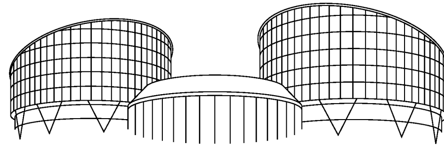

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 6 of the European Convention on Human Rights

Right to a fair trial

(civil limb)

Updated on 28 February 2026

Prepared by the Registry. It does not bind the Court.

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Note to readers

This Guide is part of the series of Guides on the Convention published by the European Court of Human Rights (hereafter “the Court”, “the European Court” or “the Strasbourg Court”) to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular Guide analyses and sums up the case-law on Article 6 (civil limb) of the European Convention on Human Rights (hereafter “the Convention” or “the European Convention”). Readers will find herein the key principles in this area and the relevant precedents. They are invited to consult the Guide on Article 6, criminal limb alongside this Guide.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions. *

The Court’s judgments and decisions serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, § 154, 1978, Series A no. 25, and, more recently, *Jeronovičs v. Latvia* [GC], 2016, § 109).

The mission of the system set up by the Convention is thus to determine issues of public policy in the general interest, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], 2012, § 89).

Indeed, the Court has emphasised the Convention’s role as a “constitutional instrument of European public order” in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], 2005, no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], 2020, § 110).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle “imposes a shared responsibility between the States Parties and the Court” as regards human rights protection, and the national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], § 324).

This Guide contains references to keywords for each cited Article of the Convention and its Additional Protocols. The legal issues dealt with in each case are summarised in a List of keywords, chosen from a thesaurus of terms taken (in most cases) directly from the text of the Convention and its Protocols.

The HUDOC database of the Court’s case-law enables searches to be made by keyword. Searching with these keywords enables a group of documents with similar legal content to be found (the Court’s reasoning and conclusions in each case are summarised through the keywords). Keywords for individual cases can be found by clicking on the Case Details tag in HUDOC. For further information about the HUDOC database and the keywords, please see the HUDOC user manual.

* The case-law cited may be in either or both of the official languages (English and French) of the Court and the European Commission of Human Rights. Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation “(dec.)” indicates that the citation is of a decision of the Court and “[GC]” that the case was heard by the Grand Chamber. Chamber judgments that were not final when this update was published are marked with an asterisk (*).

Article 6 § 1 of the Convention – 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 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 court in special circumstances where publicity would prejudice the interests of justice. ..."

HUDOC keywords

Civil rights and obligations (6-1) – Determination (6-1) – Dispute (6-1) – Criminal charge (6-1) – Determination (6-1) – Access to court (6-1) – Fair hearing (6-1) – Adversarial trial (6-1) – Equality of arms (6-1) – Legal aid (6-1) – Public hearing (6-1) – Oral hearing (6-1) – Exclusion of press (6-1) – Exclusion of public (6-1) – Necessary in a democratic society (6-1) – Protection of morals (6-1) – Protection of public order (6-1) – National security (6-1) – Protection of juveniles (6-1) – Protection of private life of the parties (6-1) – Extent strictly necessary (6-1) – Prejudice interests of justice (6-1) – Reasonable time (6-1) – Independent tribunal (6-1) – Impartial tribunal (6-1) – Tribunal established by law (6-1) – Public judgment (6-1)

I. Scope: the concept of "civil rights and obligations"

Article 6 § 1 of the Convention

"1. In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing ... by [a] tribunal ..."

A. General requirements for applicability of Article 6 § 1

1. The concept of "civil rights and obligations" cannot be interpreted solely by reference to the respondent State's domestic law; it is an "autonomous" concept deriving from the Convention (*Grzęda v. Poland* [GC], 2022, § 287). Article 6 § 1 applies irrespective of the parties' status, the nature of the legislation governing the "dispute" (civil, commercial, administrative law etc.), and the nature of the authority with jurisdiction in the matter (ordinary court, administrative authority etc.) (*Bochan v. Ukraine (no. 2)* [GC], 2015, § 43; *Naït-Liman v. Switzerland* [GC], 2018, § 106; *Georgiadis v. Greece*, 1997, § 34).

2. However, the principle that the autonomous concepts contained in the Convention must be interpreted in the light of present-day conditions does not give the Court power to interpret Article 6 § 1 as though the adjective "civil" (with the restrictions which the adjective necessarily places on the category of "rights and obligations" to which that Article applies) were not present in the text (*Ferrazzini v. Italy* [GC], 2001, § 30).

3. The judgment in *Grzęda v. Poland* [GC], 2022, recently summarised the applicable case-law principles (§§ 257-259). The applicability of Article 6 § 1 in civil matters firstly depends on the existence of a "dispute" (in French, "contestation"). Secondly, the dispute must relate to a "right" which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether it is protected under the Convention. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise. Lastly,

the result of the proceedings must be directly decisive for the "civil" right in question, mere tenuous connections or remote consequences not being sufficient to bring Article 6 § 1 into play (*Károly Nagy v. Hungary* [GC], 2017, § 60; *Regner v. the Czech Republic* [GC], 2017, § 99; *Naït-Liman v. Switzerland* [GC], 2018, § 106; *Denisov v. Ukraine* [GC], 2018, § 44).

4. The two aspects, civil and criminal, of Article 6 of the Convention are not necessarily mutually exclusive, so if Article 6 § 1 is applicable under its civil head, the Court may assess whether the same Article is also applicable under its criminal head (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 121, and *Denisov v. Ukraine* [GC], 2018, § 43). The Court considers that it has jurisdiction to examine of its own motion the question of the applicability of Article 6 even if the respondent Government have not raised this issue before it (*Selmani and Others v. the former Yugoslav Republic of Macedonia*, 2017, § 27).

1. "Genuine and serious" "dispute" with a decisive outcome

5. The word "dispute" must be given a substantive meaning rather than a formal one (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 45; *Moreira de Azevedo v. Portugal*, 1990, § 66; *Miessen v. Belgium*, 2016, § 43). It is necessary to look beyond the appearances and the language used and concentrate on the realities of the situation according to the circumstances of each case (*Gorou v. Greece (no. 2)* [GC], 2009, § 29; *Boulois v. Luxembourg* [GC], 2012, § 92). Thus, proceedings containing a mixture of contentious and non-contentious aspects may fall within the scope of Article 6 § 1 (*Omdahl v. Norway*, 2021, § 47, concerning the division of a deceased person's estate among the heirs). However, Article 6 does not apply to a non-contentious and unilateral procedure which does not involve opposing parties and which is available only where there is no dispute over rights (*Alaverdyan v. Armenia* (dec.), 2010, § 35). Article 6 likewise does not apply to reports on an investigation aimed at ascertaining and recording facts which might subsequently be used as a basis for action by other competent authorities — prosecuting, regulatory, disciplinary or even legislative (even if the reports may have damaged the reputation of the persons concerned) (*Fayed v. the United Kingdom*, 1994, § 61).

6. The "dispute" must be genuine and of a serious nature (*Sporrong and Lönnroth v. Sweden*, 1982, § 81; *Cipolletta v. Italy*, 2018, § 31; *Yankov v. Bulgaria* (dec.), 2019, §§ 26-27). This condition has, for example, ruled out civil proceedings taken against prison authorities on account of the mere presence in the prison of HIV-infected prisoners (*Skorobogatykh v. Russia* (dec.), 2006). The Court has also held a "dispute" to be real in a case concerning a request to the public prosecutor to lodge an appeal on points of law, as it formed an integral part of the whole of the proceedings that the applicant had joined as a civil party with a view to obtaining compensation (*Gorou v. Greece (no. 2)* [GC], 2009, § 35).

7. Where proceedings relate solely to issues of observance of admissibility criteria, there is generally no "dispute" over "civil" rights and obligations (*Nicholas v. Cyprus* (dec.), 2000; *Neshev v. Bulgaria* (dec.), 2003, with further case-law references; compare with an examination by judges that was not limited to purely formal requirements, *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 206-209). In a number of cases where actions in the domestic courts had been dismissed on procedural grounds (because a prior remedy had not been used or proceedings had been brought before a court lacking jurisdiction), the Court has held that the "dispute" raised by the applicants in the domestic courts was neither "genuine" nor "serious", meaning that Article 6 § 1 was not applicable. In reaching that finding, it noted that the dismissal of the action had been foreseeable and that the applicants had had no prospect of reversing the situation of which they complained (*Astikos Oikodomikos Synetairismos Nea Konstantinoupolis v. Greece* (dec.), 2005; *Arvanitakis and Others v. Greece* (dec.), 2014; *Stavroulakis v. Greece* (dec.), 2014). The situation is different where the domestic courts (which declined jurisdiction) were called upon for the first time to determine the legal issue raised (*Markovic and Others v. Italy* [GC], 2006, §§ 100-01). A finding that the domestic court to which an application was made lacked jurisdiction may also result from a detailed examination of the applicable law (*Károly Nagy v. Hungary* [GC], 2017, §§ 60, 72 and 75).

8. The dispute may relate not only to the actual existence of a right but also to its scope or the manner in which it is to be exercised (*Benthem v. the Netherlands*, 1985, § 32; *Cipolletta v. Italy*, 2018, § 31). For example, the fact that the respondent State does not actually contest the existence of a right for torture victims to obtain compensation, but rather its extraterritorial application, does not mean that there cannot be a "dispute" over that right for the purposes of the Convention (*Naït-Liman v. Switzerland* [GC], 2018, § 107). The dispute may also concern matters of fact.

9. In *Cipolletta v. Italy*, 2018, the Court developed its case-law concerning the existence of a genuine and serious "dispute" in proceedings for a company's administrative liquidation. It found it appropriate to adopt a new approach harmonising its case-law concerning the guarantees secured to creditors, whether in the context of an insolvency procedure or in the special administrative liquidation procedure (§§ 33-37). With regard to the liquidation of a bank, see *Capital Bank AD v. Bulgaria*, 2005, §§ 86-88.

10. The result of the proceedings must be directly decisive for the right in question (see, for example, *Ulyanov v. Ukraine* (dec.), 2010 and *Alminovich v. Russia* (dec.), 2019, §§ 31-32). Consequently, a tenuous connection or remote consequences are not enough to bring Article 6 § 1 into play (*Boulois v. Luxembourg* [GC], 2012, § 90). For example, the Court found that proceedings challenging the legality of extending a nuclear power station's operating licence did not fall within the scope of Article 6 § 1 because the connection between the extension decision and the right to protection of life, physical integrity and property was "too tenuous and remote", the applicants having failed to show that they personally were exposed to a danger that was not only specific but above all imminent (*Athanassoglou and Others v. Switzerland* [GC], 2000, §§ 46-55; *Balmer-Schafroth and Others v. Switzerland*, 1997, § 40; see, more recently, *Sdružení Jihočeské Matky v. the Czech Republic* (dec.), 2006 ; for a case concerning limited noise pollution at a factory (*Zapletal v. the Czech Republic* (dec.), 2010), or the hypothetical environmental impact of a plant for treatment of mining waste (*Ivan Atanasov v. Bulgaria*, 2010, §§ 90-95; compare with *Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, §§ 127-128).

11. In *Okyay and Others v. Turkey*, 2004, § 65, the Court found that the applicant's constitutional right to "live in a healthy environment" has been affected by the operation of a thermal plant, due to the risks it posed for the life and health of the Aegean region's population, to which the applicants belonged. Even though, in that case, the applicants did not suffer any economic or other loss, they had a standing under Turkish law to complain about the power plants' hazardous activities, and the domestic courts ruled in their favour. As a result, the Court found Article 6 applicable to the domestic proceedings. By contrast, in *Cangı and Others v. Türkiye*, 2023, the Court found that only those applicants who lived in "close proximity" to the gold mine may claim that the proceedings concerning the eventual closure of the mine have been directly decisive for their civil rights. As to those applicants who participated in those proceedings as "public watchdogs", and who were not "directly and personally affected" by the operations of the mine, their complaints under Article 6 were declared inadmissible *ratione materiae* (§§ 33-38).

12. Disciplinary proceedings that do not directly interfere with the right to continue to practise a profession, since such an outcome requires the institution of separate proceedings, are likewise not "decisive" for the purposes of Article 6 (*Marušić v. Croatia* (dec.), 2017, §§ 74-75; see, in a different context, *Morawska v. Poland* (dec.), 2020, § 72). In *Aktay v. Türkiye* (dec.), 2024, §§ 36-46, the applicant complained that the imposition of a disciplinary fine for professional misconduct in the proceedings before the Constitutional Court had affected his rights to practise as a lawyer and had affected his professional reputation. The Court did not accept this argument finding that no other measures, besides the fine as such, has been taken against the applicant, and the effect of that incident on his reputation was minimal. Most importantly, the Court noted that that the disciplinary measure taken by the Constitutional Court was of a procedural nature, aimed at ensuring the proper administration of justice, and did not involve the determination of civil rights or obligations: the fact

that there was a "pecuniary" element was not in itself sufficient to attract the applicability of Article 6 § 1 under its "civil" head.

13. Proceedings instituted against the author of a book for alleged plagiarism are not directly decisive, from an Article 6 standpoint, for the author's civil right to enjoy a good reputation (§§ 72 and 73). However, the Court has found that the outcome of a dispute concerning the appointment of another candidate to a post to which the applicant had aspired was decisive for the right to a lawful and fair promotion procedure (*Bara and Kola v. Albania*, 2021, § 58, and the case-law references cited; see also *Oktay Alkan v. Türkiye*, 2023).

14. In contrast, the Court found Article 6 § 1 to be applicable to a case concerning the building of a dam which would have flooded the applicants' village (*Gorraiz Lizarraga and Others v. Spain*, 2004, § 46) and to a case about the operating permit for a gold mine using cyanidation leaching near the applicants' villages (*Taşkın and Others v. Turkey*, 2004, § 133; *Zander v. Sweden*, §§ 24-25).

15. In a case regarding the appeal submitted by a local environmental-protection association for judicial review of a planning permission, the Court found that there was a sufficient link between the dispute and the right claimed by the legal entity, in particular in view of the status of the association and its founders, and the fact that the aim it pursued was limited in space and in substance (*L'Érablière A.S.B.L. v. Belgium*, 2009, §§ 28-30). Furthermore, proceedings for the restoration of a person's legal capacity are directly decisive for his or her civil rights and obligations (*Stanev v. Bulgaria* [GC], 2012, § 233).

16. In *Denisov v. Ukraine* [GC], 2018 the applicant had been dismissed as president of an administrative court of appeal for failure to perform his administrative duties properly. He had remained in office as a judge of the same court. The Court held that the dispute concerning the applicant's exercise of his right to hold this administrative position, to which he had been appointed for a five-year term, was a serious one, in view of the role assigned to the president of a court under domestic law and the potential direct pecuniary consequences (§§ 47-49).

17. In *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, in the context of climate change litigation, the Court concluded that the action brought by an environmental association before the national courts and concerning the Government's failure to implement the emission reduction targets set by the legislation had a direct and sufficient link to its members' civil rights to life, health, and physical integrity, bearing in mind the role of such associations in the climate-change context: the applicant association had an actual and sufficiently close connection to the impugned matter and to its individual members seeking protection against the adverse effects of climate change, and acted as a means through which the rights of those affected by climate change could be defended. At the same time, the Court refused to acknowledge that the domestic proceedings were "directly decisive" for the individual applicants who had also participated in these proceedings, because the effects of the government's inaction were not "imminent and certain" (§§ 619-625).

18. In *Levrault v. Monaco* (dec.), 2024, the applicant — a detached French judge seconded to work in Monaco — complained that his secondment had not been extended, contrary to the usual practice and to a positive preliminary opinion of the competent Monegasque authority. The Court noted, however, that such secondments took place in the context of diplomatic relations, were not binding on the authorities of Monaco and did not create a "right" for the applicant. The Court also noted (§ 57) that a "right" for the applicant can be deduced neither from the constitutional principles guaranteeing judicial independence (given a very specific legislative framework of temporary secondments) nor from the particular context in which the applicant exercised his original mandate, nor from the "interests of service" to which the applicant referred. Only a sovereign act by the Government of Monaco could create such a right: no such act had ever been issued. The Court concluded that Article 6 was not applicable.

The applicability of Article 6 to interim proceedings (i.e. those which are not directly decisive for the main subject-matter of the case) is discussed in sub-section D below.

2. Existence of an arguable right or obligation in domestic law

19. As regards the existence of a "right", an "autonomous" notion deriving from the Convention, "there must be a 'dispute' regarding a 'right' which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether it is protected under the Convention" (*Boulois v. Luxembourg* [GC], 2012, § 90; *Denisov v. Ukraine* [GC], 2018, § 44; *Bilgen v. Turkey*, 2021, §§ 56 and 63).

20. Thus, the substantive right relied on by the applicant in the national courts, or the "obligation" (*Evers v. Germany*, 2020, §§ 67-68), must have a legal basis in the State concerned (*Roche v. the United Kingdom* [GC], 2005, § 119; *Boulois v. Luxembourg* [GC], 2012, § 91; *Károly Nagy v. Hungary* [GC], 2017, §§ 60-61). It needs to be ascertained whether the applicant's arguments were "sufficiently tenable", and not whether he or she would have been successful (*Grzęda v. Poland* [GC], 2022, §§ 268-269, see also § 286).

21. In order to decide whether the "right" or "obligation" in question really has a basis in domestic law, the starting-point must be the provisions of the relevant domestic law and their interpretation by the domestic courts (*Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, § 97; *Regner v. the Czech Republic* [GC], 2017, § 100; *Denisov v. Ukraine* [GC], 2018, § 45; *Evers v. Germany*, 2020, § 66), and the Court may refer to sources of international law or common values of the Council of Europe when ruling on the interpretation of the existence of a "right" (*Enea v. Italy* [GC], 2009, § 101; *Boulois v. Luxembourg* [GC], 2012, §§ 101-102; *Naït-Liman v. Switzerland* [GC], 2018, §§ 106 and 108; and more recently, *Bilgen v. Turkey*, 2021, §§ 53, §§ 62-64).

22. It is primarily for the national authorities, in particular the courts, to resolve problems of interpretation of domestic legislation. The Court's role is limited to verifying whether the effects of such interpretation are compatible with the Convention. That being so, save in the event of evident arbitrariness, it is not for the Court to question the interpretation of the domestic law by the national courts (*Naït-Liman v. Switzerland* [GC], 2018, § 116). Thus, where the superior national courts have analysed the precise nature of the impugned restriction in a comprehensive and convincing manner, on the basis of the relevant Convention case-law and principles drawn therefrom, the Court would need strong reasons to depart from the conclusion reached by those courts by substituting its own views for theirs on a question of interpretation of domestic law and by finding, contrary to their view, that there was arguably a right recognised by domestic law (*Károly Nagy v. Hungary* [GC], 2017, §§ 60 and 62; *X and Others v. Russia*, 2020, § 48).

23. In *Naït-Liman v. Switzerland* [GC], 2018, certain aspects of international law were also taken into account by the Court in concluding that the applicant could lay claim to a right recognised under Swiss law. In particular, the Court referred to the United Nations Convention Against Torture, which had become an integral part of the domestic legal system after being ratified by Switzerland, thus obliging the national authorities to comply with it (§ 108; see also *Enea v. Italy* [GC], 2009, § 101; and compare *Boulois v. Luxembourg* [GC], 2012, § 102).

24. It should be noted that it is the right as asserted by the claimant in the domestic proceedings that must be taken into account in order to assess whether Article 6 § 1 is applicable (*Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013, § 120). Where, at the outset of the proceedings, there was a genuine and serious dispute about the existence of such a right, the fact that the domestic courts concluded that the right did not exist does not retrospectively deprive the applicant's complaint of its arguability (*Z and Others v. the United Kingdom* [GC], 2001, §§ 88- 89; see also, where the domestic courts were called upon to decide for the first time on the issue in question, *Markovic and Others v. Italy* [GC], 2006, §§ 100-02; and *Tamazount and Others v. France*, 2024, § 109; compare and contrast with *Károly Nagy v. Hungary* [GC], 2017, §§ 75-77 and *X and Others v. Russia*,

2020, § 47). Similarly, where the applicant tried to obtain compensation for the death of a relative which occurred as a result of an alleged war crime committed abroad by foreign nationals, Article 6 was considered applicable even though, ultimately, the national courts concluded that they had no jurisdiction to adjudicate such disputes (*Couso Permuy v. Spain*, 2024, §§ 109-111).

25. As to the point in time to which the assessment of whether or not there was an "arguable" right in domestic law should relate in the event of a change in the law, see *Baka v. Hungary* [GC], 2016, § 110, and *Grzęda v. Poland* [GC], 2022, § 285, where the Court found that the question whether a right "existed" under domestic law could not be answered on the basis of the new legislation. Accordingly, the fact that the applicants' respective terms of office (as President of the Supreme Court/a member of the National Council of the Judiciary) had been terminated *ex lege* could not be regarded as removing, retrospectively, the "arguability" of the "right" that they could have claimed under Article 6 § 1 in accordance with the rules in force at the time of their appointment. In *Stoianoglo v. the Republic of Moldova*, 2023, § 29, the Court applied a similar approach to the proceedings in which the Prosecutor General tried to contest his suspension. For the Court, the question whether or not the Prosecutor General had a defendable right to continue exercising his functions should be answered, not on the basis of the new legislation, but rather on the basis of the legislation which existed at the moment when he had been appointed. Similarly, the Court concluded that the applicants had had a defendable right in the case of *Pająk and others v. Poland*, 2023, §§ 120-125, which concerned the application of a new legislation which lowered the retirement age for judges and had introduced a new procedure for extending the mandate beyond the new (lower) age of retirement. Thus, the Court found that the applicant, a civil servant, had a right to certain conditions of service even when, following a legislative reform, the scope of this right, or the procedural modalities of exercising it, has been changed. Similarly, in *Gyulumyan and Others v. Armenia* (dec.), 2023, the Court applied the same approach to a dispute arising out of the early termination of mandates of several judges and the President of the Constitutional Court, even though this termination had resulted automatically from a constitutional amendment (§§ 65-67). In *Zafferani and Others v. San Marino*, 2025, the Court concluded that the applicant had a civil right to claim salary arrears even though the right to obtain those arrears have been retroactively withdrawn by legislation during the proceedings (§§ 32-36). Along the same lines, in *Simoncini v. San Marino**, 2026, § 96, the Court found that despite the retroactive annulment of the applicant's appointment the right claimed remained "arguable".

26. There is a "right" within the meaning of Article 6 § 1 where a substantive right recognised in domestic law is accompanied by a procedural right to have it enforced through the courts (*Regner v. the Czech Republic* [GC], 2017, § 99, and, for example, *M.K. and Others v. France*, 2022, § 110). Whether or not the authorities enjoyed discretion in deciding whether to grant the measure requested by an applicant may be taken into consideration and may even be decisive (*Boulois v. Luxembourg* [GC], 2012, § 93; *Fodor v. Germany* (dec.), 2006). Nevertheless, the mere fact that the wording of a legal provision affords an element of discretion does not in itself rule out the existence of a "right" (*Pudas v. Sweden*, 1987, § 34 ; *Miessen v. Belgium*, 2016, § 48). Indeed, Article 6 applies where the judicial proceedings concern a discretionary decision resulting in interference in an applicant's rights (*Obermeier v. Austria*, 1990, § 69; *Mats Jacobsson v. Sweden*, 1990, § 32).

27. Thus, in *Wick v. Germany*, 2024, the applicant contested a series of decisions regarding his repeated transfers from one prison to another. Under German law there is no right to serve a sentence in a particular penitentiary institution and there is an important discretionary element in any decision of the prison administration to transfer an inmate. Since, however, the reasonableness of such decisions may be contested in courts meaning that the authorities' discretion was not unlimited, the applicant had a "right" within the meaning of Article 6 of the Convention (§ 76).

28. In *Zouboulidis v. Greece (no. 3)*, 2024, the Court examined whether the right to claim damages for a judicial error existed in the domestic legal order. In 1998 the applicant's appeal in a civil case was declared inadmissible. In 2007 the Court found a breach of Article 6 (access to court) on account of an

overly formalistic application of the admissibility criteria in those proceedings. Soon afterwards the applicant sued the State for damages for the judicial error in the original proceedings. He argued that, if that error had not taken place, he would have been paid a certain service-related benefit. The administrative courts (two instances) applying, by analogy, the law on State liability for damages, found that the applicant had a right to compensation but only in the case of a "manifest error". Since the error of the Greek courts in the original proceedings was not "manifest", the applicant's claim for damages was dismissed on the merits. In 2021 the Supreme Administrative Court (the SAC) reversed those judgments, finding that the administrative courts had had no jurisdiction to examine such claims because Greek law at the time did not provide for the right to be compensated for a judicial, even though such compensation might have been required by the Constitution. The law only established rules on the liability of other State bodies for misconduct and should not have been applied by analogy to the misconduct of the judiciary. The Court noted that administrative courts at two instances had considered the applicant's case on the merits, and, as regards the position of the SAC, if the relevant legislation on State liability for the judicial errors was enacted, the case would have been considered on the merits (§ 37). The narrow approach by the SAC did not remove arguability of the applicant's claim. The Court concluded that, in such conditions, Article 6 was applicable to the proceedings at issue.

29. However, Article 6 is not applicable where the domestic legislation, without conferring a right, grants a certain advantage which it is not possible to have recognised in the courts (*Boulois v. Luxembourg* [GC], 2012, §§ 96 and 101). The same situation arises where a person's rights under domestic legislation are limited to a mere hope of being granted a right, with the actual grant of that right depending on an entirely discretionary and unreasoned decision by the authorities (*Roche v. the United Kingdom* [GC], 2005, §§ 122-125; *Masson and Van Zon v. the Netherlands*, 1995, §§ 49-51; *Ankarcrona v. Sweden* (dec.), 2000). It should be noted that even if there is a certain degree of tolerance on the national authorities' part, the law cannot recognise a "right" to commit acts prohibited by law (*De Bruin v. the Netherlands* (dec.), 2013, § 58).

30. In some cases, national law, while not recognising that an individual has a subjective right, does confer the right to a procedure for examination of his or her claim, involving matters such as ruling whether a decision was arbitrary or ultra vires or whether there were procedural irregularities (*Van Marle and Others v. the Netherlands*, 1986, § 35). This is the case regarding certain decisions where the authorities have a purely discretionary power to grant or refuse an advantage or privilege, with the law conferring on the person concerned the right to apply to the courts, which may set the decision aside if they find that it was unlawful. In such a case Article 6 § 1 is applicable, on condition that the advantage or privilege, once granted, gives rise to a civil right (*Regner v. the Czech Republic* [GC], 2017, § 105). In the case cited, the applicant did not have a right to be issued with security clearance, which was a matter left to the authorities' discretion, but once such clearance had been issued in order to enable him to carry out his duties at the Ministry of Defence, he had a right to challenge its revocation.

31. In the case of *Mirovni Inštitut v. Slovenia*, 2018 the Court applied these principles in connection with a call for tenders issued by the authorities for the award of a research grant (§ 29). Although the applicant institute had had no right to an award of funding and the examination of the merits of the different tender bids fell within the authorities' discretion, the Court pointed out that the applicant institute had clearly enjoyed a procedural right to the lawful and proper adjudication of the bids. Had its bid been accepted, it would have had a civil right conferred on it. Article 6 was therefore applicable (§§ 28-30). In more general terms, the Court revisited its line of case-law concerning the applicability of Article 6 to tendering procedures (see also *Marina Aucanada Group S.L. v. Spain*, 2022, § 33).

In *Altıner Akıncı v. Türkiye*, 2026, the Court examined whether the possibility of working as a referee at international matches could be seen as a "right" or a mere privilege entirely at the discretion of the national sports federation (the latter, according to the applicable rules, was empowered to approve the applicant's enrolment as a referee for such matches). The Court observed that domestic law provided for the adjudication of such disputes through a compulsory arbitration procedure. Despite

some specific features of the arbitration bodies (which were later analysed from the angle of the “independence and impartiality” requirement of Article 6), the Court found that the applicant was entitled to a judicial examination of her claim that she had been unjustifiably excluded from refereeing matches at the international level and that, despite the large discretion accorded to the sports federation in those matters, the applicant nevertheless had a legally protected “right” so that Article 6 was applicable (§§ 62-67).

32. In the context of appointments to public office, the right in question may consist, not of the right to be appointed as such (which is not necessarily recognised in the domestic legal order) but, of the right to a fair appointment procedure. Thus, in the case of *Oktay Alkan v. Türkiye*, 2023, the applicant was a candidate judge who had completed his training and had been eligible to become a judge. The Council of Judges and Prosecutors refused to confirm his appointment, and he had no access to a court to challenge that decision. The Court concluded that candidates-in-training, who have applied for the position of a judge, had a “right against arbitrary appointment or rejection”, even where the judicial council exercised discretion in respect of the final step of confirming the appointment to the judicial position and where that discretionary decision could not have been reviewed by the courts (see, along the same lines, *Lorenzo Bragado and Others v. Spain*, 2023, § 98).

In the context of the transfer, from one part of the judiciary to another, the Court observed in *Biliński v. Poland*, 2026, that, while there was no right to occupy a particular position within the judiciary, domestic law afforded protection against the arbitrary transfers of judges from one division to another (§§ 60-76).

33. Whether or not the applicant had a right to a “fair procedure” which is attached to the excercise of discretion by a public authority depends on the state of domestic law and practice at the relevant time. Thus, in *Stylianidis v. Cyprus* (dec.), 2024, the Court decided that the refusal to promote the applicant to a position of President of a district court had not affected the applicant’s “civil right”. The Court observed, in particular, that the decision of the appointing authority — the Supreme Council of Judicature (the SCJ) — had been taken in the absence of any legal provision regulating the promotion procedure, and on the basis of very general criteria such as ability and merit. The SCJ’s power on the matter had been purely discretionary, no “fair procedure” had been established and the courts consistently refused to treat such decisions as subject to judicial review, which led the Court to conclude that the applicant had not had an actionable right (§§ 40-46).

In *Misiūnas v. Lithuania*, 2025, the applicant, a former judge, complained that the President of the Republic had arbitrarily refused to re-appoint him to a judicial post (following a period when the applicant exercised a political mandate). The Court noted that the crux of the applicant’s complaint was not the right to a occupy a particular post in the judiciary, but rather his right to a fair procedure in seeking readmission to the judiciary. This right could arguably be derived from the constitutional right of equal access to public service. The Government did not argue that the applicant did not satisfy the formal eligibility criteria for becoming a judge and acknowledged that the law recognised the right to seek compensation for the “improper exercise of State power”. The Court concluded that the applicant had at least “the right to be protected against arbitrary and discriminatory rejections” (§§ 86-89).

34. The Court has pointed out that whether a person has an actionable domestic claim may depend not only on the content, properly speaking, of the relevant civil right as defined in national law but also on the existence of procedural bars preventing or limiting the possibilities of bringing potential claims to court (*Fayed v. the United Kingdom*, 1994, § 65). In that event, the domestic legislation recognises that a person has a substantive right even though, for whatever reason, there is no legal means of asserting or enforcing the right through the courts. In cases of this kind, Article 6 § 1 may apply (*Al-Adsani v. the United Kingdom* [GC], 2001, § 47; *McElhinney v. Ireland* [GC], 2001, § 25). However, the Convention institutions may not create through the interpretation of Article 6 § 1 a substantive civil right which has no legal basis in the State concerned (*Károly Nagy v. Hungary* [GC],

2017, §§ 60-61; *Roche v. the United Kingdom*, 2005, § 117). In *Károly Nagy v. Hungary* [GC], 2017, §§ 60-61, the Court emphasised the importance of maintaining a distinction between procedural and substantive elements: fine though that distinction may be in a particular set of national legal provisions, it remains determinative of the applicability and, as appropriate, the scope of the guarantees of Article 6. The Court confirmed its case-law to the effect that Article 6 could not apply to substantive limitations on a right existing under domestic law (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 100; *Roche v. the United Kingdom*, 2005; *Boulois v. Luxembourg*, 2012).

35. Applying the distinction between substantive limitations and procedural bars in the light of these criteria, the Court has, for example, recognised as falling under Article 6 § 1 civil actions for negligence against the police (*Osman v. the United Kingdom*, 1998) or against local authorities (*Z and Others v. the United Kingdom* [GC], 2001) and has considered whether a particular limitation (exemption from prosecution or non-liability) was proportionate from the standpoint of Article 6 § 1. Immunity is to be seen here not as qualifying a substantive right but as a procedural bar to the national courts' power to determine that right (*Al-Adsani v. the United Kingdom* [GC], 2001, § 48; *Cudak v. Lithuania* [GC], 2010, § 57). On the other hand, the Court has held that the Crown's exemption from civil liability vis-à-vis members of the armed forces derived from a substantive restriction and that domestic law consequently did not recognise a "right" within the meaning of Article 6 § 1 (*Roche v. the United Kingdom* [GC], 2005, § 124; *Hotter v. Austria* (dec.), 2010; *Andronikashvili v. Georgia* (dec.), 2010) A declaration by which one branch of the judicial system declined jurisdiction to determine an applicant's compensation claim was examined in the case of *Károly Nagy v. Hungary* [GC], 2017, § 60. Referring to the domestic law applicable when the applicant had brought his claim before the courts, the Court found that the national courts' declaration that they lacked jurisdiction had been neither arbitrary nor manifestly unreasonable. That being so, the applicant had not at any time had a "right" which could be said, at least on arguable grounds, to be recognised under domestic law (§§ 75-77). In *Vilho Eskelinen and Others v. Finland* [GC], 2007, § 41, the Court acknowledged the existence of an "arguable" right to compensation.

36. The Court has accepted that associations also qualify for protection under Article 6 § 1 if they seek recognition of specific rights and interests of their members (*Gorraiz Lizarraga and Others v. Spain*, 2004, § 45) or even of particular rights to which they have a claim as legal persons (such as the right of the "public" to information and to take part in decisions regarding the environment (*Collectif national d'information et d'opposition à l'usine Melox — Collectif Stop Melox and Mox v. France* (dec.), 2006), or when the association's action cannot be regarded as an actio popularis (*L'Érablière A.S.B.L. v. Belgium*, 2009). As was emphasised in *Association Burestop 55 and Others v. France*, 2021, associations play an important role, *inter alia* in defending causes before the domestic authorities or courts, particularly in relation to environmental protection, and this means that the above criteria should be applied flexibly when an association complains of a breach of Article 6 § 1 (§§ 53 et seq.)[1].

37. However, this does not mean that associations must be able to bring court proceedings in the general public interest and in any area: the domestic law must recognise that associations have certain rights in a particular sphere and may participate in the decision-making process in this regard, as demonstrated by *TMMOB and Karakuş Candan v. Türkiye*, 2024. In this case, a chamber of architects brought proceedings complaining about an urban development plan which affected a historic site. The Court concluded that the outcome of those proceedings had no direct bearing on the applicant association's "civil rights" and that Article 6 was therefore inapplicable (§§ 46 and 47).

38. Although there is in principle no right under the Convention to hold a public post entailing the administration of justice, such a right may exist at domestic level (*Grzęda v. Poland* [GC], 2022, § 270, concerning election for a four-year term to the National Council of the Judiciary, and §§ 282-286). In *Regner v. the Czech Republic* [GC], 2017, the Court reiterated that there could be no doubt that there was a right within the meaning of Article 6 § 1 where a substantive right recognised in domestic law

[1]. See Guide on the environment.

was accompanied by a procedural right to have that right enforced through the courts (see, for example, *Salvador Coutinho dos Santos Amado v. Portugal**, 2026, where the applicant — a judge — contested a report evaluating his professional performance: the Court found that the applicant's right to serve as a judge was accompanied by a procedural right to undergo a lawful and fair evaluation, § 49). The mere fact that the wording of a legal provision affords an element of discretion does not in itself rule out the existence of a right. Indeed, Article 6 applies where the judicial proceedings concern a discretionary decision resulting in interference in an applicant's rights (§ 102). The Court has held that the right to participate in a lawful and fair recruitment procedure in public service constitutes a "right" within the meaning of Article 6 § 1 (*Frezadou v. Greece*, 2018, § 30). Accordingly, a right to a lawful and fair recruitment or promotion procedure may be recognised in domestic law, as the Court found, for example, in relation to a dispute concerning the appointment of a public servant to the position of university rector (*Bara and Kola v. Albania*, 2021, §§ 55-56). The right to a lawful procedure in the timely examination of admissible candidacies for access to public office may exist even where the right to be elected, as such, is not recognised under the national law (*Lorenzo Bragado and Others v. Spain*, 2023, § 98; see also *Oktay Alkan v. Türkiye*, 2023, § 41).

39. Where legislation lays down conditions for admission to an occupation or profession, a candidate who satisfies them has a right to be admitted to the occupation or profession (*De Moor v. Belgium*, 1994, § 43). For example, if the applicant has an arguable case that he or she meets the legal requirements for registration as a doctor, Article 6 applies (*Chevrol v. France*, 2003, § 55; see, conversely, *Bouilloc v. France* (dec.), 2006). At all events, when the legality of proceedings concerning a civil right is challengeable by a judicial remedy of which the applicant has made use, it has to be concluded that there was a "dispute" concerning a "civil right" even if the eventual finding was that the applicant did not meet the legal requirements (right to continue practising the medical specialisation which the applicant had taken up abroad: *Kök v. Turkey*, 2006, § 37, or an application for the title of court expert, *Cimperšek v. Slovenia*, 2020, §§ 35-36).

40. Recruitment, in the context of access to employment, constitutes in principle a privilege that can be granted at the relevant authority's discretion and cannot be legally enforced. For the purposes of Article 6, this question should be distinguished from the continuation of an employment relationship or the conditions in which it is exercised. While access to employment and to the functions performed may constitute in principle a privilege that cannot be legally enforced, this is not the case regarding the continuation of an employment relationship or the conditions for its enjoyment (*Regner v. the Czech Republic* [GC], 2017, § 117). In *Baka v. Hungary* [GC], 2016, for instance, the Court recognised the right of the President of the Hungarian Supreme Court to serve his full term of six years under Hungarian law (§§ 107-111); and in *Grzęda v. Poland* [GC], 2022, the Court reached a similar conclusion concerning a judge elected to the National Council of the Judiciary (§ 282; see also *Żurek v. Poland*, 2022, § 131, concerning a judge who also acted as spokesperson for the National Council of the Judiciary), and referred to international sources (§ 284). Furthermore, in the private sector, labour law generally confers on employees the right to bring legal proceedings challenging their dismissal where they consider that they have been unlawfully dismissed, or unilateral substantial changes have been made to their employment contract. The same applies to public-sector employees, save in cases where the exception provided for in *Vilho Eskelinen and Others v. Finland*, 2007, applies (*Regner v. the Czech Republic* [GC], 2017, § 117; and *Kövesi v. Romania*, 2020, § 115, concerning a public prosecutor).

41. That being said, not every change in a position or functions of a public official would automatically affect his or her rights under the domestic law. Thus, in *Davchev v. Bulgaria* (dec.), 2023, the Court concluded that Bulgarian law had not conferred on the applicant any right to continue performing his function as an administrative head of the investigation department, and had not set out procedural or substantive rules for early termination of such a function. Such positions had been excluded from the scope of the constitutional guarantee of independence of the prosecution magistrates, and the effects of that change on the applicant's renumeration or reputation had been minimal. The Court concluded that the administrative function performed by the applicant had been rather an "advantage

which it was not possible to have recognised in the courts": therefore, Article 6 was not applicable. The Court's reference to the fact that the considerations of the judicial independence had not been at stake in that case is worth noting (§§ 37 and 39).

42. In *Regner v. the Czech Republic* [GC], 2017, a Ministry of Defence official challenged the revocation of his security clearance, which had prevented him from continuing to perform his duties as deputy to the first Vice-Minister. Admittedly, security clearance did not constitute an autonomous right. However, it was a fundamental condition for the performance of the applicant's duties. Its revocation had had a decisive effect on his personal and professional situation, preventing him from carrying out certain duties at the Ministry and harming his prospects of obtaining a new post within the State authorities. Those factors were found to be sufficient for the applicant to be able to claim a "right" for the purposes of Article 6 when challenging the revocation of his security clearance (§ 119; see also the case-law references in § 109 to *Ternovskis v. Latvia*, 2014, §§ 9-10, and in § 112 to *Miryana Petrova v. Bulgaria*, 2016, §§ 30-35).

43. To decide whether the applicant had an "arguable right" it is necessary to look into the nature of controversy which is at the heart of the case. Thus, in *Ţîmpău v. Romania*, 2023, §§ 119-140, the applicant, a school teacher of Orthodox religion, was dismissed following a decision of the Archbishop to withdraw the "endorsement", which, under the law, was a pre-condition for the continuation of her contract with the school. The applicant did not challenge the decision of the Archbishop before the ecclesiastical courts, but tried to contest her dismissal before the State court competent to hear labour disputes. The State court, however, refused to review the Archbishop's decision, as it was governed by the laws specific to that religious denomination and not by the ordinary secular law. The Court concluded that in essence the applicant tried to defend, before the State courts, a right which was not recognised under domestic law.

44. The case which gave rise to *Advisory Opinion P16-2022-001*, 2023 concerned the adoption of an adult person by his aunt, who was a sister of the biological mother of the former. The biological mother opposed the adoption. She was questioned in court as a witness, but the Finnish courts refused to recognise her standing as an interested party and to bring an appeal. The Court noted that, under national law, the courts where not required to consider, in the adult adoption proceedings, the interests of any other party but the adoptee and the person seeking to become an adoptive parent. Bearing in mind the content and rationale of the relevant statutory provisions, the Court concluded that the right claimed by the biological mother did not exist, even on arguable grounds, in domestic law (compare and contrast with *Mustafa and Mustafova v. Bulgaria*, 2025, §§ 42-47).

45. The question of whether a right is recognised — at least on an arguable basis — in domestic law was examined in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, in the context of climate change litigation. While some elements of the action instituted by the applicant association concerned requests for legislative and regulatory action and thus were outside the scope of Article 6 § 1, the action also aimed at enforcing the target of 20% for the reduction of dangerous emissions set in the law and thus concerned the lack of effective implementation of the mitigation measures provided under the existing law. The Court also concluded that the right to life and the right to the protection of health and physical integrity were "civil", in the Swiss legal order (§§ 615-619).

3. "Civil" nature of the right or obligation

46. Whether or not a right, or an obligation (*Evers v. Germany*, 2020, § 65), is to be regarded as civil in the light of the Convention must be determined by reference to its substantive content and effects — and not its legal classification — under the domestic law of the State concerned. In the exercise of its supervisory functions, the Court must also take into account the Convention's object and purpose and the national legal systems of the other Contracting States (*König v. Germany*, 1978, § 89).

47. In principle the applicability of Article 6 § 1 to disputes between private individuals which are classified as civil in domestic law is uncontested before the Court (for a judicial separation case, see

Airey v. Ireland, 1979, § 21). The Court has applied Article 6 (civil limb) to disputes that have been referred to arbitration (see *Mutu and Pechstein v. Switzerland*, 2018, §§ 56-59, and, for example, *Xavier Lucas v. France*, 2022, §§ 30-32).

48. The Court also regards as falling within the scope of Article 6 § 1 proceedings which, in domestic law, come under "public law" and whose result is decisive for private rights and obligations or the protection of "pecuniary rights" (see the recent recapitulation in *Bilgen v. Turkey*, 2021, § 65). Such proceedings may, *inter alia*, have to do with permission to sell land (*Ringeisen v. Austria*, 1971, § 94), running a private clinic (*König v. Germany*, 1978, §§ 94-95), building permission (see, *inter alia*, *Sporrong and Lönnroth v. Sweden*, 1982, § 79), the establishment of a right of ownership, including in relation to a place of worship (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, §§ 71-73), administrative permission in connection with requirements for carrying on an occupation (*Benthem v. the Netherlands*, 1985, § 36), a licence for serving alcoholic beverages (*Tre Traktörer Aktiebolag v. Sweden*, 1989, § 43), or a dispute concerning the payment of compensation for a work-related illness or accident (*Chaudet v. France*, 2009, § 30). An application to review the lawfulness of licences issued to a rival company for the construction and operation of a similar business in a neighbouring district, since it relates to the loss of clientele caused by the competitor, concerns a "pecuniary interest" falling within the scope of Article 6 § 1 (*Sine Tsaggarakis A.E.E. v. Greece*, 2019, §§ 38-43).

49. In a case concerning the administrative authorities' refusal to comply with final decisions revoking a building permit for a factory on environmental grounds in particular, the Court held that despite the general nature of the interest defended by the applicants, Article 6 was applicable. As nearby residents, they had complained to the national courts that the factory's operations had harmful effects on the environment, and the courts had concluded that they could claim to have a civil right. The Court had regard to what was at stake in the proceedings, the nature of the measures complained of and the applicants' standing under domestic law (*Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, §§ 127-128; see also *Stichting Landgoed Steenbergen and Others v. the Netherlands*, 2021, § 30).

50. Article 6 is applicable to a negligence claim against the State (*X v. France*, 1992), an action for cancellation of an administrative decision harming the applicant's rights (*De Geouffre de la Pradelle v. France*, 1992), administrative proceedings concerning a ban on fishing in the applicants' waters (*Alatulkkila and Others v. Finland*, 2005, § 49) and proceedings for awarding a tender in which a civil right-such as the right not to be discriminated against on grounds of religious belief or political opinion when bidding for public-works contracts — is at stake (*Tinnelly & Sons Ltd and Others and McElduff and Others v. the United Kingdom*, 1998, § 61; contrast *I.T.C. Ltd v. Malta* (dec.), 2007). Article 6 has also been held to be applicable to administrative procedures concerning revocation of a firearms licence, where the applicants had been listed in a database containing information on individuals deemed to represent a potential danger to society (*Pocius v. Lithuania*, 2010, §§ 38-46; *Užukauskas v. Lithuania*, 2010, §§ 34-39). The applicants had brought legal proceedings challenging their inclusion in police files and had sought to have their names removed from the database. The Court concluded that Article 6 was applicable, on the grounds that the inclusion of the applicants' names in the database had affected their reputation, private life and job prospects.

