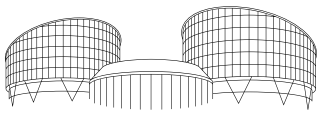

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Information Note on the Court's case-law

No. 170 January 2014

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TABLE OF CONTENTS

ARTICLE 2

Positive obligations (substantive aspect)
Effective investigation

Death of man suffering from psychiatric disorder as a result of police attempts to hospitalise him by force: *violation*

Shchiborshch and Kuzmina v. Russia - 5269/08
Judgment 16.1.2014 [Section I]

Facts – The applicants' son suffered from a psychiatric disorder. In 2006 his father obtained a referral for his in-patient treatment and asked the police for assistance with his hospital placement. As the son was in a delirious state, he mistook the police for burglars and threatened them with a knife. The police tried to knock the knife out of his hand using their truncheons and the butt of a rifle, but the son ran to the kitchen and barricaded the door. After unsuccessful attempts to negotiate, the police "stormed" the kitchen where the son put up resistance and was seriously wounded. He was taken to hospital in a coma and died shortly afterwards without regaining consciousness. The findings of the forensic examinations were conflicting as to the cause of his death: according to some reports, it was caused by craniocerebral trauma, according to others, by a slash wound to the neck. The criminal investigation was closed in 2010 on the grounds that the use of force had been in accordance with the law and that, given the conflicting findings of the forensic reports, there was insufficient evidence to hold the police responsible.

Law – Article 2

(a) *Substantive aspect* – While the craniocerebral trauma and slash wound to the neck were life-threatening injuries whose combination might have led to the lethal outcome, there was insufficient evidence to conclude that the injuries were directly caused by the police.

As regards the planning and control of the police operation, dealing with mentally disturbed individuals clearly required special training, the absence of which was likely to render futile any attempted negotiations with a person with a mental disorder as grave as that of the applicants' son. This understanding was reflected in the domestic law, which while providing for police assistance to medical personnel when carrying out involuntary hospitalisation did not empower the police to act independently. No explanation had been presented to the Court as to why the police had taken action without being accompanied by qualified medical personnel. Emergency psychiatric assistance had only been called after several unsuccessful attempts to apprehend the applicants' son. No explanation for the delay had been provided to the Court. The use of special equipment, such as rubber truncheons, in such circumstances did not comply with the police's duty to minimise risks to the life and health. No evidence had been submitted to show that the son had posed such an immediate danger to himself or others as to require urgent measures, especially while he remained barricaded in the kitchen. In so far as he had wounded three police officers, the Court considered this to have been the result of the police's own actions. Given that the applicant's son was delirious and therefore unable to comprehend who the police officers were or what they wanted, the only appropriate course would have been to await the arrival of psychiatric assistance. However, the officers had persisted in their attempts to apprehend him as if they were dealing with a typical armed offender. The Court was particularly struck by the order to shoot to kill should he try to leave or attack the police, which, though not executed, was clearly excessive and demonstrated the officers' inability to assess the situation and react appropriately. Moreover, there was no evidence that the storming operation had resulted from any kind of preliminary planning and consideration. There was nothing to show that the imminent arrival of the psychiatric emergency services had been taken into account, that the use of less violent means had been considered, or that the use of force had been given any prior consideration or assessment. The applicants' son had a history of involuntary hospitalisation requiring police assistance, as on each occasion he had resisted his placement in hospital. Therefore, the situation had not been new and the police should have been able to foresee that they would be faced with resistance and should have prepared accordingly.

In sum, even assuming that the lethal injuries were the consequence of the applicants' son's own actions, the Court considered that to be the result of the uncontrolled and unconsidered manner in which the police operation had been carried out. The measures taken by the police had lacked the degree of caution to be expected from law-enforcement officers in a democratic society. The operation had not been organised so as to minimise to the greatest extent possible any risk to the life of the applicants' son.

Conclusion: violation (unanimously).

(b) *Procedural aspect* – The investigating authorities had not addressed the issue of the planning and control of the operation. In particular, they had not investigated why the police had acted on their own authority in the absence of qualified medical personnel, contrary to domestic law. While the investigation had assessed the use of force and special equipment, like the police officers the investigating authorities appeared to have considered the situation as though it had involved a typical armed offender, with no regard to the mental condition of the applicants' son. Furthermore, they had made no assessment of the manner in which the decision to storm the flat had been taken. Given the investigation's failure to address such crucial points, despite the large volume of investigative measures carried out, it had fallen short of the thoroughness required by Article 2.

Conclusion: violation (unanimously).

The Court also found a violation of Article 13 since the applicants had been denied an effective remedy in respect of their complaint under Article 2.

Article 41: EUR 45,000 jointly in respect of non-pecuniary damage; EUR 2,550 jointly in respect of pecuniary damage.

Effective investigation

Refusal to hold re-enactment of incident in which police officers had opened fire when effecting an arrest: *no violation*

Camekan v. Turkey - 54241/08
Judgment 28.1.2014 [Section II]

Facts – In December 2000 the applicant was injured by patrolling police officers in a shoot-out that ensued during his arrest. In November 2001 the public prosecutor decided to prosecute thirteen officers for causing the death of one individual and wounding two others, including the applicant. Before the Assize Court, forensic reports admitted in evidence noted among other things that a spent cartridge and a bullet had come from the applicant's pistol, and testimony was heard from witnesses. On numerous occasions during the hearings, the applicant requested that a re-enactment of the scene be held in his presence, but his requests were dismissed. In a judgment of 24 May 2012 the Assize Court took the view that the officers had been acting in self-defence and granted them a discharge. The applicant appealed on points of law and at the date of the Court's judgment those proceedings were still pending in the Court of Cassation.

Law – Article 2

(a) *Use of force* – Even though the applicant contended that he had not used a firearm against the police, the Court had no convincing information that would be capable of leading it to set aside the findings of fact by the Assize Court judges in the judgment of 24 May 2012, which found it established that during the incident the first shots had been fired against the police officers who were present at the scene to discharge their duties and that the use of a firearm by police officers had been lawful in the light of domestic law. The Court held that the use of force in those conditions, whilst regrettable, had not exceeded what was "absolutely necessary" in order to "ensure the defence of any individual against violence" and in particular "to proceed with a lawful arrest".

Conclusion: no violation (four votes to three).

(b) *Effectiveness of the investigation* – The authorities had conducted an investigation immediately after the incident and a number of measures had been taken to preserve the evidence at the scene. Real evidence had been gathered, sketches had been produced and samples had been taken from the suspects' hands. In addition, criminal proceedings, which were still pending in the Court of Cassation, had been brought against the officers involved.

