in force for the purposes of his or her representation before the Grand Chamber.

374 Inserted by the Court on 4 November 2019.

Rule 106 (former Rule 101)

Legal aid shall be granted only where the President of the Chamber is satisfied

a) that it is necessary for the proper conduct of the case before the Chamber;

b) that the applicant has insufficient means to meet all or part of the costs entailed.

Rule 107 (former Rule102)

1) In order to determine whether or not applicants have sufficient means to meet all or part of the costs entailed, they shall be required to complete a form of declaration stating their income, capital assets and any financial commitments in respect of dependants, or any other financial obligations. The declaration shall be certified by the appropriate domestic authority or authorities.
2) The President of the Chamber may invite the Contracting Party concerned to submit its comments in writing.
3) After receiving the information mentioned in paragraph 1 of this Rule, the President of the Chamber shall decide whether or not to grant legal aid. The Registrar shall inform the parties accordingly.

Rule 108 (former Rule 103)

1) Fees shall be payable to the advocates or other persons appointed in accordance with Rule 36 § 4. Fees may, where appropriate, be paid to more than one such representative.
2) Legal aid may be granted to cover not only representatives' fees but also travelling and subsistence expenses and other necessary expenses incurred by the applicant or appointed representative.

Rule 109 (former Rule 104)

On a decision to grant legal aid, the Registrar shall fix

a) the rate of fees to be paid in accordance with the legal-aid scales in force;

b) the level of expenses to be paid.

Rule 110 (former Rule 105)

The President of the Chamber may, if satisfied that the conditions stated in Rule 106 are no longer fulfilled, revoke or vary a grant of legal aid at any time.

Title III – Transitional Rules

Rule 111 – Relations Between the Court and the Commission (former Rule 106)

1) In cases brought before the Court under Article 5 §§ 4 and 5 of Protocol No. 11 to the Convention, the Court may invite the Commission to delegate one or more of its members to take part in the consideration of the case before the Court.
2) In cases referred to in paragraph 1 of this Rule, the Court shall take into consideration the report of the Commission adopted pursuant to former Article 31 of the Convention.
3) Unless the President of the Chamber decides otherwise, the said report shall be made available to the public through the Registrar as soon as possible after the case has been brought before the Court.
4) The remainder of the case file of the Commission, including all pleadings, in cases brought before the Court under Article 5 §§ 2 to 5 of Protocol No. 11 shall remain confidential unless the President of the Chamber decides otherwise.
5) In cases where the Commission has taken evidence but has been unable to adopt a report in accordance with former Article 31 of the Convention, the Court shall take into consideration the verbatim records, documentation and opinion of the Commission's delegations arising from such investigations.

Rule 112 – Chamber and Grand Chamber Proceedings (former Rule 107)

1) In cases referred to the Court under Article 5 § 4 of Protocol No. 11 to the Convention, a panel of the Grand Chamber constituted in accordance with Rule 24 § 5 shall determine, solely on the basis of the existing case file, whether a Chamber or the Grand Chamber is to decide the case.
2) If the case is decided by a Chamber, the judgment of the Chamber shall, in accordance with Article 5 § 4 of Protocol No. 11, be final and Rule 73 shall be inapplicable.
3) Cases transmitted to the Court under Article 5 § 5 of Protocol No. 11 shall be forwarded by the President of the Court to the Grand Chamber.
4) For each case transmitted to the Grand Chamber under Article 5 § 5 of Protocol No. 11, the Grand Chamber shall be completed by judges designated by rotation within one of the groups mentioned in Rule 24 § 3[375], the cases being allocated to the groups on an alternate basis.

375 As amended by the Court on 13 December 2004.

Rule 113 – Grant of Legal Aid (former Rule 108)

Subject to Rule 101, in cases brought before the Court under Article 5 §§ 2 to 5 of Protocol No. 11 to the Convention, a grant of legal aid made to an applicant in the proceedings before the Commission or the former Court shall continue in force for the purposes of his or her representation before the Court.

Rule 114 – Request for Revision of a Judgment (former Rule 109)

1) Where a party requests revision of a judgment delivered by the former Court, the President of the Court shall assign the request to one of the Sections in accordance with the conditions laid down in Rule 51 or 52, as the case may be.
2) The President of the relevant Section shall, notwithstanding Rule 80 § 3, constitute a new Chamber to consider the request.
3) The Chamber to be constituted shall include as ex *officio* members
   a) the President of the Section;
   and, whether or not they are members of the relevant Section,
   b) the judge elected in respect of any Contracting Party concerned or, if he or she is unable to sit, any judge appointed under Rule 29;
   c) any judge of the Court who was a member of the original Chamber that delivered the judgment in the former Court.
4) a) The other members of the Chamber shall be designated by the President of the Section by means of a drawing of lots from among the members of the relevant Section.
   b) The members of the Section who are not so designated shall sit in the case as substitute judges.

Title IV – Final Clauses

Rule 115 – Suspension of a Rule (former Rule 110)

A Rule relating to the internal working of the Court may be suspended upon a motion made without notice, provided that this decision is taken unanimously by the Chamber concerned. The suspension of a Rule shall in this case be limited in its operation to the particular purpose for which it was sought.

Rule 116 – Amendment of a Rule (former Rule 111)

1) Any Rule may be amended upon a motion made after notice where such a motion is carried at the next session of the plenary Court by a majority of all the members of the Court. Notice of such a motion shall be delivered in writing to the Registrar at least one month before the session at which it is to be discussed. On receipt of such a notice of motion, the Registrar shall inform all members of the Court at the earliest possible moment.
2) The Registrar shall inform the Contracting Parties of any proposals by the Court to amend the Rules which directly concern the conduct of proceedings before it and invite them to submit written comments on such proposals. The Registrar shall also invite written comments from organisations with experience in representing applicants before the Court as well as from relevant Bar associations.

Rule 117 – Entry Into Force of the Rules (former Rule 112[376])

The present Rules shall enter into force on 1 November 1998.

376 The amendments adopted on 8 December 2000 entered into force immediately. The amendments adopted on 17 June 2002 and 8 July 2002 entered into force on 1 October 2002. The amendments adopted on 7 July 2003 entered into force on 1 November 2003. The amendments adopted on 13 December 2004 entered into force on 1 March 2005. The amendments adopted on 4 July 2005 entered into force on 3 October 2005. The amendments adopted on 7 November 2005 entered into force on 1 December 2005. The amendments adopted on 29 May 2006 entered into force on 1 July 2006. The amendments adopted on 14 May 2007 entered into force on 1 July 2007. The amendments adopted on 11 December 2007, 22 September and 1 December 2008 entered into force on 1 January 2009. The amendments adopted on 29 June 2009 entered into force on 1 July 2009. The amendments relating to Protocol No. 14 to the Convention, adopted on 13 November 2006 and 14 May 2007, entered into force on 1 June 2010. The amendments adopted on 21 February 2011 entered into force on 1 April 2011. The amendments adopted on 16 January 2012 entered into force on 1 February 2012. The amendments adopted on 20 February 2012 entered into force on 1 May 2012. The amendments adopted on 2 April 2012 entered into force on 1 September 2012. The amendments adopted on 14 January and 6 February 2013 entered into force on 1 May 2013. The amendments adopted on 6 May 2013 entered into force on 1 July 2013 and 1 January 2014. The amendments adopted on 14 April and 23 June 2014 entered into force on 1 July 2014. Certain amendments adopted on 1 June 2015 entered immediately into force and others adopted on that date and related to Protocol No. 15 entered into force on 1 August 2021 and 1 February 2022 respectively. The amendments to Rule 47 which were adopted on 1 June and 5 October 2015 entered into force on 1 January 2016. The amendments to Rule 8 which were adopted on 19 September 2016 entered into force on the same date. The amendments adopted on 14 November 2016 entered into force on the same date. The amendments to Rule 29 which were adopted on 16 April 2018 entered into force on the same date. The amendments which were adopted on 19 September 2016 entered into force on 1 August 2018. The amendment to Rule 29 § 1 which was adopted on 3 June 2019 entered into force on the same date. The amendments to Rules 27A and 52A which were adopted on 9 September 2019 entered into force on the same date. The amendments adopted on 4 November 2019 entered into force on 1 January 2020. The amendments to Rule 8 which were adopted on 2 June 2021 entered into force on the same date. The amendments to Rules 24, 93, 94 and 101 which were adopted on 11 October 2021 entered into force on 18 October 2021. The amendments to Rules 36 and 44D which were adopted on 7 February 2022 entered into force on the same date. The amendment to Rule 8 § 5 was adopted on 30 May 2022 and entered into force on the same date. The amendments to Rule 44 § 4 were adopted on 3 June 2002 and entered into force on the same date.