51. Article 6 § 1 is also applicable to a civil action seeking compensation for ill-treatment allegedly committed by agents of the State (*Aksoy v. Turkey*, 1996, § 92), for a period of detention followed by a reversal of the conviction (*Georgiadis v. Greece*, 1997, §§ 35-36), or to a claim against a public authority for compensation for non-pecuniary damage and costs (*Rotaru v. Romania* [GC], 2000, § 78) or to the withdrawal of security clearance that had been issued to an applicant to enable him to carry out his duties as deputy to a Vice-Minister of Defence (*Ţîmpău v. Romania*, 2023; *Regner v. the Czech Republic* [GC], 2017, §§ 113-127).

B. Extension to other types of disputes

52. The scope of the "civil" concept in Article 6 is not limited by the immediate subject matter of the dispute. Instead, the Court has developed a wider approach, according to which the "civil" limb has covered cases which might not initially appear to concern a civil right but which may have direct and significant repercussions on a private pecuniary or non-pecuniary right belonging to an individual. Through this approach, the civil limb of Article 6 has been applied to a variety of disputes which may have been classified in domestic law as public-law disputes (*Denisov v. Ukraine* [GC], 2018, § 51).

53. Article 6 is applicable to disciplinary proceedings before professional bodies where the right to practise a profession is directly at stake (*Reczkowicz v. Poland*, 2021, §§ 183-185 and the case-law references cited in relation to judges and practising lawyers; *Le Compte, Van Leuven and De Meyere v. Belgium* (doctors); *Philis v. Greece (no. 2)*, 1981, § 45 (engineer); *Peleki v. Greece*, 2020, § 39, concerning a notary; compare and contrast with *Ali Rıza and Others v. Turkey*, 2020, §§ 155 and 159-160, concerning sports disputes). The applicability of Article 6 to disciplinary proceedings is determined on the basis of the sanctions which the individual risks incurring as a result of the alleged offence (*Marušić v. Croatia* (dec.), 2017, §§ 72-73 — Article 6 inapplicable). The concrete outcome of the proceedings is not crucial to the assessment of whether Article 6 § 1 is applicable; it may be sufficient, in appropriate cases, that the right to practise a profession is at stake, simply because suspension from practising the profession features among the measures that may potentially be taken against the applicant (*Peleki v. Greece*, 2020, § 39). The case-law concerning the applicability of Article 6 to disciplinary proceedings against civil servants refers to the Vilho Eskelinen test (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 120 and case-law references cited, and § 196; *Eminağaoğlu v. Turkey*, 2021, § 66, concerning disciplinary proceedings against a judge; *Grace Gatt v. Malta*, 2019, §§ 60-63, concerning disciplinary proceedings against a police officer). To establish the "civil nature" of the disciplinary dispute in *Thierry v. France* (dec.), 2023, the Court referred to a substantial change in the nature of the applicant's duties and a decreased level of responsibility, which had had a significant and lasting impact on his professional situation (§ 22). Article 6 § 1 has also been found to be applicable in relation to disciplinary sanctions in the field of sport (*Sedat Doğan v. Turkey*, 2021, §§ 20-21, and *Naki and AMED Sportif Faaliyetler Kulübü Derneği v. Turkey*, 2021, § 20). See also below.

It should be noted that Article 6 has been found inapplicable to a (non-disciplinary) procedural measure taken by a judge against lawyers pursuant to which they had been excluded from proceedings in which they had been involved on the grounds that they had acted in an incompetent, inappropriate and irresponsible manner. The applicant lawyers had nevertheless remained free to advse their clients outside of hearings before the court in question and to provide their services to any other potential client: they could therefore carry on practising their profession (*Angerjärv and Greinoman v. Estonia*, 2022, §§ 95-102).

54. The Court has held that Article 6 § 1 is applicable to disputes concerning social matters, including proceedings relating to an employee's dismissal by a private firm (*Buchholz v. Germany*, 1981), proceedings concerning social-security benefits (*Feldbrugge v. the Netherlands*, 1986, § 40; *Deumeland v. Germany*, 1986, § 74), even on a non-contributory basis (*Salesi v. Italy*, 1993), welfare assistance and accommodation (*Fazia Ali v. the United Kingdom*, 2015 §§ 58-59, including emergency accommodation for aliens, *M.K. and Others v. France*, 2022, §§ 107-108 and 116-117), and also proceedings concerning compulsory social-security contributions (*Schouten and Meldrum v. the Netherlands*, 1994). (For the challenging by an employer of the finding that an employee's illness was occupation-related, see *Eternit v. France* (dec.), 2012, § 32). In these cases the Court took the view that the private-law aspects predominated over the public-law ones. In addition, it has held that there were similarities between entitlement to a welfare allowance and entitlement to receive compensation for Nazi persecution from a private-law foundation (*Woś v. Poland*, 2006, § 76). In its

judgment in *M.K. and Others v. France*, 2022, § 108, the Court clarified that the applicability of Article 6 § 1 was independent of the status of the person concerned.

55. Article 6 § 1 is also applicable to a civil-party complaint in criminal proceedings (*Perez v. France* [GC], 2004, §§ 70-71), except in the case of a civil action brought purely to obtain private vengeance or for punitive purposes (*Sigalas v. Greece*, 2005, § 29; *Mihova v. Italy* (dec.), 2010). Indeed, the Convention does not confer any right, as such, to have third parties prosecuted or sentenced for a criminal offence (see also *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], 2015, § 218; compare with the case of interdependent civil and criminal proceedings: *Koziy v. Ukraine*, 2009, §§ 24-25). To fall within the scope of the Convention, such a right must be indissociable from the victim's exercise of a right to bring civil proceedings in domestic law (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, §§ 188 and 194), even if only to secure symbolic reparation or to protect a civil right such as the right to a "good reputation" (*Perez v. France* [GC], 2004, § 70; see also, regarding a symbolic award, *Gorou v. Greece (no. 2)* [GC], 2009, § 24). Therefore, Article 6 applies to proceedings involving civil-party complaints from the moment the complainant is joined as a civil party, including during the preliminary investigation stage taken on its own (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 207), unless he or she has unequivocally waived the right to reparation (*Arnoldi v. Italy*, 2017, § 43), and as long as the criminal proceedings are decisive for the civil right to compensation that is being asserted (*Alexandrescu and Others v. Romania*, 2015, § 22, concerning the right of victims to know the truth about mass violations of fundamental rights). Accordingly, a case-by-case examination is necessary to determine whether the domestic legal system recognises the complainant as having an interest of a civil nature to be asserted in the criminal proceedings (*Arnoldi v. Italy*, 2017, §§ 36-40). The fact that the person concerned has already received compensation from other bodies, for example following a fatal accident of a family member, does not in itself preclude the application of Article 6 § 1 (*Gracia Gonzalez v. Spain*, 2020, §§ 50-55).

56. The principles governing the applicability of Article 6 under its civil head, in the context of criminal proceedings where the applicant has "victim" status, has been summarised in *Fabbri and Others v. San Marino* [GC], 2024, §§ 88-93. For Article 6 in its civil limb to be applicable, the following conditions should be met. In the first place, under domestic law the applicant (a victim of a crime) must have a substantive civil right (such as compensation for damage sustained), and a procedural right of action to pursue that civil right within the impugned criminal proceedings. Secondly, the victim must clearly demonstrate the importance he or she attaches to securing the civil right, by invoking that right via the appropriate channel, in accordance with the tenets of the domestic legal framework. Thus, if the law provides for a formal status of "civil party" in criminal proceedings, Article 6 would apply only when the applicant has lodged a formal request to obtain such status (in less formalistic systems Article 6 would apply when the applicant's pursuance of a civil right has become clear). Article 6 would not be applicable where the applicant tried to pursue the civil right by *prima facie* invalid (procedurally or substantively) means, or where it was inappropriate for the applicant to attempt to bring such claims through the criminal avenue, such as would be the case, for matters of purely civil nature, or if statutory limitation periods or any relevant time-limits applicable at that stage had already expired. Thirdly, the civil right being pursued in the criminal proceedings must not be actively pursued in parallel elsewhere. Fourthly, the criminal proceedings must be *decisive* for the civil right in issue, in particular because under domestic law the judge had to determine the civil claim, or because the judge has done so in practice, or because the criminal proceedings prevailed over any civil proceedings (i.e. would bring to an end any parallel civil proceedings, or the determination of the civil claim would be bound by the findings in the criminal proceedings, etc.).

57. The Court has held — in the context of imprisonment — that some restrictions on detainees' rights, and the possible repercussions of such restrictions, fall within the sphere of "civil rights" (see the summary of the case-law on this point in *De Tommaso v. Italy* [GC], 2017, §§ 147-50). Thus, Article 6 applies to prisoners' detention arrangements (for instance, disputes concerning the restrictions to which prisoners are subjected as a result of being placed in a high-security unit (*Enea*

v. Italy [GC], 2009, §§ 97-107) or in a high-security cell (*Stegarescu and Bahrin v. Portugal*, 2010), or disciplinary proceedings resulting in restrictions on family visits to prison (*Gülmez v. Turkey*, 2008, § 30); or other types of restrictions on prisoners' rights (*Ganci v. Italy*, 2003, § 25). Article 6 § 1 has also been applied to proceedings instituted by the prison authorities with a view to requiring the presence of a prison officer at meetings between a prisoner and his lawyer, even though that measure had above all been aimed at preserving order and security in the prison. Finding that face-to-face lawyer-client conversations fell within the notion of "private life" within the meaning of Article 8 of the Convention, the Court concluded that the dispute was of a predominantly personal and individual nature (*Altay v. Turkey (no. 2)*, 2019, §§ 61, 67-69). Conversely, Article 6 does not apply to proceedings concerning the conditions for the applicability of amnesty legislation (*Montcornet de Caumont v. France* (dec.), 2003) and does not guarantee any right to a particular form of sentence enforcement or to conditional release (*Ballıktaş Bingöllü v. Turkey*, 2021, § 48).

58. In *Wick v. Germany*, 2024, the Court concluded that placing the applicant inmate in an isolation cell, dramatically reducing his social contacts, as well as video surveillance measures which interfered with his intimacy, impacted on his "civil rights" (§ 74). In the same case, the Court found that frequent transfers from one prison to another for short periods of time — even though those prisons were not in remote or isolated places — might have had an impact on his social and private life and, in particular, on the therapy he has been undergoing and thus on his "civil" rights (§ 77).

59. Article 6 also applies to special supervision measures in the context of a compulsory residence order entailing restrictions on freedom of movement in particular (*De Tommaso v. Italy* [GC], 2017, §§ 151-55). In the case cited, the Court found that some restrictions — such as the prohibition on going out at night, leaving the district of residence, attending public meetings or using mobile phones or radio communication devices — fell within the sphere of personal rights and were therefore "civil" in nature.

60. Article 6 also covers the right to a good reputation (*Helmers v. Sweden*, 1991, § 27, and hence defamation proceedings — *Tolstoy Miloslavsky v. the United Kingdom*, 1995, § 58); the right of access to administrative documents (*Loiseau v. France* (dec.), 2003) or to evidence in the file on an investigation (*Savitskyy v. Ukraine*, 2012, §§ 143-145); disputes regarding the non-inclusion of a conviction in a criminal record (*Alexandre v. Portugal*, 2012, §§ 54-55) or the deletion of an entry in a criminal record (*Ballıktaş Bingöllü v. Turkey*, 2021, § 50), an appeal against an entry in a police file affecting the right to a reputation, the right to protection of property and the possibility of finding employment and hence earning a living (*Pocius v. Lithuania*, 2010, §§ 38-46; *Užukauskas v. Lithuania*, 2010, §§ 32-40); proceedings concerning the application of non-custodial preventive measures (*De Tommaso v. Italy* [GC], 2017, § 151), proceedings for the restoration of certain rights (access to particular types of employment) after a criminal conviction has been spent (*Ballıktaş Bingöllü v. Turkey*, 2021, § 50), the right to be a member of an association (*Sakellaropoulos v. Greece* (dec.), 2011; *Lovrić v. Croatia*, 2017, §§ 55-56) — similarly, legal proceedings concerning the lawful existence of an association concern the association's civil rights, even if under domestic legislation the question of freedom of association belongs to the field of public law (*APEH Üldözötteinek Szövetsége and Others v. Hungary*, 2000, §§ 34-35) — and, lastly, the right to continue higher education studies (*Emine Araç v. Turkey*, 2008, §§ 18-25), a position which likewise applies to primary education (*Oršuš and Others v. Croatia* [GC], 2010, § 104).

61. Article 6 is also applicable to other matters such as environmental issues, where disputes may arise involving the right to life, to health or to a healthy environment (*Taşkın and Others v. Turkey*, 2004); the fostering of children (*McMichael v. the United Kingdom*, 1995); children's schooling arrangements (*Ellès and Others v. Switzerland*, 2010, §§ 21-23); the right to have paternity established (*Alaverdyan v. Armenia* (dec.), 2010, § 33); the right to liberty (*Aerts v. Belgium*, 1998, § 59; *Laidin v. France (no. 2)*, 2003); and lustration proceedings (see, for example, *Polyakh and Others v. Ukraine*, § 153 and the case-law references cited).

62. The right to freedom of expression (*Kenedi v. Hungary*, 2009, § 33; and, for application in a disciplinary context, *Sedat Doğan v. Turkey*, 2021, §§ 20) and the right of journalists to receive and impart information through the press in order to carry on their profession (*Shapovalov v. Ukraine*, 2012, § 49; *Selmani and Others v. the former Yugoslav Republic of Macedonia*, 2017, § 47) have also been treated as "civil" in nature.

63. There has therefore been a noticeable shift in the case-law towards applying the civil limb of Article 6 to cases which might not initially appear to concern a civil right but may have "direct and significant repercussions on a private right belonging to an individual" (*De Tommaso v. Italy* [GC], 2017, § 151; *Alexandre v. Portugal*, 2012, §§ 51 and 54), even in a professional context (*Pocius v. Lithuania*, 2010, § 43; *Selmani and Others v. the former Yugoslav Republic of Macedonia*, 2017, § 47; *Mirovni Inštitut v. Slovenia*, 2018, § 29), including the civil service (for example, *Denisov v. Ukraine* [GC], 2018, §§ 52-53 and the case-law references cited; *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018).

64. Article 6 may be applicable even where the right at issue is associated with the exercise of political discretion. Thus, in *Lorenzo Bragado and Others v. Spain*, 2023, the Court found that eligible candidates for positions as members of the judicial council may have "a right to a lawful procedure in the timely examination of [the applicants'] admissible candidacies" (§ 98), even if they had no right to be appointed (which depended on the voting in the Parliament). In that case the Court noted that the Spanish Parliament had been under a legal obligation to complete a "mandatory process of selection" of candidates within a specific timeframe which "necessarily had to result in a vote" (§ 102). The case was based on factual and legal elements which were not "manifestly without any prospect of success, frivolous or otherwise clearly unmeritorious", and the Government did not contest that the proceedings were directly decisive for the applicants' right. The Court concluded that the "right" invoked by the applicants — "a right to a lawful procedure" — could be said, at least on arguable grounds, to be recognised under Spanish law (§ 107). The Court also noted that, given the nature of the mandate sought by the applicant, the dispute concerning the appointment procedure did not concern "political" rights (§§ 114-115).

65. Article 6 is applicable to the proceedings related to the recognition of a group as a religious society (*Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, 2008, § 107). However, where a group has a legal personality and can operate, the group has to show that its registration as a "religious community" (a special category of religious association under national law) could affect its civil-law position for the Court to find that Article 6 would be applicable (*Föderation der Aleviten Gemeinden in Österreich v. Austria*, 2024, §§ 70-71).

C. Disputes involving public servants

66. Disputes concerning public servants fall in principle within the scope of Article 6 § 1. The Court has declared Article 6 § 1 to be applicable to proceedings for unfair dismissal instituted by embassy employees (a secretary and switchboard operator: *Cudak v. Lithuania* [GC], 2010, §§ 44-47; a head accountant: *Sabeh El Leil v. France* [GC], 2011, § 39; a cultural and information officer: *Naku v. Lithuania and Sweden*, 2016, § 95), an official of the Ministry of Internal Affairs (*Fazliyski v. Bulgaria*, 2013, § 55), a senior police officer (*Šikić v. Croatia*, 2010, §§ 18-20) or an army officer in the military courts (*Vasilchenko v. Russia*, 2010, §§ 34-36), to proceedings regarding the right to obtain the post of parliamentary assistant (*Savino and Others v. Italy*, 2009), and a regular soldier (*R.S. v. Germany* (dec.), 2017, § 34), and to proceedings concerning the professional career of a customs officer (right to apply for an internal promotion: *Fiume v. Italy*, 2009, §§ 33-36).

67. In its judgment in *Vilho Eskelinen and Others v. Finland* [GC], 2007, (§§ 50-62) the Court clarified the scope of the "civil" concept and developed new criteria for the applicability of Article 6 § 1 to employment disputes concerning civil servants (see also *Baka v. Hungary* [GC], 2016, § 103; *Regner v. the Czech Republic* [GC], 2017, § 107). Thus, there can in principle be no justification for the

exclusion from the guarantees of Article 6 of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of the relationship between the particular civil servant and the State in question (for the particular case of mixed systems, combining the rules of labour law applicable in the private sector with certain specific rules applicable to the civil service, see *Pişkin v. Turkey*, 2020, § 98, concerning the dismissal of an employee of a public institute). The principle is now that there will be a presumption that Article 6 applies, and it will be for the respondent Government to demonstrate, firstly, that a civil-servant applicant does not have a right of access to a court under national law and, secondly, that the exclusion of the rights under Article 6 for the civil servant is justified (*Vilho Eskelinen and Others v. Finland* [GC], 2007, § 62).

68. Accordingly, the State cannot rely on an applicant's status as a civil servant to exclude him or her from the protection afforded by Article 6 unless two conditions are fulfilled. Firstly, domestic law must have excluded access to a court for the post or category of staff in question either expressly or implicitly, as clarified in *Grzęda v. Poland* [GC], 2022, § 292 (see also *Stoianoglo v. the Republic of Moldova*, 2023, §§ 30-35, in the context of a dispute involving a public prosecutor). Secondly, the exclusion must be justified on "objective grounds in the State's interest" (see *Vilho Eskelinen and Others v. Finland* [GC], 2007, § 62, with the clarifications set out in *Grzęda v. Poland* [GC], 2022, §§ 299-300; see also the section on "Excluded matters" below).

69. The two conditions of the Vilho Eskelinen test must be fulfilled in order for the protection of Article 6 § 1 to be legitimately excluded (*Grzęda v. Poland* [GC], 2022, § 291; *Baka v. Hungary* [GC], 2016, § 118 — see also *Kövesi v. Romania*, 2020, § 124, where, although the first condition was not fulfilled, the Court considered it useful to examine the second condition in the circumstances of the case). Accordingly, the Court has been able to leave open the question whether the first condition was satisfied when the second was not (*Grzęda v. Poland* [GC], 2022, §§ 294 and 328).

1. Application of the two-pronged *Vilho Eskelinen* test

a. Does the law exclude access to a court for that particular type of dispute?

70. Where domestic law grants a civil servant access to Court with an employment-related dispute, the first condition of the *Vilho Eskelinen* test for excluding the applicability of Article 6 is not met, which makes Article 6 applicable — see for example, *Kural v. Türkiye*, 2024, § 36, which concerned a transfer of a police officer to a different post.

71. The judgment in *Grzęda v. Poland* [GC], 2022, "refined" the first condition of the *Vilho Eskelinen* test. Thus, "the first condition can be regarded as fulfilled where, even without an express provision to this effect, it has been clearly shown that domestic law excludes access to a court for the type of dispute concerned". In short, this condition is satisfied, firstly, "where domestic law contains an explicit exclusion of access to a court. Secondly, the same condition may also be satisfied where the exclusion in question is of an implicit nature, in particular where it stems from a systemic interpretation of the applicable legal framework or the whole body of legal regulation" (§§ 288-292). This approach may be illustrated by the case of *Gyulumyan and Others v. Armenia* (dec.), 2023, where the Court noted that the applicants (judges of the constitutional court who had lost their mandates as a result of a constitutional amendment) did not have access to court in the light of "a systemic interpretation of the applicable legal framework or the whole body of legal regulation" which excluded any possibility of judicial review of the constitutional amendments (§ 70).

72. Moreover, any exclusion of the application of Article 6 has to be compatible with the rule of law. For this to be the case, it must be based on an instrument of general application (*Baka v. Hungary* [GC], 2016, § 117) and not a provision directed at a specific individual, since laws which are directed against specific persons are contrary to the rule of law (*Grzęda v. Poland* [GC], 2022, § 296, § 299). The *Grzęda v. Poland* judgment adds that if the subject matter of the case is closely related to judicial independence, this will have an impact on the examination of the second condition of the *Vilho*

Eskelinen test (§ 300). Very few cases have given rise to a finding that both conditions of the *Vilho Eskelinen* test were satisfied.

73. The fact that the judicial review may have a very limited scope does not necessarily mean that review is explicitly or implicitly excluded. The case of *Lorenzo Bragado and Others v. Spain*, 2023, concerned a protracted parliamentary procedure regarding the election of members of the judicial council. The applicants tried to contest the inaction of Parliament before the Constitutional Court, which declared the amparo appeal inadmissible as belated. The Government argued that, in any event, the constitutional review which might have been exercised by the Constitutional Court in such a situation would be very limited in scope (due to the principle of parliamentary autonomy). The Court, however, noted that "even though the scope of that type of constitutional review was limited, it has not been clearly shown that access to a court was expressly excluded" (§§ 124-127). Thus, the first condition of applicability of Article 6 under the *Vilho Eskelinen* test seems to apply even where the judicial review for which domestic law provides is limited in scope.

74. If the applicant had access to a court under national law, Article 6 applies — see, for example, *Cavca v. the Republic of Moldova*, 2025, § 37 (even to active army officers and their claims before the military courts: *Pridatchenko and Others v. Russia*, 2007, § 47). For the purpose of applying the *Vilho Eskelinen*, 2007, test there is nothing to prevent the Court from characterising a particular domestic body outside the judiciary as a "tribunal" (*Xhoxhaj v. Albania*, 2021, §§ 284-288; see also *Bilgen v. Turkey*, 2021, § 71). In that context, therefore, an administrative or parliamentary body set up by law as a transitional measure (*Xhoxhaj v. Albania*, 2021, § 288) may be viewed as a "tribunal", thereby rendering Article 6 applicable to civil servants' disputes determined by that body (*Oleksandr Volkov v. Ukraine*, 2013, § 88; *Grace Gatt v. Malta*, 2019, §§ 61-62, and case-law references cited). It should be noted that the fact that there is no possibility of reviewing the decision complained of does not in itself mean that access to a court is excluded for the purposes of the first condition (*Kamenos v. Cyprus*, 2017, §§ 75 and 84; see also *Kövesi v. Romania*, 2020, §§ 122-123). In *Kamenos v. Cyprus*, 2017, the applicant had received a disciplinary punishment from a single body, the Supreme Council of Judicature, whose decision was final (§ 84). The Council had nevertheless constituted a "tribunal" within the meaning of Article 6, and the dismissed civil servant had therefore had access to a court for the purposes of the first condition of the *Vilho Eskelinen* test. In *Khandanyan v. Armenia* (dec.), 2025, § 26, the Court accepted that Article 6 applied under its civil limb to the proceedings before the Supreme Judicial Council which terminated the applicant's mandate as a judge.

75. There may also be particular circumstances where the Court must determine whether access to a court had been excluded under domestic law before, rather than at the time when, the impugned measure concerning the applicant was adopted (*Baka v. Hungary* [GC], 2016, § 115-16). In *Sadomski v. Poland*, 2025, the possibility to review the decision of the national council of the judiciary in the matters of appointments, was removed, by way of a legislative intervention, while the appointment competition (in which the applicant participated) was still pending. The Court found that the first condition of the *Vilho Eskelinen* test had not been met (§ 61).

Where the domestic court grants access to an adjudicative body which does not belong to the ordinary courts' system, the Court may need to examine, under the first limb of the *Vilho Eskelinen* test, whether the body in question qualifies as a "tribunal" within the meaning of Article 6 of the Convention. Thus, in *Tsatani v. Greece*, 2025, which concerned disciplinary proceedings brought against a prosecutor (the applicant), the Court concluded that a disciplinary council of the Court of Cassation, albeit outside the standard judicial structure, was a "tribunal" established by law to decide on disciplinary charges on the basis of the applicable legal provisions. The council established the facts and their legal characterisation after freely assessing the evidence, in a procedure offering guarantees of fair trial, and was composed of judges selected randomly and enjoying the essential guarantees of institutional independence, who could be recused by the parties. The Court concluded that, by providing access to such a body, domestic law provided the applicant with "access to court" and hence Article 6 was applicable (§§ 50-57), under the first limb of the *Vilho Eskelinen* test.

b. Are there any objective grounds in the State's interest justifying the exclusion?

76. With regard to the second criterion of the *Vilho Eskelinen* test, it is not enough for the State to establish that the civil servant in question participates in the exercise of public power or that there exists a special bond of trust and loyalty between the civil servant and the State, as employer. The State must also show that the subject matter of the dispute is linked to the exercise of State power or that it has called into question the special bond of trust and loyalty between the civil servant and the State (*Vilho Eskelinen and Others v. Finland* [GC], 2007, § 62). Thus, there can in principle be no justification for the exclusion from the guarantees of Article 6 of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of the relationship between the particular civil servant and the State in question (see, for instance, the dispute regarding police personnel's entitlement to a special allowance in *Vilho Eskelinen and Others v. Finland* [GC], 2007 — see also *Zalli v. Albania* (dec.), 2011; *Ohneberg v. Austria*, 2012). The judgment in *Gręda v. Poland* [GC], 2022, specified that if the subject matter of the case was closely related to the question of judicial independence, this was to be taken into account in the examination of the second condition of the *Vilho Eskelinen* test (see §§ 299-300, and below concerning judges).

77. Thus, insofar as the second criterion of the *Vilho Eskelinen and Others v. Finland* test is concerned, the Court distinguished between the situation of judges and that of the military personnel and other top-level civil servants who are subordinated to the hierarchy of the executive branch. This distinction has been made explicit in *Pająk and others v. Poland*, 2023, § 138. In that case the Court noted that the special bond of trust and loyalty which exists between the State and some categories of civil servants (like military officers, for example) may justify limitations on access to courts in relation to some service-related disputes. However, this justification does not apply to judges, whose position is determined by the imperative of preserving judicial independence. The Court in that case concluded, in the light of the international standards on judicial independence, that judges should have access to court in matters related to an early termination of their mandate (or of a particular administrative function within the judiciary), be it as a result of a disciplinary sanctions or by virtue of the new rules governing the duration of such mandate, including the new rules on the retirement age (§ 139).

78. The Court found that Article 6 was not applicable in the case of a soldier discharged from the army for breaches of discipline who was unable to challenge his discharge before the courts and whose "special bond of trust and loyalty" with the State had been called into question (*Sukūt v. Turkey* (dec.), 2007).[2] It reached a similar conclusion in relation to certain senior government officials in sensitive areas (*Spūlis and Vaškevičs v. Latvia* (dec.), 2014). However, in *Bilgen v. Turkey*, 2021, §§ 79-81, and *Eminağaoğlu v. Turkey*, 2021, §§ 76-80, concerning judges, the Court pointed out that such reasoning could not be transposed to members of the judiciary, particularly in view of the guarantees of their independence. Subsequently, the judgment in *Gręda v. Poland* [GC], 2022, clarified the relevance of considerations relating to judicial independence in cases concerning not only a judge's principal professional activity (adjudicating role), but other official functions (such as membership of a judicial council; for example, § 303). The case concerned a serving judge who had been elected as a judicial member of the body with constitutional responsibility for safeguarding judicial independence (the National Council of the Judiciary). He had been dismissed from this position prematurely by operation of the law in the absence of any judicial oversight of the legality of that measure (while remaining in office at the same court). The Court found that this lack of oversight of a measure connected with the protection of judicial independence could not be regarded as being in the interests of a State governed by the rule of law, and that the second condition of the *Vilho Eskelinen* test had therefore not been satisfied; it pointed out that "[m]embers of the judiciary should enjoy — as do other citizens — protection from arbitrariness on the part of the legislative and executive powers, and only oversight by an independent judicial body of the legality of a measure such as removal from office is able to render such protection effective" (§§ 295-327).

2. See section on "Extension to other types of disputes".

Even where access to court is excluded by virtue of a constitutional provision reflecting the national model of separation of powers, the Court may conclude that such exclusion is not justified on objective grounds in the State's interest. Thus, in *Misiūnas v. Lithuania*, 2025, the applicant, a former judge, complained that the President of the Republic had arbitrarily refused to re-appoint him to a judicial post (after a period when the applicant had exercised a political mandate and withdrew from the judiciary). The Court, examining this case from the standpoint of the second limb of the Vilho Eskelinen test, noted that judges should be selected on the basis of merit and objective criteria, that domestic law should not allow arbitrary interferences in the appointment process, and that the appointment process should be amenable to judicial review, all of which led the Court to conclude that Article 6 is applicable to those proceedings (§§ 94-97).

2. Disputes involving judges and prosecutors

79. Although the Court stated in its judgment in *Vilho Eskelinen and Others v. Finland* [GC], 2007, that its reasoning was limited to the situation of civil servants, it has held that the judiciary forms part of typical public service even if it is not part of the ordinary civil service (*Baka v. Hungary* [GC], 2016, § 104). Accordingly, judges cannot be excluded from the protection of Article 6 on the grounds of their status alone; moreover, the Court has taken judges into account not only in their adjudicating role, but also in the context of other official functions that they may be called upon to perform with a close connection with the judicial system (*Grzęda v. Poland* [GC], 2022, § 303).

80. Furthermore, the employment relationship of judges with the State must be understood in the light of the specific guarantees essential for judicial independence. Thus, when referring to the "special trust and loyalty" that they must observe, it is loyalty to the rule of law and democracy and not to holders of State power. This complex aspect of the employment relationship between a judge and the State makes it necessary for members of the judiciary to be sufficiently distanced from other branches of the State in the performance of their duties, so that they can render decisions a fortiori based on the requirements of law and justice, without fear or favour (*Grzęda v. Poland* [GC], 2022, § 264).

The application of Article 6 § 1 to the premature termination of the applicant's term of office as a judicial member of the National Council of the Judiciary, while he remained a serving judge, was examined in *Grzęda v. Poland* [GC], 2022 (§§ 265 and 288). The Court found that the exclusion of access to a court for a judge who was a member of the National Council of the Judiciary and who had been prematurely removed from his post following a legislative reform had not been justified on objective grounds in the State's interest (§§ 325-326).

It held that all members of the judiciary should enjoy protection from potential arbitrariness on the part of the legislative and executive powers, and that only oversight by an independent judicial body of the legality of a restrictive measure (such as removal from office) was able to render such protection effective (§ 327).

81. The *Denisov v. Ukraine* [GC], 2018 judgment gave a detailed summary of the case-law and relevant principles concerning the application of Article 6 to ordinary labour disputes involving judges (see §§ 46-49 and the relevant precedents, §§ 52-55 — see also *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 120, and *Eminağaoğlu v. Turkey*, 2021, §§ 62-63); it should be borne in mind that disciplinary proceedings are also concerned (see, for example, *Eminağaoğlu v. Turkey*, 2021, § 65 et seq., and see above). The *Bilgen v. Turkey*, 2021, judgment clarified that this included disputes concerning a measure that had considerable effects on a judge's professional life and career even without any direct impact in pecuniary terms or on private or family life (§§ 68-69). The case of *Dolińska-Ficek and Ozimek v. Poland*, 2021, concerned two judges who had applied for another post in a higher court (§ 231, and see the summary of the case-law concerning judges in §§ 227-228; see also *Sadomski v. Poland*, 2025, § 57).

82. In *Bilgen v. Turkey*, 2021, the Court clarified the conditions for the applicability of Article 6 (civil limb) to complaints by judges of a lack of access to a court (see the first condition of the Vilho Eskelinen test) in order to challenge a unilateral decision affecting their professional life (a transfer). The Court had regard to the importance of safeguarding the autonomy and independence of the judiciary for the preservation of the rule of law. Accordingly, in disputes of this kind it had to determine whether the national judicial system ensured the protection of judges against a potentially arbitrary decision affecting their career or professional status (in this case, a transfer to a lower court — see §§ 57-59, §§ 61-63). The dispute thus concerned their "right", within the meaning of the Convention (drawing inspiration from international sources), to be protected against an arbitrary transfer or appointment (§ 64). However, compare this approach to *Levrault v. Monaco* (dec.), 2024, which concerned the extension of the term of office of a French judge seconded to work in Monaco. The Court noted that the secondments had taken place in the context of diplomatic relations which did not bind the Monegasque authorities/did not create a "right" for the applicant and neither could the existence of a "right" be deduced from the constitutional principles guaranteeing judicial independence.

83. Where the removal from office of a chief prosecutor was decided on by the President following a proposal by the Ministry of Justice, the absence of any judicial supervision of the legality of the decision could not be "in the interests of the State" for the purposes of the second *Eskelinen* criterion referred to above. Senior members of the judiciary should — like other citizens — enjoy protection from arbitrariness on the part of the executive, and only oversight by an independent judicial body of the legality of the decision on removal can guarantee the effectiveness of such a right (*Kövesi v. Romania*, 2020, § 124; and see *Eminağaoğlu v. Turkey*, 2021, § 76 *in fine*).

84. In *Stoianoglo v. the Republic of Moldova*, 2023, §§ 30-35, which concerned the suspension of the Prosecutor General from office, the Court emphasised that, under Article 6, only judges, and not prosecutors, should be independent. That being said, prosecutors should also enjoy protection from arbitrary interferences by public authorities with their functions, and the line separating judges and prosecutors, insofar as their independence is concerned, is difficult to draw, especially where the law of the respondent State itself does not make any clear distinction between judges and prosecutors in this regard (§§ 38 and 39). The Court concluded that there had been no objective grounds for excluding such disputes from the scope of guarantees of Article 6, under the second part of the *Vilho Eskelinen and Others v. Finland* test.

85. The specific situation of judges of a constitutional court was analysed by the Court in *Gyulumyan and Others v. Armenia* (dec.), 2023. In that case judges of the constitutional court lost their mandates as a result of a constitutional amendment and were unable to complain about it. The Court noted, applying the second part of the *Vilho Eskelinen and Others v. Finland* test, that the termination of the mandate of the constitutional court judges had resulted from the 2020 constitutional amendments. It would be inconceivable to give to the ordinary courts the power to review the amendments and the ensuing loss of the mandates (§ 70). Therefore, it would be for the judges of the Constitutional Court to decide on their own situation, which run against the principle of *nemo iudex in causa sua*. The Court recalled that the principle of irremovability of judges was not absolute. Having examined the history of the constitutional reform in Armenia, the Court concluded that the 2020 reform pursed legitimate aims (§ 78), and was not directed specifically at the applicants (§ 84). The Court also analysed the "doctrine of necessity" which would allow, exceptionally, a judge — who should be otherwise disqualified — to decide the case, in order to avoid injustice. However, the Court concluded that the "doctrine of necessity" was not applicable *in casu*, noting that the impugned amendment had adverse consequences solely for the applicants themselves. The Court concluded that the principle the principle *nemo iudex in causa sua* should prevail, and the applicants' inability to have the loss of their mandates reviewed by a court (which meant, in the particular circumstances, by themselves) had been justified.

86. The Court has applied the *Vilho Eskelinen* criteria to all types of disputes concerning judges, including those relating to recruitment or appointment (*Juričić v. Croatia*, 2011), career or promotion

(*Dzhidzheva-Trendafilova v. Bulgaria* (dec.), 2012, and *Tsanova-Gecheva v. Bulgaria*, 2015, §§ 85-87), transfer (*Tosti v. Italy* (dec.), 2009, and *Bilgen v. Turkey*, 2021, § 79), suspension (*Paluda v. Slovakia*, 2017, §§ 33-34, and *Camelia Bogdan v. Romania*, 2020, § 70), disciplinary proceedings (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 120; *Di Giovanni v. Italy*, 2013, §§ 36-37; and *Eminağaoğlu v. Turkey*, 2021, § 80; for a reprimand issued to a judge, see *Catană v. the Republic of Moldova*, 2023, §§ 42-45 and the case-law references cited), as well as dismissal (*Oleksandr Volkov v. Ukraine*, 2013, §§ 91 and 96; *Kulykov and Others v. Ukraine*, 2017, §§ 118 and 132; *Sturua v. Georgia*, 2017, § 27; *Kamenos v. Cyprus*, 2017, §§ 82-88; and *Olujić v. Croatia*, 2009, §§ 31-43), reduction in salary following conviction for a serious disciplinary offence (*Harabin v. Slovakia*, 2012, §§ 118-123), removal from post (for example, President of the Supreme Court, President of the Court of Appeal or Vice-President of the Regional Court) while remaining a judge (*Baka v. Hungary* [GC], 2016, §§ 34 and 107-111; *Denisov v. Ukraine* [GC], 2018, § 54; and *Broda and Bojara v. Poland*, 2021, §§ 121-123), re-appointment of a former judge following an interruption in his judicial career (*Misiūnas v. Lithuania*, 2025, §§ 93-97), re-assignment of a judge to another division of the same court (*Biliński v. Poland*, 2026,§§ 78-81), or to judges being prevented from exercising their judicial functions after legislative reform (*Gumenyuk and Others v. Ukraine*, 2021, §§ 61 and 65-67). It has also applied the *Vilho Eskelinen* criteria to a dispute regarding the premature termination of the term of office of a chief prosecutor (*Kövesi v. Romania*, 2020, §§ 124-125), to an appeal by a prosecutor against a presidential decree ordering his transfer (*Zalli v. Albania* (dec.), 2011, and case-law references cited), and to the demotion of a prosecutor (*Čivinskaitė v. Lithuania*, 2020, § 95) and the suspension of the Prosecutor General (*Stoianoglo v. the Republic of Moldova*, 2023, §§ 30-35).

87. That being said, not every dispute arising from a judge's professional activities necessarily falls to be examined under the civil limb of Article 6. Thus, in *Tuleya v. Poland*, 2023, the Court decided that the lifting of a judge's immunity from prosecution (on account of the allegedly unauthorised disclosure of the materials of an investigation file at a hearing) fell to be examined under the criminal limb of Article 6 (§§ 280 et seq.).

88. The Court also concluded that Article 6 was applicable in a case concerning judicial review of the appointment of a court president (*Tsanova-Gecheva v. Bulgaria*, 2015, §§ 84-85). While recognising that Article 6 did not guarantee the right to be promoted or to occupy a post in the civil service, the Court nevertheless observed that the right to a legal and fair recruitment or promotion procedure or to equal access to employment and to the civil service could arguably be regarded as rights recognised under domestic law, in so far as the domestic courts had recognised their existence and had examined the grounds submitted by the persons concerned in this regard (see also *Fiume v. Italy,* 2009, § 35; *Majski v. Croatia (no. 2)*, 2011, § 50).

89. Lastly, the *Vilho Eskelinen* test for the applicability of Article 6 § 1 is equally relevant to cases concerning the right of access to a court (see, for instance, *Nedelcho Popov v. Bulgaria*, 2007; *Sukùt v. Turkey* (dec.), 2007) and to cases concerning the other guarantees enshrined in Article 6.

D. Applicability of Article 6 to proceedings other than main proceedings

90. Preliminary proceedings, like those concerned with the grant of an interim measure such as an injunction, were not normally considered to "determine" civil rights and obligations. However, in 2009, the Court departed from its previous case-law and took a new approach. In *Micallef v. Malta* [GC], 2009, §§ 80-86, the Court established that the applicability of Article 6 to interim measures will depend on whether certain conditions are fulfilled. Firstly, the right at stake in both the main and the injunction proceedings should be "civil" within the meaning of the Convention. Secondly, the nature of the interim measure, its object and purpose as well as its effects on the right in question should be scrutinised. Whenever an interim measure can be considered effectively to determine the civil right or obligation at stake, notwithstanding the length of time it is in force, Article 6 will be

applicable (see also, for the temporary suspension of a judge in the context of disciplinary proceedings, *Camelia Bogdan v. Romania*, 2020, § 70, and for a preventive administrative measure of temporary suspension during ongoing criminal proceedings, *Loquifer v. Belgium*, 2021, §§ 34-35; see also *Pengezov v. Bulgaria*, 2023, § 37).

91. An interlocutory judgment can be equated to interim or provisional measures and proceedings, and the same criteria are thus relevant to determine whether Article 6 is applicable under its civil head (*Mercieca and Others v. Malta*, 2011, § 35).

92. Again with reference to the principles established in *Micallef v. Malta* [GC], 2009, Article 6 may apply to the stay of execution proceedings in accordance with the above-mentioned criteria (*Central Mediterranean Development Corporation Limited v. Malta (no. 2)*, 2011, §§ 21-23).

93. Article 6 is applicable to interim proceedings which pursue the same purpose as the pending main proceedings, where the interim injunction is immediately enforceable and entails a ruling on the same right (*RTBF v. Belgium*, 2011, §§ 64-65). For example, Article 6 was found to be applicable to the non-enforcement of a stay-of-execution decision by an administrative court which was final and enforceable, but which the authorities failed to comply with (*Kural v. Türkiye*, 2024, § 37) and which concerned the transfer of a police officer to a different post.

94. In *A and B v. Malta*, 2025, § 38, the Court found Article 6 to be applicable to recusal proceedings, provided that the procedure to challenge the judge is not a separate one, but rather part of the main civil proceedings (to be distinguished from *Schreiber and Boetsch v. France* (dec.), 2003).

95. Leave-to-appeal proceedings: according to *Hansen v. Norway*, 2014, § 55, the prevailing approach seems to be that Article 6 § 1 is applicable to such proceedings (citing *Martinie v. France* [GC], 2006, §§ 11; *Monnell and Morris v. the United Kingdom*, 1987, § 54; and 53-55; see also *Pasquini v. San Marino*, 2019, § 89). The manner in which Article 6 is to be applied depends upon the special features of the proceedings involved, regard being had to the entirety of the proceedings conducted in the domestic legal order and of the role of the appellate or cassation court in those proceedings (*ibid.*; see also *Monnell and Morris v. the United Kingdom*, 1987, § 56).

96. Consecutive proceedings *concerning the civil tort and the amount of damages*: if a State's domestic law provides for proceedings consisting of two stages — the first where the court rules on whether there is entitlement to damages and the second where it fixes the amount — it is reasonable, for the purposes of Article 6 § 1, to regard the civil right as not having been "determined" until the precise amount has been decided: determining a right entails ruling not only on the right's existence, but also on its scope or the manner in which it may be exercised, which of course includes assessing the damages (*Torri v. Italy*, 1997, § 19).

97. Constitutional disputes may also come within the ambit of Article 6 if their outcome is decisive for civil rights or obligations (*Süßmann v. Germany*, 1996, § 41; *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 203 et seq., in particular § 206 ; *Ruiz-Mateos v. Spain*, 1993 — see more recently *Pinkas and Others v. Bosnia and Herzegovina*, 2022, § 38). This does not apply in the case of disputes relating to a presidential decree granting citizenship to an individual as an exceptional measure, or to the determination of whether the President has breached his constitutional oath (*Paksas v. Lithuania* [GC], 2011, §§ 65-66). It is of little consequence whether the proceedings before the constitutional court concern the referral of a question for a preliminary ruling or a constitutional appeal against judicial decisions (*Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 188-191 and the case-law references cited). Article 6 is also applicable, in principle, where the constitutional court examines an appeal directly challenging a law if the domestic legislation provides for such a remedy (*Voggenreiter v. Germany*, 2004, §§ 31-33 and 36 and case-law references cited). The *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, judgment elaborated upon the Court's position on the matter, in response to the respondent Government's argument emphasising the specificity of the national constitutional model (see §§ 192 et seq., including reasoning concerning the effectiveness of a

constitutional complaint for the purposes of Article 35 § 1 of the Convention and the applicability of Article 6 § 1, § 201). Furthermore, the criteria governing the application of Article 6 § 1 to an interim measure extend to the Constitutional Court (*Kübler v. Germany*, 2011, §§ 47-48).

98. Execution of court decisions: Article 6 § 1 applies to all stages of legal proceedings for the "determination of ... civil rights and obligations", not excluding stages subsequent to judgment on the merits. Execution of a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6 (*Hornsby v. Greece*, 1997, § 40; *Romańczyk v. France*, 2010, § 53, concerning the execution of a judgment authorising the recovery of maintenance debts). Regardless of whether Article 6 is applicable to the initial proceedings, an enforcement title determining civil rights does not necessarily have to result from proceedings to which Article 6 is applicable (*Buj v. Croatia*, 2006, § 19).

99. Article 6 § 1 is also applicable to the execution of final foreign judgments in civil matters (exequatur-see *Avotiņš v. Latvia* [GC], 2016, § 96 and case-law references cited). The exequatur of a foreign court's forfeiture order falls within the ambit of Article 6, under its civil head only (*Saccoccia v. Austria* (dec.), 2007).