As regards the failure to hold a re-enactment at the scene, the Court had found in the case of *Abik v. Turkey* (34783/07, 16 July 2013) that this investigative act was one of crucial importance, since it enabled the investigator or judges to elaborate the possible scenarios as to the sequence of events and to assess the credibility of the suspects' statements. However, whilst in that case the facts had not been sufficiently established by the domestic authorities, given that the person who fired the lethal shot had not been identified and that one of the police officers had reported seeing the shadows of two individuals behind a car, in the present case the parties' versions were not radically different as to the sequence of events, the main point in dispute being whether or not the applicant had used his weapon. In addition, a sketch of the scene had been produced following a visit to the scene made during the applicant's detention and in his presence. It would have been preferable for that investigative act to have been carried out in the presence of the public prosecutor and the applicant's lawyer. However, the applicant had not called it into question before the domestic courts and had not submitted a request for re-enactment until about four years after the events in question. In this connection, the public prosecutor, finding that such a request could

be of no assistance in view of the time that had elapsed since the incident, had rejected the request. Consequently, the Court is not persuaded that the failure to carry out a re-enactment had seriously prevented the national authorities from establishing the main facts of the case.

As regards the applicant's complaint about the length of the proceedings against the police officers, the Court noted at the outset the excessive duration of the post-investigation proceedings: the Assize Court had delivered its judgment on 24 May 2012, some eleven and a half years after the events, and after a total of thirteen years the proceedings were still pending before the Court of Cassation. The Turkish authorities had not, therefore, acted sufficiently quickly or with reasonable diligence.

Conclusion: violation (unanimously).

Article 41: EUR 6,000 in respect of non-pecuniary damage.

ARTICLE 3

Inhuman or degrading treatment

Obligation on prisoners to wear closed overalls while being held in isolation for short period: *no violation*

Lindström and Mässeli v. Finland - 24630/10
Judgment 14.1.2014 [Section IV]

Facts – In 2004 the applicants, who were both serving prison sentences, were placed in isolation (the first applicant for three days, the second for seven) as they were suspected of attempting to smuggle drugs into the prison. While in isolation, they were forced to wear overalls covering them from neck to foot and "sealed" by prison staff with plastic strips. They could not remove the overalls by themselves or draw their hands inside the sleeves. The applicants alleged that there had been instances in which they had been forced to defecate in their overalls, as prison guards had not been able to escort them to a supervised toilet quickly enough, and that they had not been allowed to change afterwards or to wash throughout their period in isolation. They had suffered skin problems as a result. In 2005 the applicants reported the matter to the police and the authorities pressed charges against the prison director and two senior guards. However, in 2007 the district court dismissed all the charges in a judgment that was upheld on appeal.

Law – Article 3: Maintaining order and security in prisons and guaranteeing prisoners' well-being could be proper grounds for introducing a system of closed overalls to be used while prisoners were held in isolation. Moreover, the measures were designed to protect prisoners' health and there was no intention to humiliate. Nevertheless, such a practice could be assessed differently if it led, in concrete circumstances, to situations which were contrary to Article 3. In the instant case, the domestic courts had found that it had not been intended that the prisoners should defecate in their overalls and that there was no evidence that the guards had delayed their response to the applicants' calls to use the toilet. Nor had it been shown that the applicants had not had an appropriate possibility to wash whenever necessary or had had to continue wearing dirty overalls. They had failed to submit any evidence to prove that the plastic strips had caused abrasions to their wrists or that the overalls had caused an allergic reaction. It was not for the Court to re-examine the validity of the domestic courts' assessment of the facts. Furthermore, where there were convincing security needs, the practice of using closed overalls during a relatively short period of isolation could not, in itself, reach the threshold of Article 3. This was especially so in the applicants' case, given that they were unable to produce any evidence to support their allegations concerning the possibly humiliating elements of their treatment.

Conclusion: no violation (five votes to two).

The Court also held, unanimously, that there had been a violation of Article 8 of the Convention in that the interference with the applicants' right to respect for their private life was not in accordance with law. The applicants were awarded EUR 3,000 each in respect of non-pecuniary damage for that violation.

(See *Kudła v. Poland* [GC], 30210/96, 26 October 2000, Information Note 23; *Peers v. Greece*, 28524/95, 19 April 2001, Information Note 29; *Doerga v. the Netherlands*, 50210/99, 27 April 2004, Information Note 63; and *Wisse v. France*, 71611/01, 20 December 2005)

Degrading treatment
Positive obligations (substantive aspect)

Absence of timely reaction by the Military to a conscript's mental disorder: *violation*

Placì v. Italy - 48754/11
Judgment 21.1.2014 [Section II]

Facts – Following two medical examinations in which he was found fit for military service the applicant was conscripted in June 1994. During

the subsequent months, he was subjected to various disciplinary measures, including 24 days' confinement, for inappropriate behaviour. He was later hospitalised and diagnosed with anxiety disorder, before being discharged as unfit in April 1995. He made a claim for damages, alleging a causal link between his military service and his illness, or alternatively that his illness had not been detected by the medical examiners who had declared him fit for service. However, his claim was rejected by the Ministry of Defence in a decision that was ultimately upheld by the Supreme Administrative Court in February 2011.

Law – Article 3: The Court was not convinced that the Italian authorities had acted negligently. Prior to his conscription, the applicant had undergone a medical examination which had found him fit for military service despite certain deficiencies. He had received a further examination upon being drafted. The applicant had not questioned the qualifications or the experience of the doctors who had made the assessments. Nor had he complained about his health or sought a second opinion. It was not, therefore, established that on the date of the applicant's conscription the Italian authorities had substantial grounds for believing that his condition was such that he would be at real risk of proscribed treatment if he was drafted into the army.

However, as regards subsequent events, the Court noted that while during the first six months it had not occurred to the applicant's superiors that his repeated unruliness might be the result of psychological issues, that possibility had become blatantly apparent to a new superior within just a few days of the applicant's transfer to another unit. It was only then that his health and well-being had been adequately secured through medical examinations and assistance. The Government had not given details of the competencies of the applicant's superiors, including whether there was any trained personnel capable of and responsible for detecting such situations. Nor had they pointed to any practice, rules or procedures for ensuring early identification of such situations and the steps to be taken in such circumstances. It had not been shown that the applicant had had access to psychological support or at least to some kind of examination or supervision. The applicant had therefore been left to his own devices for the initial six months (following less than a month's training), during which period he had been subjected to treatment which, although perhaps not overwhelming for a person in good health, could, and in the present case apparently did, constitute an onerous burden on anyone lacking the requisite mental strength. While it could not be ruled out that even routine duties might in certain circumstances raise an issue, in the instant case the applicant had been repeatedly punished, for a total of 29 days, in a span of six months. Again, while the punishments at issue might have been of little consequence to healthy individuals, their effects on someone like the applicant might not only be detrimental in the long run – as appeared to have been the case for the applicant – but also very disturbing, with instantaneous effects on physical or mental health lasting throughout their duration. The medical reports of 1995 had found that the applicant was suffering from "dysphoria and borderline personality disorder" and highlighted that the military service had caused him stress. Given his vulnerability, the suffering to which he had been subjected went beyond that of any regular conscript in normal military service. In the absence of any timely detection and reaction by the military, or of any framework capable of preventing such occurrences, the State had failed to ensure that the applicant performed his military service in conditions which were compatible with respect for his rights under Article 3.