Annex to the Rules[377] (concerning investigations)

Rule A1 – Investigative Measures

1) The Chamber may, at the request of a party or of its own motion, adopt any investigative measure which it considers capable of clarifying the facts of the case. The Chamber may, *inter alia*, invite the parties to produce documentary evidence and decide to hear as a witness or expert or in any other capacity any person whose evidence or statements seem likely to assist it in carrying out its tasks.
2) The Chamber may also ask any person or institution of its choice to express an opinion or make a written report on any matter considered by it to be relevant to the case.
3) After a case has been declared admissible or, exceptionally, before the decision on admissibility, the Chamber may appoint one or more of its members or of the other judges of the Court, as its delegate or delegates, to conduct an inquiry, carry out an on-site investigation or take evidence in some other manner. The Chamber may also appoint any person or institution of its choice to assist the delegation in such manner as it sees fit.
4) The provisions of this Chapter concerning investigative measures by a delegation shall apply, *mutatis mutandis*, to any such proceedings conducted by the Chamber itself.
5) Proceedings forming part of any investigation by a Chamber or its delegation shall be held in camera, save in so far as the President of the Chamber or the head of the delegation decides otherwise.
6) The President of the Chamber may, as he or she considers appropriate, invite, or grant leave to, any third party to participate in an investigative measure. The President shall lay down the conditions of any such participation and may limit that participation if those conditions are not complied with.

Rule A2 – Obligations of the Parties as Regards Investigative Measures

1) The applicant and any Contracting Party concerned shall assist the Court as necessary in implementing any investigative measures.

377 Inserted by the Court on 7 July 2003.

2) The Contracting Party on whose territory on-site proceedings before a delegation take place shall extend to the delegation the facilities and cooperation necessary for the proper conduct of the proceedings. These shall include, to the full extent necessary, freedom of movement within the territory and all adequate security arrangements for the delegation, for the applicant and for all witnesses, experts and others who may be heard by the delegation. It shall be the responsibility of the Contracting Party concerned to take steps to ensure that no adverse consequences are suffered by any person or organisation on account of any evidence given, or of any assistance provided, to the delegation.

Rule A3 – Failure to Appear Before a Delegation

Where a party or any other person due to appear fails or declines to do so, the delegation may, provided that it is satisfied that such a course is consistent with the proper administration of justice, nonetheless continue with the proceedings.

Rule A4 – Conduct of Proceedings Before a Delegation

1) The delegates shall exercise any relevant power conferred on the Chamber by the Convention or these Rules and shall have control of the proceedings before them.
2) The head of the delegation may decide to hold a preparatory meeting with the parties or their representatives prior to any proceedings taking place before the delegation.

Rule A5 – Convocation of Witnesses, Experts and of Other Persons to Proceedings Before a Delegation

1) Witnesses, experts and other persons to be heard by the delegation shall be summoned by the Registrar.
2) The summons shall indicate
   a) the case in connection with which it has been issued;
   b) the object of the inquiry, expert opinion or other investigative measure ordered by the Chamber or the President of the Chamber;
   c) any provisions for the payment of sums due to the person summoned.
3) The parties shall provide, in so far as possible, sufficient information to establish the identity and addresses of witnesses, experts or other persons to be summoned.
4) In accordance with Rule 37 § 2, the Contracting Party in whose territory the witness resides shall be responsible for servicing any summons sent to it by the Chamber for service. In the event of such service not being possible, the Contracting Party shall

give reasons in writing. The Contracting Party shall further take all reasonable steps to ensure the attendance of persons summoned who are under its authority or control.

5) The head of the delegation may request the attendance of witnesses, experts and other persons during on-site proceedings before a delegation. The Contracting Party on whose territory such proceedings are held shall, if so requested, take all reasonable steps to facilitate that attendance.

6) Where a witness, expert or other person is summoned at the request or on behalf of a Contracting Party, the costs of their appearance shall be borne by that Party unless the Chamber decides otherwise. The costs of the appearance of any such person who is in detention in the Contracting Party on whose territory on-site proceedings before a delegation take place shall be borne by that Party unless the Chamber decides otherwise. In all other cases, the Chamber shall decide whether such costs are to be borne by the Council of Europe or awarded against the applicant or third party at whose request or on whose behalf the person appears. In all cases, such costs shall be taxed by the President of the Chamber.

Rule A6 – Oath or Solemn Declaration by Witnesses and Experts Heard by a Delegation

1) After the establishment of the identity of a witness and before testifying, each witness shall take the oath or make the following solemn declaration:
"I swear" – or "I solemnly declare upon my honour and conscience" – "that I shall speak the truth, the whole truth and nothing but the truth."
This act shall be recorded in minutes.

2) After the establishment of the identity of the expert and before carrying out his or her task for the delegation, every expert shall take the oath or make the following solemn declaration:
"I swear" – or "I solemnly declare" – "that I will discharge my duty as an expert honourably and conscientiously."
This act shall be recorded in minutes.

Rule A7 – Hearing of Witnesses, Experts and Other Persons by a Delegation

1) Any delegate may put questions to the Agents, advocates or advisers of the parties, to the applicant, witnesses and experts, and to any other persons appearing before the delegation.

2) Witnesses, experts and other persons appearing before the delegation may, subject to the control of the head of the delegation, be examined by the Agents and advocates or advisers of the parties. In the event of an objection to a question put, the head of the delegation shall decide.

3) Save in exceptional circumstances and with the consent of the head of the delegation, witnesses, experts and other persons to be heard by a delegation will not be admitted to the hearing room before they give evidence.

4) The head of the delegation may make special arrangements for witnesses, experts or other persons to be heard in the absence of the parties where that is required for the proper administration of justice.

5) The head of the delegation shall decide in the event of any dispute arising from an objection to a witness or expert. The delegation may hear for information purposes a person who is not qualified to be heard as a witness or expert.

Rule A8 – Verbatim Record of Proceedings Before a Delegation

1) A verbatim record shall be prepared by the Registrar of any proceedings concerning an investigative measure by a delegation. The verbatim record shall include:
a) the composition of the delegation;
b) a list of those appearing before the delegation, that is to say Agents, advocates and advisers of the parties taking part;
c) the surname, forenames, description and address of each witness, expert or other person heard; (d) the text of statements made, questions put and replies given;
e) the text of any ruling delivered during the proceedings before the delegation or by the head of the delegation.

2) If all or part of the verbatim record is in a non-official language, the Registrar shall arrange for its translation into one of the official languages.

3) The representatives of the parties shall receive a copy of the verbatim record in order that they may, subject to the control of the Registrar or the head of the delegation, make corrections, but in no case may such corrections affect the sense and bearing of what was said. The Registrar shall lay down, in accordance with the instructions of the head of the delegation, the time-limits granted for this purpose.

4) The verbatim record, once so corrected, shall be signed by the head of the delegation and the Registrar and shall then constitute certified matters of record.

PRACTICE DIRECTIONS

Requests for interim measures[378]

(Rule 39 of the Rules of Court)

Under Rule 39 of the Rules of Court, the Court may indicate interim measures, which will be binding on the State concerned.

Interim measures are only indicated in exceptional cases. The Court will direct a member State to apply such a measure only where, having reviewed all the relevant information, it considers that the applicant would otherwise face an imminent risk of irreparable damage.