100. Applications to have proceedings reopened/extraordinary appeal proceedings: The case of *Bochan v. Ukraine (no. 2)* [GC], 2015 clarified the Court's case-law concerning the applicability of Article 6 to extraordinary appeals in civil judicial proceedings. The Convention does not in principle guarantee a right to have a terminated case reopened and Article 6 is not applicable to proceedings concerning an application for the reopening of civil proceedings which have been terminated by a final decision (*Sablon v. Belgium*, 2001, § 86). This reasoning also applies to an application to reopen proceedings after the Court has found a violation of the Convention (*Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)*, 2007, § 24). Article 6 is therefore deemed inapplicable to them. This is because, in so far as the matter is covered by the principle of res judicata of a final judgment in national proceedings, it cannot in principle be maintained that a subsequent extraordinary application or appeal seeking revision of that judgment gives rise to an arguable claim as to the existence of a right recognised under national law or that the outcome of the proceedings involving a decision on whether or not to reconsider the same case is decisive for the "determination of ... civil rights and obligations" (*Bochan v. Ukraine (no. 2)* [GC], 2015, §§ 44-45).

101. However, should an extraordinary appeal automatically entail, or result in practice in, reconsidering the case afresh, Article 6 applies to the "reconsideration" proceedings in the ordinary way (*Bochan v. Ukraine (no. 2)* [GC], 2015, § 46). Article 6 has also been found to be applicable in certain instances where the proceedings, although characterised as "extraordinary" or "exceptional" in domestic law, were deemed to be similar in nature and scope to ordinary appeal proceedings, the national characterisation of the proceedings not being regarded as decisive for the issue of applicability (*San Leonard Band Club v. Malta*, 2004, §§ 41-48). In conclusion, the Court has found that while Article 6 § 1 is not normally applicable to extraordinary appeals seeking the reopening of terminated judicial proceedings, the nature, scope and specific features of such proceedings in the legal system concerned may be such as to bring them within the ambit of Article 6 § 1 and of the safeguards of a fair trial that it affords to litigants. The Court must accordingly examine the nature, scope and specific features of the extraordinary appeal at issue (*Bochan v. Ukraine (no. 2)* [GC], 2015, § 50). In the case cited, those criteria were applied to an "exceptional appeal" in which the applicant, relying on a judgment in which the European Court of Human Rights had found a violation of Article 6, had asked her country's Supreme Court to quash the national courts' decisions. While the Court found in that case that Article 6 § 1 was applicable to the type of proceedings in issue (§§ 51-58), that was not the case in *Munteanu v. Romania* (dec.), 2020, §§ 38-44.

102. Article 6 has also been declared applicable to a third-party appeal which had a direct impact on the applicants' civil rights and obligations (*Kakamoukas and Others v. Greece* [GC], 2008, § 32), and to

costs proceedings conducted separately from the substantive "civil" proceedings (*Robins v. the United Kingdom*, 1997, § 29).

103. For the application of the civil limb of Article 6 to criminal proceedings where the victim is also a civil party or intends to become a civil party see Section I B above ("Extension to other types of disputes).

E. Excluded matters

104. Merely showing that a dispute is "pecuniary" in nature is not in itself sufficient to attract the applicability of Article 6 § 1 under its civil head (*Ferrazzini v. Italy* [GC], 2001, § 25). Thus, a procedural measure, imposed by a court in the interests of the proper administration of justice, does not by itself attract protection of Article 6 under its "civil" head, even if it involves a pecuniary fine (see *Aktay v. Türkiye* (dec.), 2024, §§ 36-46).

105. Matters outside the scope of Article 6 include tax proceedings: tax matters still form part of the hard core of public-authority prerogatives, with the public nature of the relationship between the taxpayer and the community remaining predominant (*Vegotex International S.A. v. Belgium* [GC], 2022, § 66; *Ferrazzini v. Italy* [GC], 2001, § 29). Similarly excluded are summary injunction proceedings concerning customs duties or charges (*Emesa Sugar N.V. v. the Netherlands* (dec.), 2005).

106. The same applies, in the immigration field, to the entry, residence and removal of aliens, in relation to proceedings concerning the granting of political asylum or deportation (application for an order quashing a deportation order: see *Maaouia v. France* [GC], 2000, § 38; extradition: see *Peñafiel Salgado v. Spain* (dec.), 2002; *Mamatkulov and Askarov v. Turkey* [GC], 2005, §§ 81-83; the refusal to grant visas: see *M.N. and Others v. Belgium* (dec.) [GC], 2020, § 137; and an action in damages by an asylum-seeker on account of the refusal to grant asylum: see *Panjeheighalehei v. Denmark* (dec.), 2009), despite the possibly serious implications for private or family life or employment prospects (and see also *M.K. and Others v. France*, 2022, § 106 and the case-law references cited). However, the Court clarified in its judgment in *M.K. and Others v. France*, 2022, that such restrictions of the material scope of Article 6 § 1 do not concern the subject matter of the dispute (§§ 106-108 and the case-law references cited). In that case the Court thus held that the decision to grant or refuse emergency accommodation to asylum-seekers and their children was of a "civil" nature (§ 117), see also, in the same vein, *Camara v. Belgium*, 2023, §§ 93-94).

This inapplicability extends to the inclusion of an alien in the Schengen Information System (*Dalea v. France* (dec.), 2010). The right to hold a passport (*Alpeyeva and Dzhalagoniya v. Russia*, 2018, § 129) and the right to nationality are not civil rights for the purposes of Article 6 (*Smirnov v. Russia* (dec.), 2006). However, a foreigner's right to apply for a work permit may come under Article 6, both for the employer and the employee, even if, under domestic law, the employee has no locus standi to apply for it, provided that what is involved is simply a procedural bar that does not affect the substance of the right (*Jurisic and Collegium Mehrerau v. Austria*, 2006, §§ 54-62).

107. According to *Vilho Eskelinen and Others v. Finland* [GC], 2007, disputes relating to public servants do not fall within the scope of Article 6 when the following two criteria are met: the State in its national law must have expressly (or implicitly, as clarified in *Grzęda v. Poland* [GC], 2022, § 292) — excluded access to a "tribunal" for the post or category of staff in question, and the exclusion must be justified on "objective grounds in the State's interest" (*Vilho Eskelinen and Others v. Finland* [GC], 2007, § 62, with the clarifications set out in *Grzęda v. Poland* [GC], 2022, §§ 261 and 299-300; see also *Baka v. Hungary* [GC], 2016, § 103; *Regner v. the Czech Republic* [GC], 2017, § 107). According to the approach adopted in *Vilho Eskelinen*, the mere fact that the applicant is in a sector or department which participates in the exercise of power conferred by public law is not in itself decisive.[3]

3. On this matter see, in more detail, Section I-C above on "Disputes involving civil servants"

108. Political rights such as the right to stand for election and retain one's seat (electoral dispute: see *Pierre-Bloch v. France*, 1997, § 50), the right to a pension as a former member of Parliament (*Papon v. France* (dec.), 2005), or a political party's right to carry on its political activities (for a case concerning the dissolution of a party, see *Refah Partisi (The Welfare Party) and Others v. Turkey* (dec.), 2000), cannot be regarded as civil rights within the meaning of Article 6 § 1. Membership of and exclusion from a political party or association are not covered by Article 6 either (*Lovrić v. Croatia*, 2017, § 55). Similarly, proceedings in which a non-governmental organisation conducting parliamentary-election observations was refused access to documents not containing information relating to the organisation itself fall outside the scope of Article 6 § 1 (*Geraguyn Khorhurd Patgamavorakan Akumb v. Armenia* (dec.), 2009). The Court has confirmed that matters relating to conduct in political office, in particular the duty not to place oneself in a conflict of interests, are political rather than civil (*Cătăniciu v. Romania* (dec.), 2018, § 35).

109. In addition, the Convention does not confer any right, as such, to have third parties prosecuted or sentenced for a criminal offence (*Perez v. France* [GC], 2004, § 70; *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], 2015, § 218, concerning an appeal against a decision not to prosecute another person; *Bakoyanni v. Greece*, 2022, § 65), or any right, as such, to an appeal in civil matters (*Durisotto v. Italy* (dec.), 2014, § 53, and the case-law references cited). Moreover, Article 6 does not apply to proceedings concerning the conditions for the applicability of amnesty legislation (*Montcornet de Caumont v. France* (dec.), 2003) and does not guarantee any right to a particular form of sentence enforcement or to conditional release (*Ballıktaş Bingöllü v. Turkey*, 2021, § 48). Nor does Article 6 § 1 require that there be a national court with competence to invalidate or override the law in force (*James and Others v. the United Kingdom*, 1986, § 81). Moreover, Article 6 has been found inapplicable to a non-disciplinary procedural measure taken by a judge against lawyers in very specific proceedings where their professional conduct had been called into question, in order to ensure that justice was properly administered (*Angerjärv and Greinoman v. Estonia*, 2022, §§ 95-102).

110. The right to report matters stated in open court is not a "civil" right within the meaning of the Convention either (*Mackay and BBC Scotland v. the United Kingdom*, 2010, §§ 20-22).

111. Conclusion: Where there exists a "dispute" concerning "civil rights and obligations", as defined according to the above-mentioned criteria, Article 6 § 1 secures to the person concerned the right to have any claim relating to his civil rights and obligations brought before a court or tribunal. In this way the Article embodies the "right to a court", of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect. To this are added the guarantees laid down by Article 6 § 1 as regards both the organisation and composition of the court and the conduct of the proceedings. In sum, the whole makes up the right to a "fair hearing" (*Golder v. the United Kingdom*, 1975, § 36).

F. Links with other provisions of the Convention[4]

112. The Convention must be read as a whole, and interpreted in such a way as to promote internal consistency and harmony between its various provisions (for this principle see, for example, *Mihalache v. Romania* [GC], 2019, § 92).

1. Article 2 (right to life)

113. In *Fernandes de Oliveira v. Portugal* [GC], 2019, the applicant's son, who had been admitted to a psychiatric hospital, escaped and committed suicide. Relying on Article 2, the applicant complained that the authorities had failed to protect her son's right to life. She also complained, under

4. See also the Case-Law Guides on the following articles: Article 2 (right to life), Article 6 (criminal limb) (right to a fair trial), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property).

Article 6 § 1, about the length of the compensation proceedings she had brought against the hospital. The Grand Chamber decided to examine all the complaints under Article 2 of the Convention alone (§§ 80-81).

114. Article 6 lays down a requirement of independence, and the procedural protection of the right to life inherent in Article 2 of the Convention implies that the investigation must be sufficiently independent. In *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], 2015, the Grand Chamber provided some clarification as to whether, in particular, the investigative authorities must meet similar criteria of independence under Article 2 as those prevailing under Article 6 (§§ 217 et seq.).

115. In *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, the Grand Chamber highlighted the difference between the right to an effective investigation under Article 2 of the Convention and the right of access to a court under Article 6 § 1, which concerns the right of the victim to seek redress for damage sustained (§ 193).

2. Article 5 (right to liberty)[5]

116. Article 5 § 4 is a *lex specialis* in relation to Article 6 (civil limb) and there is a close link between these two provisions of the Convention, although the procedure under Article 5 § 4 need not always be attended by the same guarantees as those required under Article 6 for civil or criminal litigation (*Manzano Diaz v. Belgium*, § 38).

117. The procedural guarantees in proceedings where the right to liberty is at stake may be more demanding than those applicable in civil cases (*Corneschi v. Romania*, 2022, § 106).

3. Article 6 § 1 (fair criminal trial)[6]

118. The Court considers that the rights of persons accused of or charged with a criminal offence require greater protection than the rights of parties to civil proceedings. The principles and standards applicable to criminal proceedings must therefore be laid down with particular clarity and precision (*Moreira Ferreira v. Portugal (no. 2)* [GC], 2017, § 67). The requirements inherent in the concept of "fair hearing" are not necessarily the same in cases concerning the determination of civil rights and obligations: "the Contracting States have greater latitude when dealing with civil cases concerning civil rights and obligations than they have when dealing with criminal cases" (*Dombo Beheer B.V. v. the Netherlands*, 1993, § 32; *Levages Prestations Services v. France*, 1996, § 46; and see also below). A civil party is not in the same position as the other parties to criminal proceedings, where the two opposing parties are the defendant, who is seeking to prove that the accusation is unfounded, and the public prosecutor, who represents the prosecuting authorities. A person joining the proceedings as a civil party, while aiming to support the prosecution, is above all seeking an award of compensation for the damage he or she claims to have sustained. The civil party is therefore not involved in the criminal aspect of the proceedings but the civil aspect. Accordingly, the civil party's rights in relation to the principles of equality of arms and adversarial proceedings are not the same as those of the defendant vis-à-vis the prosecutor (*Gorou v. Greece (no. 4)*, 2007, §§ 26-27, concerning a refusal to adjourn a hearing, and § 22, concerning an appeal on points of law; compare *Andrejeva v. Latvia* [GC], 2009, §§ 100-102, concerning the role of the public prosecutor/prosecution service in relation to a party to civil proceedings).

119. In its case-law, when it examines proceedings falling under the civil head of Article 6, the Court may find it necessary to draw inspiration from its approach to criminal-law matters (*Mihail Mihăilescu v. Romania*, 2021, § 75, and under Fairness: General principles below, and vice versa, *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 209 and 250; see also *Peleki v. Greece*, 2020, §§ 55-56; see also *Cavca v. the Republic of Moldova*, 2025, regarding the extent to which the fair trial guarantees

5. See Guide on Article 5 - Right to liberty and security.
6. See Guide on Article 6 (criminal limb).

developed in the Court's case-law in respect of entrapment in the context of criminal proceedings are applicable to a "disciplinary" entrapment).

120. It should be noted that the conduct of criminal proceedings may in some cases have a potential impact on the fairness of the determination of a "civil" dispute (see in particular the specific question of a civil party or civil rights associated with a criminal investigation procedure in *Mihail Mihăilescu v. Romania*, 2021, §§ 74-89, including the question of res judicata ; *Victor Laurențiu Marin v. Romania*, 2021, §§ 144-150; and *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, §§ 192-201. In *Fabbri and Others v. San Marino* [GC], 2024, §§ 88-93 where it was found that the discontinuation of a criminal case did not necessarily predetermine the outcome of the civil proceedings and that the applicants' diligence in pursuing a civil claim had to be assessed).

121. It should also be noted that with regard to the institutional requirements of Article 6 § 1, such as the independence and impartiality of a "tribunal established by law", and the fundamental principles of the Convention, the Court has relied on its precedents in both "civil" and "criminal" matters in developing its case-law (see, for example, *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 211 et seq.; *Morice v. France* [GC], 2015). Other civil principles apply equally to criminal matters (see, for example, *Vegotex International S.A. v. Belgium* [GC], 2022, § 94, § 133).

122. Lastly, the applicability of Article 6 § 1 under its civil head does not prevent the Court from examining whether this Article is also applicable under its criminal head (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 121, and *Denisov v. Ukraine* [GC], 2018, § 43). It should be noted that the Court's long-standing position is that disciplinary proceedings are not, as such, "criminal" in nature (*Peleki v. Greece*, 2020, §§ 35-36).

4. Article 6 § 2 (presumption of innocence)

123. Cases concerning civil proceedings for compensation following either an acquittal or the discontinuation of criminal proceedings are normally examined under Article 6 § 2 of the Convention. The Court has dealt with a case in which the applicant complained that her civil liability for the acts of her minor son had been established on the basis of criminal proceedings in which her son had only been a witness and she herself had not had any procedural status. It was not alleged, either in the criminal or in the civil proceedings, that the applicant herself had committed any unlawful acts. The case therefore did not concern her right to the presumption of innocence guaranteed by Article 6 § 2. Nonetheless, the Court found that the principles developed in its case-law under that provision were of relevance to the situation examined under Article 6 § 1 in the case before it (*Kožemiakina v. Lithuania*, 2018, § 51).

5. Article 8 (private and family life)

124. If the pecuniary element of a dispute is considered significant for the applicability of Article 6 § 1 under its civil head, Article 8 does not automatically become applicable from the standpoint of the right to respect for "private life" (*Denisov v. Ukraine* [GC], 2018, §§ 54 and 122; see also *Ballıktaş Bingöllü v. Turkey*, 2021, §§ 60-61, with a different conclusion as to the applicability of Articles 6 and 8). On the other hand, the concept of "private life" within the meaning of Article 8 § 1 of the Convention is an element to be taken into account in concluding that Article 6 § 1 is applicable (see *Altay v. Turkey (no. 2)*, 2019, § 68).

125. While Article 6 § 1 offers a procedural safeguard in civil matters, Article 8 serves the broader purpose of ensuring respect for private and family life. Although Article 8 does not contain any express procedural condition, the decision-making process with respect to interference must be fair and must ensure due respect for the interests protected by that provision (*Scalzo v. Italy*, 2022, § 29).

126. The Court has emphasised the special nature of proceedings under family law from the standpoint of Article 6 § 1 (*Plazzi v. Switzerland*, 2022, §§ 58-59 and 77), in a case which it did not

examine separately under Article 8 (compare, for example, the length of proceedings in connection with child custody and place of residence under Article 8, *M.H. v. Poland*, 2022, § 55; see also *Veres v. Spain*, 2022, §§ 52-54). It acknowledged that there could be exceptional situations, duly justified by the child's best interests, in which the particular urgency required the parent in question to be able to change the child's place of residence without having to wait for the final judgment on the merits. It specified, however, that in such circumstances the parent concerned had to be sure of being able to apply to a court before the cancellation of suspensive effect could come into effect, and had to be made aware of the procedure to be followed (see also *Roth v. Switzerland*, 2022, §§ 67 and 84).

127. In *López Ribalda and Others v. Spain* [GC], 2019, the Court examined whether the use of images obtained by means of covert video-surveillance as evidence in civil proceedings (Article 8) had undermined the fairness of the proceedings as a whole (§§ 154-158, and for the interception of telephone communications, see *Adomaitis v. Lithuania*, 2022, §§ 68-74). In *Evers v. Germany*, 2020, the Court found that in the context of the proceedings in issue, the right of vulnerable individuals with mental disorders to self-determination and dignity, for the purposes of Article 8, had been respected (§§ 82-84). In *M.L. v. Slovakia*, 2021, the Court drew a parallel between the procedural protection implicit in Article 8 and the explicit protection in Article 6 § 1 (§ 57; *Paparrigopoulos v. Greece*, 2022, § 49) — see also *Ovcharenko and Kolos v. Ukraine*, 2023, § 126 on the connection between Articles 6 and 8).

6. Article 10 (freedom of expression)

128. The Court has dealt with cases in which the applicants had been convicted of contempt of court on account of comments made in a courtroom or directed at judges. Initially, the Court carried out a separate examination of the complaints brought before it under Articles 6 and 10 of the Convention, while observing that its finding of procedural unfairness in the summary proceedings for contempt only served to compound the lack of proportionality (*Kyprianou v. Cyprus* [GC], 2005, § 181). More recently, it held that in the light of the shortcomings in the proceedings in question (resulting in a finding of a violation of Article 6 § 1), the restriction of the applicant's right to freedom of expression had not been accompanied by effective and "adequate safeguards" against abuse and had therefore not been necessary in a democratic society, thus breaching Article 10 (*Słomka v. Poland*, 2018, §§ 69-70).

7. Other Articles

129. Article 6 § 1 is a *lex specialis* in relation to Article 13: the requirements of Article 6 § 1, implying the full panoply of a judicial procedure, are stricter than, and absorb, those of Article 13 (*Grzęda v. Poland* [GC], 2022, § 352, and *Kudła v. Poland* [GC], 2000, § 146 — compare *Loste v. France*, 2022, § 61).

130. The Court considers complaints about awards of legal costs under various Articles, mostly under Article 6 § 1 (in the context of the guarantee of effective access to court, see *Benghezal v. France*, 2022, §§ 43-45), but also under Article 13, Article 1 of Protocol no. 1, and, in the criminal-law context, under Article 6 para 2 (see Guide on Article 6 criminal, in particular Section VI-B-3 on the legal assistance and Section VI-A-1-b on the obligation of the accused to bear costs from the standpoint of the respect for the presumption of innocence). In *Černius and Rinkevičius v. Lithuania*, 2020, § 49, the Court examined under Article 6 § 1 the applicants' complaint concerning the refusal of the domestic courts to award them legal costs after successful litigation, whereas the applicants had raised the complaint under Article 1 of Protocol No. 1 in conjunction with Article 13 of the Convention (compare *Taratukhin v. Russia* (dec.), 2020, § 27, and for the recovery of amounts due, see *Gogić v. Croatia*, 2020, § 45). In *Cindrić and Bešlić v. Croatia*, 2016, §§ 119-123, concerning the payment of litigation costs consisting of fees for public officials, the Court examined the complaint under both Articles (§§ 110 and 119-123; compare with *Bursać and Others v. Croatia*, 2022, §§ 107-108. See also

Zustović v. Croatia, 2021, §§ 98-100, and *Čolić v. Croatia*, 2021, §§ 39-48, for a summary of the case-law and see *Moskalj v. Croatia*, 2024, § 96, where the Court examined the question of legal costs only under the "access to court" guarantee and not under Article 1 of Protocol no. 1).

131. There may also be a link between the issue of the effectiveness of a constitutional remedy for the purposes of Article 35 § 1 and that of the applicability of Article 6 § 1 to proceedings before the same Constitutional Court (*Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 201-209).

II. Right to a court

Article 6 § 1 of the Convention

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ..."

A. Access to a court

132. The right of access to a court for the purposes of Article 6 was defined in *Golder v. the United Kingdom*, 1975, §§ 28-36 (see, as a recent authority, *Grzęda v. Poland* [GC], 2022, §§ 342-343). Referring to the principles of the rule of law and the avoidance of arbitrary power which underlie the Convention, the Court held that the right of access to a court was an inherent aspect of the safeguards enshrined in Article 6 (*Grzęda v. Poland* [GC], 2022 , § 298; *Zubac v. Croatia* [GC], 2018, §§ 76 et seq.). Where there is no access to an independent and impartial court, the question of compliance with the rule of law will always arise (*Grzęda v. Poland* [GC], 2022 ,, § 343). Thus, in order for national legislation excluding access to a court to have any effect under Article 6 § 1 in a particular case, it should be compatible with the rule of law (*ibid.*, § 299, in the context of the examination of the second condition of the Vilho Eskelinen test).

133. The right to a fair trial, as guaranteed by Article 6 § 1, requires that litigants should have an effective judicial remedy enabling them to assert their civil rights (*Naït-Liman v. Switzerland* [GC], 2018, § 112; *Běleš and Others v. the Czech Republic*, 2002, § 49).

134. Everyone has the right to have any claim relating to his "civil rights and obligations" brought before a court or tribunal. In this way Article 6 § 1 embodies the "right to a court", of which the right of access, that is, the right to institute proceedings before courts in civil matters, constitutes one aspect (*Naït-Liman v. Switzerland* [GC], 2018, § 113; *Golder v. the United Kingdom*, 1975, § 36; and case-law references cited). Article 6 § 1 may therefore be relied on by anyone who considers that an interference with the exercise of one of his or her civil rights is unlawful and complains that he or she has not had the possibility of submitting that claim to a tribunal meeting the requirements of Article 6 § 1. Where there is a serious and genuine dispute as to the lawfulness of such an interference, going either to the very existence or to the scope of the asserted civil right, Article 6 § 1 entitles the individual concerned "to have this question of domestic law determined by a tribunal" (*Z and Others v. the United Kingdom* [GC], 2001, § 92; *Markovic and Others v. Italy* [GC], 2006, § 98). The refusal of a court to examine allegations by individuals concerning the compatibility of a particular procedure with the fundamental procedural safeguards of a fair trial restricts their access to a court (*Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, § 131).

135. The "right to a court" and the right of access are not absolute. They may be subject to limitations, but these must not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired (*Stanev v. Bulgaria* [GC], 2012, § 229; *Baka*

v. Hungary [GC], 2016, § 120; *Naït-Liman v. Switzerland* [GC], 2018, § 113; *Philis v. Greece (no. 1)*, 1991, § 59; *De Geouffre de la Pradelle v. France*, 1992, § 28).[7] Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 89; *Naït-Liman v. Switzerland* [GC], 2018, § 115).

136. Article 6 does not guarantee a right of access to a court with power to invalidate or override a law enacted by the legislature. Nevertheless, where a decree (issued on the basis of a law), decision or other measure, albeit not formally addressed to any individual natural or legal person, in substance does affect the "civil rights" or "obligations" of such a person or of a group of persons in a similar situation, whether by reason of certain attributes peculiar to them or by reason of a factual situation which differentiates them from all other persons, Article 6 § 1 may require that the substance of the decision or measure in question is capable of being challenged by that person or group before a "tribunal" meeting the requirements of that provision (*Posti and Rahko v. Finland*, 2002, §§ 53-54). This applies a fortiori to a measure applying the relevant legislation to a particular case (*Project-Trade d.o.o. v. Croatia*, 2020, §§ 67-68).

137. Although the right to bring a civil claim before a court ranks as one of the "universally recognised fundamental principles of law", the Court does not consider these guarantees to be among the norms of jus cogens in the current state of international law (*Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, § 136).

138. In *Baka v. Hungary* [GC], 2016, the Court noted the growing importance which international and Council of Europe instruments, the case-law of international courts and the practice of other international bodies were attaching to procedural fairness in cases involving the removal or dismissal of judges, including the intervention of an authority independent of the executive and legislative powers in respect of every decision affecting the termination of office of a judge (§ 121 — and see *Grzęda v. Poland* [GC], 2022, §§ 327 and 345). In *Kövesi v. Romania*, 2020, the same considerations were applied to prosecutors (§ 156). See also, with regard to disciplinary matters, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 176-186, and *Eminağaoğlu v. Turkey*, 2021, §§ 99-104; and for a compulsory transfer, *Bilgen v. Turkey*, 2021, § 63.

139. In *Grzęda v. Poland* [GC], 2022, the applicant had been prematurely removed from his position as a judicial member of the National Council of the Judiciary by operation of the law without any possibility of judicial oversight (§§ 345-348). The Court held that similar procedural safeguards to those that should be available in cases of dismissal or removal of judges should likewise be available where a judicial member of the National Council of the Judiciary (the body with responsibility for safeguarding judicial independence) had been removed from that position (§ 345). In such circumstances, regard should be had to "the strong public interest in upholding the independence of the judiciary and the rule of law", and, if there had been reforms of the judicial system by the government, to the overall context in which they had taken place (§§ 346 and 348-349).

140. In *Sadomski v. Poland*, 2025, the applicant, a rejected candidate in a competition for judicial posts in the Civil Chamber of the Supreme Court, complained that his right to judicial review had been taken away as the competition was underway. In particular, in spite of the Supreme Administrative Court's order to stay the implementation of the contested resolution of the National Council of the Judiciary, the President of the Republic had proceeded with the appointment of the candidates recommended by the NCJ. Moreover, legislative amendments aimed at extinguishing the right of judicial review were introduced after the competition had gotten underway and after the applicant had lodged his appeal. While the Supreme Administrative Court had disapplied those amendments and ruled in the applicant's favour, the Court concluded that the interim order and then the final

7. See also the section on "Fairness".

judgment of the Supreme Administrative Court were rendered inoperative to the applicant's detriment, thus depriving the domestic rulings of all practical effects. There has been accordingly a violation of the applicant's right to a court.

141. In its decision in *Lovrić v. Croatia*, 2017, concerning the expulsion of a member of an association, the Court noted that a restriction on the right of access to a court to challenge such a measure pursued the "legitimate aim" of maintaining the organisational autonomy of associations (referring to Article 11 of the Convention). The scope of judicial review of such a measure may be restricted, even to a significant extent, but the person concerned must nevertheless not be deprived of the right of access to a court (§§ 71-73).

1. A right that is practical and effective

142. The right of access to a court must be "practical and effective" (*Zubac v. Croatia* [GC], 2018, §§ 76-79; *Bellet v. France*, 1995, § 38), in view of the prominent place held in a democratic society by the right to a fair trial (*Prince Hans-Adam II of Liechtenstein v. Germany* [GC], 2001, § 45). For the right of access to be effective, an individual must "have a clear, practical opportunity to challenge an act that is an interference with his rights" (*Bellet v. France*, 1995, § 36; *Nunes Dias v. Portugal* (dec.), 2003, regarding the rules governing notice to appear; *Fazliyski v. Bulgaria*, 2013, concerning the lack of judicial review of an expert assessment that was decisive for settling an employment dispute touching on national security; and, regarding the automatic suspension of a judge on account of exercising her right of appeal against a disciplinary decision to remove her from office, *Camelia Bogdan v. Romania*, 2020, §§ 75-77), or a clear, practical opportunity to claim compensation (*Georgel and Georgeta Stoicescu v. Romania*, 2011, § 74). This right is to be distinguished from the right guaranteed by Article 13 of the Convention (*X and Others v. Russia*, 2020, § 50).[8]

143. The rules governing the formal steps to be taken and the time-limits to be complied with in lodging an appeal or an application for judicial review are aimed at ensuring the proper administration of justice and compliance, in particular, with the principle of legal certainty (*Cañete de Goñi v. Spain*, 2002, § 36). That being so, the rules in question, or their application, should not prevent litigants from using an available remedy (*Miragall Escolano and Others v. Spain*, 2000, § 36; *Zvolský and Zvolská v. the Czech Republic*, 2002, § 51). In particular, each case should be assessed in the light of the special features of the proceedings in question (*Kurşun v. Turkey*, 2018, §§ 103-104).

In applying procedural rules, the courts must avoid both excessive formalism that would impair the fairness of the proceedings and excessive flexibility such as would render nugatory the procedural requirements laid down in statutes (*Hasan Tunç and Others v. Turkey*, 2017, §§ 32-33). Thus, in *Patricolo and Others v. Italy*, 2024, the applicants' appeals on a point of law had been rejected without examination given the applicants' failure to append to their cassation appeal a copy of the notice of service of the lower court's judgment. The obligation of an appellant party to file such notice allows the Court of Cassation to assess whether the deadline for bringing an appeal has been complied with. In more recent jurisprudence, the Court of Cassation reconsidered the previous strict approach and established that appeals whose compliance with time-limits could be immediately and directly assessed from the case-file should not be declared inadmissible, even if the notice was missing. Those in one group of applicants failed to submit a notice and the information about the date of the service of the contested judgments was not available in their case-files: while they argued that they should have been able to remedy their procedural error by filing the notice later, the Court disagreed observing that accepting late submissions would have frustrated the aim of ensuring the expeditious conduct of proceedings, their cases had been examined at two levels of jurisdiction and concluded that the Court of Cassation had good reason to declare the appeal inadmissible (§§ 77-85). The applicants in the second group submitted the notice in the format of an email from a lower court and a copy of the contested judgement which they had received electronically. While the Court of

8 See Guide to Article 13 of the Convention – Right to an effective remedy.

Cassation construed the existing rules narrowly, insisting that only properly certified paper copies should be accepted, the Court noted that the documents received by the applicants from the lower court were in the electronic format, that the integrity of documents filed with a court is generally ensured by criminal and disciplinary sanctions so that declaring the appeals inadmissible, without giving the applicants a fair chance to submit the proper certification at a later stage and especially in a transitional phase from paper to electronic proceedings, went beyond the aim of ensuring legal certainty and the proper administration of justice. There had therefore been a violation of Article 6 in respect of this second group of applicants (§§ 94-104). Similarly, in *Justine v. France*, 2024, the applicant's appeal to the Court of Cassation was rejected on purely formal grounds: under the applicable rules, a copy of the contested judgment should have been attached to the appeal but the applicant's lawyer, by mistake, attached a copy of another judgement (related to a connected case). When the Court of Cassation informed him about this mistake, the applicant's lawyer, within one day, submitted a copy of the correct judgment. Nevertheless, the appeal was dismissed as belated. The Court criticised this approach noting, in particular, that the formal error had been corrected before the rapporteur has been appointed to the case and that this error had therefore no bearing on the proper administration of justice. This inadmissibility objection has been raised by the Court of Cassation *proprio motu* at a very advanced stage of the proceedings when the case has been already ready to be adjudicated on the merits. The Court concluded that this formalistic approach deprived the applicant of her right of access to court (§§ 42-51). On excessive formalism see also *Vachik Karapetyan and Others v. Armenia*, 2025, §§ 102-106.

144. In short, the observance of formalised rules of civil procedure, through which parties secure the determination of a dispute, is valuable and important as it is capable of limiting discretion, securing equality of arms, preventing arbitrariness, securing the effective determination of a dispute and adjudication within a reasonable time, and ensuring legal certainty and respect for the court (*Zubac v. Croatia* [GC], 2018, § 96). However, the right of access to a court is impaired when the rules cease to serve the aims of "legal certainty" and the "proper administration of justice" and form a sort of barrier preventing the litigant from having his or her case determined on the merits by the competent court (*Zubac v. Croatia* [GC], 2018, § 98). Where inaccurate or incomplete information about time-limits has been supplied by the authorities, the domestic courts should take sufficient account of the particular circumstances of the case and not apply the relevant rules and case-law too rigidly (compare *Gajtani v. Switzerland*, 2014, and *Clavien v. Switzerland* (dec.), 2017).

145. The right to bring an action or to lodge an appeal must arise from the moment the parties may effectively become aware of a legal decision imposing an obligation on them or potentially harming their legitimate rights or interests. Otherwise, the courts could substantially reduce the time for lodging an appeal or even render any appeal impossible by delaying service of their decisions. As a means of communication between the judicial body and the parties, service makes the court's decision and the grounds for it known to the parties, thus enabling them to appeal if they see fit (*Miragall Escolano and Others v. Spain*, 2000, § 37) or enabling an interested third party to intervene (*Cañete de Goñi v. Spain*, 2002, § 40, concerning an applicant who had not been summoned to give evidence as an interested party in proceedings whose outcome had caused her damage).

146. More broadly, it is the domestic authorities' responsibility to act with the requisite diligence in ensuring that litigants are apprised of proceedings concerning them so that they can appear and defend themselves; notification of proceedings cannot be left entirely at the discretion of the opposing party (for a summary of the case-law, see *Schmidt v Latvia*, 2017, §§ 86-90, 92 and §§ 94-95, where the applicant had not been informed of divorce proceedings and the Court emphasised that given what was at stake in the proceedings, special diligence had been required on the authorities' part to ensure that the right of access to a court was respected). The judgment in *Marina Aucanada Group S.L. v. Spain*, 2022, stressed the importance of adequate notification where an appeal had to be sought within a specified time-limit (§ 41).

147. However, the authorities' failure to "act with the requisite diligence" does not automatically breach the applicant's access to court, at least not where the applicant himself failed to act diligently. Thus, in *Fabbri and Others v. San Marino* [GC], 2024, the applicant alleged that he had been a victim of school bullying in 2015: a criminal investigation was opened but the investigative judge failed to take any practical steps to elucidate those allegations and, in 2020, the investigation was discontinued as the charges became time-barred. The Court acknowledged, on the one hand, that the discontinuation of the criminal case was due to the authorities' inaction and resulted from a serious disfunction of the domestic system. However, the Court also found that the applicant had also lacked the necessary diligence in pursuing his interests: he did not initiate any criminal or civil proceedings until 2019, when the request to join the criminal proceedings was lodged. This request was made only a few days before the expiration of the limitation period in respect of the alleged offence, which had been committed three and a half years earlier. Furthermore, the applicant had alternative legal avenues at his disposal: he could have lodged a civil claim separately from the criminal proceedings. The limitation period on the civil claims was significantly longer than the one provided for the criminal offence: even a potential suspension of the civil proceedings pending the (ineffective) criminal investigation would not lead to the civil claim being time-barred. Finally, the applicant failed to introduce a civil claim after the discontinuation of the criminal proceedings. The Court concluded that, despite the dysfunction of the domestic system as regards the criminal investigation, it could not be said that the applicant was denied access to a court for the determination of his civil rights (§§ 141-152).

148. Where administrative decisions may potentially affect third parties, there must be a coherent notification system ensuring that the relevant data are accessible, within the relevant time-limit, to any potentially interested party (*Stichting Landgoed Steenbergen and Others v. the Netherlands*, 2021, § 47, concerning a system of exclusively online notification/communication, §§ 50-53). A system of general publication of administrative decisions that strikes a fair balance between the interests of the authorities and of the persons concerned, in particular by affording the latter a clear, practical and effective opportunity to challenge the decisions, does not constitute a disproportionate interference with the right of access to a court (*Geffre v. France* (dec.), 2003).

149. These principles were applied in the case of ongoing court proceedings where the judge had ordered that a notice be published in the Official Gazette calling for any "interested party" to take part in them (*Marina Aucanada Group S.L. v. Spain*, 2022, §§ 40-44). While in that case there had not, properly speaking, been a coherent notification system in place, the Court was led to conclude that the applicant company could reasonably have known about the existence of the proceedings of interest to it and did not find a violation of the right of access to a court (§ 51). The proceedings had sought to have a public call for tenders cancelled and had been covered by the local press, but without directly mentioning the tenderers as interested parties (see §§ 44-54, including the duty of diligence on the part of companies that participate in public tenders, §§ 52-53).

150. The case of *Zavodnik v. Slovenia*, 2015, concerned notification in the course of bankruptcy proceedings. The Court held that the manner in which notice of the hearing had been given (it had been announced on the court's notice board and in the Official Gazette) was inappropriate and had prevented the applicant from challenging the distribution of the estate (*Zavodnik v. Slovenia*, 2015, §§ 78-81).

151. The access-to-court guarantees apply with equal strength to private disputes as to proceedings involving public authorities, although these factors may have a bearing on the assessment of the proportionality of the impugned measure (*Čolić v. Croatia*, 2021, § 53).

152. In the specific circumstances of a case, the practical and effective nature of the right of access to a court may be impaired, for instance:

- by the prohibitive cost of the proceedings in view of the individual's financial capacity:

- the excessive amount of security for costs in the context of an application to join criminal proceedings as a civil party (*Aït-Mouhoub v. France*, 1998, §§ 57-58; *García Manibardo v. Spain*, 2000, §§ 38-45);
- excessive court fees (*Kreuz v. Poland*, 2001, §§ 60-67; *Podbielski and PPU Polpure v. Poland*, 2005, §§ 65-66; *Weissman and Others v. Romania*, 2006, § 42; *Georgel and Georgeta Stoicescu v. Romania*, 2011, §§ 69-70, and conversely, *Reuther v. Germany* (dec.), 2003). In these cases the Court considered the question of court fees that had been imposed prior to the institution of civil proceedings and had had the effect of hindering access to a court at first instance or at a subsequent stage of the proceedings for applicants who were unable to pay (contrast *Tolstoy Miloslavsky v. the United Kingdom*, 1995, §§ 62-67, regarding the payment of a security as a precondition for lodging an appeal). The Court has pointed out that where there is a possibility of an exemption from stamp duty for a court application following an assessment of the applicant's financial situation, the authorities must give a decision promptly (*Laçi v. Albania*, 2021, §§ 53-60), and diligence is also expected of the applicant (*Elcomp sp. z o.o. v. Poland*, 2021, § 41).

  If the State has a system for calculating court fees linked to the amount in dispute, in order to comply with Article 6 the system must be sufficiently flexible to allow for the possibility of total or partial exemption from payment or a reduction in the amount payable (see *Nalbant and Others v. Turkey*, 2022, §§ 39 and 40, and see §§ 41-45, where the applicant company had been forced to abandon its appeal because it was unable to pay the fees imposed on it).

  In *Stankov v. Bulgaria*, 2007, § 53, the Court held that substantial court fees imposed at the end of proceedings could also amount to a restriction on the right to a court (see, more specifically, for cases concerning the excessive length of proceedings, an acquittal or unjustified pre-trial detention, §§ 59 and 62, and a claim for compensation for assault, *Čolić v. Croatia*, 2021, §§ 58-59); see also, regarding the refusal to reimburse legal costs, *Černius and Rinkevičius v. Lithuania*, 2020, §§ 68-69 and § 74; and compare with proceedings challenging the costs payable following judicial proceedings, *Taratukhin v. Russia* (dec.), 2020, §§ 36 et seq. For a recent summary of the case-law, see *Benghezal v. France*, 2022, §§ 43-45.

  In cases concerning court fees, regard should also be had to the litigant's conduct (*Zubac v. Croatia* [GC], 2018, § 120) or the manifest lack of any prospect of success of an action (*Marić v. Croatia* (dec.), 2020, §§ 58 and 60, concerning the obligation to bear the full costs of the State's representation, and § 52, concerning the obligation for the losing party to pay litigation costs (the "loser pays" rule)); see also *Stankiewicz v. Poland*, 2006, §§ 62 et seq.; *Klauz v. Croatia*, 2013, §§ 77 et seq.; and *Cindrić and Bešlić v. Croatia*, 2016, §§ 119-123). With regard to litigation costs for proceedings that did not give rise to a decision on the merits, see *Karahasanoğlu v. Turkey*, 2021, §§ 136-137. Lastly, the Court has objected to the rule whereby each party has to bear its own costs regardless of the outcome of the proceedings (*Zustović v. Croatia*, 2021, §§ 102-106, and see also §§ 99-100 for the State's duty to bear the cost of its errors in that context); it also examined the rule that each party was to bear its own costs without exception in *Dragan Kovačević v. Croatia*, 2022, §§ 67-85, and stressed the importance of giving reasons for a decision refusing to reimburse the costs incurred by the successful party (§ 83). However, the Court found no violation of Article 6 on account of a rule of domestic law which provided that costs of the litigation should be reimbursed to a party acquitted in the administrative proceedings only in cases where the relevant authorities had acted unlawfully (*Jakutavičius v. Lithuania*, 2024, §§ 80-86). The Court noted that the applicant himself had contributed to the decision of the police to impose a sanction: although that sanction had later been annulled, the Court was unable to find that the

applicant had been made to bear the mistakes of the State authorities. Thus, the fact that the applicant had to cover his own costs in the administrative-law proceedings did not violate his right of access to a court (*ibid.*, §§ 84-85; compare with *Rousounidou v. Cyprus* (dec.), 2023, concerning the absence in domestic law of an arguable right to obtain reimbursement of costs incurred by a defendant acquitted in a criminal case).

For the imposition of excessive court fees on a commercial company, see *Nalbant and Others v. Turkey*, 2022, § 39. Applicants seeking exemption from court fees should act with due diligence when presenting evidence to the courts concerning their financial standing. In *Centrum Handlowe Agora SP. Z O.O. v. Poland* (dec.), 2024, the applicant company was required to substantiate its long-term inability to pay the court fees but failed to do so (it failed to formulate explicitly an argument relating to the seizures of its accounts). Even though the documents confirming the seizures were attached to the applicant company's application for an exemption, without any explicit argument in this regard the domestic courts could not be expected to make further inquiries in this matter: the applicant company, by not acting with due diligence, deprived the domestic courts of the opportunity to comprehensively evaluate its financial situation (§ 32).

- The imposition of fines in order to prevent a build-up of cases before the courts and to ensure the proper administration of justice is not, as such, incompatible with the right of access to a court. However, the amount of such fines is an important factor to take into account (*Sace Elektrik Ticaret ve Sanayi A.Ş. v. Turkey*, 2013, §§ 26 et seq., concerning a mandatory fine of 10% of the bid in the event of an unsuccessful attempt to challenge a public auction).

- by issues relating to time-limits:
  - the time taken to hear an appeal leading to its being declared inadmissible (*Miragall Escolano and Others v. Spain*, 2000, § 38; *Melnyk v. Ukraine*, 2006, § 26). For the unforeseeable application of a time-limit, see *Vachik Karapetyan and Others v. Armenia*, 2025, § 100; with regard to a new time-limit introduced after the lodging of a complaint, in breach of the principle of legal certainty, see *Çela v. Albania*, 2022, §§ 34-40 and *Legros and Others v. France*, 2023, §§ 149-165. Litigants are nevertheless required to act with the requisite diligence (*Kamenova v. Bulgaria*, 2018, §§ 52-55; compare *Çela v. Albania*, 2022, § 39).
  - The Court held in *Ivanova and Ivashova v. Russia*, 2017, that the national courts should not interpret domestic law in an inflexible manner with the effect of imposing an obligation with which litigants could not possibly comply. Requiring an appeal to be lodged within one month of the date on which the registry drew up a full copy of the court's decision-rather than the point at which the appellant actually had knowledge of the decision-amounted to making the expiry of the relevant deadline dependent on a factor entirely outside the appellant's control. The Court found that the right of appeal should have become effective from the point at which the applicant could effectively apprise herself of the full text of the decision.
  - limitation periods for bringing a claim (see, regarding harm to physical integrity, the case-law references cited in paragraphs 53-55 of *Sanofi Pasteur v. France*, 2020, including *Howald Moor and Others v. Switzerland*, 2014, §§ 79-80; *Yagtzilar and Others v. Greece*, 2001, § 27; see also the cases cited in *Loste v. France*, 2022, §§ 68-70). For example, the Court has found a violation of the right of access to a court in a number of cases in which the discontinuation of criminal proceedings and the resulting failure to examine a civil claim were due to a lack of diligence on the national authorities' part (*Atanasova v. Bulgaria*, 2008, §§ 35-47. Compare *Fabbri and Others v. San Marino* [GC], 2024). Excessive delays in the examination of a claim may also render the right of access to a court meaningless (*Kristiansen and Tyvik AS v. Norway*, 2013).