Conclusion: violation (unanimously).

The Court also found a violation of Article 6 § 1 in account of the lack of a fair hearing before an impartial tribunal and a breach of the principle of equality of arms.

Article 41: EUR 40,000 in respect of non-pecuniary damage; claim in respect of pecuniary damage dismissed.

(See also *Kayankin v. Russia*, 24427/02, 11 February 2010; and *Baklanov v. Ukraine*, 44425/08, 24 October 2013)

Positive obligations (substantive aspect)

Failure by State to put appropriate mechanisms in place to protect National School pupil from sexual abuse by teacher: *violation*

O'Keeffe v. Ireland - 35810/09
Judgment 28.1.2014 [GC]

Facts – The applicant alleged that she was subjected to sexual abuse by a teacher (LH) in 1973 when she was a pupil in a state-funded National School owned and managed by the Catholic Church. National Schools were established in Ireland in the early nineteenth century as a form of primary school directly financed by the State, but administered jointly by the State, a patron, and local representatives. Under this system the State provides

most of the funding and lays down regulations on such matters as the curriculum and teachers' training and qualifications, but most of the schools are owned by clerics (the patron) who appoint a school manager (invariably a cleric). The patron and manager select, employ and dismiss the teachers.

LH resigned from his post in September 1973 following complaints by other pupils of abuse. However, at that stage the Department of Education and Science was not informed about the complaints and no complaint was made to the police. LH moved to another National School, where he continued to teach until his retirement in 1995. The applicant suppressed the abuse to which she had been subjected and it was not until the late 1990s, after receiving counselling following a police investigation into a complaint by another former pupil, that she realised the connection between psychological problems she was experiencing and the abuse she had suffered. She made a statement to the police in 1997. LH was ultimately charged with 386 criminal offences of sexual abuse involving some 21 former pupils of the National School the applicant had attended. In 1998 he pleaded guilty to 21 sample charges and was sentenced to a term of imprisonment.

The applicant was subsequently awarded compensation by the Criminal Injuries Compensation Tribunal and damages in an action against LH. She also brought a civil action in damages alleging negligence, vicarious liability and constitutional responsibility on the part of various State authorities (for technical reasons, she did not sue the Church). However, the High Court rejected those claims in a judgment that was upheld by the Supreme Court on 19 December 2008, essentially on the grounds that the Irish Constitution specifically envisaged a ceding of the actual running of National Schools to interests represented by the patron and the manager, that the manager was the more appropriate defendant to the claim in negligence and that the manager had acted as agent of the Church, not of the State.

In her complaint to the European Court, the applicant complained, *inter alia*, that the State had failed to structure the primary education system so as to protect her from abuse (Article 3 of the Convention) and that she had not been able to obtain recognition of, and compensation for, the State's failure to protect her (Article 13).

Law – Article 3

(a) *Substantive aspect* – It was an inherent obligation of government to ensure the protection of children from ill-treatment, especially in a primary education context, through the adoption, as necessary, of special measures and safeguards. In this connection, the nature of child sexual abuse was such, particularly when the abuser was in a position of authority over the child, that the existence of useful detection and reporting mechanisms were fundamental to the effective implementation of the criminal law designed to deter such abuse. A State could not absolve itself from its obligations to minors in primary schools by delegating those duties to private bodies or individuals. Nor, if the child had selected one of the State-approved education options (whether a National School, a fee-paying school or home schooling), could it be released from its positive obligation to protect simply because of the child's choice of school.

The Court therefore had to decide whether the State's framework of laws, and notably its mechanisms of detection and reporting, had provided effective protection for children attending a National School against any risk of sexual abuse of which the authorities had, or ought to have had, knowledge at the material time. Since the relevant facts had taken place in 1973, any State responsibility in the applicant's case had to be assessed from the point of view of facts and standards existing at that time, disregarding the awareness society had since acquired of the risk of sexual abuse of minors in an educational context.

It was not disputed that the applicant had been sexually abused by LH or that her ill-treatment fell within the scope of Article 3. There was also little disagreement between the parties as to the structure of the Irish primary school system, which as a product of Ireland's historical experience was unique in Europe with the State providing for education (setting the curriculum, licencing teachers and funding schools) while the National Schools provided the day-to-day management. Where the parties disagreed was on the resulting liability of the State under domestic law and the Convention.

In determining the State's responsibility, the Court had to examine whether the State should have been aware of a risk of sexual abuse of minors such as the applicant in National Schools at the relevant time and whether it had adequately protected children, through its legal system, from such ill-treatment.

The Court found that the State had to have been aware of the level of sexual crime against minors through its prosecution of such crimes at a significant rate prior to the 1970s. A number of reports from the 1930s to the 1970s gave detailed statistical

evidence on the prosecution rates in Ireland for sexual offences against children. The Ryan Report of May 2009 also evidenced complaints made to the authorities prior to and during the 1970s about the sexual abuse of children by adults. Although that report focused on reformatory and industrial schools, complaints about abuse in National Schools were also recorded.

Accordingly, when relinquishing control of the education of the vast majority of young children to non-State actors, the State should have adopted commensurate measures and safeguards to protect the children from the potential risks to their safety through, at minimum, effective mechanisms for the detection and reporting of any ill-treatment by and to a State-controlled body.

However, the mechanisms that had been put in place and on which the Government relied were not effective. The 1965 Rules for National Schools and the 1970 Guidance Note outlining the practice to be followed for complaints against teachers did not refer to any obligation on a State authority to monitor a teacher's treatment of children or provide a procedure for prompting children or parents to complain about ill-treatment directly to a State authority. Indeed, the Guidance Note expressly channelled complaints about teachers directly to non-State managers, generally the local priest, as in the applicant's case. Thus, although complaints about LH were in fact made in 1971 and 1973 to the manager of the applicant's school, he did not bring them to the notice of any State authority. Likewise, the system of school inspectors, on which the Government also relied, did not specifically refer to any obligation on the inspectors to inquire into or monitor a teacher's treatment of children, their task principally being to supervise and report on the quality of teaching and academic performance. While the inspector assigned to the applicant's school had made six visits from 1969 to 1973, no complaint had ever been made to him about LH. Indeed, no complaint about LH's activities was made to a State authority until 1995, after his retirement. The Court considered that any system of detection and reporting which allowed over 400 incidents of abuse by a teacher to occur over such a long period had to be considered ineffective.

Adequate action taken on the 1971 complaint could reasonably have been expected to avoid the applicant being abused two years later by the same teacher in the same school. Instead, the lack of any mechanism of effective State control against the known risks of sexual abuse occurring had resulted in the failure by the non-State manager to act on prior complaints of sexual abuse, the applicant's later abuse by LH and, more broadly, the prolonged and serious sexual misconduct by LH against numerous other students in the same National School. The State had thus failed to fulfil its positive obligation to protect the applicant from sexual abuse.