Applicants or their representatives[379] who make a request for an interim measure pursuant to Rule 39 of the Rules of Court should comply with the requirements set out below.

I. ACCOMPANYING INFORMATION

Any request lodged with the Court must state reasons. The applicant must in particular specify in detail the grounds on which his or her particular fears are based, the nature of the alleged risks and the Convention provisions alleged to have been violated.

A mere reference to submissions in other documents or domestic proceedings is not sufficient. It is essential that requests be accompanied by all necessary supporting documents, in particular relevant domestic court, tribunal or other decisions, together with any other material which is considered to substantiate the applicant's allegations.

Requests which do not include the information necessary to make a decision will not normally be submitted to a judge for a decision. The Court will not necessarily contact applicants whose request for interim measures is incomplete.

Where the case is already pending before the Court, reference should be made to the application number allocated to it.

In cases concerning expulsion or extradition, details should be provided of the expected date and time of the removal, the applicant's address or place of detention and the official case-reference number. The Court must be notified of any change to those details (date and time of removal, address etc.) as soon as possible.

378 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 5 March 2003 and amended on 16 October 2009, 7 July 2011 and 3 May 2022.

379 It is essential that full contact details be provided.

The request should, where possible, be in one of the official languages of the Contracting Parties.

The Court may decide to take a decision on the admissibility of the case at the same time as considering the request for interim measures.

II. REQUESTS TO BE MADE VIA THE "ECHR RULE 39 SITE", BY FAX, OR BY POST

Requests for interim measures under Rule 39 should be sent via the ECHR Rule 39 Site, or by fax, or by post.[380] The Court will not deal with requests sent by e-mail. All requests by fax or by post should be marked as follows in bold on the face of the request:

"Rule 39 – Urgent

Person to contact (name and contact details): ...

[In deportation or extradition cases]

Scheduled date and time of removal and destination: ..."

III. TIMELY SUBMISSION OF REQUESTS

Requests for interim measures should normally be sent as soon as possible after the final domestic decision has been taken, in order to enable the Court and its Registry to have sufficient time to examine the matter. The Court may not be able to deal with requests in expulsion or extradition cases received less than a working day before the scheduled time of removal.[381]

Where the final domestic decision is imminent and there is a risk of immediate enforcement, especially in expulsion or extradition cases, applicants and their representatives should submit the request for interim measures without waiting for that decision, indicating clearly the date on which it will be taken and that the request is subject to the final domestic decision being negative.

IV. DOMESTIC MEASURES WITH SUSPENSIVE EFFECT

The Court does not hear appeals against decisions of domestic courts, and applicants in expulsion or extradition cases should pursue domestic remedies which are capable

380 It must be born in mind that requests made by post must not be sent by ordinary mail.

381 The list of public and other holidays when the Court's Registry is closed can be consulted on the Court's internet site: www.echr.coe.int/contact.

of suspending removal, before applying to the Court for interim measures. Where it remains open to an applicant to pursue domestic remedies which have suspensive effect, the Court will not apply Rule 39 to prevent removal.

V. FOLLOW-UP

Applicants who apply for an interim measure under Rule 39 should ensure that they reply to correspondence from the Court's Registry. In particular, where a measure has been refused, they should inform the Court whether they wish to pursue the application. Where a measure has been applied, they must keep the Court regularly and promptly informed about the state of any pending domestic proceedings. Failure to do so may lead to the case being struck out of the Court's list of cases.

Institution of proceedings[382]

I. GENERAL
(Individual Applications Under Article 34 of the Convention)

1) An application under Article 34 of the Convention must be submitted in writing. No application may be made by telephone. Except as provided otherwise by Rule 47 of the Rules of Court, only a completed application form will interrupt the running of the four-month time-limit set out in Article 35 § 1 of the Convention. An application form is available online from the Court's website.[383] Applicants are strongly encouraged to download and print the application form instead of contacting the Court for a paper copy to be sent by post. By doing this, applicants will save time and will be in a better position to ensure that their completed application form is submitted within the four-month time-limit. Help with the completion of the various fields is available online.
2) An application must be sent to the following address:
   The Registrar
   European Court of Human Rights Council of Europe
   67075 Strasbourg Cedex
   FRANCE

382 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 1 November 2003 and amended on 22 September 2008, 24 June 2009, 6 November 2013, 5 October 2015, 27 November 2019, 25 January 2021 and 1 February 2022. This practice direction supplements Rules 45 and 47.

383 www.echr.coe.int.

3) Applications sent by fax will not interrupt the running of the four-month time-limit set out in Article 35 § 1 of the Convention. Applicants must also dispatch the signed original by post within the same four-month time-limit.
4) An applicant should be diligent in corresponding with the Court's Registry. A delay in replying or failure to reply may be regarded as a sign that the applicant is no longer interested in pursuing his or her application.

II. FORM AND CONTENTS

5) The submissions in the application form concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the time-limit set out in Article 35 § 1 of the Convention must respect the conditions set out in Rule 47 of the Rules of Court. Any additional submissions, presented as a separate document, must not exceed 20 pages (see Rule 47 § 2 (b)) and should:
   a) be in an A4 page format with a margin of not less than 3.5 cm wide;
   b) be wholly legible and, if typed, the text should be at least 12 pt in the body of the document and 10 pt in the footnotes, with one and a half line spacing;
   c) have all numbers expressed as figures;
   d) have pages numbered consecutively;
   e) be divided into numbered paragraphs;
   f) be divided into headings corresponding to "Facts", "Complaints or statements of violations" and "Information about the exhaustion of domestic remedies and compliance with the time-limit set out in Article 35 § 1".
6) All applicable fields in the application form must be filled in by use of words. Avoid using symbols, signs or abbreviations. Explain in words, even if the answer is negative or the question does not appear relevant.
7) The applicant must set out the facts of the case, his or her complaints and the explanations as to compliance with the admissibility criteria in the space provided in the application form. The information should be enough to enable the Court to determine the nature and scope of the application and, as such, the completed application form alone should suffice. It is not acceptable merely to annex a statement of facts, complaints and compliance to the application form, with or without the mention "see attached". Filling in this information on the application form is to assist the Court in speedily assessing and allocating incoming cases. Additional explanations may be appended, if necessary, in a separate document up to a maximum of 20 pages: these only

develop and cannot replace the statement of facts, complaints and compliance with the admissibility criteria that must be on the application form itself. An application form will not be regarded as compliant with Rule 47 if this information is not found on the form itself.

8) A legal person (which includes a company, non-governmental organisation or association) that applies to the Court must do so through a representative of that legal person who is identified in the relevant section of the application form and who provides contact details and explains his or her capacity or relationship with the legal person. Proof must be supplied with the application form that the representative has authority to act on behalf of the legal person, for example an extract from the Chamber of Commerce register or minutes of the governing body. The representative of the legal person is distinct from the lawyer authorised to act before the Court as legal representative. It may be that a legal person's representative is also a lawyer or legal officer and has the capacity to act additionally as legal representative. Both parts of the application form concerning representation must still be filled in, and requisite documentary proof provided of authority to represent the legal person must be attached.

9) An applicant does not have to have legal representation at the introductory stage of proceedings. If he or she does instruct a lawyer, the authority section on the application form must be filled in. Both the applicant and the representative must sign the authority section. A separate power of attorney is not acceptable at this stage as the Court requires all essential information to be contained in its application form. If it is claimed that it is not possible to obtain the applicant's signature on the authority section in the application form due to insurmountable practical difficulties, this should be explained to the Court with any substantiating elements. The requirement of completing the application form speedily within the four-month time-limit will not be accepted as an adequate explanation.

10) An application form must be accompanied by the relevant documents **(a)** relating to the decisions or measures complained of;

b) showing that the applicant has complied with the exhaustion of available domestic remedies and the time-limit contained in Article 35 § 1 of the Convention;

c) showing, where applicable, information regarding other international proceedings.