   - the granting of leave to appeal out of time and the resulting acceptance of an ordinary appeal lodged after a significant period of time, for reasons that do not appear especially convincing, may entail a breach of the principle of legal certainty and the right to a court (*Magomedov and Others v. Russia*, 2017, §§ 87-89, where late appeals benefiting the competent authorities were accepted following the extension without any valid reason of the time-limit for appealing).
   - the length of preliminary investigations, attributable to the authorities, preventing the applicant from joining criminal proceedings as a civil party claiming damages or from making a civil compensation claim (*Petrella v. Italy*, 2021, §§ 51-53 and references cited — Compare *Fabbri and Others v. San Marino* [GC], 2024, §§ 137-140).
   - delay by the national authorities in examining an application by the applicant (challenging the selection procedure for a post for which she had applied), with the result that the proceedings were terminated on the grounds that there was no legal interest in pursuing the application as the administrative decision at issue had expired (*Frezadou v. Greece*, 2018, § 47 — compare and contrast with *Sailing Club of Chalkidiki "I Kelyfos" v. Greece*, 2019, § 72). More generally, in exceptional cases where proceedings are kept pending for an excessive period, this may impair the right of access to a court (*Kristiansen and Tyvik AS v. Norway*, 2013, § 57). The unjustified lack of a decision for a particularly lengthy period by the court dealing with the case may be regarded as a denial of justice; the remedy used by the applicant may thus become deprived of all effectiveness where the court concerned does not manage to settle the dispute in good time, as required by the circumstances of the case and what is at stake (*Sailing Club of Chalkidiki "I Kelyfos" v. Greece*, 2019, § 60).
- by issues relating to jurisdiction (see, for example, *Arlewin v. Sweden*, 2016, concerning a television programme broadcast from another European Union country) or an excessively restrictive interpretation of the scope of an association's stated aim, depriving it of its right of access to a court (*Association Burestop 55 and Others v. France*, 2021, § 71). Furthermore, where an action for damages is brought against it, the State has a positive obligation to facilitate the identification of the respondent authority (*Georgel and Georgeta Stoicescu v. Romania*, 2011, §§ 69-71).
- by issues of evidence, where the requirements for the burden of proof are overly rigid (*Tence v. Slovenia*, 2016, §§ 35-38); concerning formalism in the presentation of evidence, see *Efstratiou and Others v. Greece*, 2020, §§ 44 et seq.
- by the existence of procedural bars preventing or limiting the possibilities of applying to a court:
   - a particularly strict interpretation by the domestic courts of a procedural rule (excessive formalism) may deprive applicants of their right of access to a court (*Zubac v. Croatia* [GC], 2018, § 97; *Pérez de Rada Cavanilles v. Spain*, 1998, § 49; *Miragall Escolano and Others v. Spain*, 2000, § 38; *Sotiris and Nikos Koutras ATTEE v. Greece*, 2000, § 20; *Běleš and Others v. the Czech Republic*, 2002, § 50; *RTBF v. Belgium*, 2011, §§ 71-72 and 74; *Miessen v. Belgium*, 2016, §§ 72-74; *Gil Sanjuan v. Spain*, 2020, § 34; *Vachik Karapetyan and Others v. Armenia*, 2025, §§ 103-104); and for a constitutional court, *Dos Santos Calado and Others v. Portugal*, 2020, §§ 118-130), bearing in mind that an unreasonable construction of a procedural requirement impairs the right to effective judicial protection (*Miragall Escolano and Others v. Spain*, 2000, § 37). The general principles established in *Zubac v. Croatia* [GC], 2018, §§ 80-99, also apply, *mutatis mutandis*, to the procedural rules of a court called upon to rule at first and last instance (see *Makrylakis v. Greece*, 2022, §§ 36, 38-50, which emphasises the specificity of a situation where the case is examined by a single court, § 49). As regards the retroactive application of a new admissibility criterion after an appeal has been lodged, this raises an

issue concerning the principle of legal certainty (*Gil Sanjuan v. Spain*, 2020, §§ 35-45); see also *Çela v. Albania*, 2022, §§ 34-40 and *Legros and Others v. France*, 2023, §§ 149-165).

- consideration of the value of the subject matter of the dispute (ratione valoris admissibility threshold) in order to determine the jurisdiction of a higher court (*Zubac v. Croatia* [GC], § 73, §§ 85-86);
- the requirements linked to execution of an earlier ruling may impair the right of access to a court, for instance where the applicant's lack of funds makes it impossible for him even to begin to comply with the earlier judgment (*Annoni di Gussola and Others v. France*, 2000, § 56; compare with *Arvanitakis v. France* (dec.), 2000);
- procedural rules barring certain subjects of law from taking court proceedings (*The Holy Monasteries v. Greece*, 1994, § 83; *Philis v. Greece (no. 1)*, 1991, § 65; *Lupaş and Others v. Romania*, 2006, §§ 64-67; and, regarding adults lacking capacity, *Stanev v. Bulgaria* [GC], 2012, §§ 241-45; *Nataliya Mikhaylenko v. Ukraine*, 2013, § 40; *Nikolyan v. Armenia*, 2019; and compare with *R.P. and Others v. the United Kingdom*, 2012);

- by the limits of the judicial review available, for example where a complaint to the administrative courts against a presidential decree could only give rise to a review of compliance with external formalities in the adoption of the decree, whereas the applicant's complaint called for an examination of the merits and of the internal legality of the decree (*Kövesi v. Romania*, 2020, §§ 153-154, concerning the premature removal of a prosecutor), and a fortiori by the unavailability of a judicial review (see *Camelia Bogdan v. Romania*, 2020, §§ 76-77, concerning the automatic temporary suspension of a judge pending the examination of her appeal against a decision to remove her from office). In the context of family-law disputes, in *Plazzi v. Switzerland* (§§ 44-67) and *Roth v. Switzerland*, 2022, (§ 77), concerning the cancellation without judicial review of the suspensive effect of appeals by fathers, thereby enabling their children to leave the country with their mothers and removing the jurisdiction of the domestic courts, the Court found a violation, emphasising that the urgency invoked had not been serious enough to justify preventing the fathers from applying to a court before the cancellation of suspensive effect became applicable (see *Plazzi v. Switzerland*, 2022, §§ 58-59, and the special nature of proceedings under family law).
- In *Xavier Lucas v. France*, 2022, by giving precedence to the rule that applications to the Court of Appeal had to be made electronically (e-justice), while disregarding the practical hurdles faced by the applicant in doing so, the Court of Cassation had adopted a formalistic approach which was not necessary to ensure legal certainty or the proper administration of justice and which was therefore "excessive" (§ 57).

153. However, again on the subject of formalism, the conditions of admissibility of an appeal on points of law may quite legitimately be stricter than for an ordinary appeal (*Tourisme d'affaires v. France*, 2012, § 27 in fine). Given the special nature of the Court of Cassation's role, the procedure followed in the Court of Cassation may be more formal, especially where the proceedings before it follow the hearing of the case by a first-instance court and then a court of appeal, each with full jurisdiction (*Levages Prestations Services v. France*, 1996, §§ 44-48; *Brualla Gómez de la Torre v. Spain*, 1997, §§ 34-39), but the domestic authorities do not enjoy unfettered discretion in this respect (*Zubac v. Croatia* [GC], 2018, §§ 108-109). In that context, the Court has referred to the subsidiarity principle and to its case-law concerning filtering systems for remedies before supreme courts (*Succi and Others v. Italy*, 2021, § 85).

The Court has also had regard to the specific role of the Supreme Administrative Court and has found it acceptable that there may be stricter admissibility criteria for proceedings before it (*Papaioannou v. Greece*, 2016, §§ 42-49). In examining a complaint by an applicant about the new conditions for an appeal to that court, the Court held that it was not its task to express a view on the appropriateness of the domestic courts' case-law policy choices, or of a choice of legislative policy, but solely to review

whether the consequences of those choices were in conformity with the Convention (*ibid.*, § 43; see also *Ronald Vermeulen v. Belgium*, 2018, § 53). Furthermore, in view of the special role played by the Constitutional Court as the court of last resort for the protection of fundamental rights, it can also be accepted that proceedings before it may be more formal (*Arribas Antón v. Spain*, 2015, § 50 and below — for a constitutional court's application of its procedural rules, see *Pinkas and Others v. Bosnia and Herzegovina*, 2022, § 48).

154. More generally, the *Zubac v. Croatia* [GC], 2018, judgment reiterated the general principles on access to a higher court (§§ 80-82 and § 84) and the case-law on formalism (§§ 96-99). In particular, the issues of "legal certainty" and "proper administration of justice" are two central elements for drawing a distinction between excessive formalism and acceptable application of procedural formalities (§ 98). These principles also apply to proceedings before a constitutional court (*Fraile Iturralde v. Spain* (dec.), 2019, §§ 36-37; *Dos Santos Calado and Others v. Portugal*, 2020, §§ 111-112).

155. The Court's role is not to resolve disputes over the interpretation of domestic law regulating access to a court, but rather to ascertain whether the effects of such interpretation are compatible with the Convention (*Zubac v. Croatia* [GC], 2018, § 81). In that regard, the Court examines whether the procedure to be followed for the remedy in question could be regarded as "foreseeable" from the point of view of the litigant. A coherent domestic judicial practice and a consistent application of that practice will normally satisfy the foreseeability criterion with regard to a restriction on access to a higher court (*ibid.*, § 88; *C.N. v. Luxembourg*, 2021, § 44, and concerning the foreseeability of the combined application of various statutory provisions for the first time by the Court of Cassation, see §§ 45 et seq. and *Xavier Lucas v. France*, 2022, § 50). It is important that reasons should be given by the national court regarding the application of domestic law, as this makes it possible to verify that a "fair balance" has been struck between the legitimate concern to ensure compliance with the procedural requirements for lodging an appeal on points of law, on the one hand, and the right of access to a court on the other hand (*Ghrenassia v. Luxembourg*, §§ 34-37).

156. The requirement of "foreseeability" does not necessarily mean that every restriction or procedural condition for introducing a case or lodging an appeal should always be clearly formulated in the law itself: judge-made restrictions may also be acceptable. Thus, in *Legros and Others v. France*, 2023, §§ 134-148, the applicants' appeals against various administrative acts were rejected as belated with reference to a judgment of the French Conseil d'État which had introduced a time-limit for such appeals. This new time-limit was a reversal of the previously existing case-law under which appeals against that particular category of administrative acts could have been introduced and accepted for examination indefinitely. The new rule, formulated by the Conseil d'État, made such appeals inadmissible if they were introduced after a "reasonable period", generally of one year from the moment when the litigant became aware of the contested act. That time-limit could be extended in the particular circumstances, on a case-by-case basis. The Court noted that the time-limit introduced by the Conseil d'État was sufficiently long, that this new rule served the interests of legal certainty and good administration of justice, and that it allowed for exceptions. The Court concluded that this manner of formulating restrictions to the right of access to court was not incompatible with Article 6 of the Convention (§ 148). By contrast, the Court found a violation of Article 6 on account of the retroactive application of this new rule to the proceedings which had already been underway when this rule had been formulated (§§ 149-162). The Court noted, in particular, that such development could not have been foreseen by the applicants, and that, although this new time-limit was subject to extension, the reasons for obtaining such an extension had not been defined in the case-law at the time. The Government failed to explain why the introduction of this new time-limit could not have been postponed (§ 160). The Court concluded that the application of this new inadmissibility criteria to the applicants' complaints pending before the administrative courts had breached their right of access to court.

157. According to *Zubac v. Croatia* [GC], 2018, in determining the proportionality of legal restrictions on access to the superior courts, three factors should be taken into account: (i) the procedure to be

followed for an appeal must be foreseeable from the point of view of the litigant (see also, with regard to a constitutional court, *Arrozpide Sarasola and Others v. Spain*, 2018, § 106); (ii) after identifying the procedural errors committed during the proceedings which eventually prevented the applicant from enjoying access to a court, it must be determined whether the applicant had to bear an excessive burden as a result of such errors. Where the procedural error in question occurred only on one side, that of the applicant or the relevant authorities, notably the court(s), as the case may be, the Court would normally be inclined to place the burden on the side that produced the error (*Zubac v. Croatia* [GC], 2018, § 90 and the examples cited); and (iii) whether the restrictions in question could be said to involve "excessive formalism" (§ 97; see also, concerning a constitutional court, *Dos Santos Calado and Others v. Portugal*, 2020, §§ 116-117, and the examples cited).

158. In *Gil Sanjuan v. Spain*, 2020, the Court found a violation of Article 6 § 1 on account of the retroactive application of a new admissibility criterion for an appeal to the Supreme Court after the appeal had been lodged (§ 45). Referring to the principle of legal certainty, the Court found that the emergence of the new criterion had not been foreseeable for the applicant (§§ 38-39) and that she had therefore been unable to remedy any potential effects of the application of the new criterion (§§ 40-43). Similarly, in *Hanževački v. Croatia*, 2023, §§ 36-41, the Court concluded that an unforeseeable retroactive imposition of a procedural condition for lodging a constitutional complaint — a condition which the applicant could no longer fulfil — impaired the applicant's right to a court to such an extent that the very essence of that right was impaired. See also *Çela v. Albania*, 2022, §§ 39-40, and *Legros and Others v. France*, 2023, §§ 149-165.

159. In *Trevisanato v. Italy*, 2016, the Court did not find fault with the requirement for specialist lawyers to conclude each ground of appeal to the Court of Cassation with a paragraph summing up the reasoning and explicitly identifying the legal principle alleged to have been breached (§§ 42-45). In *Succi and Others v. Italy*, 2021, the Court emphasised the level of knowledge expected of specialist lawyers when drafting appeals on points of law (§ 113), and in *Ghrenassia v. Luxembourg*, 2021, the Court had regard to the lack of a system of specialist lawyers for proceedings before the Court of Cassation (§ 36). The Court has also found that considerations linked to expediting and simplifying the Court of Cassation's examination of cases were legitimate (*Miessen v. Belgium*, 2016, § 71).

160. In principle, the imposition of a specified threshold (ratione valoris admissibility criterion) for access to a supreme court pursues the legitimate aim of ensuring that that court is only required to deal with matters of such importance as befits its role (*Zubac v. Croatia* [GC], 2018, § 73, § 83 and § 105 — for the application of the Zubac [GC] principles to a court called upon to rule at first and last instance, see *Makrylakis v. Greece*, 2022, § 36). However, the proportionality of such a restriction must be assessed on a case-by-case basis (§§ 106-107) and the Court has laid down precise criteria for assessing whether the national authorities exceeded their margin of appreciation in the case in question (§§ 108-109).

161. Furthermore, Article 6 § 1 guarantees not only the right to institute proceedings but also the right to obtain a determination of the dispute by a court (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 86; *Kutić v. Croatia*, 2002, §§ 25 and 32, regarding the staying of proceedings; *Aćimović v. Croatia*, 2003, § 41; *Beneficio Cappella Paolini v. San Marino*, 2004, § 29 concerning a denial of justice; *Marini v. Albania*, 2007, §§ 118-123, concerning a refusal to take a final decision on the applicant's constitutional appeal as a result of a tied vote, and *Gogić v. Croatia*, 2020, §§ 40-41, concerning the consequences of errors by the judicial authorities). A tied vote does not constitute a violation of Article 6 of itself — for example, where a tied vote results in a rejection of an appeal and the grounds for the rejection can be deduced from the judges' opinions expressed during the vote, the Court concluded that Article 6 was not breached (*Loizides v. Cyprus*, 2022, §§ 41-50). However, in *Meli and Swinkels Family Brewers N.V. v. Albania*, 2024, the tied vote was not accompanied by any description of the Constitutional Court's reasoning (the decision only indicated the results of the voting). Since the crux of the applicants' complaint before the Constitutional Court was precisely the lack of proper reasoning by the lower courts' judgments, the Court did not accept the Government's

argument that the Constitutional Court should be deemed to have endorsed the reasoning of the lower courts (§ 73).

The review provided by the appellate court should be meaningful. *Ilievska and Zdraveva v. North Macedonia*, 2025, and *Ribarev v. North Macedonia*, 2025, concerned a system where a decision of the Supreme Judicial Council (the SJC) could be appealed to an Appeal Panel, but only once. The Court concluded that where the SJC failed to comply with the instructions given by the Appeal Panel after remittal, the impossibility for a subsequent review rendered even the first appeal devoid of any meaning (§§ 99-106 and §§ 95-103, respectively).

162. In cases where the termination of criminal proceedings prevents the examination of civil-party claims made by applicants in the context of those proceedings, the Court examines whether the applicants could make use of other channels for asserting their civil rights. In cases where it has held that other accessible and effective remedies were available, it has found no infringement of the right of access to a court (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 198). More generally, the failure to examine a civil-party application on the merits does not ipso facto amount to an unjustified restriction of the right of access to a court (*Petrella v. Italy*, 2021, §§ 49-53 and references cited). The case of *Miladinova v. Bulgaria*, 2023, concerned the prosecutor's reopening of the criminal proceedings against the applicant, which had been closed in her favour, after she had brought civil proceedings for damages against the investigative bodies on grounds of unlawful accusations. The Court found a violation as the applicant had thus found herself at a clear disadvantage in relation to the prosecutor's office, which enjoyed discretionary powers that had enabled it to influence the civil proceedings for damages brought against it by the applicant (§§ 40-41).

163. The right to a court may also be infringed where a court fails to comply with the statutory time-limit in ruling on appeals against a series of decisions of limited duration (*Musumeci v. Italy*, 2005, §§ 41-43) or in the absence of a decision (*Ganci v. Italy*, 2003, § 31). The "right to a court" also encompasses the execution of judgments.[9]

164. In examining the proportionality of a restriction of access to a civil court, the Court takes into account the procedural errors committed during the proceedings which prevented the applicant from enjoying such access, and determines whether the applicant was made to bear an excessive burden on account of such errors (*Vachik Karapetyan and Others v. Armenia*, 2025, § 112). For example, in *Xavier Lucas v. France*, 2022, the Court found that in view of the circumstances of the case, the applicant's lawyer could not be held accountable for the procedural error in question — the submission of an application on paper and not electronically (§§ 54-56). Reference criteria have been laid down for assessing whether it is the applicant or the competent authorities who should bear the consequences of any errors (*Zubac v. Croatia* [GC], 2018, §§ 90-95, § 119). Where errors were made before the lower courts, the Court has assessed the subsequent role of the Supreme Court (§§ 122-124). For example, the inadmissibility of an action may result from a series of omissions and uncertainties created by the domestic courts, for which the applicant cannot be held objectively responsible (*Makrylakis v. Greece*, 2022, §§ 43-46 — see also *Gogić v. Croatia*, 2020, § 40).

165. Furthermore, where a person claims the right of access to a court, that Convention right may be in conflict with the other party's right to legal certainty, likewise secured under the Convention. Such a situation requires a balancing exercise between conflicting interests, and the Court accords the State a wide margin of appreciation (*Sanofi Pasteur v. France*, 2020, §§ 56-58).

166. The Court has found that digital technologies (e-bar/e-justice) may help improve the administration of justice and be harnessed to promote the rights guaranteed by Article 6 § 1, thus pursuing a "legitimate aim" (*Xavier Lucas v. France*, 2022, § 46). The Court has also found that the requirement to submit applications electronically/digitally in proceedings involving compulsory representation by counsel was compatible with Article 6 § 1 (§ 51). However, the requirement to

9. See the section on "Execution and finality of judgments".

submit an application electronically may raise an issue in terms of access to a court when it is applied in practice, for example where electronic submission entailed the applicant's lawyer having to complete a form using inappropriate legal concepts (§§ 52-57, violation).

167. The right of access to court may be rendered ineffective if the respondent authorities escape judicial control by changing the applicant's legal situation. In *Wick v. Germany*, 2024 the applicant repeatedly complained to the courts about his frequent transfers from one prison to another, but his complaints were left without examination: the courts either considered that these were temporary measures not subject to the judicial review, or refused to examine his complaints as they were moot because, in the meantime, the applicant had already been transferred to another prison (§§ 99-103).

2. Limitations: court fees, time-limits, mandatory legal representation, immunities etc.[10]

168. The right of access to the courts is not absolute. The court to which an application has been made may decline jurisdiction on convincing and reasonable grounds (*Ali Riza v. Switzerland*, 2021, §§ 94-96) and there is scope for limitations permitted by implication (*Stanev v. Bulgaria* [GC], 2012, § 230; *Zubac v. Croatia* [GC], 2018, § 78; *Golder v. the United Kingdom*, 1975, § 38). This applies in particular where the conditions of admissibility of an appeal are concerned, since by its very nature it calls for regulation by the State, which enjoys a certain margin of appreciation in this regard (*Zubac v. Croatia* [GC], 2018, §§ 107-109; *Luordo v. Italy*, 2003, § 85), or where the proper administration of justice and the effectiveness of domestic judicial decisions are concerned (*Ali Riza v. Switzerland*, 2021, § 97).

169. Nonetheless, the limitations applied must not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a "legitimate aim" (*Oorzhak v. Russia*, 2021, §§ 20-22) and if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be achieved" (*Markovic and Others v. Italy* [GC], 2006, § 99; *Naït-Liman v. Switzerland* [GC], 2018, §§ 114-115; *Ashingdane v. the United Kingdom*, 1985, § 57; *Fayed v. the United Kingdom*, 1994, § 65).

170. The right of access to a court may also be subject, in certain circumstances, to legitimate restrictions, such as, for example, statutory limitation periods (*Sanofi Pasteur v. France*, 2020, §§ 50-55, concerning the defendant and the victim claiming damages; *Stubbings and Others v. the United Kingdom*, 1996, §§ 51-52), security for costs orders (*Tolstoy Miloslavsky v. the United Kingdom*, 1995, §§ 62-67), a legal representation requirement (*R.P. and Others v. the United Kingdom*, 2012, §§ 63-67; but compare with *Kitanovska and Barbulovski v. North Macedonia*, 2023, §§ 59-61), a requirement to attempt a friendly-settlement procedure before bringing a claim for damages against the State (*Momčilović v. Croatia*, 2015, §§ 55-57), or observance of the rules on serving pleadings on the parties to proceedings concerning an appeal on points of law (*C.N. v. Luxembourg*, 2021, § 55). The same applies to the requirement to be represented by a specialist lawyer before the Court of Cassation (*Bąkowska v. Poland*, 2010, §§ 45-46, 48). Moreover, a refusal by a legal-aid lawyer to lodge an appeal on points of law on account of its lack of prospects of success is not in itself contrary to Article 6 § 1 (§ 47).

171. In addition, a restriction of access to judicial review may be accepted in order to respect the organisational autonomy of an association or a professional body with a certain degree of autonomy in deciding internal matters, such as the rules of conduct of its members, outside a disciplinary context (*Bilan v. Croatia* (dec.), 2020, §§ 27-31, concerning a written warning issued to a notary public; to be distinguished from *Lovrić v. Croatia*, 2017, § 73). A restriction of access to a court may result from a decision by a supreme court to limit in time the effects of a declaration that a law is unconstitutional.

[10] On possible limitations on access to court, see the section immediately above, "A right that its practical and effective".

This does not breach Article 6 § 1 in exceptional circumstances where it is justified by public-interest considerations. Indeed, it may be necessary to avoid any manifestly excessive consequences of such a declaration of unconstitutionality in a sensitive area such as, for example, a country's economic policy in times of serious economic crisis (*Frantzeskaki v. Greece* (dec.), 2019, §§ 38-40 and references cited).

172. Where access to a court is restricted by law or in practice, the Court examines whether the restriction affects the substance of the right and, in particular, whether it pursues a "legitimate aim" (which must be indicated by the respondent Government: *Oorzhak v. Russia*, 2021, §§ 20-22) and whether there is a reasonable relationship of proportionality between the means employed and the aim sought to be achieved: *Ashingdane v. the United Kingdom*, 1985, § 57. With regard to the proportionality of the restriction, the scope of the State's margin of appreciation may depend, *inter alia*, on the relevant international law in this area (*Naït-Liman v. Switzerland* [GC], 2018, §§ 173-174). That being said, even common procedural limitations may disproportionately restrict access to court according to the circumstances of the case. Thus, for example, while mandatory legal representation was seen as acceptable in the proceedings before the court of cassation (*Maširević v. Serbia*, 2014, § 47), in *Kitanovska and Barbulovski v. North Macedonia*, 2023, the Court found that that the cost of hiring a lawyer to present a simple and repetitive case before a court of first instance had been too high, compared to the value of the claim. Moreover, the first instance court had no power to exempt the claimant from such costs and did not allow her to re-submit her claim through a lawyer. In such circumstances, the requirement of mandatory legal representation was disproportionate (§§ 57-61).

In cases involving issues that are subject to constant developments in the member States, the scope of the margin of appreciation may also depend on whether there is a "European consensus" or at least a certain trend among the member States (*Naït-Liman v. Switzerland* [GC], 2018, § 175). No violation of Article 6 § 1 can be found if the restriction is compatible with the principles established by the Court.

173. Whether a person has an actionable domestic claim may depend not only on the substantive content, properly speaking, of the relevant civil right as defined under national law but also on the existence of procedural bars preventing or limiting the possibilities of bringing potential claims to court (*McElhinney v. Ireland* [GC], 2001, § 24). Article 6 § 1 does not guarantee any particular content for civil "rights" in the substantive law of the Contracting States: the Court may not create through the interpretation of Article 6 § 1 a substantive right which has no legal basis in the State concerned (*Z and Others v. the United Kingdom* [GC], 2001, §§ 87 and 98). In *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, the Court held that the difficulties encountered by the applicants in their attempts to secure the return of a church building had resulted from the applicable substantive law and were unrelated to any limitation on the right of access to a court. It therefore held that there had been no violation of Article 6 § 1 (§§ 99 and 106).[11]

174. The statutory time-limits pursue a legitimate aim of preserving legal certainty; however, these time-limits should be proportionate to this aim: thus, in *Jann-Zwicker and Jann v. Switzerland*, 2024, §§ 78-81, the Court found that claims related to the damage to health caused by exposure to asbestos would nearly always be time-barred, mainly because a (potentially) very long "latency period" between exposure to asbestos and the manifestation of asbestos-caused cancer. Such statutory time-limits, therefore, disproportionately encroached on the applicants' right of access to a court (§§ 78-83).

175. The *absence of statutory time-limits* for bringing a claim does not automatically undermine the principle of legal certainty: thus, in *Chambeau and Streiff v. France* (dec.), 2024, the applicants, both lawyers, were disbarred in 2019 and 2021 respectively, for a grave disciplinary violation which had

11. See also in this respect the case-law concerning the existence of an "arguable right or obligation" as a pre-condition for the applicability of Article 6, described in Section I-A-2 above.

occurred in 1995, but which had been discovered only in 2015. The Court noted that, as regards the first applicant, the domestic courts applied, by analogy, the 3-years' prescription period applicable to disciplinary proceedings against civil servants. As to the second applicant, the domestic courts decided that the period between the discovery of the breach and the final conviction in the disciplinary case was not "excessive or contrary to the fair trial guarantees". The domestic courts thereby either applied a prescription period or assessed whether the time elapsed had had any effect on the fairness of the proceedings, and also took into account this factor in determining the sanction. The Court also noted that the time factor did not affect the possibility for the applicants to adequately defend themselves against disciplinary charges and that the conviction had been based on written evidence and on the questioning of witnesses implicated in the case. The Court concluded that, in the circumstances, the mere absence of a statutory time-limit in the French law for that type of disciplinary offences did not violate Article 6 (§§ 48-58).

176. In addition, the mere fact that a claim is held to be inadmissible for lack of a legitimate interest does not amount to a denial of access to a court as long as the claimant's submissions have been properly examined (*Obermeier v. Austria*, 1990, § 68, and for an international court, *Konkurrenten.no AS v. Norway* (dec.), 2019, §§ 46-48).

177. Restrictions on the national courts' jurisdiction to deal with acts carried out abroad: such restrictions may pursue legitimate aims linked to the principles of the proper administration of justice and maintaining the effectiveness of domestic judicial decisions (concerning the lack of universal civil jurisdiction in matters involving torture, see *Naït-Liman v. Switzerland* [GC], 2018, § 122, and also §§ 218-220, concerning access to a court to seek compensation; *Hussein and Others v. Belgium*, 2021, §§ 59-73). These principles were confirmed in *Couso Permuy v. Spain*, 2024, where the Court noted (§ 142) that States have no obligation under international law to search for war criminals outside its territory and to claim jurisdiction to prosecute/try them when there are no jurisdictional links with the State whatsoever and that it is not arbitrary or manifestly unreasonable for a State to limit universal jurisdiction only to those cases where there is a sufficient link to that State (§ 147).

178. The lack of jurisdiction to examine a complaint may be based on the doctrine of acts of the government or acts of State. Quite often such acts are of a diplomatic or military character. Thus in *Tamazount and Others v. France*, 2024, the applicants claimed that, following the independence of Alegria, France had failed to take measures to protect harkis (members of the Algerian auxiliary forces who had collaborated with the French military before the independence) from reprisals. The French administrative courts refused to examine the applicants' compensation claims lodged on the basis of State liability for negligence, referring to the doctrine of acts of State. The Court concluded that this restriction had pursued a legitimate aim (preserving the separation of powers between the executive and the judiciary) which meant that the courts could not call into question diplomatic decisions. The acts and omissions imputed by the applicant to the French State could not be disassociated with such diplomatic acts. At the same time, the refusal to examine the applicant's claims based on the State's alleged negligence did not exclude a possibility to invoke the strict liability of the State. Thus, the limitation on the applicants' access to court was not absolute and thus it was proportionate to the legitimate aim pursued (§§ 112-127).

179. International organisations' immunity from national jurisdiction (see in particular *Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013, § 139): this treaty-based rule — which pursues a legitimate aim (*Waite and Kennedy v. Germany* [GC], 1999, § 63) — is permissible from the standpoint of Article 6 § 1 only if the restriction stemming from it is not disproportionate. Hence, it will be compatible with Article 6 § 1 if the persons concerned have available to them reasonable alternative means to protect effectively their rights under the Convention (*ibid.*, §§ 68-74; *Prince Hans-Adam II of Liechtenstein v. Germany* [GC], 2001, § 48; *Chapman v. Belgium* (dec.), 2013, §§ 51-56; and *Klausecker v. Germany* (dec.), 2015, §§ 69-77, concerning the alternative to an arbitration procedure). It does not follow, however, that in the absence of an alternative remedy the recognition of immunity of an international organisation is ipso facto constitutive of a violation of the

right of access to a court (*Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013, § 164).

180. The decision in *Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013, concerned the granting of immunity to the United Nations (UN) in the national courts. The Court held that operations established by UN Security Council resolutions under Chapter VII of the UN Charter were fundamental to the UN's mission to secure international peace and security. Accordingly, the Convention could not be interpreted in a manner which would subject the acts and omissions of the Security Council to domestic jurisdiction in the absence of a UN decision to that effect. To bring such operations within the scope of domestic jurisdiction would amount to allowing any individual State, through its courts, to interfere with the fulfilment of a key mission of the UN in this field, including with the effective conduct of its operations (§ 154). The Court added that international law did not support the position that a civil claim should cause the domestic courts to lift the United Nations' immunity from suit for the sole reason that the claim was based on an allegation of a particularly grave violation of a norm of international law, even a norm of jus cogens (§ 158).

181. State immunity: the doctrine of foreign State immunity is generally accepted by the community of nations (*Stichting Mothers of Srebrenica and Others v. the Netherlands*, 2013, (dec.), § 158). Measures taken by a member State which reflect generally recognised rules of public international law on State immunity do not automatically constitute a disproportionate restriction on the right of access to court (*Fogarty v. the United Kingdom* [GC], 2001, § 36; *McElhinney v. Ireland* [GC], 2001, § 37; *Sabeh El Leil v. France* [GC], 2011, § 49).

182. Jurisdictional immunity of foreign States: the grant of immunity is to be seen not as qualifying a substantive right but as a procedural bar on the national courts' power to determine the right (*J.C. and Others v. Belgium*, 2021, §§ 58-59). A foreign State may waive its right to immunity before the courts of another State by giving clear and unequivocal consent (*Ndayegamiye-Mporamazina v. Switzerland*, 2019, §§ 57 and 59). In cases where the application of the principle of State immunity from jurisdiction restricts the exercise of the right of access to a court, it must be ascertained whether the circumstances of the case justify such restriction (for example, *Prince Hans-Adam II of Liechtenstein v. Germany* [GC], 2001, §§ 51-70). The restriction must pursue a legitimate aim and be proportionate to that aim (*Cudak v. Lithuania* [GC], 2010, § 59; *Sabeh El Leil v. France* [GC], 2011, §§ 51-54). The grant of sovereign immunity to a State in civil proceedings pursues the "legitimate aim" of complying with international law to promote comity and good relations between States (*Fogarty v. the United Kingdom* [GC], 2001, § 34; *Al-Adsani v. the United Kingdom* [GC], 2001, § 54; *Treska v. Albania and Italy* (dec.), 2006; *J.C. and Others v. Belgium*, 2021, § 60). As to whether the measure taken is proportionate (see the summary of the principles in *J.C. and Others v. Belgium*, 2021, §§ 61 and 63), it may in some cases impair the very essence of the individual's right of access to a court (*Cudak v. Lithuania* [GC], 2010, § 74; *Sabeh El Leil v. France* [GC], 2011, § 49; *Naku v. Lithuania and Sweden*, 2016, § 95), while in other cases it may not (*Al-Adsani v. the United Kingdom* [GC], 2001, § 67; *Fogarty v. the United Kingdom* [GC], 2001, § 39; *McElhinney v. Ireland* [GC], 2001, § 38; and more recently, *J.C. and Others v. Belgium*, 2021, § 75, where the Court found that the national court had not departed from the generally recognised rules of international law on State immunity). In the absence of an alternative remedy, there is not ipso facto a violation of the right of access to a court (*Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013), although the Court found that the existence of an alternative would be desirable in the specific circumstances of the case of *J.C. and Others v. Belgium*, 2021 (§ 71). *M.M. v. France* (dec.), 2024 concerned the refusal of the French courts to institute criminal proceedings against an acting foreign head of State for torture committed in that State, given his immunity from foreign prosecution, the Court found that such immunity did not prevent the applicant from re-introducing a complaint against this head of State after the end of his mandate or before an international court (§ 88), and that, although the criminal proceedings in which the applicant presented his civil claims have been not been pursued, the matter has been examined by the courts at several levels of jurisdiction (§ 89).

- State immunity from jurisdiction has been circumscribed by developments in customary international law.
  - Thus, the Court has noted a trend in international and comparative law towards limiting State immunity in respect of employment-related disputes, with the exception, however, of those concerning the recruitment of embassy staff (*Cudak v. Lithuania* [GC], 2010, §§ 63 et seq.; *Sabeh El Leil v. France* [GC], 2011, §§ 53-54 and 57-58; *Naku v. Lithuania and Sweden*, 2016, § 89, concerning the dismissal of embassy staff members; see also *Wallishauser v. Austria*, 2012, concerning the service of a summons in proceedings against a foreign State relating to salary arrears). As regards disputes concerning a contract of employment concluded between embassies or permanent missions and their support staff, the Court has always protected both nationals of the forum State (the State where the work is performed) and non-nationals living there (*Ndayegamiye-Mporamazina v. Switzerland*, 2019, §§ 49 and 61 and references cited). This consistent approach is in line with codified international custom: in principle, a foreign State cannot rely on immunity from jurisdiction in the context of a dispute concerning a contract of employment executed in the territory of the forum State. However, there are exceptions to that principle, in particular where "the employee is a national of the employer State at the time when the proceeding is instituted, unless this person has his or her permanent residence in the State of the forum" (*ibid.*, §§ 61-63). In the case cited, unlike the previous cases, the applicant was a national of the employer State (Burundi) when she brought her case before the Swiss courts, and was not permanently resident in the forum State (Switzerland), where she worked at the Permanent Mission of the Republic of Burundi to the United Nations. The observance by Switzerland of the Republic of Burundi's immunity from jurisdiction in respect of the applicant's claim of unfair dismissal was compatible with the generally recognised rules of international law on State immunity (§ 66).
  - A restrictive approach to immunity may also be taken in relation to commercial transactions between the State and foreign private individuals (*Oleynikov v. Russia*, 2013, §§ 61 and 66). However, the Court would not disagree with the domestic courts when they have made a reasonable distinction between purely commercial transactions and acts relating to the exercise of the State's sovereignty, and their assessment did not deviate from generally recognised principles of international law on state immunity (*Renouard v. France*, 2025, §§ 43-52).
- On the other hand, the Court noted in 2001 that, while there appeared to be a trend in international and comparative law towards limiting State immunity in respect of personal injury caused by an act or omission within the forum State, that practice was by no means universal (*McElhinney v. Ireland* [GC], 2001, § 38).
- In *J.C. and Others v. Belgium*, 2021, the Court did not uphold the applicants' argument that State immunity from jurisdiction could not be maintained in cases involving inhuman or degrading treatment (see §§ 64 et seq., including the summary of precedents concerning other serious violations of human rights law, international humanitarian law, or jus cogens norms). In addition, the Court held in 2014 that while there was 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 (*Jones and Others v. the United Kingdom*, 2014, §§ 213-15, concerning the refusal to consider the applicants' civil claim in respect of torture allegations on account of the immunity invoked by the State in question and its officials). In *Sassi and Benchellali v. France* (dec.), 2024, the Court confirmed this approach: despite the special status of the prohibition of torture in the international law, international law still grants immunity to the State or agents of the State against tort actions related to the acts of torture. The Court

added that, although the French investigative authorities in the end discontinued the criminal prosecution of the American officials allegedly responsible for the ill-treatment of the applicant (who had been detained in the Guantanamo military base prison, with reference to the immunity of the persons indicated as possible defendants, the authorities had taken steps to investigate the case and the question of immunity had been discussed at all levels jurisdiction, including the Court of Cassation (§ 64).

- State immunity from execution is not in itself contrary to Article 6 § 1. The Court noted in 2005 that all the international legal instruments governing State immunity set forth the general principle that, subject to certain strictly delimited exceptions, foreign States enjoyed immunity from execution in the territory of the forum State (*Manoilescu and Dobrescu v. Romania and Russia* (dec.), 2005, § 73). By way of illustration, the Court held in 2002 that "although the Greek courts ordered the German State to pay damages to the applicants, this did not necessarily oblige the Greek State to ensure that the applicants could recover their debt through enforcement proceedings in Greece" (*Kalogeropoulou and Others v. Greece and Germany* (dec.), 2002). These decisions are valid in relation to the state of international law at the relevant time and do not preclude future developments in that law.

183. Parliamentary immunity: it is a long-standing practice for States generally to confer varying degrees of immunity on parliamentarians, with the aim of allowing free speech for representatives of the people and preventing partisan complaints from interfering with parliamentary functions (see the summary of the relevant principles in *Bakoyanni v. Greece*, 2022, §§ 58-62; *C.G.I.L. and Cofferati v. Italy (no. 2)*, 2010, § 44). The regulation of parliamentary immunity belongs to the realm of parliamentary law, in respect of which a wide margin of appreciation is left to member States (*Green v. the United Kingdom*, 2025, § 77). Hence, parliamentary immunity may be compatible with Article 6, provided that it:

- pursues legitimate aims: protecting free speech in Parliament and maintaining the separation of powers between the legislature and the judiciary (*A. v. the United Kingdom*, 2002, §§ 75-77 and 79);
- is not disproportionate to the aims sought to be achieved (if the person concerned has reasonable alternative means to protect effectively his or her rights (*ibid.*, § 86) and immunity attaches only to the exercise of parliamentary functions (*ibid.*, § 84; *Zollmann v. the United Kingdom* (dec.), 2010). A lack of any clear connection with parliamentary activity calls for a narrow interpretation of the concept of proportionality between the aim sought to be achieved and the means employed (*Cordova v. Italy (no. 2)*, 2003, § 64; *Syngelidis v. Greece*, 2010, § 44 and the case-law references cited). Individuals' right of access to a court cannot be restricted in a manner incompatible with Article 6 § 1 whenever the impugned remarks were made by a member of Parliament (*Cordova v. Italy (no. 1)*, 2003, § 63; *C.G.I.L. and Cofferati v. Italy (no. 2)*, 2010, §§ 46-50, where, in addition, the victims did not have any reasonable alternative means to protect their rights). For the Court to compel national authorities to provide for a legal remedy against the use of parliamentary privilege would be incompatible with the wide margin of appreciation afforded to member States in such matters (*Green v. the United Kingdom*, 2025, § 101).

184. Judges' exemption from jurisdiction is likewise not incompatible with Article 6 § 1 if it pursues a legitimate aim, namely the proper administration of justice (*Ernst and Others v. Belgium*, 2003, § 50), and observes the principle of proportionality in the sense that the applicants have reasonable alternative means to protect effectively their rights under the Convention (*ibid.*, 2003, § 53-55).

185. Immunities enjoyed by civil servants/ministers: limitations on the ability of individuals to take legal proceedings to challenge statements and findings made by civil servants which damage their reputation may pursue a legitimate aim in the public interest (*Fayed v. the United Kingdom*, 1994, § 70); however, there must be a relationship of proportionality between the means employed and

that legitimate aim (*ibid.*, §§ 75-82). The case of *Jones and Others v. the United Kingdom* (§§ 213-15) concerned the refusal to consider the applicants' civil claim in respect of torture allegations on account of the immunity invoked by the State in question and its officials. The Court was satisfied that the grant of immunity to the State officials in this particular case reflected generally recognised rules of public international law, while indicating that developments in this area needed to be kept under review. In *Bakoyanni v. Greece*, 2022, the Parliament's refusal to lift the Defence Minister's immunity had deprived an MP of access to a court (§§ 69-72 and, concerning a political body's exclusive jurisdiction over the opening of criminal proceedings against a minister, § 63; see also *Anagnostou-Dedouli v. Greece*, 2010, §§ 47-56).

186. Immunity of a head of State: in view of the functions performed by heads of State, the Court has considered it acceptable to afford them functional immunity in order to protect their freedom of expression and to maintain the separation of powers within the State. The parameters of such immunity must be regulated. Perpetual and absolute immunity that can never be lifted would constitute a disproportionate restriction on the right of access to a court (*Urechean and Pavlicenco v. Republic of Moldova*, 2014, §§ 47-55).

187. Limits to immunity: it would not be consistent with the rule of law in a democratic society or with the basic principle underlying Article 6 § 1 — namely that civil claims must be capable of being submitted to a judge for adjudication — if a State could, without restraint or control by the Convention enforcement bodies, remove from the jurisdiction of the courts a whole range of civil claims or confer immunities from civil liability on large groups or categories of persons (*McElhinney v. Ireland* [GC], 2001, §§ 23-26; *Sabeh El Leil v. France* [GC], 2011, § 50).

188. The judgment in *Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, concerned the confiscation of assets pursuant to Resolution 1483 (2003) of the United Nations Security Council. The judgment lays down principles regarding the availability of appropriate judicial supervision by the domestic courts of measures adopted at national level pursuant to decisions taken within the UN sanctions system. The Court held in this particular case that there was nothing in Resolution 1483 (2003) that explicitly prevented the domestic courts from reviewing, in terms of human rights protection, the measures taken at national level pursuant to that Resolution. Where a resolution does not contain explicitly exclude the possibility of judicial supervision, it must always be understood as authorising States to exercise sufficient scrutiny to avoid any arbitrariness in its implementation, so that a fair balance can be struck between the competing interests at stake. Any implementation of the Security Council resolution without the possibility of judicial supervision to ensure the absence of arbitrariness would engage the State's responsibility under Article 6 of the Convention.

189. Access to court may be limited in the national legal order by the rules on *standing*. The case of *E.T. v. the Republic of Moldova*, 2024, concerned the inability of the applicant, who had been found to lack legal capacity (mental illness) to bring a court action aimed at restoring her legal capacity, other than through her guardian (with whom she had a strained relationship) or through certain officials. While there may be relevant reasons to limit an incapacitated person's access to a court (such as for the person's own protection), in the present case the guardianship regime was not limited in time and no automatic periodic review of this regime was provided. Neither did domestic law provide for any intermediary solutions in respect of varying degrees of incapacitation. The Court found therefore that the applicant's inability to directly seek restoration of her legal capacity at the material time was a disproportionate hindrance impairing the very essence of her right of access to a court, while stressing that the State remains free to determine the procedure by which such direct access to court (to challenge the legal incapacitation regime) is to be realised so as to ensure that courts are not overburdened with excessive and manifestly ill-founded applications (§ 48).

B. Waiver

1. Principle

190. An individual cannot be deemed to have waived a right if he or she had no knowledge of the existence of the right or of the related proceedings (*Schmidt v. Latvia*, 2017, § 96 and case-law references cited).

191. In the Contracting States' domestic legal systems, a waiver of a person's right to have his or case heard by a court or tribunal is frequently encountered in civil matters, notably in the shape of arbitration clauses in contracts. The waiver, which has undeniable advantages for the individual concerned as well as for the administration of justice, does not in principle offend against the Convention (*Deweer v. Belgium*, 1980, § 49; *Pastore v. Italy* (dec.), 1999). Article 6 does not therefore preclude the setting up of arbitration tribunals in order to settle certain disputes (*Transado-Transportes Fluviais Do Sado, S.A. v. Portugal* (dec.), 2003; *Semenya v. Switzerland* [GC], 2025, § 195; however, see further in Semenya on the question of the compulsory nature of certain arbitration clauses, which may require a "particular rigour" in the examination of the arbitration awards by the ordinary courts of law — see §§ 199-210). The parties to a case are free to decide that the ordinary courts are not required to deal with certain disputes potentially arising from the performance of a contract. In accepting an arbitration clause, the parties voluntarily waive certain rights enshrined in the Convention (*Semenya v. Switzerland* [GC], 2025, § 197 and case-law references cited; *Eiffage S.A. and Others v. Switzerland* (dec.), 2009). There may be a legitimate reason for limiting the right to direct individual access to an arbitration tribunal (*Lithgow and Others v. the United Kingdom*, 1986, § 197).