Conclusion: violation (eleven votes to six).

(b) *Procedural aspect* – As soon as a complaint of sexual abuse by LH of a child from the National School was made to the police in 1995, an investigation was opened during which the applicant was given the opportunity to make a statement. The investigation resulted in LH being charged on numerous counts of sexual abuse, convicted and imprisoned. The applicant had not taken issue with the fact that LH was allowed to plead guilty to representative charges or with his sentence.

Conclusion: no violation (unanimously).

Article 13 in conjunction with Article 3: The applicant had been entitled to a remedy establishing any liability of the State. Accordingly, the proposed civil remedies against other individuals and non-State actors on which the Government had relied must be regarded as ineffective in the present case, regardless of their chances of success. Equally, while central to the procedural guarantees of Article 3, LH's conviction was not an effective remedy for the applicant within the meaning of Article 13.

As to the alleged remedies against the State, it had not been shown that any of the national remedies (the State's vicarious liability, a claim against the State in direct negligence or a constitutional tort claim) was effective as regards the applicant's complaint concerning the State's failure to protect her from abuse.

Conclusion: violation (eleven votes to six).

Article 41: Global award of EUR 30,000 in respect of both pecuniary and non-pecuniary damage, having regard to the financial compensation the applicant had already received and the uncertainties about any future payments by LH.

ARTICLE 6

Article 6 § 1 (criminal)

Access to court

Decision to strike out civil claims alleging torture on account of immunity invoked by defendant State (the Kingdom of Saudi Arabia) and its officials: *no violation*

Jones and Others v. the United Kingdom - 34356/06 and 40528/06
Judgment 14.1.2014 [Section IV]

Facts – The applicants alleged that they had been subjected to torture while in custody in the Kingdom of Saudi Arabia. The first applicant (Mr Jones) subsequently commenced civil proceedings in the English High Court against the Kingdom, the Saudi Ministry of Interior and an individual officer. The other three applicants issued proceedings against four individuals: two police officers, a deputy prison governor and the Saudi Minister of the Interior. The High Court ruled that all the defendants were entitled to immunity under the State Immunity Act 1978 and refused the applicants permission to serve the proceedings outside the jurisdiction. On appeal, the Court of Appeal drew a distinction between immunity *ratione personae* (which applied to the State, the serving head of State and diplomats) and immunity *ratione materiae* (which applied to ordinary officials, former heads of State and former diplomats). It upheld the High Court's decision in respect of the Kingdom and the Ministry, but allowed the applicants' appeal in respect of the individual defendants. The issue then went to the House of Lords, which agreed with the High Court that all the defendants were entitled to immunity, even where the allegation against them was one of torture. In their application to the European Court, the applicants complained of a violation of their right of access to court.

Law – Article 6 § 1: Measures taken by a State which reflect generally recognised rules of public international law on State immunity could not in principle be regarded as imposing a disproportionate restriction on the right of access to a court as embodied in Article 6 § 1. In its judgment in 2001 in *Al-Adsani* the Court had found that it had not been established that there had yet been acceptance in international law of the proposition that States were not entitled to immunity in respect of civil claims for damages concerning alleged torture committed outside the forum State. In elaborating the relevant test under Article 6 § 1 in that judgment, the Court was acting in accordance with its obligation to take account of the relevant rules and principles of international law and to interpret the Convention so far as possible in harmony with other rules of international law of which it forms part. It was therefore satisfied that the approach to proportionality set out by the Grand Chamber in *Al-Adsani* ought to be followed in the instant case.

(a) *Application of those principles in the claim against the Kingdom of Saudi Arabia* – The Court noted that in the International Court of Justice's judgment of 3 February 2012 in *Germany v. Italy* – which had to be considered authoritative as regards the content of customary international law – it was clearly established that, at that date, no *jus cogens* exception to State immunity had yet crystallised. The application by the English courts of the provisions of the 1978 Act to uphold the Kingdom of Saudi Arabia's claim to immunity in 2006 could not therefore be said to have amounted to an unjustified restriction on the applicant's access to a court.

Conclusion: no violation (six votes to one).

(b) *Application of the principles in the claim against the State officials* – All four applicants had complained that they had been unable to pursue civil claims for torture against named State officials. The Court had to examine whether the refusal to allow those claims to proceed had been compatible with Article 6 § 1 of the Convention, applying the general approach set out in *Al-Adsani*. The immunity which was applied in cases against State officials remained "State" immunity: it was invoked by the State and could be waived by the State. Where, as in the present case, the grant of immunity *ratione materiae* to officials had been intended to comply with international law on State immunity, then as in the case where immunity was granted to the State itself, the aim of the limitation on access to court was legitimate. Since measures which reflected generally recognised rules of public international law on State immunity could not in principle be regarded as imposing a disproportionate restriction on the right of access to a court, the sole matter for consideration in respect of the applicants' complaint was whether the grant of immunity *ratione materiae* to the State officials had reflected such rules. Accordingly, the Court went on to examine whether there was a general rule under public international law requiring the domestic courts to uphold Saudi Arabia's claim of State immunity in respect of the State officials; and, if so, whether there was evidence of any special rule or exception concerning cases of alleged torture.

(i) *The existence of a general rule*: Since an act could not be carried out by a State itself but only by individuals acting on the State's behalf, where immunity could be invoked by the State then the starting point must be that immunity *ratione materiae* applied to the acts of State officials. If it were otherwise, State immunity could always be circumvented by suing named officials. The weight of authority at both the international and national levels appeared to support the proposition that State immunity in principle offered individual employees or officers of a foreign State protection in respect of acts undertaken on behalf of the State under the same cloak as protects the State itself.

(ii) *The existence of a special rule or exception in respect of acts of torture*: Even if the official nature of the acts was accepted for the purposes of State responsibility, this of itself was not conclusive as to whether, under international law, a claim for State immunity was always to be recognised in respect of the same acts. Having regard to the relevant international law and national and international case-law, while there was in the Court's view some emerging support in favour of a special rule or exception in public international law in cases concerning civil claims for torture lodged against foreign State officials, the bulk of the authority was to the effect that the State's right to immunity could not be circumvented by suing its servants or agents instead. There had been evidence of recent debate surrounding the understanding of the definition of torture in the Convention against Torture, the interaction between State immunity and the rules on attribution in the Draft Articles on State Responsibility, and the scope of Article 14 of the 1984 United Nations Convention Against Torture. However, State practice on the question was in a state of flux, with evidence of both the grant and the refusal of immunity *ratione materiae* in such cases. At least two cases on the question were pending before national Supreme Courts. International opinion on the question might be said to be beginning to evolve, as demonstrated by recent discussions around the work of the International Law Commission in the criminal sphere. That work was ongoing and further developments could be expected. In the present case, it was clear that the House of Lords had fully engaged with all of the relevant arguments concerning the existence, in relation to civil claims of infliction of torture, of a possible exception to the general rule of State immunity. In a lengthy and comprehensive judgment it had concluded that customary international law had not admitted of any exception – regarding allegations of conduct amounting to torture – to the general rule of immunity *ratione materiae* for State officials in the sphere of civil claims where immunity was enjoyed by the State itself. The findings of the House of Lords were neither manifestly erroneous nor arbitrary but were based on extensive references to international law materials and consideration of the applicant's legal arguments and the judgment of the Court of Appeal, which had found in the applicants' favour. Other national courts had examined in detail the findings of the House of Lords in the present case and had considered those findings to be highly persuasive. In these circumstances, the Court was satisfied that the grant of immunity to the State officials in the present case had reflected generally recognised rules of public international law. The application of the provisions of the 1978 Act to grant immunity to the State officials in the applicants' civil cases had not therefore amounted to an unjustified restriction on the applicant's access to a court. However, in the light of the developments currently underway in this area of public international law, this was a matter which needed to be kept under review by the Contracting States.