If the applicant is unable to provide a copy of any of these documents, he or she must provide an adequate explanation: merely stating that he or she encountered difficulties (in obtaining the documents) will not suffice if it can be reasonably expected for the explanation to be supported by documentary evidence, such as proof of indigence, a refusal of an authority to furnish a decision or otherwise demonstrating the applicant's inability to access the document. If the explanation is not forthcoming or adequate, the application will not be allocated to a judicial formation.

Where documents are provided by electronic means, they must be in the format required by this practice direction; they must also be arranged and numbered in accordance with the list of documents on the application form.

11) An applicant who has already had a previous application or applications decided by the Court or who has an application or applications pending before the Court must inform the Registry accordingly, stating the application number or numbers.

12) **a)** Where an applicant does not wish to have his or her identity disclosed, he or she should state the reasons for his or her request in writing, pursuant to Rule 47 § 4.

b) The applicant should also state whether, in the event of anonymity being authorised by the President of the Chamber, he or she wishes to be designated by his or her initials or by a single letter (e.g. "X", "Y" or "Z").

13) The applicant or the designated representative must sign the application form. If represented, both the applicant and the representative must sign the authority section of the application form. Neither the application form nor the authority section can be signed *per procurationem* (p.p.).

III. GROUPED APPLICATIONS AND MULTIPLE APPLICANTS

14) Where an applicant or representative lodges complaints on behalf of two or more applicants whose applications are based on different facts, a separate application form should be filled in for each individual giving all the information required. The documents relevant to each applicant should also be annexed to that individual's application form.

15) Where there are more than ten applicants, the representative should provide – in addition to the application forms and documents – a table setting out for each applicant the required personal information; this table may be downloaded from the Court's website.[384] Where the representative is a lawyer, the table should also be provided in electronic form.

384 Ibid.

16) In cases of large groups of applicants or applications, applicants or their representatives may be directed by the Court to provide the text of their submissions or documents by electronic or other means. Other directions may be given by the Court as to steps required to facilitate the effective and speedy processing of applications.

IV. FAILURE TO COMPLY WITH REQUESTS FOR INFORMATION OR DIRECTIONS

17) Failure, within the specified time-limit, to provide further information or documents at the Court's request or to comply with the Court's directions as to the form or manner of the lodging of an application – including grouped applications or applications by multiple applicants – may result, depending on the stage reached in the proceedings, in the complaint(s) not being examined by the Court or the application(s) being declared inadmissible or struck out of the Court's list of cases.

Written Pleadings[385]

I. FILING OF PLEADINGS GENERAL

1) A pleading must be filed with the Registry within the time-limit fixed in accordance with Rule 38 of the Rules of Court and in the manner described in paragraph 2 of that Rule.
2) The date on which a pleading or other document is received at the Court's Registry will be recorded on that document by a receipt stamp.
3) With the exception of pleadings and documents for which a system of electronic filing has been set up (see the relevant practice directions), all other pleadings, as well as all documents annexed thereto, should be submitted to the Court's Registry in three copies sent by post or in one copy by fax[386], followed by three copies sent by post.
4) Pleadings or other documents submitted by electronic mail shall not be accepted.
5) Secret documents should be filed by registered post.
6) Unsolicited pleadings shall not be admitted to the case file unless the President of the Chamber decides otherwise (see Rule 38 § 1).

385 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 1 November 2003 and amended on 22 September 2008 and 29 September 2014.

386 Fax no. +33 (0)3 88 41 27 30; other fax numbers can be found on the Court's website (www.echr.coe.int).

Filing by Fax

7) A party may file pleadings or other documents with the Court by sending them by fax.
8) The name of the person signing a pleading must also be printed on it so that he or she can be identified.

Electronic Filing

9) The Court may authorise the Government of a Contracting Party or, after the communication of an application, an applicant to file pleadings and other documents electronically. In such cases, the practice direction on written pleadings shall apply in conjunction with the practice directions on electronic filing.

II. FORM AND CONTENTS

Form

10) A pleading should include:
a) the application number and the name of the case;
b) a title indicating the nature of the content (e.g., observations on admissibility [and the merits]; reply to the Government's/the applicant's observations on admissibility [and the merits]; observations on the merits; additional observations on admissibility [and the merits]; memorial etc.).
11) In addition, a pleading should normally:
a) be in an A4 page format having a margin of not less than 3.5 cm wide;
b) be typed and wholly legible, the text appearing in at least 12 pt in the body and 10 pt in the footnotes, with one-and-a-half line spacing;
c) have all numbers expressed as figures; **(d)** have pages numbered consecutively; **(e)** be divided into numbered paragraphs;
f) be divided into chapters and/or headings corresponding to the form and style of the Court's decisions and judgments ("Facts"/"Domestic law [and practice]"/"Complaints"/"Law"; the latter chapter should be followed by headings entitled "Preliminary objection on ...", "Alleged violation of Article ...", as the case may be);
g) place any answer to a question by the Court or to the other party's arguments under a separate heading;
h) give a reference to every document or piece of evidence mentioned in the pleading and annexed thereto;

i) if sent by post, have its text printed on one side of the page only and pages and attachments placed together in such a way as to enable them to be easily separated (they must not be glued or stapled).

12) If a pleading exceptionally exceeds thirty pages, a short summary should also be filed with it.

13) Where a party produces documents and/or other exhibits together with a pleading, every piece of evidence should be listed in a separate annex.

Contents

14) The parties' pleadings following communication of the application should include:

1.a) any comments they wish to make on the facts of the case; however,

i) if a party does not contest the facts as set out in the statement of facts prepared by the Registry, it should limit its observations to a brief statement to that effect;

ii) if a party contests only part of the facts as set out by the Registry, or wishes to supplement them, it should limit its observations to those specific points;

iii) if a party objects to the facts or part of the facts as presented by the other party, it should state clearly which facts are uncontested and limit its observations to the points in dispute;

2.b) legal arguments relating firstly to admissibility and, secondly, to the merits of the case; however,

i) if specific questions on a factual or legal point were put to a party, it should, without prejudice to Rule 55, limit its arguments to such questions;

ii) if a pleading replies to arguments of the other party, submissions should refer to the specific arguments in the order prescribed above.

15) **a)** The parties' pleadings following the admission of the application should include:

i) a short statement confirming a party's position on the facts of the case as established in the decision on admissibility;

ii) legal arguments relating to the merits of the case;

iii) a reply to any specific questions on a factual or legal point put by the Court.

b) An applicant party submitting claims for just satisfaction at the same time should do so in the manner described in the practice direction on filing just satisfaction claims.

16) In view of the confidentiality of friendly-settlement proceedings (see Article 39 § 2 of the Convention and Rule 62 § 2), all submissions and documents filed as part of the attempt to secure a friendly settlement should be submitted separately from the written pleadings.

17) No reference to offers, concessions or other statements submitted in connection with the friendly settlement may be made in the pleadings filed in the contentious proceedings.

III. TIME-LIMITS GENERAL

18) It is the responsibility of each party to ensure that pleadings and any accompanying documents or evidence are delivered to the Court's Registry in time.

Extension of Time-Limits

19) A time-limit set under Rule 38 may be extended on request from a party.

20) A party seeking an extension of the time allowed for submission of a pleading must make a request as soon as it has become aware of the circumstances justifying such an extension and, in any event, before the expiry of the time-limit. It should state the reason for the delay.

21) If an extension is granted, it shall apply to all parties for which the relevant time-limit is running, including those which have not asked for it.

IV. FAILURE TO COMPLY WITH REQUIREMENTS FOR PLEADINGS

22) Where a pleading has not been filed in accordance with the requirements set out in paragraphs 8 to 15 of this practice direction, the President of the Chamber may request the party concerned to resubmit the pleading in compliance with those requirements.

23) A failure to satisfy the conditions listed above may result in the pleading being considered not to have been properly lodged (see Rule 38 § 1).

Just Batisfaction Claims[387]

I. INTRODUCTION

1) Awarding of sums of money to applicants by way of just satisfaction is not one of the Court's main duties but is incidental to its task under Article 19 of the Convention of ensuring the observance by States of their obligations under the Convention.