2. Conditions

192. Persons may waive their right to a court in favour of arbitration, provided that such waiver is established freely, lawfully and unequivocally (*Semenya v. Switzerland* [GC], 2025, § 197; *Suda v. the Czech Republic*, 2010, §§ 48-49 and case-law references cited). In a democratic society too great an importance attaches to the right to a court for its benefit to be forfeited solely by reason of the fact that an individual is a party to a settlement reached in the course of a procedure ancillary to court proceedings (*Suda v. the Czech Republic*, 2010, § 48). The waiver must be attended by minimum safeguards commensurate to its importance (*Semenya v. Switzerland* [GC], 2025, § 197 and case-law references cited; *Eiffage S.A. and Others v. Switzerland* (dec.), 2009).

193. A distinction is made in the case-law between voluntary and compulsory arbitration. In principle, no issue is raised under Article 6 in the case of voluntary arbitration since it is entered into freely (see, however, in relation to commercial arbitration, *Beg S.p.a. v. Italy*, 2021, §§ 135 et seq.). However, in the case of compulsory arbitration — that is, where arbitration is required by law — the parties have no opportunity to remove their dispute from the jurisdiction of an arbitration tribunal, which consequently must afford the guarantees set forth in Article 6 § 1 of the Convention (*Tabbane v. Switzerland* (dec.), 2016, §§ 26-27 and case-law references cited). In the decision cited, the Court held that the waiver clause and the relevant statutory provision had pursued a legitimate aim, namely promoting Switzerland's position as a venue for arbitration through flexible and rapid procedures, while respecting the applicant's contractual freedom (§ 36).

194. The Court has emphasised the advantages of arbitration over judicial proceedings in settling commercial disputes. In a case brought by a professional footballer and a speed skater, it reiterated the applicable principles in this area (*Mutu and Pechstein v. Switzerland*, 2018, §§ 94-96) and confirmed that this finding was equally relevant in the sphere of professional sport. In determining whether the applicants had waived all or part of the safeguards provided for in Article 6 § 1, the fundamental question was whether the arbitration procedure had been compulsory for them (§ 103).

The Court observed that the second applicant had had no other choice than to apply to the Court of Arbitration for Sport (CAS), since the rules of the International Skating Union clearly stated that all disputes were to be brought before the CAS, failure to do so entailing a risk of exclusion from international competition (§§ 113-115). Conversely, the Court found that the first applicant had not been required to accept the compulsory jurisdiction of the CAS, since the relevant international rules gave footballers the choice in such matters. Nevertheless, the Court went on to observe that the first applicant could not be regarded as having unequivocally agreed to apply to a panel of the CAS lacking independence and impartiality. One of the important aspects in the Court's view was that, in making use of the rules governing procedure before the CAS, the first applicant had in fact sought to have one of the arbitrators on the panel stood down. Accordingly, in the cases of both the first and the second applicants, the arbitration procedure should have afforded the safeguards provided for in Article 6 § 1 (§§ 121-123). See also, regarding an arbitration committee with exclusive and compulsory jurisdiction to hear football disputes, *Ali Rıza and Others v. Turkey*, 2020, §§ 175-181 and *Ali Riza v. Switzerland*, 2021, § 82).

195. In the field of international sports competition, the fact that arbitration is imposed by a private entity rather than by law is not sufficient to give rise to a violation of Article 6 § 1. However, it is necessary to have regard to the fact that sports arbitration occurs in the context of structural imbalance characterising the relationship between sportspersons and the sport governing bodies: the latter are in a position to dictate conditions in their relationship with sportspersons, in that they regulate international sports competitions, are able to impose the mandatory and exclusive jurisdiction of the Court of Arbitration for Sport (CAS), and exercise structural control over the international sports arbitration system. Therefore, in a situation where the CAS's exclusive jurisdiction is imposed on a sportsperson by a sport governing body, the arbitration procedure should afford the safeguards provided for in Article 6 § 1 (*Semenya v. Switzerland* [GC], 2025, §§ 199-205). Where the "civil" right at stake corresponds under domestic law to fundamental rights, respect for the right to a fair hearing requires a "particularly rigorous" examination of the applicant's case by the ordinary courts of law which are entitled to conduct the review of the decision of the arbitration tribunal (§ 209). Applying those principles, the Court considered that, in examining the complaint brought by the applicant — a professional athlete with differences of sex development and concerning regulations by a sport governing body requiring her to lower her natural testosterone level in order to compete in women's category in international competitions — the Federal Supreme Court's review of the CAS award from the standpoint of its compatibility with the requirements of the domestic public policy (*ordre public)* did not fulfil the requirements of particular rigour, not least owing to its very restrictive interpretation of the notion of public policy (§ 238).

C. Legal aid

1. Granting of legal aid

196. Article 6 § 1 does not imply that the State must provide free legal aid for every dispute relating to a "civil right" (*Airey v. Ireland*, 1979, § 26). There is a clear distinction between Article 6 § 3 (c) — which guarantees the right to free legal aid in criminal proceedings subject to certain conditions — and Article 6 § 1, which makes no reference to legal aid (*Essaadi v. France*, 2002, § 30).

197. However, the Convention is intended to safeguard rights which are practical and effective, in particular the right of access to a court. Hence, Article 6 § 1 may sometimes compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court (*Airey v. Ireland*, 1979, § 26).

198. The question whether or not Article 6 requires the provision of legal representation to an individual litigant will depend upon the specific circumstances of the case (*Airey v. Ireland*, 1979; *McVicar v. the United Kingdom*, 2002, § 48, concerning a defendant in proceedings instituted by the

authorities, and see § 50; *Steel and Morris v. the United Kingdom*, 2005, § 61). What has to be ascertained is whether, in the light of all the circumstances, the lack of legal aid would deprive the litigant of a fair hearing (*McVicar v. the United Kingdom*, 2002, § 51), for example by putting him or her at a distinct disadvantage as compared with the opposing party (*Timofeyev and Postupkin v. Russia*, 2021, §§ 101-107).

199. The question whether Article 6 implies a requirement to provide legal aid will depend, among other factors, on:

- the importance of what is at stake for the applicant (*P., C. and S. v. the United Kingdom*, 2002, § 100; *Steel and Morris v. the United Kingdom*, 2005, § 61), including whether a right protected by the Convention was at issue in the domestic proceedings (for example, Article 8 or 10, or Article 2 of Protocol No. 4 to the Convention: *Timofeyev and Postupkin v. Russia*, 2021, § 102).;
- the complexity of the relevant law or procedure (*Airey v. Ireland*, 1979, § 24), for example on account of special rules on the presentation of the parties' observations (*Gnahoré v. France*, 2000, § 40) or on the submission of evidence (*McVicar v. the United Kingdom*, 2002, § 54);
- the applicant's capacity to represent him or herself effectively (*McVicar v. the United Kingdom*, 2002, §§ 48-62; *Steel and Morris v. the United Kingdom*, 2005, § 61), which may concern the question whether the opposing party was provided with assistance throughout the proceedings and the difficulties encountered by the applicant in preparing his or her defence (*Timofeyev and Postupkin v. Russia*, 2021, §§ 104-107);
- the existence of a statutory requirement to have legal representation (*Airey v. Ireland*, 1979, § 26; *Gnahoré v. France*, 2000, § 41 in fine).

200. However, the right in question is not absolute (*Steel and Morris v. the United Kingdom*, 2005, §§ 59-60) and it may therefore be permissible to impose conditions on the grant of legal aid based in particular on the following considerations, in addition to those cited in the preceding paragraph:

- the financial situation of the litigant (*Steel and Morris v. the United Kingdom*, 2005, § 62);
- his or her prospects of success in the proceedings (*ibid*).

Hence, a legal aid system may exist which selects the cases which qualify for it and ensures that public money for legal aid in proceedings before the Court of Cassation is only made available to those whose appeals have a reasonable prospect of success (*Del Sol v. France*, 2002, § 23). However, the system established by the legislature must offer individuals substantial guarantees to protect them from arbitrariness (*Gnahoré v. France*, 2002, § 41; *Essaadi v. France*, 2002, § 36; *Del Sol v. France*, 2002, § 26; *Bakan v. Turkey*, 2007, §§ 75-76 with a reference to the judgment in *Aerts v. Belgium*, 1998, concerning an impairment of the very essence of the right to a court). It is therefore important to have due regard to the quality of a legal aid scheme within a State (*Essaadi v. France*, 2002, § 35) and to verify whether the method chosen by the authorities is compatible with the Convention (*Santambrogio v. Italy*, 2004, § 52; *Bakan v. Turkey*, 2007, §§ 74-78; *Pedro Ramos v. Switzerland*, 2010, §§ 41-45). There is no obligation on the State to seek through the use of public funds to ensure total equality of arms between the assisted person and the opposing party, as long as each side is afforded a reasonable opportunity to present his or her case under conditions that do not place him or her at a substantial disadvantage vis-à-vis the adversary (*Steel and Morris v. the United Kingdom*, 2005, § 62).

201. It is essential for the court to give reasons for refusing legal aid and to handle requests for legal aid with diligence (*Tabor v. Poland*, 2006, §§ 45-46; *Saoud v. France*, 2007, §§ 133-36).

202. The *Dragan Kovačević v. Croatia* judgment, 2022, dealt with the question of legal aid in proceedings before a constitutional court and the vulnerability of an applicant who had been deprived of legal capacity (§§ 35-36, 79 and 81).

203. Furthermore, the refusal of legal aid to foreign legal persons is not contrary to Article 6 (*Granos Organicos Nacionales S.A. v. Germany*, 2012, §§ 48-53). Regarding commercial companies in general, see *Nalbant and Others v. Turkey*, 2022 (§§ 37-38).

204. Where national law does not provide for the right of the defendant in criminal proceedings to obtain reimbursement of the legal costs incurred in those proceedings, even following acquittal, no "defendable right" exists, and, therefore, Article 6, under its "civil limb", is inapplicable to the proceedings related to the recovery of such costs (*Rousounidou v. Cyprus* (dec.), 2024, §§ 23-29; see also in this respect the Guide on Article 6 criminal, in particular Section VI-B-3 on the legal assistance and Section VI-A-1-b on the obligation of the accused to bear costs from the standpoint of the respect for the presumption of innocence).

205. The need to reimburse particularly high *legal costs* may represent an obstacle to access to court, even if the applicant was in fact capable of advancing them. In *Moskalj v. Croatia*, 2024, the Court explained that, where legal costs incurred by the litigant and not reimbursed to him exceed the amount of the main compensation awarded, the whole litigation is made pointless and renders the applicant's right to a court merely theoretical and illusory (§ 84). In such situations the Court does not need to examine whether the costs imposed a disproportionate financial burden on the applicant. The Court also noted that the domestic courts had also failed to provide any detailed reasons for refusing to award costs and that, at the same time, the proceedings were complex enough to require legal representation. Indeed, it had been also open to the domestic courts to award her a reduced amount. The Court concluded that the restriction of the applicant's access to court was disproportionate.

2. Effectiveness of the legal aid granted

206. The State is not accountable for the actions of an officially appointed lawyer. It follows from the independence of the legal profession from the State (*Staroszczyk v. Poland*, 2007, § 133), that the conduct of the defence is essentially a matter between the defendant and his counsel, whether counsel is appointed under a legal aid scheme or is privately financed. The conduct of the defence as such cannot, other than in special circumstances, incur the State's liability under the Convention (*Tuziński v. Poland* (dec.), 1999).

207. However, assigning a lawyer to represent a party does not in itself guarantee effective assistance (*Siałkowska v. Poland*, 2007, §§ 110 and 116). The lawyer appointed for legal aid purposes may be prevented for a protracted period from acting or may shirk his duties. If they are notified of the situation, the competent national authorities must replace him; should they fail to do so, the litigant would be deprived of effective assistance in practice despite the provision of free legal aid (*Bertuzzi v. France*, 2003, § 30).

208. It is above all the responsibility of the State to ensure the requisite balance between the effective enjoyment of access to justice on the one hand and the independence of the legal profession on the other. The Court has clearly stressed that any refusal by a legal aid lawyer to act must meet certain quality requirements. Those requirements will not be met where the shortcomings in the legal aid system deprive individuals of the "practical and effective" access to a court to which they are entitled (*Staroszczyk v. Poland*, 2007, § 135; *Siałkowska v. Poland*, 2007, § 114-violation).

209. To sum up, the State cannot be held responsible for every action/inaction or shortcoming on the part of a legal aid lawyer, and the litigant also has certain responsibilities in this area (*Bąkowska v. Poland*, 2010, §§ 45-54, and, *mutatis mutandis*, *Feilazoo v. Malta*, 2021, §§ 125-126 and 131).

III. Institutional requirements

Article 6 § 1 of the Convention

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing ... by an independent and impartial tribunal established by law. ..."

210. While the institutional requirements of Article 6 § 1 each serve specific purposes as distinct fair-trial guarantees, they are all guided by the aim of upholding the fundamental principles of the rule of law and the separation of powers. The need to maintain public confidence in the judiciary and to safeguard its independence vis-à-vis the other powers underlies each of those requirements (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 233).

211. Stressing the importance of the principle of subsidiarity — which Protocol No. 15 to the Convention enshrined in the Preamble to the Convention — and the principle of "shared responsibility" between the States Parties and the Court for protecting human rights, and that the Convention system cannot function properly without independent judges, the Court considers that the role of States in ensuring judicial independence is thus of crucial importance (*Grzęda v. Poland* [GC], 2022, § 324).

A. Concept of a "tribunal"

1. Autonomous concept[12]

212. The *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, judgment refined and clarified the relevant case-law principles (see, in particular, §§ 219-222; see also *Eminağaoğlu v. Turkey*, 2021, §§ 90-91 and 94), which may be divided into three cumulative requirements, as outlined below (see the relevant summary in *Besnik Cani v. Albania*, 2022, §§ 83-93; *Dolińska-Ficek and Ozimek v. Poland*, 2021, §§ 272-280).

213. Firstly, a "tribunal" is characterised in the substantive sense of the term by its judicial function (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020 §§ 219 et seq. for the relevant principles), that is to say, determining matters within its competence on the basis of rules of law and after proceedings conducted in a prescribed manner (*Cyprus v. Turkey* [GC], 2001, § 233; *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, § 194, in relation to a constitutional court).

214. A power of decision is inherent in the very notion of "tribunal". The proceedings must provide the "determination by a tribunal of the matters in dispute" which is required by Article 6 § 1 (*Benthem v. the Netherlands*, 1985, § 40).

215. The power simply to issue advisory opinions without binding force is therefore not sufficient, even if those opinions are followed in the great majority of cases (*Benthem v. the Netherlands*, 1985). For prosecutors, see *Thierry v. France* (dec.), 2023, § 30.

216. For the purposes of Article 6 § 1 a "tribunal" need not be a court of law integrated within the standard judicial machinery of the country concerned (*Xhoxhaj v. Albania*, 2021, § 284, concerning a body set up to re-evaluate the ability of judges and prosecutors to perform their functions; *Ali Rıza and Others v. Turkey*, 2020, §§ 194-195 and 202-204, and *Mutu and Pechstein v. Switzerland*, 2018, § 139, concerning arbitration; *Suren Antonyan v. Armenia*, 2025, §§ 101-104, concerning the Supreme Judicial Council which examined disciplinary cases against judges and which possessed all of the characteristics of a tribunal in disciplinary matters). It may be set up to deal with a specific subject

12. See also the section on "legislative intervention" ".

matter which can be appropriately administered outside the ordinary court system. What is important to ensure compliance with Article 6 § 1 are the guarantees, both substantive and procedural, which are in place (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020; *Rolf Gustafson v. Sweden*, 1997, § 45). Thus, a body that does not observe the procedural safeguards under Article 6 cannot be regarded as a "tribunal" established by law (*Eminağaoğlu v. Turkey*, 2021, §§ 99-105, concerning disciplinary proceedings for judges).

217. Hence, a "tribunal" may comprise a body set up to determine a limited number of specific issues, provided always that it offers the appropriate guarantees (*Lithgow and Others v. the United Kingdom*, 1986, § 201, in the context of an arbitration tribunal). Moreover, an authority not classified as one of the courts of a State may nonetheless, for the purposes of Article 6 § 1, come within the concept of a "tribunal" in the substantive sense of the term (*Sramek v. Austria*, 1984, § 36).

218. The fact that it performs many functions (administrative, regulatory, adjudicative, advisory and disciplinary) cannot in itself preclude an institution from being a "tribunal" (*H. v. Belgium*, 1987, § 50).

219. The power to give a binding decision which may not be altered by a non-judicial authority to the detriment of an individual party is inherent in the very notion of a "tribunal" (*Van de Hurk v. the Netherlands*, 1994, § 45). One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, *inter alia*, that where the courts have finally determined an issue their ruling should not be called into question (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238, citing *Brumărescu v. Romania* [GC], 1999, § 61).[13] In addition, only an institution that has full jurisdiction merits the designation "tribunal" for the purposes of Article 6 § 1 (*Mutu and Pechstein v. Switzerland*, 2018, § 139).

220. Secondly, a "tribunal" must also satisfy a series of further requirements — independence, in particular from the executive; impartiality; duration of its members' terms of office; guarantees afforded by its procedure — several of which appear in the text of Article 6 § 1 (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 55; *Cyprus v. Turkey* [GC], 2001, § 233). Indeed, both independence and impartiality are key components of the concept of a "tribunal",[14] as was clarified in *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 231 et seq.). In short, a judicial body which does not satisfy the requirements of independence — in particular from the executive — and of impartiality cannot be characterised as a "tribunal" for the purposes of Article 6 § 1 (§ 232).

In *Tsatani v. Greece*, 2025, the Court examined whether a disciplinary council of the Court of Cassation, albeit outside the standard judicial structure, can be seen as a "tribunal", for the purposes of applying the first limb of the *Vilho Eskelinen* test and establishing whether Article 6 was applicable to the procedure before (on this test in cases involving public officials see Section C above, "Disputes involving public servants"). The Court noted, in particular, that the disciplinary council was established by law to decide on disciplinary charges on the basis of the applicable legal provisions. The council established the facts and their legal characterisation after freely assessing the evidence, in a procedure offering guarantees of fair trial, and was composed of judges selected randomly and enjoying the essential guarantees of institutional independence, who could be recused by the parties. The Court concluded that, by providing access to such a body, domestic law provided the applicant with access to a "tribunal" within the meaning of Article 6 (§§ 50-57). This conclusion, which was made in the context of the examination of the applicability of Article 6, did not however prevent the Court from concluding that the impartiality of this tribunal was compromised because of the role played by the President of the Court of Cassation in those proceedings (see §§ 81-86).

221. Lastly, the *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, judgment added that the very notion of a "tribunal" implied that it should be composed of judges selected on the basis of merit — that is, judges who fulfil the requirements of technical competence and moral integrity to perform the

13. See also the section on "Execution and finality of judgments".

14. See the section on "Independence and impartiality".

judicial functions required of it in a State governed by the rule of law (§§ 220-221). A rigorous process for the appointment of ordinary judges is of paramount importance to ensure that the most qualified candidates in both these respects are appointed to judicial posts. The higher a "tribunal" is placed in the judicial hierarchy, the more demanding the applicable selection criteria should be. Furthermore, non-professional judges may be subject to different selection criteria, particularly when it comes to the requisite technical competencies. Such merit-based selection not only ensures the technical capacity of a judicial body to deliver justice as a "tribunal", but it is also crucial in terms of ensuring public confidence in the judiciary and serves as a supplementary guarantee of the personal independence of judges (§ 222) — see also *Catană v. the Republic of Moldova*, 2023, § 80, concerning professors of law; compare with *Suren Antonyan v. Armenia*, 23 January 2025, §§ 105-119, where the Court examined the composition of the Supreme Judicial Council as a whole, including the manner of election of its lay members).

222. The *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, judgment defined a three-step procedure guiding the Court and the national courts in the assessment as to whether irregularities in a particular judicial appointment procedure were "of such gravity as to entail a violation of the right to a tribunal established by law" and whether the balance between the competing principles had been struck fairly and proportionately by the relevant State authorities in the particular circumstances of the case (§§ 243-252) (and see section B. below). For example, in *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, this approach was applied to the question of the validity of the election of a judge to the Constitutional Court (§§ 255 et seq.).

223. Examples of bodies recognised as having the status of a "tribunal" within the meaning of Article 6 § 1 of the Convention include:

- a regional real-property transactions authority (*Sramek v. Austria*, 1984, § 36);
- a criminal damage compensation board (*Rolf Gustafson v. Sweden*, 1997, § 48);
- a forestry disputes resolution committee (*Argyrou and Others v. Greece*, 2009, § 27);
- the Court of Arbitration for Sport (*Mutu and Pechstein v. Switzerland*, 2018, § 149), and a football arbitration committee (*Ali Rıza and Others v. Turkey*, 2020, §§ 202-204), and in the commercial sphere, see *Beg S.p.a. v. Italy*, 2021;
- bodies set up to re-evaluate the ability of the country's judges and prosecutors to perform their functions (*Xhoxhaj v. Albania*, 2021, §§ 283 et seq. — see also *Loquifer v. Belgium*, 2021, § 55) and the Supreme Judicial Council's disciplinary section for judges in Romania (*Cotora v. Romania*, 2023, § 37);
- an appeals board for senior police officers (*Thierry v. France* (dec.), 2023, § 32).

2. Level of jurisdiction

224. Article 6 1 does not require the State to set up a second degree of jurisdiction in civil matters. Thus, in *Suren Antonyan v. Armenia*, 2025, the applicant, a judge, had his disciplinary case decided by the Supreme Judicial Council (SJC), acting as a court and no appeal was possible against the decision of the SJC. The Court concluded that the absence of an appellate review of the disciplinary decisions of the SJC had not violated the applicant access to a "court" under Article 6 § 1 of the Convention (§§ 124-128). In *Khandanyan v. Armenia* (dec.), 2025, § 47, the Court accepted that the Supreme Judicial Council qualified as an independent tribunal even despite the presence of a certain number of non-judicial members in its composition. However, where the State establishes a second degree of jurisdiction in respect of decisions of the Supreme Judicial Council, the Court also examines the scope and the nature of the review provided by the appellate court (see *Ilievska and Zdraveva v. North Macedonia*, 2025, §§ 95-96, and *Ribarev v. North Macedonia*, 2025, §§ 91-92).

225. While Article 6 § 1 does not compel the Contracting States to set up courts of appeal or of cassation, a State which does institute such courts is required to ensure that persons amenable to the

law enjoy before these courts the fundamental guarantees contained in Article 6 § 1 (*Zubac v. Croatia* [GC], 2018, § 80; *Platakou v. Greece*, 2001, § 38):

- Assessment *in concreto:* The manner in which Article 6 § 1 applies to courts of appeal or of cassation will, however, depend on the special features of the proceedings concerned. The conditions of admissibility of an appeal on points of law may be stricter than for an ordinary appeal (*Zubac v. Croatia* [GC], 2018, § 82; *Levages Prestations Services v. France*, 1996, § 45).
- Assessment *in globo*: Account must be taken of the entirety of the proceedings conducted in the domestic legal order (*Zubac v. Croatia* [GC], 2018, § 82; *Levages Prestations Services v. France*, 1996, § 45). Consequently, a higher or the highest court may, in some circumstances, make reparation for an initial violation of one of the Convention's provisions (*De Haan v. the Netherlands*, 1997, § 54; mutatis mutandis, *Zubac v. Croatia* [GC], 2018, § 123).

226. Demands of flexibility and efficiency, which are fully compatible with the protection of human rights, may justify the prior intervention of administrative or professional bodies and, a fortiori, of judicial bodies which do not satisfy the requirements of Article 6 in every respect (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 51). No violation of the Convention can be found if the proceedings before those bodies are "subject to subsequent control by a judicial body that has full jurisdiction" and does provide the guarantees of Article 6 (*Denisov v. Ukraine* [GC], 2018, § 65; *Zumtobel v. Austria*, 1993, §§ 29-32; *Bryan v. the United Kingdom*, 1995, § 40).

227. Likewise, the fact that the duty of adjudicating is conferred on professional disciplinary bodies does not in itself infringe the Convention. Nonetheless, in such circumstances the Convention calls for at least one of the following two systems: either the professional disciplinary bodies themselves comply with the requirements of that Article, or they do not so comply but are subject to subsequent review by "a judicial body that has full jurisdiction" and does provide the guarantees of Article 6 § 1 (*Albert and Le Compte v. Belgium*, 1983, § 29; *Gautrin and Others v. France*, 1998, § 57; *Fazia Ali v. the United Kingdom*, 2015, § 75).

228. Accordingly, the Court has consistently reiterated that under Article 6 § 1 it is necessary that the decisions of administrative authorities which do not themselves satisfy the requirements of that Article should be subject to subsequent control by "a judicial body that has full jurisdiction" (*Ortenberg v. Austria*, 1994, § 31).[15]

Where the law provides for the right to appeal against a decision rendered by a judicial body, the review provided by the appellate court should be meaningful. Thus, in *Ilievska and Zdraveva v. North Macedonia*, 2025, and *Ribarev v. North Macedonia*, 2025, the Court examined a "one-time appeal" system, which provides for the right of appeal against a decision of the Supreme Judicial Council (the SJC) before an Appeal Panel: once the Appeal Panel quashed a first-instance decision of the SJC and remitted the case for reconsideration, the ensuing SJC's decision is final and cannot be appealed again. The Court found that, where the SJC refused to comply with the instructions given by the Appeal Panel with the remittal decision, the lack of a subsequent review practically rendered even the first appeal before the Appeal Panel devoid of any meaning, thus disproportionately restricting the applicants' access to a court (§§ 99-106 and §§ 95-103, respectively).

3. Review by a court having full jurisdiction

229. Only an institution that has full jurisdiction merits the designation "tribunal" within the meaning of Article 6 § 1 (*Beaumartin v. France*, 1994, § 38). Article 6 § 1 requires the courts to carry out an effective judicial review (*Obermeier v. Austria*, 1990, § 70). The concept of "full jurisdiction" does not necessarily depend on the legal characterisation in domestic law (for the applicable criteria, see *Ovcharenko and Kolos v. Ukraine*, 2023, § 124). The case-law principles concerning the extent of

15. See also the section on "Fairness".

judicial review are set out in particular in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 176-186, 196, 203 and 214, which emphasised "the specific context of disciplinary proceedings conducted against a judge" (for an application of these principles to the area of dismissal, see *Pişkin v. Turkey*, 2020, §§ 131-136; see also *Cotora v. Romania*, 2023, §§ 47-56).

230. For the purposes of Article 6 § 1 of the Convention, the "tribunal" must have "jurisdiction to examine all questions of fact and law relevant to the dispute before it" (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 176-177). The body in question must exercise "sufficient jurisdiction" or provide "sufficient review" in the proceedings before it (*Sigma Radio Television Ltd v. Cyprus*, 2011, § 152, and case-law references cited). The principle that a court should exercise full jurisdiction requires it not to abandon any of the elements of its judicial function (*Chevrol v. France*, 2003, § 63). Where the domestic courts theoretically had full jurisdiction to determine a dispute, their declining jurisdiction to examine all questions of fact and law relevant to the dispute before them entails a breach of Article 6 § 1 (*Pişkin v. Turkey*, 2020, §§ 137-151). The case of *İ.Ç. v. Türkiye*, 2026, concerned the failure of the domestic courts to verify the central factual allegation of the employer in a dispute concerning the applicant's dismissal and which relied on the alleged use of the *Bylock* messaging application (the authorities linked this application to members of a terrorist organisation). The Court noted that the emergency decree laws did not exclude judicial review of such dismissal decisions in clear and unequivocal terms, so the courts had to verify whether the applicant indeed was a user of this application (§§ 51-63). *Kandemir v. Türkiye**, 2026, also concerned an applicant who was dismissed from his job in a sensitive research center following the failed coup: as a grounds of dismissal the employer referred to a loss of trust, while the domestic courts failed to verify whether the employer's "suspicions" vis-à-vis the employee were supported by any verifiable facts (§§ 85-93).

231. Where an administrative body determining disputes over "civil rights and obligations" does not satisfy all the requirements of Article 6 § 1, no violation of the Convention can be found if the proceedings before that body are "subject to subsequent control by a judicial body that has full jurisdiction and does provide the guarantees of Article 6 § 1", that is, if any structural or procedural shortcomings identified in the proceedings before the administrative authority are remedied in the course of the subsequent review by a judicial body with full jurisdiction (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 132; *Peleki v. Greece*, 2020, §§ 58-60; *Thierry v. France* (dec.), 2023, §§ 27 and 34-41). Thus, where Article 6 § 1 is applicable to disciplinary proceedings, the Convention requires implementation of at least one of the two following mechanisms: either the professional disciplinary bodies themselves comply with the requirements of that Article, or they do not so comply but are subject to subsequent review by a judicial body that has full jurisdiction and does provide the guarantees of that Article (*Catană v. the Republic of Moldova*, 2023, § 61 and the case-law references cited). See *Suren Antonyan v. Armenia*, 2025, where the Court concluded that where a disciplinary authority — the Supreme Judicial Council (the SJC) — has all attributes of a tribunal — Article 6 cannot be interpreted as also requiring an appeal to a court of law even though the impartiality of the SJC was at issue (see §§ 101-104, and 124-129).

232. Article 6 § 1 in principle requires that a court or tribunal should have jurisdiction to examine all questions of fact and law that are relevant to the dispute before it (*Terra Woningen B.V. v. the Netherlands*, 1996, § 52; *Sigma Radio Television Ltd v. Cyprus*, 2011, §§ 151-57; *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018 and the case-law references cited; *Thierry v. France* (dec.), 2023, §§ 37-38 concerning disciplinary proceedings). This means, in particular, that the court must have the power to examine point by point each of the litigant's grounds on the merits, without refusing to examine any of them, and must give clear reasons for their rejection. As to the facts, the court must be able to re-examine those that are central to the litigant's case (*Bryan v. the United Kingdom*, 1995, §§ 44-45). In some cases, the court in question does not have full jurisdiction within the meaning of the domestic law as such but examines point by point the applicants' grounds of appeal, without having to decline jurisdiction in replying to them or in scrutinising findings of fact or law made by the administrative authorities. In such cases, the assessment should concern the intensity

of the court's review of the discretion exercised by the administrative authorities (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 183 and case-law references cited).

233. Furthermore, a judicial body cannot be said to have full jurisdiction unless it has the power to assess whether a penalty was proportionate to the corresponding misconduct (*Diennet v. France,* 1995, § 34, *Mérigaud v. France*, 2009, § 69).

234. The principle of full jurisdiction has been qualified in a number of cases by the Court's case-law, which has often interpreted it in a flexible manner, particularly in administrative-law cases where the jurisdiction of the appellate court had been restricted on account of the technical nature of the dispute's subject matter (*Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, § 130; *Chaudet v. France*, 2009, § 37).

235. Indeed, in the legal systems of the various member States, there are some specialised areas of the law (for instance, in the sphere of town and country planning) where the courts have limited jurisdiction as to the facts, but may overturn the administrative authorities' decision if it was based on an inference from facts which was perverse or irrational. Article 6 of the Convention does not require access to a level of jurisdiction that can substitute its own opinion for that of the administrative authority (see, for example, in relation to countryside planning, *Zumtobel v. Austria,* 1993, §§ 31-32, and town planning, *Bryan v. the United Kingdom*, 1995, §§ 44-47; environmental protection, *Alatulkkila and Others v. Finland*, 2005, § 52; regulation of gaming, *Kingsley v. the United Kingdom* [GC], 2002, § 32; and for a summary of the case-law, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 178 and *Fazia Ali v. the United Kingdom*, 2015, §§ 75-78).

236. The above-mentioned situations concern judicial review of a decision taken in the ordinary exercise of administrative discretion in a specialised area of law (planning, social security, etc.), which the Court distinguished from disciplinary disputes in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 196 and 203. In that judgment it held that judicial review of an administrative decision had to be appropriate to the subject-matter of the dispute (§ 196). Thus, the case of *Salvador Coutinho dos Santos Amado v. Portugal**, 2026, concerned the review by the reviewing court of the conclusions of the judicial council evaluating the judge's performance at work. The reviewing court was unable to reexamine the professional performance of the judge. While this was within the council's discretion, the Court was satisfied that the reviewing court had the power to quash the impugned decision of the council if it found a "gross and manifest error", in particular where procedural or substantive law has been breached, and it could remit the case back to the council for re-examination. That, in the opinion of the Court, constituted a sufficient judicial review (§§ 72-73).

237. In the context of the ordinary exercise by the administrative authorities of their discretion in specialised areas of law requiring particular professional experience or specialist knowledge (contrast *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 195), the case-law has established certain criteria for assessing whether the review was conducted by a body with "full jurisdiction" for the purposes of the Convention (*Sigma Radio Television Ltd v. Cyprus*, 2011, §§ 151-57). Thus, in order to determine whether the judicial body in question provided a sufficient review, the following three criteria must be considered in combination (see also *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 179-181):

- The subject matter of the decision appealed against:
  - if the administrative decision concerned a simple question of fact the court's scrutiny will need to be more intense than if it concerned a specialised field requiring specific technical knowledge;
  - the systems existing in Europe usually limit the courts' power to review factual issues, while not preventing them from overturning the decision on various grounds. This is not called into question by the case-law.

- The manner in which that decision was arrived at: what procedural safeguards were in place before the administrative authority concerned?
  - If the complainant enjoyed procedural safeguards satisfying many of the requirements of Article 6 during the prior administrative procedure, this may justify a lighter form of subsequent judicial control (*Bryan v. the United Kingdom*, 1995, §§ 46-47; *Holding and Barnes PLC v. the United Kingdom* (dec.), 2002).
- The content of the dispute, including the desired and actual grounds of appeal (*Bryan v. the United Kingdom*, 1995, § 45):
  - the judgment must be able to examine all the complainant's submissions on their merits, point by point, without declining to examine any of them, and to give clear reasons for rejecting them. As to the facts, the court must be empowered to re-examine those which are central to the complainant's case. Hence, if the complainant makes only procedural submissions, he or she cannot subsequently criticise the court for not having ruled on the facts (*Potocka and Others v. Poland*, 2001, § 57).

238. For example, the refusal of a court to rule independently on certain issues of fact which are crucial to the settlement of the dispute before it may amount to a violation of Article 6 § 1 (*Terra Woningen B.V. v. the Netherlands*, 1996, §§ 53-55). The same applies if the court does not have jurisdiction to determine the central issue in the dispute (*Tsfayo v. the United Kingdom*, 2006, § 48). In such cases the matter which is decisive for the outcome of the case is not subjected to independent judicial scrutiny (for a summary of the relevant precedents, see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 181-183).

The fact that an administrative authority has a discretion in taking a particular decision does not mean that the reviewing court can limit itself to endorsing the decision without examining whether the exercise of that discretion had complied with the regulations and principles of administrative law: such a superficial review would not be regarded as either sufficient or meaningful for the purposes of Article 6 § 1 (see *Altıner Akıncı v. Türkiye*, 2026, § 98, a case examined under the general "fair trial" guarantee).

239. To sum up, in a dispute involving the administrative authorities, where the courts refuse to consider questions that are essential for the outcome of the dispute on the grounds that they have already been settled by the authorities with binding effect on the courts, there is a violation of Article 6 § 1 (*Tinnelly & Sons Ltd and Others and McElduff and Others v. the United Kingdom*, 1998, §§ 76-79, regarding access to employment; *Aleksandar Sabev v. Bulgaria*, 2018, §§ 55-58, regarding dismissals).

240. If a ground of appeal is upheld, the reviewing court must have the power to quash the impugned decision and to either take a fresh decision itself or remit the case for decision by the same or a different body (*Kingsley v. the United Kingdom* [GC], 2002, §§ 32 and 34, and *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 184). In all cases, the domestic courts must conduct an in-depth, thorough examination of the applicant's arguments and give reasons for dismissing the latter's complaints (*Pişkin v. Turkey*, 2020, §§ 146-151).

241. Where the facts have already been established by the administrative authority in the course of a quasi-judicial procedure satisfying many of the requirements laid down by Article 6 § 1, where there is no dispute as to the facts thus established or the inferences drawn from them by the administrative authority, and where the court has dealt point by point with the litigant's other grounds of appeal, the scope of the review conducted by the appellate court will be held to be sufficient to comply with Article 6 § 1 (*Bryan v. the United Kingdom*, 1995, §§ 44-47).

242. Again with reference to the extent of the judicial review, the Court has added that the domestic courts must "adequately state the reasons on which their decisions are based" (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 185). Without requiring a detailed answer to every argument

put forward by a complainant, this obligation nevertheless presupposes that a party to judicial proceedings can expect a specific and express reply to those submissions which are decisive for the outcome of the proceedings in question (*ibid.*).

243. The above criteria and principles as reiterated in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 173-186) were adapted by the Grand Chamber to what it deemed to be the specific context of disciplinary sanctions against judges, stressing that the judicial review carried out had to be appropriate to the subject matter of the dispute. It emphasised the importance of the role played by such sanctions and by the judiciary in a democratic State and took into account the punitive aspect in this regard. The review of a decision imposing a disciplinary penalty differs from that of an administrative decision that does not entail such a punitive element (§ 196). The relevant criteria for satisfying the requirements of Article 6 § 1 concern both the disciplinary proceedings at first instance and the judicial proceedings on appeal. First of all, this implies that the proceedings before the disciplinary body should not only entail procedural safeguards (§ 197) but also, when the applicant was liable to incur very severe penalties, measures to establish the facts adequately (for further details, see paragraph 198 of the judgment). Next, as regards the appeal proceedings before the judicial body, the Grand Chamber examined the following points (§§ 199 et seq. of the judgment):

- the issues submitted for judicial review (in this particular case, a finding of a breach of professional duties, which the applicant was challenging as regards both the facts and the penalties: see §§ 201-03). It should be noted that in the specific context of disciplinary proceedings, issues of fact are just as crucial as the legal issues for the outcome of the dispute. The establishment of the facts is especially important in the case of proceedings that entail the imposition of penalties, in particular disciplinary penalties against judges, as the latter must enjoy the respect that is necessary for the performance of their duties, so as to ensure public confidence in the functioning and independence of the judiciary (§ 203).
- the method of judicial review, the decision-making powers of the body conducting the review and the reasoning of the decisions adopted by that body (§§ 204-213). It should be noted that in the context of disciplinary proceedings, dispensing with a public hearing should be an exceptional measure and should be duly justified in the light of the Convention institutions' case-law (§ 210).

244. <u>Examples</u> of judicial bodies that have not been considered to have "full jurisdiction":

- an administrative court which was empowered only to determine whether the discretion enjoyed by the administrative authorities was used in a manner compatible with the object and purpose of the law (*Obermeier v. Austria*, 1990, § 70);
- a court which heard appeals on points of law from decisions of the disciplinary sections of professional associations, without having the power to assess whether the penalty was proportionate to the misconduct (*Diennet v. France*, 1995, § 34, in the context of a medical association; *Mérigaud v. France*, 2009, § 69, in the context of an association of surveyors);
- a Constitutional Court which could inquire into the contested proceedings solely from the point of view of their conformity with the Constitution, thus preventing it from examining all the relevant facts (*Zumtobel v. Austria*, 1993, §§ 29-30)[16];
- the Conseil d'État which, in accordance with its own case-law, was obliged, in resolving the issue before it concerning the applicability of treaties, to abide by the opinion of the minister — an external authority who was also a representative of the executive — without subjecting that opinion to any criticism or discussion by the parties. The minister's involvement, which was decisive for the outcome of the legal proceedings, was not open to challenge by the

16. See also *Malhous v. the Czech Republic* [GC], 2001, § 62, and the references below to a review by a court with "full jurisdiction".

applicant, who was, moreover, not afforded any opportunity to have the basis of her own reply to the minister examined (*Chevrol v. France*, 2003, §§ 81-82);

- a supreme court in the specific context of disciplinary proceedings against a judge (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 214);
- a supreme court that did not have jurisdiction to examine the facts of the case, the legal characterisation of the acts of which the applicant had been accused or the proportionality of the disciplinary sanctions imposed (*Catană v. the Republic of Moldova*, 2023, § 62).

245. By contrast, the requirements of Article 6 § 1 were satisfied in the following cases, for example:

- The case of *Cotora v. Romania*, 2023, concerned whether the extent of a high court's review of a decision of the disciplinary section for judges of the Supreme Judicial Council in Romania had been "sufficient".
- In *Thierry v. France* (dec.), 2023, the Court found that the review conducted was consistent with a review by a judicial body with "full jurisdiction" for the purposes of the Court's case-law (§ 38).
- The case of *Fazia Ali v. the United Kingdom*, 2015, concerned the limited judicial review of an administrative decision in the social welfare sphere, relating to the housing of homeless families. The scheme at issue in the case was designed to provide housing to homeless people; it covered a multitude of small cases and was intended to bring as great a benefit as possible to needy persons in an economical and fair manner. In the Court's view, when a thorough inquiry into the facts had already been conducted at administrative level, Article 6 § 1 could not be read as requiring that the review by the domestic courts should necessarily encompass a full reopening of the case with the rehearing of witnesses.
- *Chaudet v. France*, 2009: the Conseil d'État determined an application for judicial review as the court of first and last instance. In this case the Conseil d'État did not have "full jurisdiction", which would have had the effect of substituting its decision for that of the civil aviation medical board. However, it was clear from the case file that it had nonetheless addressed all of the submissions made by the applicant, on factual and legal grounds, and assessed all of the evidence in the medical file, having regard to the conclusions of all the medical reports discussed before it by the parties. The Court therefore held that the applicant's case had been examined in compliance with the requirements of Article 6 § 1 (§§ 37-38).
- *Zumtobel v. Austria*, 1993: the Court held that the Austrian Administrative Court had met the requirements of Article 6 § 1 in relation to matters not exclusively within the discretion of the administrative authorities, and that it had considered the submissions on their merits, point by point, without ever having to decline jurisdiction in replying to them or in ascertaining various facts (§§ 31-32 — see also *Ortenberg v. Austria*, 1994, §§ 33-34; *Fischer v. Austria*, 1995, § 34).
- *McMichael v. the United Kingdom*, 1995: in this case, an order of the Sheriff Court freeing a child for adoption was subject to appeal to the Court of Session. The latter had full jurisdiction in that regard; it normally proceeded on the basis of the Sheriff's findings of fact but was not obliged to do so. It could, where appropriate, take evidence itself or remit the case to the Sheriff with instructions as to how he should proceed (§ 66). Furthermore, the Sheriff Court, in determining appeals against the decisions of children's hearings, also had full jurisdiction, being empowered to examine both the merits and alleged procedural irregularities (§ 82).
- *Potocka and Others v. Poland*, 2001: the scope of the Supreme Administrative Court's jurisdiction as determined by the Code of Administrative Procedure was limited to the assessment of the lawfulness of contested administrative decisions. However, the court was also empowered to set aside a decision wholly or in part if it was established that procedural

requirements of fairness had not been met in the proceedings which had led to its adoption. The reasoning of the Supreme Administrative Court showed that in fact it had examined the expediency aspect of the case. Even though the court could have limited its analysis to finding that the contested decisions had to be upheld in the light of the procedural and substantive flaws in the applicants' application, it had considered all their submissions on their merits, point by point, without ever having to decline jurisdiction in replying to them or in ascertaining the relevant facts. It had delivered a judgment which was carefully reasoned, and the applicants' arguments relevant to the outcome of the case had been dealt with thoroughly. Accordingly, the scope of review of the Supreme Administrative Court had been sufficient to comply with Article 6 § 1 (§§ 56-59).

- *Janković v. Slovenia* (dec.), 2025, which concerned the scope of review by the administrative courts of a decision of a specialised anti-corruption commission in a supervision-of-assets procedure involving the applicant, who was a State official. The Court noted, in particular, the specific context of the anti-corruption proceedings, which concerned a politician, the extent of the specialised commission's findings (which did not entail criminal or civil liability of the applicant), the procedural "due process" guarantees provided to the applicant in the proceedings before the commission, and the reasoned judgments delivered by the reviewing courts at two levels (§ 62).

4. Execution and finality of judgments

a. Right to prompt implementation of a final and binding judicial decision

246. Article 6 § 1 protects the implementation of final, binding judicial decisions (as distinct from the implementation of decisions which may be subject to review by a higher court) (*Ouzounis and Others v. Greece*, 2002, § 21). Non-implementation of a non-final judicial decision — even if it is immediately enforceable under domestic law — is not incompatible with Article 6 (*Kural v. Türkiye*, 2024, § 28). Where the judgment to be enforced concerns an award of a pecuniary nature, such cases can also be analysed under Article 1 of Protocol No. 1 and, occasionally, solely under this latter Article (see, for example, *Diaco and Lenchi v. Italy*, 2025, §§ 89-90).