Conclusion: no violation (six votes to one).

(See *Al-Adsani v. the United Kingdom* [GC], 35763/97, Information Note 36)

ARTICLE 8

Respect for private life

Indiscriminate capture and sharing of vast quantities of communication data by state security services: *communicated*

Big Brother Watch and Others v. the United Kingdom - 58170/13
[Section IV]

The applicants are three non-governmental organisations based in London and an academic based in Berlin, all of whom work internationally in the fields of privacy and freedom of expression. Their applications to the Court were triggered by media coverage, following the leak of information by Edward Snowden, a former systems administrator with the United States National Security Agency (NSA), about the use by the United States of America and the United Kingdom of technologies permitting the indiscriminate capture of vast quantities of communication data and the sharing of such data between the two States.

The applicants allege that they are likely to have been the subject of generic surveillance by the UK Government Communications Head Quarters (GCHQ) and/or that the UK security services may have been in receipt of foreign intercept material relating to their electronic communications. They contend that the resulting interference with their rights under Article 8 of the Convention was not "in accordance with the law". In their submission, there is no basis in domestic law for the receipt of information from foreign intelligence agencies and an absence of legislative control and safeguards in relation to the circumstances in which the UK intelligence services can request foreign intelligence agencies to intercept communications and/or to give the UK access to stored data that has been obtained by interception, and the extent to which the UK intelligence services can use, analyse, disseminate and store data solicited and/or received from foreign intelligence agencies and the process by which such data must be destroyed.

Further, in relation to the interception of communications directly by GCHQ, the applicants submit that the statutory regime applying to external communications warrants does not comply with the minimum standards outlined by the Court in its case-law.

Lastly, they contend that the generic interception of external communications by GCHQ, merely on the basis that such communications have been transmitted by transatlantic fibre-optic cables, is an inherently disproportionate interference with the private lives of thousands, perhaps millions, of people.

Communicated under Article 8 of the Convention.

Respect for family life

Full adoption order owing to mother's partial incapacity and lack of statutory power to make simple adoption order: *violation*

Zhou v. Italy - 33773/11
Judgment 21.1.2014 [Section II]

Facts – In October 2004 the applicant was placed in a welfare housing facility with her son, then aged one month. In agreement with the social services, her son was placed with a foster family during the day. Three months later, however, this family was no longer prepared to accept the child. The applicant decided to entrust the child to a neighbouring couple while she went to work. The social services, which did not accept her choice of caregiver, informed the public prosecutor at the children's court about the applicant's situation. At the end of 2007 the prosecutor asked the court to open adoption proceedings in respect of the child, as the mother was not in a position to look after him. He was placed with a foster family and the applicant was granted visiting rights. Those visiting rights were suspended in 2008 on the advice of a psychologist, who concluded that the child was very disturbed after meetings with the applicant and that, since he had not formed a bond with her, the meetings were "inappropriate and disruptive" for him. The applicant appealed and in 2009 the court of appeal held that the suspensive measure ought to be lifted. In April 2010, taking into consideration the results of the court-appointed experts' report, the children's court held it necessary to declare the child eligible for adoption, on the grounds that the applicant was not capable of exercising her parental role and fostering the development of his personality, and that she was "psychologically traumatising for his development". An appeal by the applicant against that decision, requesting simple rather than full adoption, was unsuccessful.

Law – Article 8: The national authorities had not made sufficient efforts to facilitate contact between the child and the applicant. The latter, with the child's guardian, had requested a simple adoption procedure, so that she could maintain the bond with her son. She relied on several previous decisions in which, by interpreting the relevant legislation widely, the children's court had in certain cases where there had been no abandonment of the child made an adoption order that permitted the adopted child to maintain a link with his or her biological family.

The decision to take the applicant's child into care had been ordered on the ground that she was incapable of fostering the development of his personality and that she was psychologically disruptive to him. However, the reports by the court-appointed experts indicated that while the applicant was admittedly incapable of exercising her role, her conduct was not harmful to the child.

The Court questioned the adequacy of the evidence relied on by the authorities in concluding that the child's living conditions compromised his healthy and balanced development. The authorities ought to have taken tangible measures to enable the child to live with his mother before placing him in care and beginning an adoption procedure. The Court was not convinced that the child's best interests required a full adoption. Moreover, the role of the social welfare authorities was in fact to assist persons experiencing difficulties, to guide them in their

actions and to provide advice on the various possibilities for overcoming their difficulties. In the case of vulnerable individuals, the authorities were required to demonstrate particular care and provide heightened protection.

The paramount need to preserve, in so far as possible, the family ties between the applicant, who was in a vulnerable situation, and her son, had not been duly considered. The judicial authorities had merely assessed the difficulties, which could have been overcome through targeted support from the social welfare services. The applicant had had no opportunity to re-establish a relationship with her son: in reality, the experts had not examined the real possibilities for an improvement in the applicant's ability to look after her son, bearing in mind also her health. Furthermore, the Government had provided no convincing explanation which could justify the severing of the maternal affiliation between the applicant and her son.

The courts' refusal to order simple adoption resulted from the fact that Italian legislation did not have provisions allowing for this type of adoption; however, certain Italian courts, through a broad interpretation of the relevant legal provisions, had allowed for simple adoption in certain cases where the child had not been abandoned.

Regard being had to these considerations and notwithstanding the respondent State's margin of appreciation in the matter, the Italian authorities had not fulfilled their obligations before envisaging the severing of family ties, and had not made appropriate or sufficient efforts to ensure respect for the applicant's right to live with her child, thus breaching her right to respect for her private life, guaranteed by Article 8.

Conclusion: violation (unanimously).

Article 41: EUR 40,000 in respect of non-pecuniary damage.