387 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 28 March 2007 and amended on 9 June 2022.

2) The purpose of the Court's award under Article 41 of the Convention in respect of damage is to compensate the applicant for the actual harmful consequences of a violation. No award can therefore be made for damage caused by events or situations that have not been found to constitute a violation of the Convention, or for damage related to complaints declared inadmissible by the Court. It is also not intended to punish the Contracting Party responsible. The Court has therefore considered it inappropriate to accept claims for damages with labels such as "punitive", "aggravated" or "exemplary"; nor does the Court make symbolic awards.

3) Additionally, the wording of Article 41makes it clear that the Court shall award just satisfaction only "if the internal law of the High Contracting Party concerned allows only partial reparation to be made", and even then, only "if necessary" (*s'il y a lieu* in the French text). Moreover, the Court shall only award such satisfaction as it considers to be "just" (*équitable* in the French text), namely, as appears to it to be appropriate in the circumstances. Consequently, in examining the matter before deciding what amount to award, if any, regard will be had to the particular features and context of each case, an important role being played by the nature and the effects of the violation(s) found, the Court's own practice in respect of similar cases, as well as different economic situations in the Respondent States.

4) The Court may also decide that there are reasons of equity to award less than the value of the actual damage sustained or the costs and expenses actually incurred; or that for some heads of alleged prejudice the finding of violation constitutes in itself sufficient just satisfaction, without there being any call to afford financial compensation. In this latter respect, it is recalled that under Article 41 the Court remains free to decide that no award should be made, for example, where there is a possibility of reopening of the proceedings or of obtaining other compensation at domestic level; where the violation found was of a minor or of a conditional nature; where general measures would constitute the most appropriate redress; or otherwise, because of the general or specific context of the situation complained of. It should be borne in mind that the public vindication of the wrong suffered by the applicant, in a judgment binding on the Contracting State, is a powerful form of redress in itself.

II. CLAIMS FOR JUST SATISFACTION: SCOPE

A. General Principles

5) Just satisfaction is afforded under Article 41 of the Convention so as to compensate the applicant for the actual damage established as being consequent to a violation; in that respect, it may cover pecuniary damage; non-pecuniary damage; and costs and expenses (see below). Depending on the specific circumstances of the case, the Court may consider it appropriate to make an aggregate award for pecuniary and non-pecuniary damage.

6) In setting the amount of an award, the Court will consider the respective positions of the applicant as the party injured by a violation and the Contracting Party as responsible for the public interest. In that connection and in so far as the case before it is of a repetitive nature, the Court may base its just satisfaction awards on the reference amount already granted in the corresponding leading or pilot case, while having regard also to the simplified and standardised approach to the processing of such follow-up cases.

7) In accordance with the ne *ultra petita* principle, the Court does not award anything more than what the applicant has actually claimed.

B. Pecuniary Damage

8) The principle with regard to pecuniary damage is that the applicant should be placed, as far as possible, in the position in which he or she would have been had the violation found not taken place, in other words, *restitutio in integrum*. This can involve compensation for both loss actually suffered (*damnum emergens*) and loss, or diminished gain, to be expected in the future (*lucrum cessans*).

9) It is for the applicant to show that pecuniary damage has resulted from the violations alleged. A direct causal link must be established between the damage and the violation found. A merely tenuous or speculative connection is not enough. The applicant should submit relevant evidence to prove, as far as possible, not only the existence but also the amount or value of the damage. Normally, the Court's award will reflect the full calculated amount of the damage, unless it finds reasons in equity to award less (see point 4 above). If the actual damage cannot be precisely calculated, or if there are significant discrepancies between the parties' calculations thereto, the Court will make an as accurate as possible estimate, based on the facts at its disposal.

C. Non-Pecuniary Damage

10) The Court's award in respect of non-pecuniary damage serves to give recognition to the fact that non-material harm, such as mental or physical suffering, occurred as a result of a breach of a fundamental human right and reflects in the broadest of terms the severity of the damage. Hence, the causal link between the alleged violation and the moral harm is often reasonable to assume, the applicants being not required to produce any additional evidence of their suffering.

11) It is in the nature of non-pecuniary damage that it does not lend itself to precise calculation. The claim for non-pecuniary damage suffered needs therefore not be quantified or substantiated, the applicant can leave the amount to the Court's discretion.

12) If the Court considers that a monetary award is necessary, it will make an assessment on an equitable basis, which above all involves flexibility and an objective consideration of what is just, fair and reasonable in all the circumstances of the case, including not only the position of the applicant as well as his or her own possible contribution to the situation complained of, but the overall context in which the breach occurred.

13) Exercising the discretion, the Court relies on its own relevant practice in respect of similar violations to establish internal principles as a necessary starting point in fixing an appropriate award in the circumstances of each case. Among factors considered by the Court to determine the value of such awards are the nature and gravity of the violation found, its duration and effects; whether there have been several violations of the protected rights; whether a domestic award has already been made or other measures have been taken by the Respondent State that could be regarded as constituting the most appropriate means of redress; any other context or case-specific circumstances that need to be taken into account.

14) Furthermore, as an aspect of "just satisfaction" the Court takes into account the local economic circumstances in the Respondent States in its calculations. In doing so, it has regard to the publicly available and updated macroeconomic data, such as that published by the International Monetary Fund (IMF). In view of these changing economic circumstances for the countries concerned, the amounts of awards made to injured parties in similar circumstances could vary in respect of different Respondent States and over a period of time.

D. Costs and Expenses

15) The Court can order the reimbursement to the applicant of costs and expenses which he or she has necessarily, thus unavoidably, incurred – first at the domestic level, and subsequently in the proceedings before the Court itself – in trying to prevent the violation from occurring, or in trying to obtain redress therefor. Such costs and expenses will typically include the cost of legal assistance, court registration and translation fees, postal expenses. They may also include travel and subsistence expenses, in particular if these have been incurred by attendance at a hearing of the Court.

16) Where the applicant is represented by any other person than "an advocate authorised to practise", the fees may be reimbursed only if that person has previously obtained leave for that representation (Rule 36 §§ 2 and 4 (a) of the Rules of Court).

17) The Court will uphold claims for costs and expenses only in so far as they relate to the violations it has found. It will reject them in so far as they relate to complaints that have not led to the finding of a violation, or to complaints declared inadmissible. This being so, applicants may wish to link separate claim items to particular complaints.

18) Costs and expenses must have been actually incurred. That is, the applicant must have paid them, or be bound to pay them, pursuant to a legal or contractual obligation. Documents showing that the applicant has paid or is under an obligation to pay such fees should be submitted. Consequently, the hours or work carried out by the applicants themselves cannot be considered as costs actually incurred. Any sums paid or payable by domestic authorities or by the Council of Europe by way of legal aid will be deducted.

19) Costs and expenses must be reasonable as to quantum. If the Court finds them to be excessive, it will award a sum which, on its own estimate, is reasonable. Given variations across the countries in the fees charged by lawyers, for the assessment of what is a reasonable award the Court may take into account claims and awards in respect of similar cases against the same country. The Court may also take into account whether the violation found falls into the category of "well-established case- law".

III. FORMAL REQUIREMENTS

20) Time-limits, precision, relevant supporting documents and other formal requirements for submitting claims for just satisfaction are laid down in Rule 60 of the Rules of Court. Claimants are warned that compliance with the formal and substantive requirements deriving from the Convention and the Rules of Court is the essential preliminary condition for the award of just satisfaction.

21) Unless the parties are otherwise informed (in particular in cases raising repetitive issues, see point 23 below), the Court requires first, that clear, comprehensive claims are submitted within the time-limits fixed by the President of the Chamber and indicated to the parties in the communication letter; second, that those claims relating to the material damage and costs and expenses are supported by appropriate documentary evidence (ie. expert reports, itemised bills, invoices), wherever that is possible and reasonably available to the parties; and, third, that failing these conditions without an appropriate justification, the Court will normally make no award. The Court is not bound by the applicant's classification of the claims and may find it more appropriate, for example, to consider certain claims as falling under pecuniary damage rather than under costs and expenses.