247. The right to execution of such decisions, given by any court, is an integral part of the "right to a court" (*Scordino v. Italy (no. 1)* [GC], 2006, § 196; *Hornsby v. Greece*, 1997, § 40). Otherwise, the provisions of Article 6 § 1 would be deprived of all useful effect (*Burdov v. Russia*, 2002, §§ 34 and 37). An unreasonably long delay in enforcement of a binding judgment may therefore breach the Convention (*Burdov v. Russia (no. 2)*, 2009, § 66).

248. The "right to a court" also protects the implementation of interim measures taken pending the adoption of a final decision (*Sharxhi and Others v. Albania*, 2018, § 92). Thus, the demolition of a residential building despite interim orders issued by the national courts constitutes a violation of Article 6 § 1 (§§ 94-97).

249. The right to the execution of judicial decisions is of even greater importance in the context of administrative proceedings (*Sharxhi and Others v. Albania*, 2018, § 92). By lodging an application for judicial review with the State's highest administrative court, the litigant seeks not only annulment of the impugned decision but also and above all the removal of its effects (see, in relation to environmental issues, *Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, § 144). In the case of *M.K. and Others v. France*, 2022, the Court attached importance to the nature of the dispute, which concerned orders for interim measures requiring the State to provide emergency accommodation to families of asylum-seekers and the fact that they had only been executed once interim measures had been indicated under Rule 39 of the Rules of Court, as a result of the administrative authorities' outright refusal to comply with the domestic court's orders (§ 163; see also *Camara v. Belgium*, 2023, § 110).

250. The effective protection of the litigant and the restoration of legality therefore presuppose an obligation on the administrative authorities' part to comply with the judgment (*Hornsby v. Greece*, 1997, § 41; *Kyrtatos v. Greece*, 2003, §§ 31-32; and with regard to judgments of a constitutional court, see, mutatis mutandis, *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 282-283).

251. Thus, while some delay in the execution of a judgment may be justified in particular circumstances, the delay may not be such as to impair the litigant's right to enforcement of the judgment (*Burdov v. Russia*, 2002, §§ 35-37).

252. Understood in this way, execution must be full and exhaustive and not just partial (*Sabin Popescu v. Romania*, 2004, §§ 68-76; *Matheus v. France*, 2005, § 58), and may not be prevented, invalidated or unduly delayed (*Immobiliare Saffi v. Italy* [GC], 1999, § 74).

253. The refusal of an authority to take account of a ruling given by a higher court — leading potentially to a series of judgments in the context of the same set of proceedings, repeatedly setting aside the decisions given — is also contrary to Article 6 § 1 (*Turczanik v. Poland*, 2005, §§ 49-51; *Miracle Europe Kft v. Hungary*, 2016, § 65).

254. An unreasonably long delay in enforcement of a binding judgment may breach the Convention. The reasonableness of such delay is to be determined having regard in particular to the complexity of the enforcement proceedings, the applicant's own behaviour and that of the competent authorities, and the amount and nature of the court award (*Raylyan v. Russia*, 2007, § 31 and *Burdov v. Russia (no. 2)*, 2009, § 66).

255. For example, the Court held that by refraining for more than five years from taking the necessary measures to comply with a final, enforceable judicial decision the national authorities had deprived the provisions of Article 6 § 1 of all useful effect (*Hornsby v. Greece*, 1997, § 45).

256. In another case, the overall period of nine months taken by the authorities to enforce a judgment was found not to be unreasonable in view of the circumstances (*Moroko v. Russia*, 2008, §§ 43-45).

257. The Court has found the right to a court under Article 6 § 1 to have been breached on account of the authorities' refusal, over a period of approximately four years, to use police assistance to enforce an order for possession against a tenant (*Lunari v. Italy*, 2001, §§ 38-42), and on account of a stay of execution — for over six years — resulting from the intervention of the legislature calling into question a court order for a tenant's eviction, which was accordingly deprived of all useful effect by the impugned legislative provisions (*Immobiliare Saffi v. Italy* [GC], 1999, §§ 70 and 74).

258. With regard to the payment of a monetary judicial award by a public authority, a delay of less than one year is in principle compatible with the Convention, while any longer delay is prima facie unreasonable. However, this presumption may be rebutted, depending on the circumstances, on the basis of certain criteria (*Gerasimov and Others v. Russia*, 2014, §§ 167-174, and for a complex liquidation procedure lasting one year and ten months concerning salary arrears, *Kuzhelev and Others v. Russia*, 2019, §§ 110 and 137, or a duration of approximately thirteen months, *Titan Total Group S.R.L. v. the Republic of Moldova*, 2021, §§ 81-84; see also *Cocchiarella v. Italy* [GC], 2006, § 89: in respect of a compensatory remedy established under domestic law to redress the consequences of excessively lengthy proceedings, the time taken to make payment should not generally exceed six months from the date on which the decision awarding compensation becomes enforceable).

259. While the Court has due regard to the domestic statutory time-limits set for enforcement proceedings, their non-observance does not automatically amount to a breach of the Convention. Some delay may be justified in particular circumstances, but it may not, in any event, be such as to impair the essence of the right protected under Article 6 § 1 (*Burdov v. Russia (no. 2)*, 2009, § 67). The Court held in *Burdov v. Russia (no. 2)*, 2009, that the failure to enforce a judgment for a period of six months was not in itself unreasonable (§ 85), and in *Moroko v. Russia*, 2008, that an overall delay of nine months by the authorities in enforcing a judgment was not prima facie unreasonable under the

Convention (§ 43). It should be noted, however, that these considerations do not obviate the need for an assessment of the proceedings as a whole in the light of the above-mentioned criteria and any other relevant circumstances (*Burdov v. Russia (no. 2)*, 2009, § 67).

260. In particular, in *Gerasimov and Others v. Russia*, 2014, §§ 168-74, the Court stated that if the judgment to be enforced required the public authorities to take specific action of significant importance for the applicant (for example, because the applicant's daily living conditions would be affected), a delay in enforcement of more than six months would run counter to the Convention requirement of special diligence (§ 170). With regard to the allocation of housing, the Court has required a delay of less than two years, unless there is a need for special diligence (§ 171).

261. A person who has obtained judgment against the State at the end of legal proceedings may not be expected to bring separate enforcement proceedings (*Burdov v. Russia (no. 2)*, 2009, § 68; *Sharxhi and Others v. Albania*, 2018, § 93). The burden to ensure compliance with a judgment against the State lies with the State authorities (*Yavorivskaya v. Russia*, 2005, § 25), starting from the date on which the judgment becomes binding and enforceable (*Burdov v. Russia (no. 2)*, 2009, § 69). It follows that the late payment, following enforcement proceedings, of amounts owing to the applicant cannot cure the national authorities' long-standing failure to comply with a judgment and does not afford adequate redress (*Scordino v. Italy (no. 1)* [GC], 2006, § 198).

262. A successful litigant may be required to undertake certain procedural steps in order to allow or speed up the execution of a judgment. The requirement of the creditor's cooperation must not, however, go beyond what is strictly necessary and does not relieve the authorities of their obligations (*Burdov v. Russia (no. 2)*, 2009, § 69).

263. The Court has also held that the authorities' stance of holding the applicant responsible for the initiation of execution proceedings in respect of an enforceable decision in his favour, coupled with the disregard for his financial situation, constituted an excessive burden and restricted his right of access to a court to the extent of impairing the very essence of that right (*Apostol v. Georgia*, 2006, § 65).

264. A litigant may not be deprived of the benefit, within a reasonable time, of a final decision awarding him compensation for damage (*Burdov v. Russia*, 2002, § 35), or housing (*Teteriny v. Russia*, 2005, §§ 41-42), regardless of the complexity of the domestic enforcement procedure or of the State budgetary system. It is not open to a State authority to cite lack of funds or other resources as an excuse for not honouring a judgment debt (*Scordino v. Italy (no. 1)* [GC], 2006, § 199; *Burdov v. Russia*, 2002, § 35; *Amat-G Ltd and Mebaghishvili v. Georgia*, 2005, § 47). Nor may it cite a lack of alternative accommodation as an excuse for not honouring a judgment (*Prodan v. Moldova*, 2004, § 53; *Tchokontio Happi v. France*, 2015, § 50; *Burdov v. Russia (no. 2),* 2009, § 70)).

265. The time taken by the authorities to comply with a judgment ordering payment of a monetary award should be calculated from the date on which the judgment became final and enforceable until the date of payment of the amounted awarded. A delay of two years and one month in the payment of a judicial award is on its face incompatible with the Convention requirements, unless there are any circumstances to justify it (*Burdov v. Russia (no. 2)*, 2009, §§ 73-76 and 83).

266. Furthermore, the argument that local authorities enjoy autonomy under domestic law is inoperative in view of the principle of the State's international responsibility under the Convention (*Société de gestion du port de Campoloro and Société fermière de Campoloro v. France*, 2006, § 62).

267. Admittedly, in exceptional situations the restitutio in integrum enforcement of a court judgment declaring administrative acts unlawful and void may, as such, prove objectively impossible because of insurmountable factual or legal obstacles. However, in such situations, in accordance with the requirements of the right of access to court, a member State must, in good faith and of its own motion, examine other solutions that could remedy the detrimental effects of its unlawful acts, such as an

award of compensation (*Cıngıllı Holding A.Ş. and Cıngıllıoğlu v. Turkey*, 2015, § 41, and for an application in the context of a dispute between individuals, *Nikoloudakis v. Greece*, 2020, § 50).

268. A distinction has to be made between debts owed by the State authorities (*Burdov v. Russia (no. 2)*, 2009, §§ 68-69, 72 et seq.) and those owed by an individual, since the extent of the State's obligation under the Convention varies according to the status of the debtor.

269. An individual who has obtained a judgment against a public authority is not normally required to bring separate enforcement proceedings. The Court has held that it is inappropriate to require an individual who has obtained a judgment against the State in legal proceedings to then bring enforcement proceedings to obtain satisfaction (*Metaxas v. Greece*, 2004, § 19; *Kukalo v. Russia*, 2005, § 49). It is sufficient for the individual to notify the State authority concerned in the appropriate manner (*Akashev v. Russia*, 2008, § 21) or to perform certain procedural steps of a formal nature (*Kosmidis and Kosmidou v. Greece*, 2007, § 24).

270. Where the debtor is a private individual, the responsibility of the State cannot be engaged on account of non-payment of an enforceable debt as a result of the insolvency of a "private" debtor (*Sanglier v. France*, 2003, § 39; *Ciprová v. the Czech Republic* (dec.), 2005; *Cubanit v. Romania* (dec.), 2007). Nevertheless, the State has a positive obligation to organise a system for enforcement of final decisions in disputes between private persons that is effective both in law and in practice (*Fuklev v. Ukraine*, 2005, § 84; *Fomenko and Others v. Russia* (dec.), 2019, §§ 171-181). The State's responsibility may therefore be engaged if the public authorities involved in enforcement proceedings fail to display the necessary diligence, or even prevent enforcement (*Fuklev v. Ukraine*, 2005, § 67). The measures taken by the national authorities to secure enforcement must be adequate and sufficient for that purpose (*Ruianu v. Romania*, 2003, § 66), in view of their obligations in the matter of execution, since it is they who exercise public authority (*ibid.*, §§ 72-73; *Sekul v. Croatia* (dec.), 2015, §§ 54-55 and *Işgın v. Türkiye*, 2022, § 47). The inability to enforce a judgment can be the result of a bailiff's inactivity or lack of will, but can also result from a lack of preparation, support and — more importantly still — coordination on the part of the other competent authorities, such as the police, judicial officers and public bodies (*Işgın v. Türkiye*, 2022, § 44 and the case-law references cited).

271. Thus, for example, the Court held that, by refraining from taking sanctions in respect of the failure of a (private) third party to cooperate with the authorities empowered to enforce final enforceable decisions, the national authorities deprived the provisions of Article 6 § 1 of all useful effect (*Pini and Others v. Romania*, 2004, §§ 186-88, where the private institution where two children were living had prevented the execution for over three years of the orders for the children's adoption). The authorities must be consistent and exercise special diligence when assisting a person in enforcing a judgment, especially when there are indications that the directors of a debtor company may be attempting to orchestrate their own insolvency and are emboldened in their actions by a form of impunity under the criminal law (*Işgın v. Türkiye*, 2022, § 45).

272. Nevertheless, where the State has taken all the steps envisaged by the law to ensure that a private individual complies with a decision, the State cannot be held responsible for the debtor's refusal to comply with his obligations (*Fociac v. Romania*, 2005, §§ 74 and 78) and the State's obligations under the Convention have been satisfied (*Fomenko and Others v. Russia* (dec.), 2019, § 195).

273. The right to a court likewise protects the right of access to enforcement proceedings, that is, the right to have enforcement proceedings initiated (*Apostol v. Georgia*, 2006, § 56).

274. The scope and the nature of the obligation of the State to enforce a final judgment varies depending on the nature of the relief obtained by the applicant. Thus, in *Martynyuk v. Ukraine* (dec.), 2025, a court ordered the High Council of the Judiciary to re-examine the candidacy of the applicant to a position of a local court judge. However, in the meantime the legislation had been amended introducing changes in the procedure for the appointment of judges, aimed at strengthening judicial

independence. As a result, the applicant had to undergo additional pre-selection procedures in order to be appointed. The Court rejected her complaint as manifestly ill-founded concluding that the domestic authorities had taken steps to comply with the judgment in the applicant's case and that "the court decision favourable to the applicant was not enforceable in the particular way asserted by her" (§ 36).

b. Right not to have a final judicial decision called into question

275. Furthermore, the right to a fair hearing must be interpreted in the light of the rule of law. One of the fundamental aspects of the rule of law is the principle of legal certainty (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238; *Okyay and Others v. Turkey*, 2005, § 73), which requires, *inter alia*, that where the courts have finally determined an issue their ruling should not be called into question (*Brumărescu v. Romania* [GC], 1999, § 61; *Agrokompleks v. Ukraine*, 2011, § 144, 148). This also concerns decisions ordering interim measures that remain in effect until the conclusion of the proceedings (*Sharxhi and Others v. Albania*, 2018, §§ 92-96).

276. Judicial systems characterised by final judgments that are liable to review indefinitely and at risk of being set aside repeatedly are in breach of Article 6 § 1 (*Sovtransavto Holding v. Ukraine*, 2002, §§ 74, 77 and 82, concerning the protest procedure whereby the President of the Supreme Arbitration Tribunal, the Attorney-General and their deputies had discretionary power to challenge final judgments under the supervisory review procedure by lodging an objection).

277. The calling into question of decisions in this manner is not acceptable, whether it be by judges and members of the executive (*Tregubenko v. Ukraine*, 2004, § 36) or by non-judicial authorities (*Agrokompleks v. Ukraine*, 2011, §§ 150-51).

278. A final decision may be called into question only when this is made necessary by circumstances of a substantial and compelling character such as a judicial error (*Ryabykh v. Russia*, 2003, § 52; see also *Vardanyan and Nanushyan v. Armenia*, 2016, § 70, and compare with *Trapeznikov and Others v. Russia*, 2016, in which the supervisory review procedure, implemented at the parties' request, did not breach the principle of legal certainty, §§ 39-40; and, for the principles, *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238). In *Tığrak v. Turkey*, 2021, §§ 58-63, the Court emphasised that a request submitted after a judgment had become final and enforceable could not constitute a ground for disregarding the *res judicata* principle (and for a summary of the principles, see §§ 48-49).

279. In summary, legal certainty presupposes respect for the principle of *res judicata*, that is, the principle of the finality of judgments (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238 and below; *Treguet v. Russia*, 2022, § 28; *Balan v. the Republic of Moldova (no. 2)*, 2022, § 27). By virtue of this principle, no party is entitled to seek a review of a final and binding judgment merely for the purpose of obtaining a rehearing and a fresh determination of the case. The higher courts should not use their power of review to carry out a fresh examination. The review should not become an appeal in disguise (*Balan v. the Republic of Moldova (no. 2)*, 2022, § 30), and the mere possibility of there being two views on the subject is not a sufficient ground for re-examining a case. A departure from that principle is justified only when made necessary by circumstances of a substantial and compelling character, such as correction of a fundamental defect or a miscarriage of justice: *Ryabykh v. Russia*, 2003, § 52; *Şamat v. Turkey*, 2020, § 62, and *OOO Link Oil SPB v. Russia* (dec.), 2009). This is a fundamental aspect of Article 6 § 1 and compliance with it is to be assessed in the light of the case-law (see, in particular, *Gražulevičiūtė v. Lithuania*, 2021, §§ 72-74, and *Esertas v. Lithuania*, 2012, § 28).

280. The Court's case-law concerning the *res judicata* principle covers, in particular, two situations that are similar but not identical: the review of a final and binding judgment by means of an extraordinary remedy (*Treguet v. Russia*, 2022, §§ 30-35) or in the light of newly discovered facts (see, for example, *Pravednaya v. Russia*, 2004, §§ 30-33, *Tregubenko v. Ukraine*, 2004, §§ 34-38) and the extension of the time-limit for using an ordinary remedy (*Magomedov and Others v. Russia*, 2017, §§ 87-89). The first situation concerns the quashing by the supervisory authority of a final and binding

judgment by means of a procedure applicable in the event of new or newly discovered circumstances, amounting in reality to an appeal in disguise — that is, an opportunity for a public authority to secure a review of its case by relying on an existing and known fact that it had omitted to raise previously. In the second situation, the court allows a request by the losing party to appeal out of time. In this way, a judgment constituting res judicata is not immediately quashed but nevertheless ceases to be final and binding. Both of these situations can thus be regarded as breaching the principle of the finality of judgments.

281. Whether or not an extraordinary reopening of the case violates the principle of *res judicata* depends not only on the nature of the purported error which the reopening seeks to correct but also on who seeks the reopening, at what moment in time, for what reason, who decides on it, and with what effect. In the case of *Wałęsa v. Poland*, 2023, the Court developed a test to analyse the reopening proceedings. The Prosecutor General obtained the reopening of a case decided in the final instance seven years earlier, which concerned certain allegations against the former President of Poland, Lech Wałęsa. The Court, first of all, noted that the power of reopening of this high-profile case was entrusted by law to the Prosecutor General who was at the same time the Minister of Justice, and who, in this role, wielded considerable authority over the courts and the bodies of judicial governance. This created "more than a hypothetical risk" that this legal remedy might in practice become a tool of political supervision over court judgments by the executive (§ 231), the Court noting that the Prosecutor General had a personal political interest in the outcome of the case (§§ 253-254). The second element assessed by the Court in this regard was the grounds for lodging the extraordinary appeal. The Court observed that the reopening of a case for the sake of restoring "social justice", which was a generic and vague term, opened the door to possible arbitrariness, misuse of that legal remedy and abuse of process. Similarly, reference to "an obvious contradiction between significant findings of the court and the content of evidence collected in the case" transformed the extraordinary review chamber into a court of a third or even fourth degree of jurisdiction, thus revealing the nature of the extraordinary appeal as an "ordinary appeal in disguise" (§§ 232-235). The third element analysed by the Court was the timing of the extraordinary appeal: under the transitional provisions of the law, it could have been introduced in civil cases without virtually any time-limit, even in respect of the proceedings closed over twenty years before the legislation took effect, which the Court found to be incompatible with the requirements of the rule of law (§§ 236-237). The fourth element criticized by the Court was the broad power of review which the extraordinary appeal chamber had, and which permitted it to review not only the questions of law but also the facts of the case, which practically allowed it to extinguish the entirety of finally terminated proceedings (§ 238). Finally, the Court noted that the extraordinary review had been entrusted to a body which cannot be considered a "tribunal" in Convention terms, due to the gross irregularities in the process of its formation (§ 239). Having applied those criteria to the facts of the case (§§ 240-256), the Court concluded that the departure from the principles of res judicata had not been justified by "circumstances of a substantial and compelling character".

282. It may also happen that a final judgment is not quashed but is deprived of legal effect on account of a decision given in separate proceedings (*Gražulevičiūtė v. Lithuania*, 2021, §§ 79-81). The manner in which the different cases are pleaded can legitimately lead to different judgments. In *Aydin and Others v. Türkiye* (dec.), 2023, §§ 56 et seq., two different courts rendered arguably conflicting decisions in two separate proceedings on the same subject. The first, in favour of the applicant, was based on a presumption of fact which the defendants failed to refute. The second, against the applicant, was rendered in a different set of proceedings involving other defendants who had produced arguments and evidence to refute such a presumption. The Court concluded that, in such circumstances, there had been no failure to respect the principle of legal certainty enshrined in Article 6 § 1 of the Convention.

283. In that context, the Court has emphasised that the risk of a mistake by a public authority in judicial or other proceedings must be borne by the State, especially where no other private interest is

at stake, and that any errors must not be remedied at the expense of the individual concerned. Although the need to correct judicial mistakes might in principle constitute a legitimate consideration, it should not be satisfied in an arbitrary manner, and in any event, the authorities must, as far as possible, strike a fair balance between the interests of the individual and the need to ensure the proper administration of justice (*Magomedov and Others v. Russia*, 2017, §§ 94-95, concerning the admission of appeals out of time in the authorities' favour following the extension, without any valid grounds, of the time-limit for appealing).

However, the principle of *res judicata* is not absolute so that a revision of a final judgment may be exceptionally justified. In *Finanziaria D'Investimento Fininvest S.P.A. and Berlusconi v. Italy*, 2026, the Court formulated a test for the alleged breaches of legal certainty which involved a revision of a final judgement: the Court must first establish that there was a final decision which became *res judicata*; it must then examine whether it has been called into question in a subsequent procedure, and if there has been a compelling reason justifying same; whether it was done in accordance with internal procedural rules; and, more generally, whether a fair balance has been achieved between the interests of the individual and the necessity to ensure the good administration of justice (§ 154).

In that case, the Court observed that the revision of a final judgment may be possible where it is later discovered that the judgment had been adopted by a corrupt judge, even where it has been only one judge on a bench (§ 164). The case involved, not only certain general corrupt behaviour, but also a bribe related to the outcome of the specific dispute at stake, and the revision was initiated by the alleged victim of the corrupt behaviour (§ 186). The applicants alleged that the revision of the judgment in their favour did not follow the prescribed procedural path. However, this question had been carefully examined by the domestic courts which explained why it was impossible to use a specific remedy indicated by the applicants, and why the legal avenue chosen by the national courts was compatible with the domestic law. The Court accepted these explanations (§§ 169-184). Finally, under the heading of "fair balance" (§§ 185-195), the Court noted *inter alia* that the applicants enjoyed an adversarial procedure at several levels of jurisdiction and had ample opportunities to present their arguments and that, despite the overall duration of the proceedings, the national courts relied on the substantive jurisprudence which already existed at the moment when the original decision has been made. The Court concluded that the revision of the results of the original litigation in the subsequent proceedings did not perturb the fair balance between the applicants' interest in upholding a final decision, the third party's interest in obtaining a decision by an impartial tribunal, and the imperative to ensure the proper administration of justice (§ 196).

c. Mutual recognition and execution of judgments delivered by foreign courts or elsewhere in the European Union

284. The Court has observed that the recognition and execution by a State of a judgment delivered by another State is a means of ensuring legal certainty in international relations between private parties (*Ateş Mimarlik Mühendislik A.Ş. v. Turkey*, 2012, § 46). Anyone with a legal interest in the recognition of a foreign judgment must be able to make an application to that end (*Selin Aslı Öztürk v. Turkey*, 2009, §§ 39-41, concerning the recognition of a divorce decree issued abroad).

285. A decision to enforce a foreign judgment (exequatur) is not compatible with the requirements of Article 6 § 1 if it was taken without any opportunity being afforded of effectively asserting a complaint as to the unfairness of the proceedings leading to that judgment, either in the State of origin or in the State addressed. The Court has always applied the general principle that a court examining a request for recognition and enforcement of a foreign judgment cannot grant the request without first conducting some measure of review of that judgment in the light of the guarantees of a fair hearing; the intensity of that review may vary depending on the nature of the case (*Avotiņš v. Latvia* [GC], 2016, § 98 — see also *Pellegrini v. Italy*, 2001, § 40; *Saccoccia v. Austria* (dec.), 2007).

286. The case of *Avotiņš v. Latvia* [GC], 2016, concerned the execution of a decision delivered in another European Union (EU) member State. The Court's case-law concerning the presumption of equivalent protection of fundamental rights within the European Union (known as the "Bosphorus presumption") was applied for the first time to the mutual recognition mechanisms founded on the principle of mutual trust between the EU member States. The case related to the execution in Latvia of a judgment delivered in a different country (Cyprus) in the debtor's absence. The Court laid down general principles on this matter and indicated the circumstances in which the presumption could be rebutted (see in particular §§ 115-17). Applying those principles, the Court did not find that the protection of fundamental rights was so manifestly deficient as to rebut the presumption of equivalent protection.

d. Legislative intervention into disputes *sub judice*

287. Entry into force of a law when a case to which the State is a party is still pending (*Vegotex International S.A. v. Belgium* [GC], 2022, §§ 92-93 and 102 and the case-law references cited): although in principle the legislature is not prevented from regulating, through new retrospective provisions, rights derived from the laws in force, the principle of the rule of law and the notion of a fair hearing enshrined in Article 6 preclude any interference by the legislature with the administration of justice designed to influence the judicial determination of a dispute, save on compelling grounds of the general interest (*Stran Greek Refineries and Stratis Andreadis v. Greece*, 1994, § 49; *Zielinski and Pradal and Gonzalez and Others v. France* [GC], 1999, § 57; *Scordino v. Italy (no. 1)* [GC], 2006, § 126). There are dangers inherent in the use of retrospective legislation which has the effect of influencing the judicial determination of a dispute to which the State is a party, including where the effect is to make pending litigation unwinnable for the claimant. Respect for the rule of law and the notion of a fair trial require that any reasons adduced to justify such measures be treated with the greatest possible degree of circumspection (*National & Provincial Building Society, Leeds Permanent Building Society et Yorkshire Building Society c. Royaume-Uni*, 1997, § 112).

The Court found violations, for example, in respect of:

- intervention by the legislature — at a time when proceedings to which the State was party had been pending for nine years and the applicants had a final, enforceable judgment against the State — to influence the imminent outcome of the case in the State's favour (*Stran Greek Refineries and Stratis Andreadis v. Greece*, 1994, §§ 49-50);
- a law which decisively influenced the imminent outcome of a case in favour of the State (*Zielinski, Pradal, Gonzalez and Others v. France* [GC], 1999, § 59);
- the enactment, at a crucial point in proceedings before the Court of Cassation, of a law which for practical purposes resolved substantive issues and made carrying on with the litigation pointless (*Papageorgiou v. Greece*, 1997);
- a decision of an appellate court based, even subsidiarily, on a law enacted in the course of proceedings and which affected the outcome of the proceedings (*Anagnostopoulos and Others v. Greece*, 2000, §§ 20-21);
- recourse by the State to retrospective legislation influencing the judicial determination of a pending dispute to which the State was a party, without demonstrating that there were "compelling general-interest reasons" for such action. The Court pointed out, in particular, that financial considerations could not by themselves warrant the legislature taking the place of the courts in order to settle disputes (*Azienda Agricola Silverfunghi S.a.s. and Others v. Italy*, 2014, §§ 76 and 88-89).

However, Article 6 § 1 cannot be interpreted as preventing any interference by the authorities with pending legal proceedings to which they are party. In other cases the Court has held that the considerations relied on by the respondent State were based on the compelling public-interest motives required to justify the retroactive effect of the law (*National & Provincial Building Society,*

Leeds Permanent Building Society and Yorkshire Building Society v. the United Kingdom, 1997, § 112; *Forrer-Niedenthal v. Germany*, 2003, § 64; *OGIS-Institut Stanislas, OGEC Saint-Pie X and Blanche de Castille and Others v. France*, 2004, §§ 71-72; *EEG-Slachthuis Verbist Izegem v. Belgium* (dec.), 2005; *Hôpital local Saint-Pierre d'Oléron and Others v. France*, 2018, §§ 72-73). The Court held in *Couso Permuy v. Spain*, 2024, that the legislature is not prohibited from regulating the conduct of civil matters by means of implementing new provisions with retroactive effect: what is prohibited, as a general rule, is an interference by the legislature with the administration of justice for the purpose of influencing the judicial outcome of litigation, unless there are "overriding grounds of public interest" for doing so (§ 133). In *OGIS-Institut Stanislas, OGEC Saint-Pie X and Blanche de Castille and Others v. France*, 2004 the legislature had intervened to correct a technical flaw and to fill a legal vacuum and the applicants had sought to obtain a windfall by taking advantage of a loophole in the regulations: the Court found no breach of Article 6 of the Convention. In *Zafferani and Others v. San Marino*, 2025, the Court concluded that Article 6 was breached in the absence of such a legislative vacuum and in the absence of "sufficiently compelling reasons for making [the legislation] immediately and retrospectively applicable to pending proceedings" with retrospective effect to the detriment of the applicants and to the benefit of the State (§ 54).

288. This case-law also applies to cases where the State, although not a party, vitiates the proceedings through its legislative powers (*Ducret v. France*, 2007, §§ 33-42).

289. Other types of legislative intervention:

- Laws may be enacted before the start of proceedings (*Organisation nationale des syndicats d'infirmiers libéraux (ONSIL) v. France* (dec.), 2000) — compare with *Azzopardi and Others v. Malta* (dec.), 2019, § 44) — or once they have ended (*Preda and Dardari v. Italy* (dec.), 1999), without raising an issue under Article 6.
- The enactment of general legislation may prove unfavourable to litigants without actually targeting pending judicial proceedings and thereby circumventing the principle of the rule of law (*Gorraiz Lizarraga and Others v. Spain*, 2004, § 72).
- A law with retrospective effect may be passed following a pilot judgment of the Court in order to remedy a systemic problem and thus respond to an obvious and compelling public-interest justification (*Beshiri and Others v. Albania* (dec.), 2020, concerning the prolonged non-enforcement of numerous final administrative decisions).
- A law may be declared unconstitutional while proceedings are pending without there being any intention of influencing those proceedings (*Dolca and Others v. Romania* (dec.), 2012).

290. It should be noted that as regards the above-mentioned public-interest considerations to be taken into account in examining the justification of legislative intervention, the Court has specified that environmental protection is a matter of general interest (*Dimopulos v. Turkey*, 2019, §§ 39-40).

291. In *Simoncini v. San Marino** 2026, §§ 116-127, which concerned an alleged irregularity of the appointment of the applicant as a judge, the Court noted that, that while legislative intervention in *pending* proceedings where the State is a party or where the State intervenes in favour of one of the parties is potentially problematic under Article 6, this situation should be distinguished from a legislative intervention *prior* to the start of proceedings, which normally does not raise issues under Article 6 of the Convention. That case, however, concerned a quite "unusual configuration", because the applicant was not a party to the first set of proceedings (which were affected by the legislative intervention), but participated in the second. However, since the first set of proceedings was a "precursor" to the second, the Court examined the situation though the prism of the "legislative intervention" (§ 118). The Court noted that the legislative intervention in this case had a retroactive effect thus predetermining the outcome of the first case, and predetermining the applicant's lack of success in the second. The legislative intervention favoured the State's position in the dispute. The Government argued that it was necessary to clarify the law on judicial appointments, but the Court observed that this rationale could not justify legislation with a retroactive effect, especially given that

"the fears justifying the choice of that interpretation […] were fears related to future situations", and not necessarily the applicant's case. The alleged irregularity which occurred in the applicant's appointment and which the retroactive law sought to correct was "technical in nature" and targeted specifically the applicant's case, without affecting other appointments made under the "old" law, or the validity of decisions taken by the applicant as a judge, and without duly considering the principle of irremovability of judges, as a corollary of judges' independence. The Court concluded that there had been no "compelling general interest reasons capable of outweighing the dangers inherent in the use of retrospective legislation" (§ 126, it being noted that the conclusions were made under the general heading of "fairness" rather than any institutional guarantees of Article 6 — see § 128).

5. Principles

292. In the light of the principle of the rule of law, inherent in the Convention system, a "tribunal" must always be "established by law" (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 211), or more precisely a "tribunal established in accordance with the law" (§§ 229-230). This is necessary to protect the judiciary from any unlawful or undue external influence (§§ 226 and 246). Following an analysis of the case-law (§§ 211-217 and the civil references cited), this judgment refined the case-law principles and clarified the meaning of this concept (§§ 223-230) and its relationship with the other "institutional requirements" of independence and impartiality under Article 6 § 1 (§§ 218 et seq., §§ 231-234), the rule of law and public confidence in the judiciary (§§ 237 et seq.; see the relevant summary in *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 245-251, and for the principle of legality, § 282). As the Court held in *Reczkowicz v. Poland*, 2021, § 284, an inherently deficient procedure of judicial appointments may also be analysed in terms of the guarantee of an "independent tribunal"; however, in that case the irregularities in question were of such gravity that they undermined the very essence of the right to have the case examined by a "tribunal established by law", and where examined under this heading.

293. The "law" by which a "tribunal" may be deemed to be "established" comprises any provision of domestic law — including, in particular, provisions concerning the independence of the members of a court — which, if breached, would render the participation of one or more judges in the examination of a case "irregular" (§ 232). The examination under the "tribunal established by law" requirement must systematically enquire whether the alleged irregularity in a given case was of such gravity as to undermine the fundamental principles of the rule of law and the separation of powers and to compromise the independence of the court in question (§§ 234 and 237).

294. The Court may therefore examine whether the domestic law has been complied with in this respect. However, having regard to the general principle that it is primarily for the national courts themselves to interpret the provisions of domestic law (§ 209), the Court has found that it may not question their interpretation unless there has been a "flagrant violation" of the legislation (*Kontalexis v. Greece*, 2011, §§ 39 et seq., concerning the scheduling of a hearing date and the replacement of a judge by a substitute judge on the day of the hearing; *Pasquini v. San Marino*, 2019, §§ 104 and 109, or *Khandanyan v. Armenia* (dec.), 2025, §§ 46-47, where the Court examined the applicant's allegations that one of the judges was ineligible for the appointment because he had reached the mandatory retirement age). For a case in which the Court rejected the domestic courts' assessment regarding compliance with the "tribunal established by law" requirement, see *Miracle Europe Kft v. Hungary*, 2016, §§ 65-66. Subsequently, in *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, the Grand Chamber made a distinction between the concept of "flagrant breach" of domestic law and that of "manifest breach of the domestic rules on judicial appointments" (see, in particular, § 242, §§ 244 et seq., § 254). In this case, the domestic court had already found a breach of the rules at the stage of the initial appointment of judges by the national appointing authority (§§ 208-210, 242, 254), and the Court's role was limited to determining the consequences in terms of Article 6 § 1 of the breaches of domestic law that had been found.

295. The phrase "established by law" covers not only the legal basis for the very existence of a "tribunal", but also compliance by the tribunal with the particular rules that govern it (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 223; *Sokurenko and Strygun v. Ukraine*, 2006, § 24). The lawfulness of a court or tribunal must by definition also encompass both its composition in each case and the procedure for the judges' initial appointment (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 224-228). The latter aspect was examined by the Grand Chamber in *Guðmundur Andri Ástráðsson v. Iceland* [GC]. In *Besnik Cani v. Albania*, 2022, the Court found that there had been a manifest breach of domestic law in the appointment of a member of the panel that had vetted the applicant, who had been a prosecutor at the time and had been dismissed with no effective court review or redress. The Court emphasised that the appointment to the highest court in the country of a candidate who had been previously dismissed from office for a breach of the law and for incompetence was difficult to reconcile with the requirement that the higher a court is placed in the judicial hierarchy, the more demanding the applicable selection criteria should be.

296. The appointment of judges by the executive or the legislature is permissible, provided that appointees are free from influence or pressure when carrying out their adjudicatory role (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 207). Whatever appointment system is in place at domestic level, it is important that the domestic law on judicial appointments should be couched in unequivocal terms to the extent possible, so as not to allow arbitrary interferences in the appointment process, including by the executive (*ibid.*, § 230).

297. Regarding the initial process for the appointment of a judge to a court, the *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, judgment stated that not every irregularity would breach Article 6 § 1 (taking care not to adopt an overly extensive interpretation of the right to a "tribunal established by law"; see §§ 236 et seq.). The Court developed a "threshold test" and defined a "three-step test" for determining whether irregularities in a given judicial appointment procedure "were of such gravity as to entail a violation of the right to a tribunal established by law and whether the balance between the competing principles has been struck fairly and proportionately by the relevant State authorities in the particular circumstances of a case" (§§ 235 et seq., §§ 243-252 for the presentation of the different steps and §§ 254-290 for their application; see also *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, concerning a constitutional court, and especially §§ 285-289). Applying this approach in *Reczkowicz v. Poland*, 2021 (§§ 216-282), the Court held that the procedure for appointing judges in the context of a reorganisation of the judicial system had been subject to undue influence on the part of the legislative and executive powers, and that this was a fundamental irregularity adversely affecting the whole process and compromising the legitimacy of the relevant formation of the Supreme Court (§§ 276-280). Applying the criteria established in *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, the Court found that there had been a violation of Article 6 as a result of grave irregularities in the appointment of judges to a newly established disciplinary chamber of the Supreme Court, which had suspended a judge from his duties on the grounds that he had verified the independence of another judge (*Juszczyszyn v. Poland*, 2022, §§ 192-211). A fundamental irregularity was likewise found in *Dolińska-Ficek and Ozimek v. Poland*, 2021, contrary to the requirements of the independence of the judiciary and the separation of powers among other principles (§ 349). The judgment noted that the executive's deliberate disregarding of a binding judicial decision and interference with the course of justice, in order to undermine the validity of a pending judicial review of the appointment of judges, had to be characterised as blatant defiance of the rule of law (§§ 338 and 348-350).

298. A body established by law on an exceptional and transitional basis is not in itself precluded from being regarded as a "tribunal established by law" within the meaning of the Convention (*Xhoxhaj v. Albania*, 2021, §§ 284-288).

299. Complaints concerning the allegedly arbitrary assignment or transfer of a civil case to a different judge or a composition have been examined by the Court either under the heading of a guarantee of a "tribunal established by law" (see, for example, *Miracle Europe Kft v. Hungary*, 2016, §§ 56-67) or

sometime under a more general heading of "fair trial" (see, for example, *Toivanen v. Finland*, 2023, §§ 33-39). In that latter case the applicant complained of a transfer of his case from a panel of three judges to an "extended panel" of five judges. This transfer was decided by Judge L., acting President of the court, after the panel of three judges deliberated on the case. Judge L. sat on the extended panel and decided together with the majority. The Court noted that the transfer had been in accordance with the applicable rules, which gave the acting President of the court the discretion to order such a transfer. The exercise of that discretion was surrounded by procedural safeguards: in particular, the law set out criteria for transferring cases, and Judge L. gave her reasons in a written statement. Moreover, the transfer of the case had not led to any loss of opportunity for the applicant to participate in the decision-making process. The Court concluded that this transfer did not perturb the overall fairness of the proceedings (*ibid*., §§ 33-39). In *Finanziaria D'Investimento Fininvest S.P.A. and Berlusconi v. Italy*, 2026, the applicants alleged that by not choosing a particular type of remedy, the domestic authorities unlawfully transferred the case to a jurisdiction of another court which was not competent to hear it. Having examined the reasoning of the domestic courts, the Court concluded that their interpretation of domestic law was not arbitrary or manifestly unreasonable and that it was impossible to use the particular remedy indicated by the applicants. Hence, the court which heard the case was competent and thus "established by law" (§§ 199-208).

300. *In X and Others v. Slovenia*, 2024, the applicant argued that her case had been assigned to a particular judge in breach of the "lawful judge" principle and in breach of the chronological and alphabetical order of allocation set out in the relevant legislation. The authorities claimed that the impugned allocation of cases ensured an equal distribution of the workload amongst the judges. The Court noted that, while the "equal distribution of workload" was a relevant consideration, this could not constitute a stand-alone basis for the distribution of cases. By assigning family-law cases to the judge with the lowest number of unresolved cases of this type on a particular day, the President of the District Court had effectively assigned these cases to a particular judge, contrary to the objective pre-established criteria and defying the clear purpose of the domestic law to ensure randomness in the assignments of cases, while the remainder of civil-law cases were apparently redistributed to other judges in a manner that observed both the workload and other criteria set out in the law, thus ensuring the required randomness. The Court concluded that the irregularities in question were of such gravity that they undermined the very essence of the right to be tried by a tribunal established in accordance with the law (§§ 119-128).

6. Application of these principles

301. It is the role of the courts to manage their proceedings with a view to ensuring the proper administration of justice. The assignment of a case to a particular judge or court falls within their margin of appreciation in such matters. However, to be compatible with Article 6 § 1, it must comply with the requirements of independence and impartiality (*Pasquini v. San Marino*, 2019, §§ 103 and 107). The judge assigned to a case must be independent of the executive, and the assignment cannot be solely dependent on the discretion of the judicial authorities (*ibid.*, § 110). The case-law has made a distinction between assignment and reassignment of a case (*ibid.*, § 107).

302. The practice of tacitly renewing judges' terms of office for an indefinite period after their statutory term of office had expired and pending their reappointment has been held to be contrary to the principle of a "tribunal established by law" (*Oleksandr Volkov v. Ukraine*, 2013, § 151). The procedures governing the appointment of judges cannot be relegated to the status of internal practice (*ibid.*, §§ 154-56). The replacement of a judge must also be devoid of arbitrariness (*Pasquini v. San Marino*, 2019, § 112, as must the reassignment of a case (*Miracle Europe Kft v. Hungary*, 2016, §§ 59-67; *Biagioli v. San Marino* (dec.), 2014, §§ 77-78 and 80, for the specific case of a small jurisdiction and a small court).

303. The following situations have given rise to a finding of a violation, for example: the replacement of a judge by a substitute judge on the day of the hearing (*Kontalexis v. Greece*, 2011, §§ 42-44),

delivery of a judgment by a bench composed of a smaller number of members than the number provided for by law (*Momčilović v. Serbia*, 2013, § 32, and *Jenița Mocanu v. Romania*, 2013, § 41), the conduct of court proceedings by a court administrator not authorised to perform that function under the relevant domestic law (*Ezgeta v. Croatia*, 2017, § 44), or a court exceeding its usual jurisdiction without any explanation by deliberately breaching the law (*Sokurenko and Strygun v. Ukraine*, 2006, §§ 27-28); these cases should be viewed in the light of *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 211 et seq., in particular § 218). Furthermore, a supreme court which, instead of acting within its jurisdiction as provided for by domestic law in quashing a decision and remitting the case for further consideration or declaring the proceedings void, determines the case on the merits in place of the competent body is not a "tribunal established by law" (*Aviakompaniya A.T.I., ZAT v. Ukraine*, 2017, § 44).

304. With regard to the initial procedure for appointing judges, the *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, judgment outlined the situations that would or would not breach Article 6 § 1 (§§ 246-247 et seq.). In this case, the Court held that there had been a "grave breach" of a fundamental rule of the procedure for the appointment of judges to a new court of appeal — in particular by the Minister of Justice — which, having not been effectively remedied in the review conducted by the Supreme Court, whose reasoning the Court was unable to accept (§ 286), was found to be contrary to Article 6 § 1 (§§ 288-289). In *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, the Court concluded that the executive and legislative powers had had an undue influence on the procedure for electing judges to the Constitutional Court and that there had been "grave irregularities" (§§ 284-291; see also *Dolińska-Ficek and Ozimek v. Poland*, 2021, § 353, and *Reczkowicz v. Poland*, 2021).

B. Independence and impartiality

1. General considerations

305. The right to a fair hearing under Article 6 § 1 requires that a case be heard by an "independent and impartial tribunal". Judicial independence is a condition *sine qua non* for the right to a fair hearing under Article 6 of the Convention (*Grzęda v. Poland* [GC], 2022, § 301) and judicial independence is a prerequisite to the rule of law (§ 298). Judges cannot uphold the rule of law and give effect to the Convention if domestic law deprives them of the guarantees enshrined in the Convention on matters directly touching upon their independence and impartiality (§ 264).

Moreover, there is a clear link between the guarantee of judicial independence and the integrity of the judicial appointment process and the requirement of judicial independence and the autonomy of the national body with responsibility for safeguarding the independence of the courts and judges (*ibid.*, §§ 300-303 and 345-346, concerning the National Council of the Judiciary in Poland).[17] It should be noted that the public prosecutor's office cannot be bound by the obligations of independence and impartiality that Article 6 imposes on a "tribunal" (*Thierry v. France* (dec.), 2023, § 30).

306. The concepts of "independence" and "impartiality" are closely linked and, depending on the circumstances, may require joint examination (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 150 and 152; see also, as regards their close interrelationship, §§ 153-156; *Denisov v. Ukraine* [GC], 2018, §§ 61-64). These two concepts also interact with that of a "tribunal established by law" within the meaning of Article 6 § 1 (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 218 et seq., §§ 231 et seq.[18], and also § 295).

307. In assessing the independence of a court, within the meaning of Article 6 § 1 under its criminal and civil heads, regard must be had, *inter alia*, to the manner of appointment of its members (see, for instance, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 144), a question which pertains to

[17]. See also, in more details, the sub-section C-1-(e)-i on the "Manner of appointment of the body's members"
18. See the section on "legislative intervention" ".

the domain of the establishment of a "tribunal" (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 232). Furthermore, "independence" refers to the necessary personal and institutional independence that is required for impartial decision-making, and it is thus a prerequisite for impartiality (*Dolińska-Ficek and Ozimek v. Poland*, 2021, § 316: this judgment is an example of the link between the concepts of "tribunal established by law" and "independent and impartial tribunal", § 357). The term "independence" characterises both a state of mind which denotes a judge's imperviousness to external pressure as a matter of moral integrity, and a set of institutional and operational arrangements — involving both a procedure by which judges can be appointed in a manner that ensures their independence and selection criteria based on merit — which must provide safeguards against undue influence and/or unfettered discretion of the other State powers, both at the initial stage of the appointment of a judge and during the performance of his or her duties (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 234).