ARTICLE 14

Discrimination (Article 8)

Inability for married couple to give their legitimate child the wife's surname: *violation*

Cusan and Fazzo v. Italy - 77/07
Judgment 7.1.2014 [Section II]

Facts – The applicants are a married couple. In April 1999 their first child was born. Their request that she be entered in the register of births, marriages and deaths under her mother's surname was dismissed and the child was registered under her father's surname. In 2012 the parents were authorised by the Milan Prefect to add the mother's surname to the child's name.

Law – Article 14 taken together with Article 8: Under the domestic legislation, "legitimate children" were given the father's surname at birth. The domestic legislation allowed for no exception to this rule. Admittedly, a presidential decree provided for the option of changing one's surname, and in the present case the applicants had been authorised to add to the child's surname. However, it was necessary to distinguish between the decision on a child's surname at his/her birth and the possibility of changing a surname in the course of one's life. Persons in similar situations, namely the two applicants, respectively the child's father and mother, had therefore been treated differently. Unlike the father, the mother had been unable to have her surname transmitted to the new-born, in spite of her spouse's agreement.

The Court had had the opportunity to examine somewhat similar issues in the *Burghartz*, *Ünal Tekeli* and *Losonci Rose and Rose* cases. The first concerned the dismissal of a husband's request to have a surname – his wife's – placed before his own surname. The second concerned the rule in Turkish law whereby a married woman could not use her maiden name alone after marriage, although a married man retained his surname as it was prior to marriage. The case of *Losonci Rose and Rose* concerned the requirement, under Swiss law, to submit a joint request to the authorities where both spouses wished to take the woman's surname, failing which the husband's surname was automatically attributed to the couple as the new family name after marriage. In all of those cases, the Court had reiterated the importance of moving towards gender equality and eliminating all discrimination on grounds of sex in the choice of surname. In addition, it considered that the tradition whereby family unity was reflected by giving all of its members the father's surname could not justify discrimination against women.

The conclusions were similar in the present case, in which the choice of the surname of "legitimate children" was determined solely on the basis of discrimination arising from the parents' sex. The rule in question required that the given surname was to be that of the father, without exception and irrespective of any alternative joint wish on the part of the spouses. While the rule that the husband's surname was to be handed down to "legitimate children" could be necessary in practice and was

not necessarily incompatible with the Convention, the fact that it was impossible to derogate from it when registering a new child's birth was excessively rigid and discriminatory towards women.

Conclusion: violation (six votes to one).

Article 41: no claim made.

Article 46: The Court had found a violation of Article 14 of the Convention, taken together with Article 8, on account of the fact that it was impossible for the applicants, when their daughter was born, to have her entered in the register of births, marriages and deaths under her mother's surname. This impossibility arose from a flaw in the Italian legal system, whereby every "legitimate child" was entered in the register of births, marriages and deaths under the father's surname as his/her own family name, without the option of derogation, even where the spouses agreed to use the mother's surname. In consequence, reforms to the Italian legislation and/or practice were to be adopted, in order to ensure their compatibility with the conclusions of the present judgment, and to secure compliance with the requirements of Articles 8 and 14 of the Convention.

(See *Burghartz v. Switzerland*, 16213/90, 22 February 1994; *Ünal Tekeli v. Turkey*, 29865/96, 16 November 2004, Information Note 69; and *Losonci Rose and Rose v. Switzerland*, 664/06, 9 November 2010, Information Note 135)

Discrimination (Article 1 of Protocol No. 1)

Refusal to award "recognition allowance" to repatriated veteran of the Algerian war on the grounds of his European, as opposed to local, origin: *no violation*

Montoya v. France - 62170/10
Judgment 23.1.2014 [Section V]

Facts – The applicant, who was born in Algeria in 1942, had ordinary civil status applicable to persons of European origin, as opposed to local-law civil status applicable to the local Arab and Berber population. During the Algerian war he had joined one of the units of the French army. He left for France when Algeria gained independence and subsequently applied to the administrative authorities (*préfet*) for a "recognition allowance" (*allocation de reconnaissance*) payable to repatriated former members of civilian irregular units and comparable groups. His claim was rejected in November 2004 on the ground that he was "a repatriated person of European origin". His appeals were unsuccessful.

Law – Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1: As a former member of an irregular civilian unit who had served in Algeria, was over 60 years old, was domiciled in France and was of French nationality, the applicant would had an "enforceable" right to receive the allowance if, prior to being repatriated, he had had local-law civil status rather than ordinary civil status. The French courts had held in an earlier case that the allowance qualified as a possession within the meaning of Article 1 of Protocol No. 1. The applicant's interests fell within the scope of that provision and the respect for peaceful enjoyment of possessions guaranteed by it, which was sufficient to render Article 14 of the Convention applicable.

The difference in treatment complained of by the applicant between former auxiliaries, who had had local-law civil status, and those of European origin, who had had ordinary civil status, disclosed a distinction between former auxiliaries of Arab or Berber origin and those of European origin. That distinction was applied in respect of persons who had in common the fact that they were all former members of irregular units to whom the French authorities had had recourse during the Algerian war, and had been repatriated to France at the end of the war. Whether they had been of European or Arab or Berger origin, they were in a comparable situation regarding demands for recognition by France of their self-sacrifice for the country – a similarity which France had, moreover, acknowledged in awarding them all, without distinction, the status of war veteran – and the suffering they had endured.

The legislature had considered it necessary to make additional provision for special assistance for former auxiliaries of Arab or Berber origin, having regard to the particular difficulties and suffering they had endured. France had been justified in considering it legitimate to specifically recognise the self-sacrifice and suffering of former auxiliaries of Arab or Berber origin. Noting also that the recognition allowance was only one of the means by which France had recognised the self-sacrifice of former auxiliaries and the suffering they had endured, and having regard to the margin of appreciation available to the French authorities in that connection, it was not disproportionate to provide for an allowance reserved for former auxiliaries of Arab or Berber origin for the purposes of achieving that aim. The difference of treatment in question could not therefore be considered to lack objective and reasonable justification.

In February 2011 the Constitutional Council had declared part of the legislation in question contrary to the Constitution. Accordingly, as the *Conseil d'État* had observed in its decisions of March 2013, the restriction on the benefit of the allowance to former auxiliaries who had had local-law civil status had been repealed, with effect from the date of publication of the decision of the Constitutional Council, that is, in February 2011. However, the Constitutional Council's decision and the consequences of it for the future did not in any way alter the Court's conclusion, which concerned a situation that had been assessed prior to that decision.

Conclusion: no violation (unanimously).

ARTICLE 35

Article 35 § 1

Exhaustion of domestic remedies

Failure to exhaust effective domestic remedies to obtain title to property: *inadmissible*

Dexter and Others v. Cyprus - 63049/11, 68057/11 and 62322/11
Decision 17.12.2013 [Section IV]

Facts – The case concerned three applications lodged by five British citizens, who bought plots of land with a view to building houses in Cyprus in 2002/03. However, they subsequently discovered many irregularities concerning the land and/or houses and were ultimately unable to obtain title to their properties. They filed complaints against the property development companies who had sold them the land with the Cypriot Competition and Consumer Protection Service ("CCPS"). However, the CCPS dismissed their complaints on the ground that the law on the basis of which that body operated had come into force only after the applicants had purchased their land and did not have retrospective effect. The applicants did not initiate any court proceedings since they considered the available domestic remedies ineffective in their particular situation, particularly in view of the costs of bringing proceedings, alleged difficulties in finding a trustworthy lawyer, and the likely length of the proceedings.