22) Subject to its own discretion in some exceptional cases, the Court will normally reject claims set out on the application form but not resubmitted at the appropriate stage of the proceedings, as indicated by the President of the Chamber, as well as claims unjustifiably lodged out of time.

23) In cases raising repetitive issues which are dealt with in a simplified manner in line with the relevant well-established case-law of the Court, the applicants may be exempt from the requirement to submit a separate just satisfaction claim. In such case, the parties would be clearly informed in the communication letter that the just satisfaction award would be based on the appropriate awards in the leading case, on a friendly settlement proposal, or that the Court may decide that the finding of a violation constitutes just satisfaction in itself. It is recalled that the Court's task under Article 19 to "ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto" is not necessarily best achieved by repeating the same findings and making relatively substantial and individualised awards in large series of repetitive cases.

24) Applicants are invited to identify a bank account into which they wish any sums awarded to be paid. If they wish particular amounts, such as the sums awarded in respect of costs and expenses, to be paid separately, for example, directly into the bank account of their representative, they should so specify. Where the application is lodged by several applicants, they should also specify if they ask for the award to made to them jointly or separately. Normally, the Court would make the award jointly to the members of the same household.

IV. THE FORM OF THE COURT'S AWARDS

25) Just satisfaction can be awarded to the victims of the violations found, including indirect victims. It can be awarded to legal entities. The Court may order that the award be held in trust for the applicants who are for some reason unable to receive it at the relevant time.

26) The Court's awards, if any, will normally be in the form of a sum of money to be paid by the respondent Contracting Party to the victims of the violations found. Any monetary award under Article 41 will normally be in euros (EUR, €) irrespective of the currency in which the applicant expresses his or her claims. If the applicant is to receive payment in a currency other than the euro, the Court will order the sums awarded to be converted into that other currency at the exchange rate applicable on the date of payment. When formulating their claims the applicants should, where appropriate, consider the implications of this policy in the light of the effects of converting sums expressed in a different currency into euros or contrariwise.

27) The Court will of its own motion set a time-limit for any payments that may need to be made, which will normally be three months from the date on which its judgment becomes final and binding. The Court will also order default interest to be paid in the event that that time-limit is exceeded, normally at a simple rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

V. BINDING FORCE AND EXECUTION OF JUDGMENTS

28) The Court's judgments are essentially declaratory in nature. In general, it is primarily for the State concerned to choose, subject to supervision by the Committee of Ministers, the individual and general measures to be used to discharge its obligations under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment. In practical terms, this means that only in certain special circumstances the Court has found it useful to indicate to a respondent State the type of measures that might be taken to put an end to the situation which has given rise to the finding of a violation, other than the payment of sums of money by way of just satisfaction under Article 41. Most often, this happens in cases addressing systemic problems, in particular pilot judgments.

29) Any question as to whether or not the respondent Government has complied with its obligations as set out in the final judgment is considered by the Committee of Ministers and if necessary by the Court itself (Article 46 §§ 3—5 of the Convention).

Secured Electronic Filing by Governments[388]

I. SCOPE OF APPLICATION

1) The Governments of the Contracting Parties that have opted for the Court's system of secured electronic filing shall send all their written communications with the Court by uploading them on the secured website set up for that purpose and shall accept written communications sent to them by the Registry of the Court by downloading them from that site, with the following exceptions:

a) in the event of a dysfunction on the secure site, it is mandatory that the documents concerning a request for the indication of an interim measure under Rule 39 of the Rules of Court be sent by fax or email; in such cases the document must be clearly headed **"Rule 39. Urgent"**;

b) attachments, such as plans, manuals, etc. that may not be comprehensively viewed in an electronic format may be filed by post;

c) the Court's Registry may request that a paper document or attachment be submitted by post.

2) If the Government have filed a document by post or fax, they shall, as soon as possible, file electronically a notice of filing by post or fax, describing the document sent, stating the date of dispatch and setting forth the reasons why electronic filing was not possible.

II. TECHNICAL REQUIREMENTS

3) The Government shall possess the necessary technical equipment and follow the user manual sent to them by the Court's Registry.

III. FORMAT AND NAMING CONVENTION

4) A document filed electronically shall be in PDF format, preferably in searchable PDF.

5) Unsigned letters and written pleadings shall not be accepted. Signed documents to be filed electronically shall be generated by scanning the original paper copy. The Government shall keep the original paper copy in their files.

6) The name of a document filed electronically shall be prefixed by the application number, followed by the name of the applicant as spelled in Latin script by the Registry of the Court, and contain an indication of the contents of the document.[389]

388 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 22 September 2008 and amended on 29 September 2014 and on 5 July 2018.

389 For example, 65051/01 Karagyozov Observ Adm Merits.

IV. RELEVANT DATE WITH REGARD TO TIME-LIMITS

7) The date on which the Government have successfully uploaded a document on the secured website shall be considered as the date of dispatch within the meaning of Rule 38 § 2 or the date of filing for the purposes of Rule 73 § 1.

8) To facilitate keeping track of the correspondence exchanged, every day shortly before midnight the secured server generates automatically an electronic mail message listing the documents that have been filed electronically within the past twenty-four hours.

V. DIFFERENT VERSIONS OF ONE AND THE SAME DOCUMENT

9) The secured website shall not permit the modification, replacement or deletion of an uploaded document. If the need arises for the Government to modify a document they have uploaded, they shall create a new document named differently (for example, by adding the word "modified" in the document name). This opportunity should only be used where genuinely necessary and should not be used to correct minor errors.

10) Where the Government have filed more than one version of the same document, only the document filed in time shall be taken into consideration. Where more than one version has been filed in time, the latest version shall be taken into consideration, unless the President of the Chamber decides otherwise.

Requests for Anonymity[390]

(Rules 33 and 47 of the Rules of Court) General Principles

The parties are reminded that, unless a derogation has been obtained pursuant to Rules 33 or 47 of the Rules of Court, documents in proceedings before the Court are public. Thus, all information that is submitted in connection with an application in both written and oral proceedings, including information about the applicant or third parties, will be accessible to the public.

The parties should also be aware that the statement of facts, decisions and judgments of the Court are usually published in HUDOC[391] on the Court's website (Rule 104A).

390 Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 14 January 2010.

391 http://hudoc.echr.coe.int/

REQUESTS IN PENDING CASES

Any request for anonymity should be made when completing the application form or as soon as possible thereafter. In both cases the applicant should provide reasons for the request and specify the impact that publication may have for him or her.

RETROACTIVE REQUESTS

If an applicant wishes to request anonymity in respect of a case or cases published on HUDOC before 1 January 2010, he or she should send a letter to the Registry setting out the reasons for the request and specifying the impact that this publication has had or may have for him or her. The applicant should also provide an explanation as to why anonymity was not requested while the case was pending before the Court.
In deciding on the request the President shall take into account the explanations provided by the applicant, the level of publicity that the decision or judgment has already received and whether or not it is appropriate or practical to grant the request.
When the President grants the request, he or she shall also decide on the most appropriate steps to be taken to protect the applicant from being identified. For example, the decision or judgment could, inter alia, be removed from the Court's website or the personal data deleted from the published document.

OTHER MEASURES

The President may also take any other measure he or she considers necessary or desirable in respect of any material published by the Court in order to ensure respect for private life.

Processing of Applications in the Event of a Mass Influx[392]

(INDIVIDUAL APPLICATIONS UNDER ARTICLE 34 OF THE CONVENTION) I. INTRODUCTION

1) Over the past years, the Court has increasingly been faced with a mass influx of applications, which commonly result from various structural or systemic problems[393] or specific factual developments[394] affecting a large number of persons in a State Party. It is clear that a mass influx of applications may affect the Court's ability to fulfil its mandate set out under Article 19 of the Convention, unless special measures are taken to manage the processing of such applications from the moment of their arrival to the Court and prior to their assignment to the Sections in accordance with Rule 52 of the Rules of Court.