308. The notion of the separation of powers between political organs of government and the judiciary is assuming growing importance in the Court's case-law (*Svilengaćanin and Others v. Serbia*, 2021, §§ 64). The *Ramos Nunes de Carvalho e Sá c. Portugal* [GC], judgment, 2018, thus stressed the growing importance attached to the separation of powers and to the necessity of safeguarding the independence of the judiciary (§ 196; see also *Dolińska-Ficek and Ozimek v. Poland*, 2021, §§ 349-353), and this was reaffirmed in *Grzęda v. Poland* [GC], 2022 (see in particular §§ 298 and 301-303). Given the prominent place that the judiciary occupies among State organs in a democratic society, the Court must be particularly attentive to the protection of members of the judiciary against measures that may threaten their independence and autonomy, not only in their adjudicating role, but also in connection with other official functions that they may be called upon to perform that are closely connected with the judicial system. It is equally necessary to protect the autonomy of judicial councils (the body with responsibility for safeguarding judicial independence) from encroachment by the legislative and executive powers, notably in matters concerning judicial appointments, and to preserve their role as a bulwark against political influence over the judiciary (§ 346). Moreover, while the Convention does not prevent States from taking legitimate and necessary decisions to reform the judiciary, any reform should not result in undermining the independence of the judiciary and its governing bodies (§ 323).

309. The participation of lay judges in a case is not, as such, contrary to Article 6 § 1 (*Cooper v. the United Kingdom* [GC], 2003, § 123). The existence of a panel with mixed membership comprising, under the presidency of a judge, civil servants and representatives of interested bodies does not in itself constitute evidence of bias (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, §§ 57-58). Moreover, there is no objection per se to expert lay members participating in the decision-making in a court (*Pabla Ky v. Finland*, 2004, § 32).

310. The principles established in the case-law concerning impartiality apply to lay judges as to professional judges (*Langborger v. Sweden*, 1989, §§ 34-35; *Cooper v. the United Kingdom* [GC], 2003, § 123).

311. The Court has acknowledged that where commercial or sports arbitration has been accepted freely, lawfully and unequivocally, the concepts of independence and impartiality may be interpreted flexibly, seeing that the very essence of the arbitration system lies in the appointment of the decision-making bodies, or at least part of them, by the parties to the dispute (*Mutu and Pechstein v. Switzerland*, 2018, § 146; compare with an arbitration committee enjoying exclusive and compulsory jurisdiction, *Ali Rıza and Others v. Turkey*, 2020, §§ 207-222). Nevertheless, the impartiality of arbitration proceedings remains important, including the role of appearances (*Beg S.p.a. v. Italy*, 2021, §§ 144-153). As to whether there was an unequivocal waiver of the guarantee of impartial arbitrators, see §§ 138-143.

312. As a matter of principle, a violation of Article 6 § 1 cannot be grounded on the lack of independence or impartiality of a decision-making tribunal or the breach of an essential procedural

guarantee by that tribunal, if the decision taken was subject to subsequent control by a judicial body that had “full jurisdiction” and ensured respect for the relevant guarantees by curing the failing in question (*Denisov v. Ukraine* [GC], 2018, §§ 65, 67 and 72, in a disciplinary context; *De Haan v. the Netherlands*, 1997, §§ 52-55; *Helle v. Finland*, 1997, § 46; *Crompton v. the United Kingdom*, 2009, § 79).[19]

313. The Court has consistently stressed that the scope of the State’s obligation to ensure a trial by an “independent and impartial tribunal” under Article 6 § 1 of the Convention is not limited to the judiciary. It also implies obligations on the executive, the legislature and any other State authority, regardless of its level, to respect and abide by the judgments and decisions of the courts, even when they do not agree with them. Thus, the State’s respecting the authority of the courts is an indispensable precondition for public confidence in the courts and, more broadly, for the rule of law. For this to be the case, the constitutional safeguards of the independence and impartiality of the judiciary do not suffice. They must be effectively incorporated into everyday administrative attitudes and practices (*Agrokompleks v. Ukraine*, 2011, § 136; see also *Dolińska-Ficek and Ozimek v. Poland*, 2021, §§ 328-330). While a party to proceedings, such as prosecutors, cannot be bound by the same obligations of independence and impartiality that Article 6 imposes on a “tribunal”, the impartiality of the tribunal may be called into doubt if the prosecuting authority may exert at the same time decisive influence over the judges deciding the case: in *Tsatani v. Greece*, 2025, the President of the Court of Cassation, who was also a former Prime Minister, exercised general supervisory functions over the Greek courts while also being behind the investigation which led to the applicant’s disciplinary case (§§ 81-87).

314. Statements by government officials and politicians may be contrary to the above-mentioned guarantees of Article 6 (*Ivanovski v. the former Yugoslav Republic of Macedonia*, 2016, § 147; *Sovtransavto Holding v. Ukraine*, 2000, § 80; *Kinský v. the Czech Republic*, 2012, § 94) or may not (*Čivinskaitė v. Lithuania*, 2020, § 144, and for a summary of precedents, §§ 119-120; see also *Tsatani v. Greece*, 2025, §§ 84-86).

2. An independent tribunal

315. The term “independent” refers to independence vis-à-vis the other powers (the executive and the Parliament) (*Beaumartin v. France*, 1994, § 38) and also vis-à-vis the parties (*Sramek v. Austria*, 1984, § 42). Compliance with this requirement is assessed, in particular, on the basis of statutory criteria, such as the manner of appointment of the members of the tribunal and the duration of their term of office, or the existence of sufficient safeguards against the risk of outside pressures (see, for example, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 153-156). The question whether the body presents an appearance of independence is also of relevance (*ibid.*, § 144; *Oleksandr Volkov v. Ukraine*, 2013, § 103; *Grace Gatt v. Malta*, 2019, § 85). The defects observed may or may not have been remedied during the subsequent stages of the proceedings (*Denisov v. Ukraine* [GC], 2018, §§ 65, 67 and 72).

316. Although the notion of the separation of powers between the political organs of government and the judiciary has assumed growing importance in the Court’s case-law, neither Article 6 nor any other provision of the Convention requires States to comply with any theoretical constitutional concepts regarding the permissible limits of the powers’ interaction. The question is always whether, in a given case, the requirements of the Convention are met (*Kleyn and Others v. the Netherlands* [GC], 2003, § 193; *Ramos Nunes de Carvalho e Sá* [GC], 2018, § 144). Indeed, the notion of independence of a tribunal entails the existence of procedural safeguards to separate the judiciary from other powers (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 215). Moreover, in assessing the independence of a court within the meaning of Article 6 § 1, regard must be had, *inter alia*, to the manner of appointment of its members, a question which pertains to the domain of the establishment of a

19. See also the sections on “Review by a court having full jurisdiction” and “Fairness”.

"tribunal" (§ 232, emphasising the interaction between the requirements of "independence", "impartiality" and a "tribunal established by law").[20]

With regard to the separation of powers and the necessity of safeguarding the independence of the judiciary (*Catană v. the Republic of Moldova*, 2023, § 75), the Court has been attentive to the need to protect members of the judiciary against measures potentially undermining their independence and autonomy, including from the standpoint of the applicability of Article 6 § 1 and access to a court (see the summary of principles in *Grzęda v. Poland* [GC], 2022, §§ 298 and 300-309, which apply not only to judges' adjudicating role but also to other official functions closely connected with the judicial system, such as membership of the National Council of the Judiciary, §§ 303-307; see also *Bilgen v. Turkey*, 2021, § 58 in fine) and in relation to a hearing in disciplinary proceedings (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 196).

Whatever system is chosen by member States, they must abide by their obligation to secure judicial independence. Where a judicial council has been established, the State authorities should be under an obligation to ensure its independence from the executive and legislative powers, especially in order to safeguard the integrity of the judicial appointment process. The removal, or threat of removal, of a judicial member of the National Council of the Judiciary during his or her term of office has the potential to affect the personal independence of that member in the exercise of his or her duties (*Grzęda v. Poland* [GC], 2022, §§ 300-309).

Additionally, the presence, even in a merely passive role, of a member of the government within a body empowered to impose disciplinary sanctions on judges is in itself highly problematic in terms of the requirements of Article 6 of the Convention, and particularly the requirement that the disciplinary body be independent. The presence of the Prosecutor General within a body concerned with the disciplining of judges is problematic with regard to the impartiality and independence requirements under Article 6. As to the process for selecting professors of law for appointment to the Supreme Judicial Council (in French-*Conseil supérieur de la magistrature, CSM*), it must provide sufficient guarantees of independence (*Catană v. the Republic of Moldova*, 2023, §§ 75-76, concerning the presence of *ex officio* members of the CSM, including the Minister of Justice and the Prosecutor General, and of professors of law, who had been selected without sufficient guarantees of independence; compare with *Suren Antonyan v. Armenia*, 2025, where the Court was satisfied that the composition of the Supreme Judicial Council, together with the manner of appointment of its non-judge members, provided sufficient guarantees of the independence of the body).

317. The judgment in *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], 2015, defined the distinctions and nuances in the assessment of the criteria of independence, depending on whether they concern Article 6 or Articles 2 and/or 3 of the Convention (§§ 217-21). The statutory criteria for verification of the requirement of independence within the meaning of Article 6 are not necessarily to be assessed in the same manner when examining the question of an investigation's independence from the perspective of the procedural obligations under Article 2 (§§ 219-25).

318. Military courts (see, for example, *Mikhno v. Ukraine*, 2016, §§ 162-64 and 166-70). In the case cited, the Court noted a tendency in international human rights law to urge States to act with caution in using military courts and, in particular, to exclude from their jurisdiction the determination of charges concerning serious human rights violations, such as extrajudicial executions, enforced disappearances and torture. Such an approach, which relates to serious and intentional human rights violations, is not automatically applicable in the Court's view to an accident causing very serious but unintentional damage as a result of negligence on the part of the military officers involved (*ibid.*, § 165).

20. See section on "Concept of a 'tribunal'".

a. Independence *vis-à-vis* the executive

319. The independence of judges will be undermined where the executive intervenes in a case pending before the courts with a view to influencing the outcome (*Sovtransavto Holding v. Ukraine*, 2002, § 80; *Mosteanu and Others v. Romania*, 2002, § 42).

320. The fact that judges are appointed by the executive and are removable does not per se amount to a violation of Article 6 § 1 (*Clarke v. the United Kingdom* (dec.), 2005). The appointment of judges by the executive is permissible provided that the appointees are free from influence or pressure when carrying out their adjudicatory role (in particular *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 207 et seq., and *Flux v. Moldova (no. 2)*, 2007, § 27).

321. The fact that the President of the Court of Cassation is appointed by the executive does not in itself undermine his independence provided that, once appointed, he is not subject to any pressure, does not receive any instructions and performs his duties with complete independence (*Zolotas v. Greece*, 2005, § 24).

322. Likewise, the mere fact that judges of the Council of Administrative Law are appointed by the regional administrative authority is not capable of casting doubt on their independence or impartiality provided that, once appointed, they are not subject to any pressure, do not receive any instructions and exercise their judicial activity with complete independence (*Majorana v. Italy* (dec.), 2005).

323. A situation where a public figure (the country's president) playing an institutional role in the career development of judges is a claimant in proceedings is capable of casting a legitimate doubt on the independence and impartiality of the judges hearing the case (*mutatis mutandis*, *Thiam v. France*, 2018, § 85, no violation).

324. In *Catană v. the Republic of Moldova*, 2023, the Court found that there had been a violation of Article 6 owing*, inter alia*, amongst other factors related to the composition of the Supreme Judicial Council, to the presence of *ex officio* members of the Supreme Judicial Council (CSM), including the Minister of Justice and the Prosecutor General (§§ 75-76).

b. Independence *vis-à-vis* Parliament

325. The fact that judges are appointed by Parliament does not by itself render them subordinate to the authorities if, once appointed, they receive no pressure or instructions in the performance of their judicial duties (*Sacilor Lormines v. France*, 2006, § 67). Furthermore, the fact that one of the expert members of the Court of Appeal, comprising mainly professional judges, was also a member of Parliament did not per se breach the right to an independent and impartial tribunal (*Pabla Ky v. Finland*, 2004, §§ 31-35). On the other hand, in *Catană v. the Republic of Moldova*, 2023, the Court found that there had been a violation of Article 6 in connection with the process for selecting professors of law for appointment to the Supreme Judicial Council, who were elected by Parliament on the basis of a simple majority of MPs, on a proposal from at least 20 MPs, which did not provide sufficient guarantees of independence (§§ 79-82).

In some legal systems, the councils for the judiciary, exercising an adjudicatory function in particular in disciplinary cases in respect of judges and prosecutors, have in their composition also non-judicial members, elected by Parliament, sitting there *ex officio* or appointed otherwise. Their presence *as such* does not compromise the independence of a council, provided that otherwise the composition of the council is balanced and, in particular, includes substantial representation of judges (see *Khandanyan v. Armenia* (dec.), 2025, §§ 46-47, , with further reference to *Suren Antonyan v. Armenia*, 2025, §§ 97-123. See in more detail below the sub-section (d) on the Specific case of judges' independence vis-à-vis the High Councils for the Judiciary and (e) on the Criteria for assessing independence). However, in certain cases the Court has found, having examined the overall composition of such a council and the manner of appointment of its members, that its independence

vis-à-vis the parliamentary majority was compromised (see *Dolińska-Ficek and Ozimek v. Poland*, 2021, §§ 290-320 and *Wałęsa v. Poland*, 2023, § 169, and *Biliński v. Poland*, 2026, § 116).

c. Independence *vis-à-vis* the parties

326. Where a tribunal's members include a person, who is in a subordinate position, in terms of his duties and the organisation of his service, vis-à-vis one of the parties, litigants may entertain a legitimate doubt about that person's independence. Such a situation seriously affects the confidence which the courts must inspire in a democratic society (*Sramek v. Austria*, 1984, § 42).

In the context of arbitration proceedings some members of the arbitration bodies are sometimes appointed by the parties or are somehow affiliated with them. Thus, in *Ali Riza and Others v. Turkey*, 2020, §§ 201-223, the Court examined the composition of the Arbitration Committee of the Turkish Football Federation (TFF), and criticised it on account of the vast powers given to the Board of Directors of the TTF over its organisation and operation and of the lack of adequate safeguards protecting its members against outside pressures. The Arbitration Committee had a mandatory competency over disputes between football players and their clubs. The Court noted that football clubs were represented better than players or referees in the governing bodies of the TFF. The Board of Directors of the TFF had a complete discretion in appointing members of the Arbitration Committee. That fact alone being insufficient for the Court to conclude that the Arbitration Committee was not independent, the Court also examined the status of the members of the Committee and concluded that there was a number of strong organisational and structural ties between the Board of Directors and the Arbitration Committee, which resulted in the Board of Directors enjoying significant influence over the functioning of the Arbitration Committee. The legal framework lacked adequate safeguards protecting members of the Arbitration Committee against outside pressures, particularly from the Board of Directors. However, *Altıner Akıncı v. Türkiye*, 2026, §§ 73-87, concerned another sports arbitration tribunal — the Sports Arbitration Board, whose members were appointed by the Sports Minister. As in the above case, the Sports Arbitration Board had compulsory jurisdiction in the applicant's case. While the Minister enjoyed full discretion in the matters of appointment, he was not a party to the proceedings and nothing suggested that the appointment process was tainted by undue political influence, or that he tried to pressure the judges (§ 79). The Court noted, that in contrast with the Arbitration Committee of the TFF, the Sports Arbitration Board dealt with all sports disputes (except football), so the factor of the over-representation of the clubs' interests was absent. Having examined other safeguards protecting members of the Sports Arbitration Board from external pressures (term of office, protection of tenure, lack of subordination and guaranteed amount of renumeration, lack of structural relationship with the parties and no evidence of a possible conflict of interest in that case), the Court concluded that the law sufficiently ensured the independence and impartiality of that body.

d. Specific case of judges' independence *vis-à-vis* the High Council of the Judiciary[21]

327. The fact that judges appealing against decisions of the High Council of the Judiciary (or equivalent body) come under the authority of the same body as regards their careers and disciplinary proceedings against them has been examined in the cases of *Denisov v. Ukraine* [GC], 2018, § 79 and *Oleksandr Volkov v. Ukraine,* 2013, § 130 (violations), and *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 157-165 (no violation). The Court assessed and compared the disciplinary systems for the judiciary in the States concerned in order to determine whether there were any "serious structural deficiencies" or "an appearance of bias within the disciplinary body for the judiciary" (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 157-160) and whether the requirement of independence was complied with (*ibid.*, §§ 161-163). Note that High Councils of the Judiciary or similar bodies can also carry out

21. See section on "An impartial tribunal".

the role of disciplinary courts: *Suren Antonyan v. Armenia*, 2025, §§ 101 — 104. See also below concerning the composition of the Supreme Judicial Council.

e. Criteria for assessing independence

328. In determining whether a body can be considered to be "independent", the Court has had regard, *inter alia*, to the following criteria (*Kleyn and Others v. the Netherlands* [GC], 2003, § 190; *Langborger v. Sweden*, 1989, § 32):

i. the manner of appointment of its members and
ii. the duration of their term of office;
iii. the existence of guarantees against outside pressures; and
iv. whether the body presents an appearance of independence.

i. Manner of appointment of a body's members

329. Questions have been raised as to the intervention of the Minister of Justice in the appointment and/or removal from office of members of a decision-making body (*Sramek v. Austria*, 1984, § 38; *Brudnicka and Others v. Poland*, 2005, § 41; *Clarke v. the United Kingdom* (dec.), 2005). The appointment of members of a tribunal by the executive is not, in itself, incompatible with the Convention, as is the election or appointment of judges by the executive or the legislature (*Zolotas v. Greece*, 2005, § 24, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 207). However, the appointment procedure must be free from undue political influence and, once elected or appointed, members of a tribunal must remain free from any pressure in the exercise of their judicial functions (*Reczkowicz v. Poland*, 2021, § 276).

330. Although the assignment of a case to a particular judge or court falls within the margin of appreciation enjoyed by the domestic authorities in such matters, the Court must be satisfied that it was compatible with Article 6 § 1, and, in particular, with the requirements of independence and impartiality (*Bochan v. Ukraine*, 2007, § 71).

331. The composition of the body which appoints judges, namely the National Council of the Judiciary, the NCJ, has been at the center of the Court's attention in a number of cases concerning Poland. In the first cases of this group the system of judicial appointments was analysed not under the heading of "independence" but through the prism of the guarantee of the "tribunal established by law" (see, for example, *Reczkowicz v. Poland*, 2021, § 284, which concerned the legitimacy of the court which dealt with the applicant's case), or, alternatively, in the light of the guarantee of "access to court" (see, for example, *Grzęda v. Poland* [GC], 2022, §§ 344-350, which concerned the impossibility for a member of the NCJ to obtain judicial review of the early termination of his mandate). In these cases the Court noted the negative effects of the 2017 judicial reform on the independence of the NCJ and of the Polish judiciary in general (*Reczkowicz v. Poland*, 2021, § 274, and *Grzęda v. Poland* [GC], 2022, § 348, and *Biliński v. Poland*, 2026, § 116). The Court also observed (in *Reczkowicz*, §§ 280-281 and 284, and later in *Juszczyszyn v. Poland*, 2022, § 214), that the underlying institutional problems are the same both in terms of compliance with the requirement of "established by law" and of the independence of the courts which dealt with the applicants' cases. Finally, in the case of *Tuleya v. Poland*, 2023, the Court found a breach of "the right to an independent and impartial tribunal established by law" (§ 345). In a nutshell, the Court concluded that both the independence of the judges of the Supreme Court and the condition of a tribunal "established by law" were compromised because of the lack of independence of the NCJ which appointed those judges. Following the 2017 reform, the judicial community had been deprived of the right to delegate judicial members to the NCJ, a right afforded to it under the previous legislation and recognised by international standards, and "the legislative and executive powers had achieved a decisive influence on the composition of the NCJ" (see *Tuleya v. Poland*, 2023, § 337, in respect of the independence of the Disciplinary Chamber

of the Supreme Court; see also *Wałęsa v. Poland*, 2023, in respect of the independence of the Extraordinary Review Chamber of the Supreme Court, §§ 168-176).

332. The composition of the Supreme Judicial Council (SJC), acting as a court in disciplinary matters, was examined in *Suren Antonyan v. Armenia*, 2025. The SJC was composed of five judicial members (judges elected by their peers) and five lay members, elected by the Parliament. While that composition ensured sufficient independence of the SJC, the Court noted certain flaws in the process of nomination of lay members of the SJC: the procedure could be more transparent, inclusive and certain additional requirements related to political neutrality of the candidates could be welcome. However, despite those flaws the current model of the SJC was found to offer sufficient safeguards: the judges elected by their peers represented half of the SJC; in contrast to certain soft-law instruments, the Convention does not require that judicial members be in a "substantial majority" in such bodies, so the minimal standard of judicial representation had been complied with; there were strict eligibility requirements related to the professional qualifications and experience of the candidates; candidates underwent integrity checks and could be questioned in a plenary Parliament session; and the National Assembly could elect a non-judicial member only with three-fifths of the votes. The Court further stressed that the members of the SJC were elected for a fixed term of five years: their irremovability during this term was guaranteed by law; they could not engage in any paid secondary activity; they received the same social guarantees as judges; they were bound by the rules of conduct for judges; and they did not depend on either the executive or the legislature. The SJC itself had enjoyed managerial and budgetary autonomy and the Chairman of the SJC played a predominantly administrative role having no powers vis-à-vis individual members (§§ 105-119). The Court concluded that the SJC did not lack independence. See also along those lines *Khandanyan v. Armenia* (dec.), §§ 46-47.

ii. Duration of appointment of a body's members

333. The Court has not specified any particular term of office for the members of a decision-making body, although their irremovability during their term of office must in general be considered as a corollary of their independence (see, in particular, *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 239-240, regarding the principle of irremovability of judges). However, the absence of a formal recognition of this irremovability in the law does not in itself imply lack of independence provided that it is recognised in fact and that other necessary guarantees are present (*Sacilor Lormines v. France*, 2006, § 67; *Luka v. Romania*, 2009, § 44).

iii. Guarantees against outside pressure

334. Judicial independence demands that individual judges be free from undue influence outside the judiciary, and from within. Internal judicial independence requires that they be free from directives or pressures from fellow judges or those who have administrative responsibilities in the court such as the president of the court or the president of a division in the court. The absence of sufficient safeguards securing the independence of judges within the judiciary and, in particular, vis-à-vis their judicial superiors, may lead the Court to conclude that an applicant's doubts as to the independence and impartiality of a court can be said to have been objectively justified (*Agrokompleks v. Ukraine*, 2011, § 137; *Parlov-Tkalčić v. Croatia*, 2009, § 86).

335. The judges of a County Court were found to be sufficiently independent of that court's president since court presidents performed only administrative (managerial and organisational) functions, which were strictly separated from the judicial function. The legal system provided for adequate safeguards against the arbitrary exercise of court presidents' duty to (re)assign cases to judges (*Parlov-Tkalčić v. Croatia*, §§ 88-95).

iv. Appearance of independence

336. In order to determine whether a tribunal can be considered to be independent as required by Article 6 § 1, appearances may also be of importance (*Sramek v. Austria*, 1984, § 42). As to the appearance of independence, the standpoint of a party is important but not decisive; what is decisive is whether the fear of the party concerned can be held to be "objectively justified" (*Sacilor Lormines v. France*, 2006, § 63; *Grace Gatt v. Malta*, 2019, § 85). Therefore, no problem arises as regards independence when the Court is of the view that an "objective observer" would see no cause for concern about it in the circumstances of the case at hand (*Clarke v. the United Kingdom* (dec.), 2005).

3. An impartial tribunal[22]

337. Article 6 § 1 requires a tribunal falling within its scope to be impartial (*Denisov v. Ukraine* [GC], 2018, §§ 60-65, with reference to *Morice v. France* [GC], 2015 — see §§ 87-88 concerning cassation proceedings). Impartiality normally denotes the absence of prejudice or bias and its existence or otherwise can be tested in various ways (*Micallef v. Malta* [GC], 2009, § 93; *Wettstein v. Switzerland*, 2000, § 43; *Nicholas v. Cyprus*, 2018, § 49). The concepts of independence and impartiality are closely linked and, depending on the circumstances, may require joint examination (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 150 and 152 — see also, as regards their close interrelationship, §§ 153-156; *Sacilor Lormines v. France*, 2006, § 62). It should be noted that these concepts also interact with that of a "tribunal established by law" within the meaning of Article 6 § 1 (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 231 et seq)[23]. The defects observed may or may not have been remedied during the subsequent stages of the proceedings (*Denisov v. Ukraine* [GC], 2018, §§ 65, 67 and 72; *Helle v. Finland*, 1997, § 46).

338. Where impartiality is disputed during the domestic proceedings on a ground that does not immediately appear to be manifestly devoid of merit, the national court must itself check whether such concerns are justified so that it can remedy any situation that would breach Article 6 § 1 (*Cosmos Maritime Trading and Shipping Agency v. Ukraine*, 2019, §§ 78-82).

339. When faced with a large influx of similar cases, a supreme court may take preventive measures to deal with the procedural aspects of the dispute, even if this entails institutional contact with a representative of the government department concerned who later becomes the applicant's opponent once proceedings have been brought before the supreme court (*Svilengaćanin and Others v. Serbia*, 2021, §§ 67-68), if none of the cases concerned were pending before the court at the time of the contact (§§ 71-72). In this context, extracting a leading case from among the mass of cases in order to manage the large number of similar pending cases does not undermine an impartial judicial procedure (§ 72); the supreme court may remove ambiguities in the interpretation of the law in order to give guidance to the lower courts dealing with the relevant proceedings (§ 73); although "appearances" of impartiality remain important, mere concerns on the part of litigants in that regard are not sufficient (§ 74).

340. In a case where it had been alleged that doubts as to the impartiality of one or more judges sitting on a bench was sufficient to find that the bench as a whole had lacked impartiality, the Court found that, in view of the secrecy of the deliberations, it was impossible to ascertain the actual influence of the judge or judges concerned on the collegial work of the bench in question, and hence the partiality of one judge might likely raise legitimate doubt about the impartiality of the whole composition (*Morice v. France* [GC], 2015, § 89; *Mitrinovski v. the former Yugoslav Republic of Macedonia*, 2015, § 46; *Stoimenovikj and Miloshevikj v. North Macedonia*, 2021, § 39; see also, mutatis mutandis, *Otegi Mondragon and Others v. Spain*, 2018, § 67; *Sigríður Elín Sigfúsdóttir v. Iceland*, 2020, § 57 and, for the case of two members of a bench, *Catană v. the Republic of Moldova*,

22. See section on "Specific case of judges' independence *vis-à-vis* the High Council of the Judiciary".
23. See section on "Concept of a 'tribunal'".

2023, § 78. However, see In *Suren Antonyan v. Armenia*, 2025, the Court noted that the judge at issue was the chair of the disciplinary court and the rapporteur in the applicant's case leading the discussions, and that the applicants' request seeking recusal of the Chair had been not been seriously examined by that court (§§ 139 and 140).

a. Criteria for assessing impartiality

341. The existence of impartiality must be determined on the basis of the following (*Micallef v. Malta* [GC], 2009, §§ 93-101; *Morice v. France* [GC], 2015, §§ 73-78; and *Denisov v. Ukraine* [GC], 2018, §§ 61-65):

i. a *subjective test*, where regard must be had to the personal conviction and behaviour of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also
ii. an *objective test*, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality.

342. However, there is no watertight division between subjective and objective impartiality since the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test) (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 145).

343. Thus, in some cases where it may be difficult to procure evidence with which to rebut the presumption of the judge's subjective impartiality, the requirement of objective impartiality provides a further important guarantee (*Micallef v. Malta* [GC], 2009, §§ 95 and 101). It should be noted that in the vast majority of cases raising impartiality issues the Court has focused on the objective test (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 146).

344. The Court has emphasised that appearances may be of a certain importance or, in other words, "justice must not only be done, it must also be seen to be done". What is at stake is the confidence which the courts in a democratic society must inspire in the public. Thus, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must withdraw (*Micallef v. Malta* [GC], 2009, § 98; *Stoimenovikj and Miloshevikj v. North Macedonia*, 2021, § 40). A court dealing with a request for a judge to withdraw must address the arguments submitted in support of the request (*Harabin v. Slovakia*, 2012, § 136) and comply with certain requirements, but so too must the person making the request (*Mikhail Mironov v. Russia*, 2020, §§ 34-40). The person concerned must take all the requisite steps on the basis of the information available to him or her (*Katsikeros v. Greece*, 2022, §§ 86-94).

345. The principles established in the Court's case-law concerning the impartiality of a court apply to jurors just as they do to professional and lay judges, as well as other officials performing judicial functions, such as lay assessors and registrars or legal secretaries (*Bellizzi v. Malta*, 2011, § 51). The Court has emphasised that observance of the guarantees under Article 6 is particularly important in disciplinary proceedings against a judge in his capacity as president of the Supreme Court, given that the confidence of the public in the functioning of the judiciary at the highest national level is at stake (*Harabin v. Slovakia*, 2012, § 133).

i. Subjective approach

346. In applying the subjective test, the Court has consistently held that "the personal impartiality of a judge must be presumed until there is proof to the contrary" (*Micallef v. Malta* [GC], 2009, § 94; *Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 58 in fine). As regards the type of proof required, the Court has, for example, sought to ascertain whether a judge has displayed hostility (*Buscemi v. Italy*, 1999, §§ 67-68). The fact that a judge did not withdraw from dealing with a civil

action on appeal following his earlier participation in another related set of civil proceedings did not constitute the required proof to rebut the presumption (*Golubović v. Croatia*, 2012, § 52). The Court has also found that the mere expression of sentiments of courtesy or sympathy towards a civil party could not be seen in itself as a reflection of bias against the defendant but, on the contrary, could be said to show the "human face" of the justice system (*Karrar v. Belgium*, 2021, § 35).

347. The principle that a tribunal must be presumed to be free of personal prejudice or partiality is long-established in the case-law of the Court (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 58; *Driza v. Albania*, 2007, § 75).

348. In principle, a judge's personal animosity against a party is a compelling reason for disqualification. In practice, the Court often assesses this question by means of the objective approach (*Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, § 359 and case-law references cited).

ii. Objective approach

349. It must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his impartiality. When applied to a body sitting as a bench, it means determining whether, quite apart from the personal conduct of any of the members of that body, there are ascertainable facts which may raise doubts as to the impartiality of the body itself. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge (*Morel v. France*, 2000, §§ 45-50; *Pescador Valero v. Spain*, 2003, § 23) or a body sitting as a bench (*Luka v. Romania*, 2009, § 40) lacks impartiality, the standpoint of the person concerned is important but not decisive. What is decisive is whether this fear can be held to be objectively justified (*Micallef v. Malta* [GC], 2009, § 96; *Wettstein v. Switzerland*, 2000, § 44; *Pabla Ky v. Finland*, 2004, § 30).

350. In this respect even appearances may be of a certain importance or, in other words, "justice must not only be done, it must also be seen to be done" (see, for example, *Catană v. the Republic of Moldova*, 2023, § 77 and the case-law references cited). What is at stake is the confidence which the courts in a democratic society must inspire in the public. Thus, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must withdraw (*Micallef v. Malta* [GC], 2009, § 98; for example, where the judge has made public statements relating to the outcome of the case: *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, §§ 341-342).

351. In order that the courts may inspire in the public the confidence which is indispensable, account must also be taken of questions of internal organisation. The existence of national procedures for ensuring impartiality, namely rules regulating the withdrawal of judges, is a relevant factor (see the specific provisions regarding the challenging of judges in *Micallef v. Malta* [GC], 2009, §§ 99-100; a situation where a challenge was not possible in *Stoimenovikj and Miloshevikj v. North Macedonia*, 2021, § 40; *Mikhail Mironov v. Russia*, 2020, concerning the requirements under Article 6 where a challenge for bias is submitted by a litigant and decided by a judge, including where the judge concerned is the one taking the decision, §§ 34-40 and case-law references cited; and *Doynov v. Bulgaria*, 2025, § 58, concerning challenging the impartiality of judges of the higher judicial instance). Such rules manifest the national legislature's concern to remove all reasonable doubts as to the impartiality of the judge or court concerned and constitute an attempt to ensure impartiality by eliminating the causes of such concerns. In addition to ensuring the absence of actual bias, they are directed at removing any appearance of partiality and so serve to promote the confidence which the courts in a democratic society must inspire in the public (*Mežnarić v. Croatia*, 2005, § 27 and *A.K. v. Liechtenstein*, 2015, §§ 82-83, concerning the withdrawal of judges of a supreme court in a small jurisdiction). The hierarchical structure of the competent administrative bodies may also raise an issue in terms of appearances (*Grace Gatt v. Malta*, 2019, §§ 85-86).

352. It should be noted that the national system governing judges' careers and disciplinary proceedings against them has itself been the subject of applications to the Court from the standpoint of judges' independence and objective impartiality (compare *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 151-65 and in particular § 163, with *Denisov v. Ukraine* [GC], 2018, §§ 68-80, and *Oleksandr Volkov v. Ukraine*, 2013, §§ 109-117 and 124-29).

353. The Court has also examined the specific case of judges' independence in relation to a decision by the High Council of the Judiciary (their disciplinary body) where judges appealing against a decision by that body come under the authority of the same body as regards their careers and disciplinary proceedings against them (compare *Oleksandr Volkov v. Ukraine*, 2013, § 130, and *Denisov v. Ukraine* [GC] (violations) with *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 157-165 (no violation)). The Court drew a distinction between the two national systems concerned (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 158-160, and *Denisov v. Ukraine* [GC], 2018, § 79).

354. In the performance of their judicial duties, judges may themselves, at some point in their careers, be in a similar position to one of the parties, including the defendant. However, the Court does not consider that a risk of this kind is capable of casting doubt on the impartiality of a judge in the absence of specific circumstances pertaining to his or her individual situation. In disciplinary proceedings against members of the judiciary, the fact that the judges hearing the case are themselves still subject to a set of disciplinary rules is not in itself a sufficient basis for finding a breach of the requirements of impartiality (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 163)[24]. The question of compliance with the fundamental guarantees of independence and impartiality may arise, however, if the structure and functioning of the disciplinary body itself raises serious issues in this regard (*Denisov v. Ukraine* [GC], 2018, § 79 (violation)).

355. As regards disciplinary proceedings against judges, the Court has stressed the need for substantial representation of judges within the relevant disciplinary body, this being a strong indicator of impartiality (*Xhoxhaj v. Albania*, 2021, § 299, and *Catană v. the Republic of Moldova*, 2023, § 70). In *Catană v. the Republic of Moldova*, 2023, the Court clarified that the presence, even in a merely passive role, of a member of the government or that of the Prosecutor General within a body concerned with the disciplining of judges (the Supreme Judicial Council or, in French, *Conseil supérieur de la magistrature*, CSM) was in itself highly problematic in terms of the impartiality and independence requirements under Article 6. The risk was that the judges might not hear cases impartially for fear of being made subject to disciplinary sanctions, or that the Prosecutor General might not act impartially towards judges with whose decisions he or she disagreed (§§ 75-76).

b. Situations in which the question of a lack of judicial impartiality may arise

356. There are two possible situations in which the question of a lack of judicial impartiality may arise:

i. The first is *functional in nature* and concerns, for instance, the exercise of different functions within the judicial process by the same person, or hierarchical or other links between the judge and other actors in the proceedings (*Micallef v. Malta* [GC], 2009, §§ 97-98). In the latter case, the nature and degree of the relationship in question must be examined.

ii. The second is *of a personal character* and derives from the conduct of the judges in a given case or the existence of links to a party to the case or a party's representative.

24. See section on "An independent tribunal".

i. Situations of a functional nature

α. The exercise of both advisory and judicial functions in the same case

357. The consecutive exercise of advisory and judicial functions within one body may, in certain circumstances, raise an issue under Article 6 § 1 as regards the impartiality of the body seen from the objective viewpoint (*Procola v. Luxembourg*, 1995, § 45 — violation).

358. The issue is whether there has been an exercise of judicial and advisory functions concerning "the same case", "the same decision" or "analogous issues" (*Kleyn and Others v. the Netherlands* [GC], 2003, § 200; *Sacilor Lormines v. France*, 2006, § 74 — no violation).

β. The exercise of both judicial and extra-judicial functions in the same case

359. When determining the objective justification for the applicant's fear, such factors as the judge's dual role in the proceedings, the time which elapsed between the two occasions on which he participated and the extent to which he was involved in the proceedings may be taken into consideration (*McGonnell v. the United Kingdom*, 2000, §§ 52-57).

360. Any direct involvement in the passage of legislation, or of executive rules, is likely to be sufficient to cast doubt on the judicial impartiality of a person subsequently called on to determine a dispute over whether reasons exist to permit a variation from the wording of the legislation or rules at issue (*McGonnell v. the United Kingdom*, §§ 55-58, where the Court found a violation of Article 6 § 1 on account of the direct involvement of a judge in the adoption of the development plan at issue in the proceedings; compare with *Pabla Ky v. Finland*, 2004, § 34 — no violation).

361. When there are two parallel sets of proceedings with the same person in the dual role of judge on the one hand and legal representative of the opposing party on the other, an applicant could have reason for concern that the judge would continue to regard him as the opposing party (*Wettstein v. Switzerland*, 2000, §§ 44-47).

362. The hearing of a constitutional complaint by a judge who had acted as counsel for the applicant's opponent at the start of the proceedings led to a finding of a violation of Article 6 § 1 (*Mežnarić v. Croatia*, § 36). As to the impartiality of a Constitutional Court judge who had acted as legal expert for the applicant's opponent in the civil proceedings at first instance, see *Švarc and Kavnik v. Slovenia*, 2007, § 44.

χ. The exercise of different judicial functions

363. The assessment of whether the participation of the same judge in different stages of a civil case complies with the requirement of impartiality laid down by Article 6 § 1 is to be made on a case-by-case basis, regard being had to the circumstances of the individual case (*Pasquini v. San Marino*, 2019, § 148). This also applies where the same judge participated in two separate sets of proceedings, such as factually connected criminal and civil proceedings (*ibid.*, § 149) or proceedings that were closely linked and took place several years apart (*Stoimenovikj and Miloshevikj v. North Macedonia*, 2021, §§ 36-38 and 40).

364. The mere fact that a judge has already taken pre-trial decisions cannot by itself be regarded as justifying concerns about his impartiality. What matters is the scope and nature of the measures taken by the judge before the trial. Likewise, the fact that the judge has detailed knowledge of the case file does not entail any prejudice on his part that would prevent his being regarded as impartial when the decision on the merits is taken. Nor does a preliminary analysis of the available information mean that the final analysis has been prejudged. What is important is for that analysis to be carried out when judgment is delivered and to be based on the evidence produced and argument heard at the hearing (*Morel v. France*, 2000, § 45).

365. It is necessary to consider whether the link between substantive issues determined at various stages of the proceedings is so close as to cast doubt on the impartiality of the judge participating in the decision-making at these stages (*Toziczka v. Poland*, 2012, § 36).

366. The situation is different where the two bodies conducting the proceedings against the applicant were composed of all the same judges and there was some confusion between the functions of bringing charges and determining the issues (*Kamenos v. Cyprus*, 2017, §§ 105-109). The confusion between the functions of prosecutor and judge may prompt objectively justified doubts as to the impartiality of the persons concerned (§ 104).

367. Other cases are to be noted:

- It cannot be stated as a general rule resulting from the obligation to be impartial, that a superior court which sets aside an administrative or judicial decision is bound to send the case back to a different jurisdictional authority or to a differently composed branch of that authority (*Ringeisen v. Austria*, 1971, § 97 in fine).
- An issue may arise if a judge takes part in two sets of proceedings relating to the same sets of facts (*Indra v. Slovakia*, 2005, §§ 51-53).
- A judge who is the presiding judge of an appeals tribunal assisted by two lay judges should not hear an appeal from his own decision (*De Haan v. the Netherlands*, 1997, § 51).
- A Court of Appeal in which the trial judges are called upon to ascertain whether or not they themselves committed an error of legal interpretation or application in their previous decision can raise doubts as to impartiality (*San Leonard Band Club v. Malta*, 2004, § 64).
- In *Kroi and Nocka v. Albania*, 2025, three judges of the Constitutional Court — sitting in an incomplete panel of six judges as a result of the extensive delays in the appointment of its new members — were called upon to decide whether they themselves had contributed to the breach of the applicants' constitutional rights as members of the Supreme Court panel that had heard his case in the previous set of proceedings (§ 55; see also *Scerri v. Malta*, 2020, § 78).
- It is not prima facie incompatible with the requirements of impartiality if the same judge is involved, first, in a decision on the merits of a case and, subsequently, in proceedings in which the admissibility of an appeal against that decision is examined (*Warsicka v. Poland*, 2007, §§ 38-47).
- A judge having a dual role, as counsel representing the party opposing the applicants' company in the first set of proceedings and as a Court of Appeal judge in the second set of proceedings: having regard in particular to the remoteness in time and the different subject matter of the first set of proceedings in relation to the second set and to the fact that the functions as counsel and judge did not overlap in time, the Court found that the applicants could not have entertained any objectively justified doubts as to the judge's impartiality (*Puolitaival and Pirttiaho v. Finland*, 2004, §§ 46-54).
- The Court found a violation of the principle of impartiality in a case where some judges who had already ruled on the case were required to decide whether or not they had erred in their earlier decision and where another three judges had already expressed their opinions on the matter (*Driza v. Albania*, 2007, §§ 78-83).
- One of the judges involved in the proceedings concerning an appeal on points of law had prior involvement in the case as a judge of the Higher Court (*Peruš v. Slovenia*, 2012, §§ 38-39).
- In *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, the President of the Supreme Court was also the president of the administrative body whose decision was being examined on appeal (§§ 153-156).

- A situation where the judicial assistant to the President of the Constitutional Court had been part of a team of lawyers who had represented the applicant's opponent in previous civil proceedings was examined in the case of *Bellizzi v. Malta*, 2011, §§ 60-61.
- In *Svilengaćanin and Others v. Serbia*, 2021, the holding of a public meeting and the signing of an agreement on procedural matters with the Ministry of Defence, a future defendant in an army salary dispute, did not affect the objective impartiality of the Supreme Court (§§ 65-75).
- The fact that the acting President of a court decided to transfer a case, raising an important legal issue, to an extended bench of the same court and sat in its composition does not violate the "impartiality" requirement of Article 6, provided that the proceedings offered sufficient guarantees to exclude any legitimate doubts about the acting president's alleged bias (*Toivanen v. Finland*, 2023, §§ 40-46).

ii. Situations of a personal nature

368. The principle of impartiality will also be infringed where the judge has a personal interest in the case (*Langborger v. Sweden*, 1989, § 35; *Gautrin and Others v. France*, 1998, § 59). As to whether statements made on social media by the wife of a judge cast doubt on her husband's impartiality, see *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, §§ 342 et seq., and, more generally, for the public expression of opinions by a judge's family members, § 344. For the existence of a link between a case being decided by the Constitutional Court and the husband of one of the three judges sitting on the bench, see *Croatian Golf Federation v. Croatia*, 2020, §§ 129-132.

369. Professional, financial or personal links between a judge and a party to a case, or the party's advocate, may also raise questions of impartiality (*Micallef v. Malta* [GC], 2009, § 102; *Wettstein v. Switzerland*, 2000, § 47; *Pescador Valero v. Spain*, 2003, § 27; *Tocono and Profesorii Prometeişti v. Moldova*, 2007, § 31, and *Pétur Thór Sigurðsson v. Iceland*, 2003, § 45). The financial interests of the judge concerned must be directly related to the subject matter of the dispute (mutatis mutandis, *Sigríður Elín Sigfúsdóttir v. Iceland*, 2020, § 53). The conduct of a judge towards a party outside the context of the proceedings may objectively give rise to fears of a lack of impartiality such as to call into question the judge's objective impartiality, even if it does not constitute misconduct under domestic law (mutatis mutandis, *Karrar v. Belgium,* 2021, §§ 36 and 39). In *Syndicat National Des Journalistes and Others v. France*, 2023, three of the judges of the court of cassation had previously participated, for a "non-negligeable" fee and repeatedly over the course of many years, in trainings organised by a company which was a respondent in a case which these three judges adjudicated. When this fact was revealed by the press, the Supreme Judicial Council (Conseil supérieur de la magistrature, CSM) found that the failure of these judges to withdraw from the case amounted to a breach of ethics but not to a disciplinary offence. Following this incident, a new procedure of authorisation for the participation of judges in trainings has been introduced by the President of the Court of Cassation. The Court concluded that, while the participation of judges in academic events, publications, teaching activities etc. was a normal part of their judicial functions, the character of engagement of the judges with the respondent in that case gave objective reasons to doubt their impartiality (§§ 47-58).