Law – Article 35 § 1: Specific remedies existed in the Cypriot domestic legal system in respect of the applicants' complaints that they had not been able to obtain title deeds to their property and of the consequences that entailed. Specifically, domestic law provided a property buyer with an action aimed at obtaining specific performance of the contract for sale of immovable property and it was also possible to bring a civil action before the domestic courts concerning the issues the applicants complained of. Moreover, domestic law made provision for both secure and unsecured creditors in the event of insolvency. Finally, a number of significant amendments had been introduced in April 2011 to address problems that had arisen with regard to obtaining title deeds, in particular, when the property did not comply with planning permission and/or a building permit. The applicants had failed to demonstrate that they had taken the necessary steps to exhaust any of the above remedies in respect of their complaints and there were no grounds for considering that those specific remedies were in any way inadequate or ineffective. Nor were there any exceptional circumstances capable of exempting the applicants from the obligation to exhaust domestic remedies. The only avenue of redress the applicants did try – a complaint to the CCPS – could not be regarded as a remedy requiring exhaustion in respect of their Convention grievances.

Conclusion: inadmissible (failure to exhaust domestic remedies).

ARTICLE 46

Execution of a judgment – General measures

Respondent State required to reform domestic legislation and/or practice to enable the legitimate child of a married couple to be given its mother's surname

Cusan and Fazzo v. Italy - 77/07
Judgment 7.1.2014 [Section II]

(See Article 14 above, page 16)

Indication that respondent State should take general measures to prevent delays and to ensure its compliance with domestic court decisions

Foundation Hostel for Students of the Reformed Church and Stanomirescu v. Romania - 2699/03 and 43597/07
Judgment 7.1.2014 [Section III]

Facts – The applicants had both obtained final judicial decisions requiring the State to demolish

buildings, value and mark trees or pay compensation. However, despite their efforts, the orders were either not complied with or were only complied with after delays.

Law – Article 46: In both applications the Court found a violation of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1 on account of the authorities' failure to comply with final domestic decisions on time or at all.

The Court had reached like conclusions in some 30 other Romanian cases and more than 130 similar cases were currently pending before it. In a great many of these cases the violations had arisen from the authorities' conduct (they would make immediate recovery of sums awarded against them impossible or allow claims to became time-barred by alleging that another body was liable) or their refusal to comply with their payment obligations on time or at all. As regards orders for specific performance, more often than not the authorities had refused to comply without giving valid reasons, had put forward arguments contesting the merits of the decisions, referred to various obstacles to compliance or informed the applicants of an alleged objective ground for being unable to comply. The Court noted the measures that had been taken by the domestic authorities, especially after *Săcăleanu* judgment, with a view to creating a new framework to enable the State's payment obligations to be met. However, the violations found in the present case reflected a persistent structural dysfunction.

It was therefore the Court's duty to suggest, purely as an indication, the type of measure the Romanian State could take to put an end to the systemic situation that had been identified in the present case. The State had first and foremost to guarantee through appropriate statutory and/or administrative measures that binding and enforceable judgments against it, whether requiring monetary payments or specific performance, would be complied with automatically and promptly. The measures also had to take into account possible situations where strict compliance was objectively impossible and equivalent means of compliance were required. It was unnecessary to adjourn the examination of similar pending cases as the continuing examination of similar cases would help serve as a regular reminder to the respondent State of its obligation arising from the present case.

(See *Săcăleanu v. Romania*, 73970/01, 6 September 2005)

Respondent State required to introduce compensatory remedy to provide effective relief for breach of property rights of rent-controlled flat owners

Bittó and Others v. Slovakia - 30255/09
Judgment 28.1.2014 [Section III]

(See Article 1 of Protocol No. 1 below)

ARTICLE 1 OF PROTOCOL No. 1

Possessions

Ban on donating embryos for scientific research: *relinquishment in favour of the Grand Chamber*

Parrillo v. Italy - 46470/11
[Section II]

In 2002 the applicant and her partner underwent *in vitro* fertilisation treatment and five embryos were obtained. In November 2003 the applicant's partner died. The applicant wants to donate the embryos created *in vitro* for scientific research and thus contribute to researching treatment for diseases that are difficult to cure. However, section 13 of Law no. 40 of 19 February 2004 prohibits experiments on human embryos even for scientific research purposes, providing for a term of imprisonment ranging from two to six years in the event of a conviction. The applicant submitted that the embryos in question had been created on a date prior to that on which the above-mentioned Law came into force. In her submission, it had therefore been entirely lawful to store them in cryopreserved form and not implant them immediately.

The Chamber relinquished jurisdiction in favour of the Grand Chamber, which will examine the applicant's complaints under Article 1 of Protocol No. 1 and Article 8 of the Convention.

Control of the use of property

Rent-control scheme imposing low levels of rent on landlords: *violation*

Bittó and Others v. Slovakia - 30255/09
Judgment 28.1.2014 [Section III]

Facts – The applicants were 21 owners or co-owners of residential buildings in Bratislava and Trnava to which a rent-control scheme applied pursuant to the Price Act 1996 and other relevant legislation.

As a consequence, they were prevented from freely negotiating levels of rent for their flats and the termination of the lease of their flats was conditional on providing the tenants with adequate alternative accommodation. The Government had dealt with the issue of rent control on several occasions. For example, Law no. 260/2011 had re-defined the conditions of implementation of the rent-control scheme and set limits on its maximum duration. In their application to the Court, the applicants complained that the rent to which they were entitled for letting their properties did not cover the costs of their maintenance and was disproportionately low compared with similar flats to which the rent-control scheme did not apply.

Law – Article 1 of Protocol No. 1: The legislation governing the rent control-scheme amounted to a lawful interference with the applicants' rights which pursued a legitimate social-policy aim. The control of use of the applicants' properties had therefore been "in accordance with the general interest" as required by the second paragraph of Article 1 of Protocol No. 1. As to the proportionality of the interference, the Court first observed that, in the context in which the rent control-scheme had been introduced, the decision as to how best to reconcile the competing interests at stake involved complex social, economic and political issues which domestic authorities were best placed to know and assess. In this regard, although both governmental policy and legislative amendments planned to gradually increase the maximum rent chargeable and, at a later stage, set a framework and time-limit for its termination, it nevertheless appeared that the rental market in the respondent State remained underdeveloped and that there had been shortcomings in pursuing the proclaimed policy. As for the actual impact of the rent-control scheme, the only information available to the Court in this respect concerned the difference between the maximum rent permissible under the scheme and the market rental value of the flats. That information indicated that, despite several increases after 2000, the amount of controlled rent which the applicants were entitled to charge remained considerably lower than the rent for similar housing in respect of which the rent control scheme did not apply. The interests of the applicants, "including their entitlement to derive profit from their property", had therefore not been met. In this context, the legitimate interests of the community called for a fair distribution of the social and financial burden involved in the transformation and reform of the country's housing supply. This burden could not be placed on one particular social group, however important the interests of the other group or the community as a whole might be. In the light of these considerations, the Court concluded that the Slovak authorities had failed to strike the requisite fair balance between the general interests of the community and the protection of the applicants' right of property.