II. SPECIAL MEASURES THAT MAY BE RESORTED TO FOLLOWING THE RECEIPT OF A LARGE NUMBER OF APPLICATIONS

2) In the event of an influx of a large number of similar applications, the Registrar, under the authority of the President of the Court, may decide, in the interests of the proper administration of justice, to suspend provisionally the registration of some or all of these applications, pending a decision by a judicial formation in one or more leading cases on how the relevant applications are to be processed.

3) Where the applications concerned are based on similar facts and/or involve similar complaints, the Registrar may, if necessary, request the presentation of the applications to be coordinated at national level and the re-submission of grouped applications within a fixed time-limit, in a particular format.[395] Further instructions may be given by the Registrar, in accordance with the Rules of Court and other relevant Practice Directions, as to steps required to facilitate the effective and speedy processing of applications.

392 Practice Direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 25 August 2022.

393 See, for instance, *Burmych and Others v. Ukraine* (striking out) [GC], nos. 46852/13 et al., §§ 8-44, 12 October 2017.

394 See, for instance, *Zambrano v. France* (dec.), no. 41994/21, §§ 4-11,20, 36 and 37, 21 September 2021.

395 For further instructions on the submission of grouped applications and multiple applicants, see the Practice Directions on Institution of Proceedings.

4) The failure to re-submit an application as directed may result in the application not being examined by the Court.

III. THE DATE OF INTRODUCTION OF THE APPLICATION

5) The date of introduction of the application for the purposes of Article 35 § 1 of the Convention would, in principle, be the date of the submission of the completed application form in accordance with the conditions set out in Rules 45 and 47 of the Rules of Court or the further instructions given by the Registrar.
6) However, as per Rule 47 § 6 (b) of the Rules of Court, the Court may decide that a different date shall be considered to be the date of introduction, where it finds it justified.

IV. COMMUNICATION WITH THE APPLICANTS

7) The Court may decide to communicate information regarding these applications via press releases, instead of corresponding with individual applicants or responding to individual queries.

Rules of the Committee of Ministers for the Supervision of the Execution of Judgments and of the Terms of Friendly Settlements

(adopted by the Committee of Ministers on 10 May 2006 at the 964th meeting of the Ministers' Deputies and amended on 18 January 2017 at the 1275th meeting of the Ministers' Deputies)

GENERAL PROVISIONS

Rule 1

1) The exercise of the powers of the Committee of Ministers under Article 46, paragraphs 2 to 5, and Article 39, paragraph 4, of the European Convention on Human Rights, is governed by the present Rules.
2) Unless otherwise provided in the present Rules, the general rules of procedure of the meetings of the Committee of Ministers and of the Ministers' Deputies shall apply when exercising these powers.

Rule 2

1) The Committee of Ministers' supervision of the execution of judgments and of the terms of friendly settlements shall in principle take place at special human rights meetings, the agenda of which is public.
2) If the chairmanship of the Committee of Ministers is held by the representative of a High Contracting Party which is a party to a case under examination, that representative shall relinquish the chairmanship during any discussion of that case.

Rule 3

When a judgment or a decision is transmitted to the Committee of Ministers in accordance with Article 46, paragraph 2, or Article 39, paragraph4, of the Convention, the case shall be inscribed on the agenda of the Committee without delay.

Rule 4

1) The Committee of Ministers shall give priority to supervision of the execution of judgments in which the Court has identified what it considers a systemic problem in accordance with Resolution Res(2004)3 of the Committee of Ministers on judgments revealing an underlying systemic problem.
2) The priority given to cases under the first paragraph of this Rule shall not be to the detriment of the priority to be given to other important cases, notably cases where the violation established has caused grave consequences for the injured party.

Rule 5

The Committee of Ministers shall adopt an annual report on its activities under Article 46, para-graphs2 to 5, and Article 39, paragraph 4, of the Convention, which shall be made public and transmitted to the Court and to the Secretary General, the Parliamentary Assembly and the Commissioner for Human Rights of the Council of Europe.

I. SUPERVISION OF THE EXECUTION OF JUDGMENTS

Rule 6 – Information to the Committee of Ministers on the Execution of the Judgment

1) When, in a judgment transmitted to the Committee of Ministers in accordance with Article 46, paragraph 2, of the Convention, the Court has decided that there has been

a violation of the Convention or its protocols and/or has awarded just satisfaction to the injured party under Article41 of the Convention, the Committee shall invite the High Contracting Party concerned to inform it of the measures which the High Contracting Party has taken or intends to take in consequence of the judgment, having regard to its obligation to abide by it under Article 46, paragraph 1, of the Convention.

2) When supervising the execution of a judgment by the High Contracting Party concerned, pursuant to Article 46, paragraph 2, of the Convention, the Committee of Ministers shall examine:

a) whether any just satisfaction awarded by the Court has been paid, including as the case may be, default interest; and

b) if required, and taking into account the discretion of the High Contracting Party concerned to choose the means necessary to comply with the judgment, whether:

i) individual measures[396] have been taken to ensure that the violation has ceased and that the injured party is put, as far as possible, in the same situation as that party enjoyed prior to the violation of the Convention;

ii) general measures[397] have been adopted, preventing new violations similar to that or those found or putting an end to continuing violations.

Rule 7 - Control Intervals

1) Until the High Contracting Party concerned has provided information on the payment of the just satisfaction awarded by the Court or concerning possible individual measures, the case shall be placed on the agenda of each human rights meeting of the Committee of Ministers, unless the Committee decides otherwise.

2) If the High Contracting Party concerned informs the Committee of Ministers that it is not yet in a position to inform the Committee that the general measures necessary to ensure compliance with the judgment have been taken, the case shall be placed again on the agenda of a meeting of the Committee of Ministers taking place no more than six months later, unless the Committee decides otherwise; the same rule shall apply when this period expires and for each subsequent period.

396 For instance, the striking out of an unjustified criminal conviction from the criminal records, the granting of a residence permit or the reopening of impugned domestic proceedings (see on this latter point Recommendation Rec(2000)2 of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights, adopted on 19 January 2000 at the 694th meeting of the Ministers' Deputies).

397 For instance, legislative or regulatory amendments, changes of case-law or administrative practice or publication of the Court's judgment in the language of the respondent state and its dissemination to the authorities concerned.

Rule 8 - Access to Information

1) The provisions of this Rule are without prejudice to the confidential nature of the Committee of Ministers' deliberations in accordance with Article 21 of the Statute of the Council of Europe.

2) The following information shall be accessible to the public unless the Committee decides otherwise in order to protect legitimate public or private interests:

a) information and documents relating thereto provided by a High Contracting Party to the Committee of Ministers pursuant to Article 46, paragraph 2, of the Convention;

b) information and documents relating thereto provided to the Committee of Ministers, in accordance with the present Rules, by the injured party, by non-governmental organisations or by national institutions for the promotion and protection of human rights.

3) In reaching its decision under paragraph 2 of this Rule, the Committee shall take, inter alia, into account:

a) reasoned requests for confidentiality made, at the time the information is submitted, by the High Contracting Party, by the injured party, by non-governmental organisations or by national institutions for the promotion and protection of human rights submitting the information;

b) reasoned requests for confidentiality made by any other High Contracting Party concerned by the information without delay, or at the latest in time for the Committee's first examination of the information concerned;

c) the interest of an injured party or a third party not to have their identity, or anything allowing their identification, disclosed.

4) After each meeting of the Committee of Ministers, the annotated agenda presented for the Committee's supervision of execution shall also be accessible to the public and shall be published, together with the decisions taken, unless the Committee decides otherwise. As far as possible, other documents presented to the Committee which are accessible to the public shall be published, unless the Committee decides otherwise.

5) In all cases, where an injured party has been granted anonymity in accordance with Rule 47, paragraph 3 of the Rules of Court; his/her anonymity shall be preserved during the execution process unless he/she expressly requests that anonymity be waived.