Conclusion: violation (unanimously).

Article 41: reserved.

Article 46: The Court' noted that, whilst the respondent State had taken measures with a view to gradually improving the situation of landlords, the measures provided for a complete elimination of the effects on rent-controlled flat owners only from 2017 and did not address the situation existing prior to their adoption. The Court therefore invited the respondent State to introduce, as soon as possible, a specific and clearly regulated compensatory remedy in order to provide genuine effective relief for the breach found.

(See also *Hutten-Czapska v. Poland* [GC], 35014/97, 19 June 2006, Information Note 87; *Edwards v. Malta*, 17647/04, 24 October 2006; and *Nobel and Others v. the Netherlands* (dec.), 27126/11, 2 July 2013)

ARTICLE 2 OF PROTOCOL No. 1

Right to education

Alleged inability of disabled student to pursue university course owing to a lack of suitable facilities: *relinquishment in favour of the Grand Chamber*

Gherghina v. Romania - 42219/07
[Section III]

In 2001, while he was enrolled in his first year of university, the applicant had an accident which resulted in severe locomotor impairment of the lower limbs. He was authorised to sit examinations at home, and completed the first and second years of study. In spite of repeated requests by the applicant and his mother, work to make the university premises accessible to persons with reduced mobility had still not been completed in March 2007. At the end of the 2007 university year, the applicant was not authorised to sit the examinations at home. The only option offered to him was to redo the third year on a correspondence course. He refused, as he wished to be able to attend classes on the same basis as able-bodied students. He

attempted to pursue his studies in another university, but this was possible for only one term, on account, in particular, of the absence of accessible toilets.

In his application to the Court the applicant complained of a violation of his right to education under Article 2 of Protocol No. 1 and of discrimination on account of locomotor disability, contrary to Article 14 of the Convention read in conjunction with Article 2 of Protocol No. 1, in that, owing to the lack of facilities adapted to his disability on the premises where he was studying, it had been impossible for him to pursue his university studies in his town of residence or nearby. Relying on Article 8 of the Convention, taken alone or together with Article 14, he also alleged that it had been impossible for him to develop his personality and forge contacts with the outside world, given the absence of facilities adapted to his physical disabilities that would have enabled him to access the university and other public buildings in his town, and to use public transport.

RELINQUISHMENT IN FAVOUR OF THE GRAND CHAMBER

Article 30

Parrillo v. Italy - 46470/11
[Section II]

(See Article 1 of Protocol No. 1 above, page 19)

Gherghina v. Romania - 42219/07
[Section III]

(See Article 2 of Protocol No. 1 above, page 20)

COURT NEWS

Press conference

The Court held its annual press conference on 30 January 2014. The President of the Court, Dean Spielmann, noted that 2013 had been another remarkable year for the Court, building on the good results achieved in 2012.

He also noted that following the Brighton Conference a special account had been set up with a view to tackling the backlog of cases. He thanked the States that had already made contributions (Andorra, Austria, Azerbaijan, Croatia, Finland, France, Germany, Hungary, Ireland, Luxembourg, Monaco, the Netherlands, Norway, Serbia, Slovakia, Sweden, Switzerland and Turkey) and urged all States to contribute.

Webcast (English and original versions available on the Court's Internet site: <www.echr.coe.int> – Press)

Opening of the judicial year 2014

The Court's judicial year was formally opened on 31 January 2014. Around 260 eminent figures from the European judicial scene attended a seminar on the theme "Implementation of the judgments of the European Court of Human Rights: a shared judicial responsibility?".

At the solemn hearing which followed the seminar, President Dean Spielmann and Andreas Voßkuhle, President of the Federal Constitutional Court of Germany, addressed a 320-strong audience representing the judicial world and local and national authorities.

More information on the Court's Internet site (<www.echr.coe.int> – The Court – Events)

Elections

During its winter session held from 27 to 31 January 2014, the Parliamentary Assembly of the Council of Europe elected Jon Fridrik Kjølbro as judge to the Court in respect of Denmark. Mr Kjølbro will begin his nine-year terms in office no later than three months after his election.

RECENT PUBLICATIONS

Annual Report 2013 of the Court

On 30 January 2014 the Court issued its Annual Report for 2013 at the press conference preceding the opening of its judicial year. This report contains a wealth of statistical and substantive information such as the Jurisconsult's summary of the main judgments and decisions delivered by the Court in 2013 as well as a selection in list form of the most significant judgments, decisions and communicated cases. It is available free on the Court's Internet site (<www.echr.coe.int> – Publications – Reports).

Statistics for 2013

The Court's statistics for 2013 are now available. All information related to statistics for 2013 can be found on the Court's Internet site (<www.echr.coe.int> –Statistics), including the annual table of violations for each country and the Analysis of Statistics 2013, which provides an overview of developments in the Court's caseload in 2013, such as pending applications and different aspects of case processing, and also country-specific information.

Handbook on European data protection law

Published jointly by the Court and the European Union Agency for Fundamental Rights (FRA), this third handbook is a comprehensive guide to European data protection law. It provides an overview of the EU's and the Council of Europe's applicable legal frameworks and explains key jurisprudence of both the Strasbourg Court and the EU Court. It can be downloaded from the Court's Internet site (<www.echr.coe.int> – Publications). Translations of this manual will be available as from the second half of 2014.

Human rights factsheets by country

The country profiles, which provide wide-ranging information on human-rights issues in each respondent State, have been updated to include developments in the second half of 2013. They can be downloaded from the Court's Internet site (<www.echr.coe.int> – Press).

Translations of the Convention

The text of the European Convention on Human Rights, as amended by Protocols Nos. 11 and 14, is now available in Greek and Macedonian. These translations can be downloaded from the Court's Internet site (<www.echr.coe.int> – Official texts).

Ευρωπαϊκή Σύμβαση Δικαιωμάτων του Ανθρώπου (ell)

Европска конвенција за заштита на човековите права (mkd)

Handbook on European non-discrimination law

A Ukrainian translation of the Handbook – published jointly by the Court and the European Union Agency for Fundamental Rights (FRA) in 2011 – has been published, thanks to a joint European Union/Council of Europe programme. The 28 linguistic versions can be downloaded from the Court's Internet site (<www.echr.coe.int>– Case-law).

Посібник з європейського антидискримінаційного права (ukr)