Rule 9 - Communications to the Committee of Ministers

1) The Committee of Ministers shall consider any communication from the injured party with regard to payment of the just satisfaction or the taking of individual measures.
2) The Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention.
3) The Committee of Ministers shall also be entitled to consider any communication from an international intergovernmental organisation or its bodies or agencies whose aims and activities include the protection or the promotion of human rights, as defined in the Universal Declaration of Human Rights, with regard to the issues relating to the execution of judgments under Article 46, paragraph 2, of the Convention which fall within their competence.
4) The Committee of Ministers shall likewise be entitled to consider any communication from an institution or body allowed, whether as a matter of right or upon special invitation from the Court, to intervene in the procedure before the Court, with regard to the execution under Article 46, paragraph 2, of the Convention of the judgment either in all cases (in respect of the Council of Europe Commissioner for Human Rights) or in all those concerned by the Court's authorisation (in respect of any other institution or body).
5) The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers.
6) The Secretariat shall bring any communication received under paragraphs 2, 3 or 4 of this Rule to the attention of the State concerned. When the State responds within five working days, both the communication and the response shall be brought to the attention of the Committee of Ministers and made public. If there has been no response within this time limit, the communication shall be transmitted to the Committee of Ministers but shall not be made public. It shall be published ten working days after notification, together with any response received within this time limit. A State response received after these ten working days shall be circulated and published separately upon receipt.

Rule 10 - Referral to the Court for Interpretation of a Judgment

1) When, in accordance with Article 46, paragraph 3, of the Convention, the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.
2) A referral decision may be taken at any time during the Committee of Ministers' supervision of the execution of the judgments.
3) A referral decision shall take the form of an interim resolution. It shall be reasoned and reflect the different views within the Committee of Ministers, in particular that of the High Contracting Party concerned.
4) If need be, the Committee of Ministers shall be represented before the Court by its Chair, unless the Committee decides upon another form of representation. This decision shall be taken by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee.

Rule 11 - Infringement Proceedings

1) When, in accordance with Article 46, paragraph 4, of the Convention, the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation.
2) Infringement proceedings should be brought only in exceptional circumstances. They shall not be initiated unless formal notice of the Committee's intention to bring such proceedings has been given to the High Contracting Party concerned. Such formal notice shall be given ultimately six months before the lodging of proceedings, unless the Committee decides otherwise, and shall take the form of an interim resolution. This Resolution shall be adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee.
3) The referral decision of the matter to the Court shall take the form of an interim resolution. It shall be reasoned and concisely reflect the views of the High Contracting Party concerned.

4) The Committee of Ministers shall be represented before the Court by its Chair unless the Committee decides upon another form of representation. This decision shall be taken by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee.

II. SUPERVISION OF THE EXECUTION OF THE TERMS OF FRIENDLY SETTLEMENTS

Rule 12 - Information to the Committee of Ministers on the Execution of the Terms of the Friendly Settlement

1) When a decision is transmitted to the Committee of Ministers in accordance with Article 39, paragraph 4, of the Convention, the Committee shall invite the High Contracting Party concerned to inform it on the execution of the terms of the friendly settlement.
2) The Committee of Ministers shall examine whether the terms of the friendly settlement, as set out in the Court's decision, have been executed.

Rule 13 - Control Intervals

Until the High Contracting Party concerned has provided information on the execution of the terms of the friendly settlement as set out in the decision of the Court, the case shall be placed on the agenda of each human rights meeting of the Committee of Ministers, or, where appropriate,[398] on the agenda of a meeting of the Committee of Ministers taking place no more than six months later, unless the Committee decides otherwise.

Rule 14 - Access to Information

1) The provisions of this Rule are without prejudice to the confidential nature of the Committee of Ministers' deliberations in accordance with Article 21 of the Statute of the Council of Europe.
2) The following information shall be accessible to the public unless the Committee decides otherwise in order to protect legitimate public or private interests:
   a) information and documents relating thereto provided by a High Contracting Party to the Committee of Ministers pursuant to Article 39, paragraph 4, of the Convention;
   b) information and documents relating thereto provided to the Committee of Ministers in accordance with the present Rules by the applicant, by non-governmental organisations or by national institutions for the promotion and protection of human rights.
3) In reaching its decision under paragraph 2 of this Rule, the Committee shall take, inter alia, into account:
   a) reasoned requests for confidentiality made, at the time the information is submitted, by the High Contracting Party, by the applicant, by non-governmental organisations or by national institutions for the promotion and protection of human rights submitting the information;
   b) reasoned requests for confidentiality made by any other High Contracting Party concerned by the information without delay, or at the latest in time for the Committee's first examination of the information concerned;
   c) the interest of an applicant or a third party not to have their identity, or anything allowing their identification, disclosed.
4) After each meeting of the Committee of Ministers, the annotated agenda presented for the Committee's supervision of execution shall also be accessible to the public and shall be published, together with the decisions taken, unless the Committee decides otherwise. As far as possible, other documents presented to the Committee which are accessible to the public shall be published, unless the Committee decides otherwise.
5) In all cases, where an applicant has been granted anonymity in accordance with Rule 47, paragraph 3 of the Rules of Court; his/her anonymity shall be preserved during the execution process unless he/she expressly requests that anonymity be waived.

Rule 15 - Communications to the Committee of Ministers

1) The Committee of Ministers shall consider any communication from the applicant with regard to the execution of the terms of friendly settlements.
2) The Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of the terms of friendly settlements.
3) The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers.

398 In particular where the terms of the friendly settlement include undertakings which, by their nature, cannot be fulfilled within a short time span, such as the adoption of new legislation.

It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication.

III. RESOLUTIONS

Rule 16 – Interim Resolutions

In the course of its supervision of the execution of a judgment or of the terms of a friendly settlement, the Committee of Ministers may adopt interim resolutions, notably in order to provide information on the state of progress of the execution or, where appropriate, to express concern and/or to make suggestions with respect to the execution.

Rule 17 – Final Resolution

After having established that the High Contracting Party concerned has taken all the necessary measures to abide by the judgment or that the terms of the friendly settlement have been executed, the Committee of Ministers shall adopt a Resolution concluding that its functions under Article 46, paragraph 2, or Article 39 paragraph 4, of the Convention have been exercised.

DPI AIMS AND OBJECTIVES

Aims and objectives of DPI include:

- To contribute to broadening bases and providing new platforms for discussion on establishing a structured public dialogue on peace and democracy building.
- To provide opportunities, in which different parties are able to draw on comparative studies, analyse and compare various mechanisms used to achieve positive results in similar cases.
- To create an atmosphere whereby different parties share knowledge, ideas, concerns, suggestions and challenges facing the development of a democratic solution in Turkey and the wider region.
- To support, and to strengthen collaboration between academics, civil society and policy-makers.
- To identify common priorities and develop innovative approaches to participate in and influence democracy-building.
- Promote and protect human rights regardless of race, colour, sex, language, religion, political persuasion or other belief or opinion.

DPI aims to foster an environment in which different parties share information, ideas, knowledge and concerns connected to the development of democratic solutions and outcomes. Our work supports the development of a pluralistic political arena capable of generating consensus and ownership over work on key issues surrounding democratic solutions at political and local levels.

We focus on providing expertise and practical frameworks to encourage stronger public debates and involvements in promoting peace and democracy building internationally. Within this context DPI aims to contribute to the establishment of a structured public dialogue on peace and democratic advancement, as well as to widen and create new existing platforms for discussions on peace and democracy building. In order to achieve this we seek to encourage an environment of inclusive, frank, structured discussions whereby different parties are in the position to openly share knowledge, concerns and suggestions for democracy building and strengthening across multiple levels.

DPI's objective throughout this process is to identify common priorities and develop innovative approaches to participate in and influence the process of finding democratic solutions. DPI also aims to support and strengthen collaboration between academics, civil society and policy-makers through its projects and output. Comparative studies of relevant situations are seen as an effective tool for ensuring that the mistakes of others are not repeated or perpetuated. Therefore we see comparative analysis of models of peace and democracy building to be central to the achievement of our aims and objectives.

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