370. The fact that a judge has blood ties with a member of a law firm representing a party to a case does not automatically mean that there has been a violation (*Ramljak v. Croatia*, 2017, §§ 29, and in relation to a small country, *Koulias v. Cyprus*, 2020, §§ 62-64). A number of factors should be taken into account, including: whether the judge's relative has been involved in the case concerned, the relative's position in the law firm in question, the size of the firm, its internal organisational structure, the financial significance of the case for the firm, and any potential financial interest or benefit (and the extent thereof) for the relative (*Nicholas v. Cyprus*, 2018, § 62; see also *Ramljak v. Croatia*, 2017, §§ 38-39). In small jurisdictions, such as Cyprus or Liechtenstein, the administration of justice could be unduly hampered by the application of excessively strict standards (*A.K. v. Liechtenstein*, 2015, § 82, *Nicholas v. Cyprus*, 2018, § 63). In a very small country, the fact that a legal professional may perform

two functions on a part-time basis, for example as a judge and a practising lawyer, is not per se problematic either (*Steck-Risch and Others v. Liechtenstein*, 2005, § 39; *Bellizzi v. Malta*, 2011, § 57; and compare *Micallef v. Malta* [GC], 2009, § 102, concerning family ties between a judge and a lawyer). Similarly, where the legal representative of the opposing party acted as personal lawyer of the judge, the Court will take into account the circumstances of the specific case, the domestic legal framework and the realities of the jurisdiction at issue to establish whether any fears as to the judge's impartiality are objectively justified (*A and B v. Malta*, 2025, § 64).

371. The fact that judges know each other as colleagues or even share the same offices is not in itself sufficient to conclude that any concerns as to their impartiality are objectively justified (*Steck-Risch and Others v. Liechtenstein*, 2005, § 48; *Doynov v. Bulgaria*, 2025, § 59.

In *Doynov v. Bulgaria*, 2025, the applicant introduced a claim against the State seeking compensation for the alleged miscarriage of justice which he attributed *inter alia* to the Supreme Administrative Court (SAC). In the compensation proceedings the applicant challenged the judges of the SAC sitting on the bench, claiming that none of the judges of the SAC was impartial and therefore could not rule on the SAC's own liability for an alleged violation of EU law. This request was examined by a bench of three judges of the SAC who dismissed it. Having regard to the guarantees of independence provided by domestic law, and in the absence of hierarchical or financial dependence of the judges who decided on the recusal from the SAC, the judges' professional affiliation with it was not sufficient to conclude that any concerns as to their impartiality were objectively justified. In reaching that conclusion, the Court also noted that the judges who dismissed the recusal request and ruled on liability were not the same as those who had allegedly misinterpreted EU law, they had no role in the defence presented by the Supreme Administrative Court, and a finding of liability would have had no impact on their remuneration, working conditions or the functioning of the court (*Doynov v. Bulgaria*, 2025, §§ 59-61).

372. In this regard, the Court has found that complaints alleging bias on the part of courts should not lead to paralysis of the State's legal system (*Doynov v. Bulgaria*, 2025, § 58). Given the importance of appearances, the existence of a situation that may give rise to doubts as to impartiality should be disclosed at the outset of the proceedings. In that way, the situation in question can be assessed in the light of the various factors involved in order to determine whether disqualification is actually necessitated (*Nicholas v. Cyprus*, 2018, §§ 64-66).

373. Connections to a party in the proceedings do not necessarily need to be direct to cast doubt on the impartiality of a judge. Thus, in *Tsulukidze and Rusulashvili v. Georgia*, 2024, an assistant to one of the appeal court judges' was a daughter of a lawyer of the defendant. The Court noted that the broad mandate given to judicial assistants in the Georgian judicial system was capable of raising legitimate fears as to the impartiality of this judge: even though the extent of the assistant's involvement in that particular case remained unknown, the Supreme Court failed to elucidate the circumstances of this involvement thereby failing to dispel the applicants' doubts concerning the impartiality of the appeal court's judge (§ 58). In *Sytnyk v. Ukraine*, 2025, the judge, who examined the applicant's case in a single-judge formation, was also involved as a witness in a parallel criminal investigation into bribe allegations. Referring to the realistic possibility for the prosecution authorities to change his procedural status from a witness to a suspect at any moment, the Court considered that applicant's fears about the judge's possible dependence on the adverse party in the proceedings did not immediately appear to be manifestly devoid of merit (§§ 88-90).

374. In *Suren Antonyan v. Armenia*, 2025, the Court examined whether friendly relations and a common financial interest could affect the objective impartiality of a judge and of the whole panel where this judge sats. The president of the disciplinary court was a close friend and a former boss of an official who had initiated disciplinary proceedings against the applicant. Moreover, the families of this official and the President of the court had a common financial interest. When the applicant raised these concerns before the disciplinary court, the latter failed to dispel the applicant's doubts concerning the impartiality of its president, addressing only the question of a common financial

interest and not of the close friendship. Moreover, the disciplinary court considered that the alleged partiality of one member could not jeopardize the impartiality of the whole multi-member bench, given that the impugned decision had been taken unanimously. The Court did not accept this logic noting that, in this particular case, the judge at issue was the President of the disciplinary court and the rapporteur leading the discussion, and that the domestic courts did not take this into consideration in dismissing the applicant's challenge (§§ 139-140).

375. Furthermore, the language used by a judge may be important and demonstrate that the judge lacks the detachment required by his or her function (*Vardanyan and Nanushyan v. Armenia*, 2016, § 82). However, where a judge had made an inappropriate remark about the dangerousness of an applicant who had already been convicted of murder for sexual gratification, the Court found that although this might indicate unprofessional behaviour, it did not show that the judge was personally biased against the applicant or that there were objectively justified doubts as to his impartiality in the proceedings at issue (*Ilnseher v. Germany* [GC], 2018, § 289).

IV. Procedural requirements

A. Fairness

Article 6 § 1 of the Convention

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing by [a] tribunal ..."

1. General principles

376. A prominent place: the Court has always emphasised the prominent place held in a democratic society by the right to a fair trial (*Stanev v. Bulgaria* [GC], 2012, § 231; *Airey v. Ireland*, 1979, § 24). This guarantee "is one of the fundamental principles of any democratic society, within the meaning of the Convention" (*Pretto and Others v. Italy*, 1983, § 21).

The right to a fair hearing must be interpreted in the light of the Preamble to the Convention, which declares, among other things, the rule of law to be part of the common heritage of the Contracting States. Arbitrariness entails a negation of the rule of law and cannot be tolerated in respect of procedural rights any more than in respect of substantive rights (*Grzęda v. Poland* [GC], 2022 , § 339).

That being so, there can be no justification for interpreting Article 6 § 1 restrictively (*Moreira de Azevedo v. Portugal*, 1990, § 66). The requirement of fairness applies to proceedings in their entirety; it is not confined to hearings inter partes (*Stran Greek Refineries and Stratis Andreadis v. Greece*, 1994, § 49). Thus, the proceedings are examined as a whole in order to determine whether they were conducted in accordance with the requirements of a fair hearing (*De Tommaso v. Italy* [GC], 2017, § 172; *Regner v. the Czech Republic* [GC], 2017, § 161, in accordance with the same principle as in criminal proceedings; see *Beuze v. Belgium* [GC], 2018, § 120). A lack of fairness may result from a series of factors of varying significance (*Carmel Saliba v. Malta*, 2016, § 79, concerning the requirement to provide reasons).

377. The Court has nevertheless specified that restrictions on an individual's procedural rights may be justified in very exceptional circumstances (*Adorisio and Others v. the Netherlands* (dec.), 2015, concerning the short time available to the applicant for appealing and for studying documents filed by the opposing party, and the particular need for a very speedy decision by the domestic court).

378. Content: civil claims must be capable of being submitted to a judge (*Fayed v. the United Kingdom*, 1994, § 65) for an effective judicial review (*Sabeh El Leil v. France* [GC], 2011, § 46), meaning that a State cannot, without restraint or scrutiny by the Convention institutions, remove from the jurisdiction of its courts a whole range of civil claims or confer immunity from civil liability on entire categories of persons. Accordingly, where an emergency legislative decree does not contain any clear or explicit wording excluding the possibility of judicial supervision of the measures taken for its implementation, it must always be understood as authorising the State's courts to exercise sufficient scrutiny so that any arbitrariness can be avoided (*Pişkin v. Turkey*, 2020, § 153; compare with *Kandemir v. Türkiye**, 2026, §§ 86-91, and *İ.Ç. v. Türkiye*, 2026, §§ 53-62). Article 6 § 1 describes in detail the procedural guarantees afforded to parties in civil proceedings. It is intended above all to secure the interests of the parties and those of the proper administration of justice (*Nideröst-Huber v. Switzerland*, 1997, § 30). Litigants must therefore be able to argue their case with the requisite effectiveness (*H. v. Belgium*, 1987, § 53). This does not mean that at a certain point in the proceedings the burden of proof cannot shift onto the litigant (*Xhoxhaj v. Albania*, 2021, § 352).

379. Role of the national authorities: the Court has always said that the national authorities must ensure in each individual case that the requirements of a "fair hearing" within the meaning of the Convention are met (*Dombo Beheer B.V. v. the Netherlands*, 1993, § 33 *in fine*).

380. The litigant's claims: it is a matter of principle that in the determination of his "civil rights and obligations" — as defined in the case-law of the Strasbourg Court[25] — everyone is entitled to a fair hearing by a tribunal. To this are added the guarantees laid down by Article 6 § 1 as regards both the organisation and the composition of the court, and the conduct of the proceedings. In sum, the whole makes up the right to a fair hearing (*Golder v. the United Kingdom*, 1975, § 36).

381. However, neither the letter nor the spirit of Article 6 prevent a person from voluntarily waiving the guarantees of a fair hearing, either expressly or tacitly, subject to certain conditions. However, the waiver must be unequivocal and not run counter to any important public interest (*Dilipak and Karakaya v. Turkey*,2014, § 79; *Schmidt v Latvia*, § 96; *Golubović v. Croatia*, 2012, § 38 ; see also *Dolenc v. Slovenia*, 2022, §§ 72-73).

382. Principles of interpretation:

- The principle whereby a civil claim must be capable of being submitted to a judge ranks as one of the universally recognised fundamental principles of law; the same is true of the principle of international law which forbids the denial of justice. Article 6 § 1 must be read in the light of these principles (*Golder v. the United Kingdom*, 1975, § 35).
- As is reiterated in *Grzęda v. Poland* [GC], 2022, §§ 339-340, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, §§ 237 et seq., the right to a fair hearing before a tribunal as guaranteed by Article 6 § 1 must be interpreted in the light of the Preamble to the Convention, which declares the rule of law (*Sabeh El Leil v. France* [GC], 2011, § 46) to be part of the common heritage of the Contracting States (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 57; *Brumărescu v. Romania*, 1999, § 61). The Court has held that the national authorities are in principle better placed than it is to assess how the interests of justice and the rule of law would be best served in a particular situation (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 243). However, it has also noted that the principle of the rule of law encompasses a number of other equally important principles, which, although interrelated and often complementary, may in some circumstances come into competition (§§ 237-240).
- Even in the context of a state of emergency, the fundamental principle of the rule of law must prevail (*Pişkin v. Turkey*, 2020, § 153). Moreover, the duty of the State to provide adequate compensation for wrongs that are attributable to the authorities and have been

25. See section "Scope".

duly established by the courts is of crucial importance in a society governed by the rule of law (*Scordino v. Italy (no. 1)* [GC], 2006, § 201).

- One of the fundamental aspects of the rule of law is the principle of legal certainty, which is implicit in all of the Articles of the Convention (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 56; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 116; *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238; see also *Krivtsova v. Russia*, 2022, §§ 37-39 — and, for example, as regards the absence of a limitation period, *Oleksandr Volkov v. Ukraine*, 2013, §§ 137-139, and *Xhoxhaj v. Albania*, 2021, §§ 348-349; and compare with *Camelia Bogdan v. Romania*, 2020, §§ 47-48, or, for the starting-point of such a period, *Sanofi Pasteur v. France*, 2020, § 52).
- This principle presupposes, in general, respect for the principle of res judicata (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238; *Krivtsova v. Russia*, 2022, §§ 37-39). Arbitrariness amounts to the negation of the principle of the rule of law (*Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, § 145). This principle may also be infringed in other ways (*Dolińska-Ficek and Ozimek v. Poland*, 2021, §§ 328-330). For example, laws which are directed against specific persons are contrary to the rule of law (*Grzęda v. Poland* [GC], § 299).
- In a democratic society within the meaning of the Convention, the right to a fair administration of justice holds such a prominent place that a restrictive interpretation of Article 6 § 1 would not correspond to the aim and the purpose of that provision (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 283, for the role of the courts; *Ryakib Biryukov v. Russia*, 2008, § 37).
- The *Zubac v. Croatia* [GC], 2018, case emphasised the importance of these principles, as did *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, which also deals with situations in which the fundamental principles of the Convention come into conflict (§§ 237 et seq., § 243).
- In addition, the Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective (*Perez v. France* [GC], 2004, § 80; *Airey v. Ireland*, 1979, § 24).

383. States have greater latitude in civil matters: the Court has acknowledged that the requirements inherent in the concept of a “fair hearing” are not necessarily the same in cases concerning the determination of civil rights and obligations as they are in cases concerning the determination of a criminal charge: “the Contracting States have greater latitude when dealing with civil cases concerning civil rights and obligations than they have when dealing with criminal cases” (*Peleki v. Greece*, 2020, § 70; *Dombo Beheer B.V. v. the Netherlands*, 1993, § 32; *Levages Prestations Services v. France*, 1996, § 46). The requirements of Article 6 § 1 as regards cases concerning civil rights are less onerous than they are for criminal charges (*König v. Germany*, 1978, § 96). The judgment in *Moreira Ferreira v. Portugal (no. 2)* [GC], 2017, §§ 66-67, confirmed that the rights of persons accused of or charged with a criminal offence required greater protection than the rights of parties to civil proceedings.

384. However, when it examines proceedings falling under the civil head of Article 6, the Court may find it necessary to draw inspiration from its approach to criminal-law matters (see, as regards the principle, *López Ribalda and Others v. Spain* [GC], 2019, § 152; *Čivinskaitė v. Lithuania*, 2020, § 121, and, for example, *Dilipak and Karakaya v. Turkey*, 2014, § 80, concerning a payment order imposed in absentia on a person who had not been served with a writ of summons; *Carmel Saliba v. Malta*, 2016, §§ 67 and 70-71, concerning civil liability for damage resulting from a criminal offence; *R.S. v. Germany* (dec.), 2017, §§ 35 and 43, concerning disciplinary proceedings in the armed forces). In cases where civil liability is incurred for damage arising out of a criminal offence, it is imperative that the domestic decisions are based on a thorough assessment of the evidence produced and that they

contain adequate reasons, on account of the serious consequences which may ensue from such decisions (*Carmel Saliba v. Malta*, 2016, § 73)[26].

385. Lastly, in very exceptional circumstances relating to a particular case, the Court has been able to take into account "the need for a very speedy decision" by the domestic court (*Adorisio and Others v. the Netherlands* (dec.), 2015). Nevertheless, the prompt conduct of the proceedings does not justify disregarding the right to adversarial proceedings (*Dolenc v. Slovenia*, 2022, § 67).

2. Scope

a. Principles

386. An effective right: the parties to the proceedings have the right to present the observations which they regard as relevant to their case. This right can only be seen to be effective if the observations are actually "heard", that is to say duly considered by the trial court (*Donadze v. Georgia*, 2006, § 35). In other words, the "tribunal" has a duty to conduct a proper examination of the submissions, arguments and evidence adduced by the parties (for an appellant represented by a lawyer, see *Göç v. Turkey* [GC], 2002, § 57; *Perez v. France* [GC], 2004, § 80; *Kraska v. Switzerland*, 1993, § 30; *Van de Hurk v. the Netherlands*, 1994, § 59). In order for the right guaranteed by this Article to be effective, the authorities must exercise "diligence": for an appellant not represented by a lawyer, see *Kerojärvi v. Finland*, 1995, § 42; *Fretté v. France*, 2002, § 49).

387. Proper participation of the appellant party in the proceedings requires the court, of its own motion, to communicate the documents at its disposal (and see below, the limits). It is not material, therefore, that the applicant did not complain about the non-communication of the relevant documents or took the initiative to access the case file (*Kerojärvi v. Finland*, 1995, § 42). The mere possibility for the appellant to consult the case file and obtain a copy of it is not, of itself, a sufficient safeguard (*Göç v. Turkey* [GC], 2002, § 57). Furthermore, the appellant must be allowed the necessary time to submit further arguments and evidence to the domestic court (see, for example, *Adorisio and Others v. the Netherlands* (dec.), 2015, concerning a short time-limit for appealing).

388. Regarding the "fair balance" between the parties (adversarial procedure and equality of arms), the presence of the litigants in court (*Zayidov v. Azerbaijan (no. 2)*, 2022, § 87) and the participation of an independent member of the national legal service (government commissioner, advocate-general, public prosecutor, rapporteur, and so on), see *Kramareva v. Russia*, 2022, §§ 31-34 and 38 et seq. (concerning a prosecutor).

389. Obligation incumbent on the administrative authorities: the appellant must have access to the relevant documents in the possession of the administrative authorities, if necessary via a procedure for the disclosure of documents (*McGinley and Egan v. the United Kingdom*, 1998, §§ 86 and 90). Were the respondent State, without good cause, to prevent appellants from gaining access to documents in its possession which would have assisted them in defending their case, or to falsely deny their existence, this would have the effect of denying them a fair hearing, in violation of Article 6 § 1 (*ibid.*).

390. Assessment of the proceedings as a whole: whether or not proceedings are fair is determined by examining them in their entirety (*Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], 2012, § 197; *Regner v. the Czech Republic* [GC], 2017, §§ 151 and 161; *Ankerl v. Switzerland*, 1996, § 38).

391. That being so, any shortcoming in the fairness of the proceedings may, under certain conditions, be remedied at a later stage, either at the same level (*Helle v. Finland*, 1997, §§ 46 and 54) or by a higher court (*Schuler-Zgraggen v. Switzerland*, 1993, § 52; contrast *Albert and Le Compte v. Belgium*, 1983, § 36; *Feldbrugge v. the Netherlands*, 1986, §§ 45-46).

26. See also section "Article 6 § 1 (fair criminal trial)".

392. In any event, if the defect lies at the level of the highest judicial body — for example because there is no possibility of replying to conclusions submitted to that body — there is an infringement of the right to a fair hearing (*Ruiz-Mateos v. Spain*, 1993, §§ 65-67).

393. A procedural flaw can be remedied only if the decision in issue is subject to review by an independent judicial body that has full jurisdiction and itself offers the guarantees required by Article 6 § 1. It is the scope of the appeal court's power of review that matters, and this is examined in the light of the circumstances of the case (*Obermeier v. Austria*, 1990, § 70).[27]

394. Previous decisions which do not offer the guarantees of a fair hearing: in such cases no question arises if a remedy was available to the appellant before an independent judicial body which had full jurisdiction and itself provided the safeguards required by Article 6 § 1 (*Oerlemans v. the Netherlands*, 1991, §§ 53-58; *British-American Tobacco Company Ltd v. the Netherlands*, 1995, § 78). What counts is that such a remedy offering sufficient guarantees exists (*Air Canada v. the United Kingdom*, 1995, § 62).

395. The conduct of criminal proceedings may in some cases have a potential impact on the fairness of the determination of a "civil" dispute. In particular, the specific question of a civil party or civil rights associated with a criminal investigation procedure may raise an issue in terms of a fair trial if, during this preliminary stage of the criminal proceedings, civil rights are irretrievably undermined for the purposes of the subsequent civil dispute (see the applicable principles in *Mihail Mihăilescu v. Romania*, 2021, §§ 74-89, including the question of res judicata, and the requisite level of protection, § 90, and also *Victor Laurențiu Marin v. Romania*, 2021, §§ 144-150, and *Nicolae Virgiliu Tănase v. Romania* [GC], 2019. Compare *Fabbri and Others v. San Marino* [GC], 2024, §§ 88-93, where the Court concluded that flawed criminal proceedings did not necessarily predetermine the outcome of the civil proceedings and where it assessed the applicants' diligence in asserting their civil claim within the framework of criminal proceedings).

396. Before the appellate courts: Article 6 § 1 does not compel the Contracting States to set up courts of appeal or of cassation, but where such courts do exist the State is required to ensure that litigants before these courts enjoy the fundamental guarantees contained in Article 6 § 1 (*Andrejeva v. Latvia* [GC], 2009, § 97). However, the manner of application of Article 6 § 1 to proceedings before courts of appeal depends on the special features of the proceedings involved; account must be taken of the entirety of the proceedings in the domestic legal order and of the role played therein by the appellate court (*Helmers v. Sweden*, 1991, § 31) or the Court of Cassation (*K.D.B. v. the Netherlands*, 1998, § 41; *Levages Prestations Services v. France*, 1996, §§ 44-45). If a witness has been properly cross-examined in person in the proceedings before a first instance court, a court of appeal may re-assess the testimony of that witness on the basis of a transcript only, without hearing that witness directly (*Roccella v. Italy*, 2023, §§ 51-52).

397. Given the special nature of the Court of Cassation's role, which is limited to reviewing whether the law has been correctly applied, the procedure followed may be more formal (*Levages Prestations Services v. France*, 1996, § 48). Nevertheless, the rejection of a cassation appeal without an examination on the merits for failure to comply with a requirement prescribed by law must pursue a "legitimate aim" within the meaning of the case-law (*Oorzhak v. Russia*, 2021, §§ 20-22). The requirement to be represented by a specialist lawyer before the Court of Cassation is not in itself contrary to Article 6 (*Bąkowska v. Poland*, 2010, § 45; *G.L. and S.L. v. France* (dec.); *Tabor v. Poland*, § 42).

398. Limits: as a general rule it is for the national courts to assess the facts: is not the Court's role to substitute its own assessment of the facts for that of the national courts (*Dombo Beheer B.V. v. the Netherlands*, 1993, § 31).[28] Furthermore, while appellants have the right to present the

27. See also the section on "Review by a court having full jurisdiction".
28. See the section on "Fourth instance".

observations which they regard as relevant to their case, Article 6 § 1 does not guarantee a litigant a favourable outcome (*Andronicou and Constantinou v. Cyprus*, 1997, § 201). In addition, Article 6 § 1 does not go so far as to require the courts to indicate in the text of their decisions the detailed arrangements and time-limits for appealing against them (*Avotiņš v. Latvia* [GC], 2016, § 123).

399. When the parties demonstrate a certain lack of diligence, the consequences attributed to their behaviour by the domestic courts must be commensurate with the gravity of their failings and take heed of the overarching principle of a fair hearing (*Dolenc v. Slovenia*, 2022, § 73). The Court may find that an applicant contributed to a large extent, as a result of his or her inaction and lack of diligence, to bringing about the situation complained of before it, which he or she could have prevented (*Avotiņš v. Latvia* [GC], 2016, §§ 123-24; *Barik Edidi v. Spain* (dec.), 2016, § 45; and contrast *Zavodnik v. Slovenia*, 2015, §§ 79-80). Errors committed during the proceedings may be mainly and objectively attributable to the individual (*Zubac v. Croatia* [GC], 2018, §§ 90 and 121, and for an application of this principle concerning an expert report, see *Tabak v. Croatia*, 2022, §§ 69 and 80). More problematic, however, are situations where procedural errors have occurred on the part of both the individual and the relevant authorities, in particular the court(s) (see *Zubac v. Croatia* [GC], 2018, §§ 91-95 and 114-121).

400. The parties to civil proceedings are required to show diligence in complying with the procedural steps relating to their case (*Bąkowska v. Poland*, 2010, § 54; see also, concerning “interested parties”, *Marina Aucanada Group S.L. v. Spain*, 2022, §§ 50-52). In assessing whether the “requisite diligence” was displayed in pursuing the relevant procedural actions, it should be established whether or not the applicant was represented during the proceedings. Indeed, “procedural rights will usually go hand in hand with procedural obligations” (*Zubac v. Croatia* [GC], 2018, §§ 89 and 93). This also applies to prisoners, seeing that the concept of “diligence normally required from a party to civil proceedings” is a matter to be assessed in the context of imprisonment (compare *Parol v. Poland*, 2018, §§ 42-48, in particular § 47, and *Kunert v. Poland*, 2019, §§ 34-37, concerning prisoners who were not assisted by a lawyer).

401. The theory of appearances: the Court has stressed the importance of appearances in the administration of justice; it is important to make sure the fairness of the proceedings is apparent. The Court has also made it clear, however, that the standpoint of the persons concerned is not in itself decisive; the misgivings of the individuals before the courts with regard to the fairness of the proceedings must in addition be capable of being held to be objectively justified (*Kraska v. Switzerland*, 1993, § 32). It is therefore necessary to examine how the courts handled the case.

402. In other cases, before Supreme Courts, the Court has pointed out that the public’s increased sensitivity to the fair administration of justice justified the growing importance attached to appearances (*Kress v. France* [GC], 2001, § 82; *Martinie v. France* [GC], 2006, § 53; *Menchinskaya v. Russia*, 2009, § 32). The Court attached importance to appearances in these cases (see also *Vermeulen v. Belgium*, 1996, § 34; *Lobo Machado v. Portugal*, 1996, § 32).

403. Judicial practice: in order to take the reality of the domestic legal order into account, the Court has always attached a certain importance to judicial practice in examining the compatibility of domestic law with Article 6 § 1 (*Kerojärvi v. Finland*, 1995, § 42; *Gorou v. Greece (no. 2)* [GC], 2009, § 32). Indeed, the general factual and legal background to the case should not be overlooked in the assessment of whether the litigants had a fair hearing (*Stankiewicz v. Poland*, 2006, § 70).

404. The State authorities cannot dispense with effective control by the courts on grounds of national security or terrorism[29]: there are techniques that can be employed which accommodate both legitimate security concerns and the individual’s procedural rights (*Dağtekin and Others v. Turkey*,

29. See the Guide on terrorism.

2007, § 34). For the case of a derogation under Article 15 of the Convention during a state of emergency, see *Pişkin v. Turkey*, 2020, § 153.

405. The Court has developed its case-law concerning allegations of media influence over civil proceedings *Čivinskaitė v. Lithuania*, 2020, § 122 and §§ 137-139, or comments made in a parliamentary inquiry report (§§ 124 et seq.) or public statements by State representatives and high-ranking policians (§§ 133 et seq.). Given that lawyers play a vital role in the administration of justice and that the free exercise of the profession of lawyer is indispensable to the full implementation of the fundamental right to a fair hearing guaranteed by Article 6, attacks on their reputations or having them called into question by high-ranking State officials can have serious consequences for the upholding of the Article 6 guarantees (see, mutatis mutandis, *Mesić v. Croatia*, 2022, §§ 107 and 109).

406. A principle independent of the outcome of the proceedings: the procedural guarantees of Article 6 § 1 apply to all litigants, not just those who have not won their cases in the national courts (*Philis v. Greece (no. 2)*, 1997, § 45).

b. Examples and limits

407. The case-law has covered numerous situations, including:

408. Notification at the correct address of the existence of proceedings: there is no requirement as to a specific form of service (*Avotiņš v. Latvia* [GC], 2016, § 119 and below), but applicants must be given the opportunity to participate in the proceedings against them and to defend their interests. The competent authorities must therefore take the necessary steps to inform them of the proceedings concerning them (*Dilipak and Karakaya v. Turkey*, 2014, §§ 85-88, where insufficient efforts were made to identify the applicants' correct address and it was subsequently impossible for them to appear at a new hearing, even though they had not waived that right; *Bacaksız v. Turkey*, 2019, § 53, and case-law references cited; concerning a notice published in the Official Gazette, see *Miholapa v. Latvia*, 2007).

409. Civil proceedings conducted in absentia / civil judgment delivered in default: drawing inspiration from its case-law concerning criminal proceedings, the Court summarised the conditions in which such a situation would comply with Article 6 § 1 in *Bacaksız v. Turkey*, 2019, §§ 56-57 and 60, with reference in particular to *Dilipak and Karakaya v. Turkey*, 2014, §§ 78-80 (in *Bacaksız*, unlike in the previous cases, the applicant had subsequently been able to appear at a fresh hearing, §§ 62-65).

410. Lack of legal aid: this may raise the question whether the defendant in civil proceedings was able to present an effective defence (*McVicar v. the United Kingdom*, 2002, § 50; *Timofeyev and Postupkin v. Russia*, 2021, §§ 101-107).

411. Observations submitted by the court to the appellate court manifestly aimed at influencing its decision (and see limits below): the parties must be able to comment on the observations, irrespective of their actual effect on the court, and even if the observations do not present any fact or argument which has not already appeared in the impugned decision in the opinion of the appellate court (*Nideröst-Huber v. Switzerland*, 1997, §§ 26-32) or of the respondent Government before the Strasbourg Court (*APEH Üldözötteinek Szövetsége and Others v. Hungary*, 2000, § 42).

412. Preliminary questions: the Convention does not guarantee, as such, any right to have a case referred by a domestic court for a preliminary ruling from another national authority (including a constitutional court: *Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, § 166) or international authority (*Coëme and Others v. Belgium*, 2000, § 114; *Acar and Others v. Turkey* (dec.), 2017, § 43).

413. Article 6 § 1 does not, therefore, guarantee an absolute right to have a case referred by a domestic court to the Court of Justice of the European Union (CJEU)[30] (*Dotta v. Italy* (dec.), 1999; *Herma v. Germany* (dec.), 2009). It is for the applicant to provide explicit reasons for such a request (*John v. Germany* (dec.), 2007; *Somorjai v. Hungary*, 2018, § 60). The review of the soundness of the interpretation of European Union (EU) law by the national courts is a matter falling outside the Strasbourg Court's jurisdiction (§ 54).

414. Where a preliminary reference mechanism exists, refusal by a domestic court to grant a request for such a referral may, in certain circumstances, infringe the fairness of proceedings (*Ullens de Schooten and Rezabek v. Belgium*, 2011, §§ 57-67, with further references; *Canela Santiago v. Spain* (dec.), 2001). This is so where the refusal is found to be arbitrary, that is to say, where there has been a refusal even though the applicable rules allow no exception or alternative to the principle of preliminary reference, where the refusal was based on reasons other than those provided for by such rules, or where the refusal was not duly reasoned in accordance with those rules (*Ullens de Schooten and Rezabek v. Belgium*, 2011, § 59).

415. The Court examines whether the refusal appears to be arbitrary, applying the above-mentioned case-law (*Canela Santiago v. Spain* (déc.), 2001). As regards the provision of reasons for a refusal by a national court to refer a question to the CJEU for a preliminary ruling in a decision not subject to appeal, the *Ullens de Schooten and Rezabek v. Belgium*, 2011, judgment, referred to, *inter alia*, in *Somorjai v. Hungary*, 2018, §§ 57 and 62 (and the references cited), noted the following[31]:

- Article 6 § 1 requires the domestic courts to give reasons, in the light of the applicable law, for any decision refusing to refer a question for a preliminary ruling;
- when the Strasbourg Court hears a complaint alleging a violation of Article 6 § 1 on this basis, its task consists in ensuring that the impugned refusal has been duly accompanied by such reasoning;
- while this verification has to be made thoroughly, it is not for the Court to examine any errors that might have been committed by the domestic courts in interpreting or applying the relevant law (*Repcevirág Szövetkezet v. Hungary*, 2019, § 59) ;
- in the specific context of the third paragraph of Article 234 of the Treaty establishing the European Community (now Article 267 of the TFEU), national courts within the European Union against whose decisions there is no judicial remedy under national law, and which refuse to request a preliminary ruling from the CJEU on a question raised before them concerning the interpretation of European Union law, are required to give reasons for such refusal in the light of the exceptions provided for by the case-law of the CJEU in accordance with the Cilfit criteria (*Somorjai v. Hungary*, 2018, §§ 39-41). They must therefore indicate the reasons why they have found that the question is irrelevant, that the European Union law provision in question has already been interpreted by the CJEU, or that the correct application of EU law is so obvious as to leave no scope for any reasonable doubt.

416. The reasons given in the decision by the court of final instance refusing to refer a case to the CJEU for a preliminary ruling are to be assessed in the light of the circumstances of the case and the domestic proceedings as a whole (*Krikorian v. France* (dec.), 2013, § 99; *Harisch v. Germany*, 2019, § 42; *Repcevirág Szövetkezet v. Hungary*, 2019, § 59).

417. The Court has accepted summary reasoning where the appeal on the merits itself had no prospect of success, such that a reference for a preliminary ruling would have had no impact on the outcome of the case (*Stichting Mothers of Srebrenica and Others v. the Netherlands* (dec.), 2013, §§ 173-174, and, mutatis mutandis, in criminal matters, *Baydar v. the Netherlands*, 2018, §§ 48-49), for example where the appeal did not satisfy the domestic admissibility criteria (*Astikos Kai*

30. See the thematic guide on European Union law in the Court's case-law.
31. See the thematic guide on European Union law in the Court's case-law.

Paratheristikos Oikodomikos Synetairismos Axiomatikon and Karagiorgos v. Greece (dec.), 2017, §§ 46-47). The Court also accepts that, in concreto, the reasons for refusing a request for a preliminary ruling in the light of the Cilfit criteria may be inferred from the reasoning of the rest of the judgment of the court concerned (*Krikorian v. France* (dec.), 2013, §§ 97-99; *Harisch v. Germany*, 2019, §§ 37-42; and *Ogieriakhi v. Ireland* (dec.), 2019, § 62), or from somewhat implicit reasoning in the decision refusing the request (*Repcevirág Szövetkezet v. Hungary*, 2019, §§ 57-58).

418. In the case of *Dhahbi v. Italy*, 2014, §§ 32-34, the Court for the first time found a violation of Article 6 on account of the lack of reasons given by a domestic court for refusing to refer a question to the CJEU for a preliminary ruling. The Court of Cassation had made no reference to the applicant's request for a preliminary ruling or to the reasons why it had considered that the question raised did not warrant referral to the CJEU, or reference to the CJEU's case-law. It was therefore unclear from the reasoning of the impugned judgment whether that question had been considered not to be relevant or to relate to a provision which was clear or had already been interpreted by the CJEU, or whether it had simply been ignored (see also *Schipani and Others v. Italy*, 2015, §§ 71-72). In *Sanofi Pasteur v. France*, 2020, §§ 74-79, the Court also found a violation on account of the lack of sufficient reasoning where the Court of Cassation's judgment had contained a reference to the applicant company's requests for a preliminary ruling through the phrase "without it being necessary to refer a question to the Court of Justice of the European Union for a preliminary ruling".

419. In addition, where a party to civil proceedings raises a specific constitutional issue of importance for the determination of a case and requests that this issue be referred to the Constitutional Court for examination, a domestic court has to provide specific reasons justifying its refusal to refer the question, thus indicating that it has carried out a rigorous examination of the matter (*Xero Flor w Polsce sp. z o.o. v. Poland*, 2021, §§ 171-172).

420. Changes in domestic case-law: the requirement of legal certainty and the protection of legitimate expectations do not involve the right to an established jurisprudence (*Unédic v. France*, 2008, § 74). Case-law development is not, in itself, contrary to the proper administration of justice (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 116), since a failure to maintain a dynamic and evolutive approach would risk hindering reform or improvement (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 58; *Albu and Others v. Romania*, 2012, § 34). In *Atanasovski v. the former Yugoslav Republic of Macedonia*, 2010, § 38, the Court held that the existence of well-established jurisprudence imposed a duty on the Supreme Court to make a more substantial statement of reasons justifying its departure from the case-law, failing which the individual's right to a duly reasoned decision would be violated. In some cases changes in domestic jurisprudence which affect pending civil proceedings may violate the Convention (*Petko Petkov v. Bulgaria*, 2013, §§ 32-34).

421. Divergences in case-law between domestic courts or within the same court cannot, in themselves, be considered contrary to the Convention (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 51, and *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 116).[32] However, the Court has emphasised the importance of putting mechanisms in place to ensure consistency in court practice and uniformity of the courts' case-law (*Svilengaćanin and Others v. Serbia*, 2021, § 82). It is the Contracting States' responsibility to organise their legal systems in such a way as to avoid the adoption of discordant judgments (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 55). The role of a supreme court is precisely to resolve possible contradictions or uncertainties resulting from judgments containing divergent interpretations (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 123, and case-law references cited, and, for example, *Svilengaćanin and Others v. Serbia*, 2021, § 81).

It is not in principle the Court's function to compare different decisions of national courts, even if given in apparently similar or connected proceedings; it must respect the independence of those courts. It

32. See also Section IV – A – 3 (c) "Consistency of domestic case-law"

has pointed out that giving two disputes different treatment cannot be considered to give rise to conflicting case-law when this is justified by a difference in the factual situations at issue (*Ferreira Santos Pardal v. Portugal,* 2015, § 42, and *Hayati Çelebi and Others v. Turkey*, 2016, § 52).

- The case of *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, concerned judgments of two separate, independent and hierarchically unrelated supreme courts. The Court held in particular that an individual petition to it could not be used as a means of dealing with or eliminating conflicts of case-law that could arise in domestic law, or as a review mechanism for rectifying inconsistencies in the decisions of the different domestic courts (§ 95).

- The case of *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, concerned profound and long-standing differences in the case-law of a single court — the Supreme Court — and the failure to use a mechanism for ensuring harmonisation of the case-law. The Court stressed the importance of ensuring consistent practice within the highest court in the country, to avoid the risk of undermining the principle of legal certainty. That principle, which is implicit in all the Articles of the Convention, constitutes one of the fundamental aspects of the rule of law (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238). The persistence of conflicting court decisions can create a state of legal uncertainty likely to reduce public confidence in the judicial system, whereas such confidence is clearly one of the essential components of a State based on the rule of law (§ 116) (see also *Sine Tsaggarakis A.E.E. v. Greece*, 2019, §§ 51-59, concerning the persistently divergent positions taken by two different sections of the Supreme Administrative Court despite the institution of a mechanism for harmonising the case-law). However, in *Latorre Atance v. Spain*, 2025, § 56, the Court did not assert that the inconsistency was "long-standing" and "profound", rather stating that the same Chamber of the *Audiencia Nacional* issued conflicting judgments within a relatively short period of time and concerning the same legal question and factual background, which has been recognised later by the Supreme Court which had expressly declared a miscarriage of justice in respect of the applicant's case.

422. Allegations of a conflict between two court decisions: inconsistency in the reasons given for the decisions is not sufficient for there to be a breach of the res judicata principle; it must also be ascertained whether the cases brought before the courts were identical, that is, between the same parties and with the same subject matter, but were resolved differently (*Krivtsova v. Russia*, 2022, §§ 42-48; see also *Aydin and Others v. Türkiye* (dec.), 2023, §§ 56-61).

423. Interpretation of a judgment of the Strasbourg Court by a national court: in *Bochan v. Ukraine (no. 2)* [GC], 2015, the applicable legal framework provided the applicant with a remedy enabling a judicial review of her civil case by the Supreme Court in the light of a finding of a violation by the Strasbourg Court. The Court nevertheless found that the Supreme Court had "grossly misrepresented" the findings reached in its judgment. This did not amount merely to a different reading of a legal text but to an incorrect interpretation. The domestic court's reasoning could therefore only be regarded as being "grossly arbitrary" or as entailing a "denial of justice" in breach of Article 6 (*ibid.* [GC], §§ 63-65).

424. Failure to communicate the observations of an "independent member of the national legal service" to litigants before a Supreme Court (members of the public prosecutor's department: *Vermeulen v. Belgium*, 1996; *Van Orshoven v. Belgium*, 1997; *K.D.B. v. the Netherlands*, 1998; Principal Public Prosecutor/Attorney General: *Göç v. Turkey* [GC], 2002; *Lobo Machado v. Portugal*, 1996; Government Commissioner: *Kress v. France* [GC], 2001; *Martinie v. France* [GC], 2006) and no opportunity to reply to such observations: many respondent States have argued that this category of members of the national legal service was neither party to the proceedings nor the ally or adversary of any party, but the Court has found that regard must be had to the part actually played in the proceedings by the official concerned, and more particularly to the content and effects of his submissions (*Kress v. France* [GC], 2001, § 71 in fine; *Yvon v. France*, 2003, § 33; *Vermeulen v. Belgium*, 1996, § 31). For a general overview of the case-law concerning the participation in proceedings of an

independent member of the national legal service, see *Kramareva v. Russia*, 2022, §§ 31-34, and for application of the case-law to a public prosecutor, see §§ 38 et seq.

425. The Court has stressed the importance of adversarial proceedings in cases where the submissions of an independent member of the national legal service in a civil case were not communicated in advance to the parties, depriving them of an opportunity to reply to them (*Kress v. France* [GC], 2001, § 76; *Göç v. Turkey* [GC], 2002, §§ 55-56; *Lobo Machado v. Portugal*, 1996, § 31; *Van Orshoven v. Belgium*, 1996, § 41; *Immeubles Groupe Kosser v. France*, 2002, § 26).

426. Participation by and even the mere presence of these members of the national legal service in the deliberations, be it "active" or "passive", after they have publicly expressed their views on the case has been condemned (*Kress v. France* [GC], 2001, § 87; *Van Orshoven v. Belgium*, 1996, § 34; *Lobo Machado v. Portugal*, 1996, § 32). This case-law is largely based on the theory of appearances (*Martinie v. France* [GC], 2006, § 53).

427. The conditions in which the proceedings took place must therefore be examined, and in particular whether the proceedings were adversarial and complied with the equality of arms principle (compare *Kress v. France* [GC], 2001, § 76, and *Göç v. Turkey* [GC], 2002, §§ 55-57; see also *Marc-Antoine v. France* (dec.), 2013), in order to determine whether the situation was attributable to the litigant's conduct, or to the attitude of the authorities or the applicable legislation (*Fretté v. France*, 2002, §§ 49-51).

For the procedure before the Court of Justice of the European Communities/of the European Union: *Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. Netherlands* (dec.), 2009.[33]

428. Limits:

- The mere fact of the participation of a third party in the proceedings does not violate the principle of a fair trial, provided that the applicant can present his or her arguments and respond to the third party (*K.V. Mediterranean Tours Limited v. Türkiye*, 2025, § 81).
- Equality of arms does not entail a party's right to have disclosed to him or her, before the hearing, submissions which have not been disclosed to the other party to the proceedings or to the reporting judge or the judges of the trial bench (*Kress v. France* [GC], 2001, § 73).
- There is no point in recognising a right that has no real reach or substance: that would be the case if the right relied on under the Convention would have had no incidence on the outcome of the case because the legal solution adopted was legally unobjectionable (*Stepinska v. France*, 2004, § 18).
- With reference again to situations where the applicant — who was party to the domestic proceedings — has complained that he or she did not receive a copy of evidence or observations sent to the judge, the Court has in some cases applied the new "significant disadvantage" admissibility criterion (Article 35 § 3 (b) of the Convention), which was introduced in 2010. According to this criterion, a violation of a right, however real from a purely legal point of view, must attain a minimum level of severity to warrant consideration by the Court, in accordance with the principle de minimis non curat praetor. In that context, complaints concerning the failure to provide applicants with a copy of evidence adduced or observations filed have been declared inadmissible by the Court for lack of a significant disadvantage (*Janáček v. the Czech Republic*, 2023, § 51 and the examples cited; *Holub v. the Czech Republic* (dec), 2010; *Liga Portuguesa de Futebol Profissional v. Portugal* (dec.), 2012, §§ 36-40; *Kılıç and Others v. Turkey* (dec.), 2013; and contrast *Janáček v. the Czech Republic*, 2023, § 53; *Colloredo Mannsfeld v. the Czech Republic*, 2016, §§ 33-34). This approach has been applied, for example, where the document in question contained nothing new for the

33. See the thematic guide on European Union law in the Court's case-law.

applicant and clearly had no influence, through its nature or content, on the court's decision; this is even more evident where the national court has itself stated that it did not take into account the document which was not communicated to the applicant (*Cavajda v. the Czech Republic* (dec.), 2011.

- The fact that a similar point of view is defended before a court by several parties does not necessarily place the opposing party in a position of "substantial disadvantage" when presenting his or her case (*Yvon v. France*, 2003, § 32 *in fine*).

429. *Entrapment*. In *Cavca v. the Republic of Moldova*, 2025, the Court considered the application of the Court's case-law on entrapment in a criminal context to undercover professional integrity testing of a state official of a disciplinary nature. While the case-law on entrapment by investigative authorities under the criminal limb of Article 6 § 1 was not applicable as such, the Court decided that it could draw on those principles when examining the present disciplinary proceedings following integrity testing although it had to take into account of the fact that those testing operations did not amount to entrapment and are not as such incompatible with Article 6 § 1. The planning, execution and evaluation of the results of such an operation should be accompanied by procedural safeguards. At the planning stage of random integrity testing of an entire group of officials the authorities must clearly identify, and prove the existence of, a risk of corrupt behaviour within that group. The existence of prior suspicions in respect of specific individuals is of lesser importance than in criminal proceedings. However, if the person concerned raises an arguable claim of entrapment in the ensuing civil proceedings, the domestic courts must properly examine it and draw the relevant conclusions.

3. Fourth instance

a. General principles

430. One particular category of complaints submitted to the Court comprises what are commonly referred to as "fourth instance" complaints. This term — which does not feature in the text of the Convention and has become established through the case-law of the Convention institutions (*De Tommaso v. Italy* [GC], 2017, § 170); *Kemmache v. France (no. 3)*, 1994, § 44)— is somewhat paradoxical, as it places the emphasis on what the Court is not: it is not a court of appeal or a court which can quash rulings given by the courts in the States Parties to the Convention or retry cases heard by them, nor can it re-examine cases in the same way as a Supreme Court. Fourth-instance applications therefore stem from a frequent misapprehension on two levels.

431. Firstly, there is often a widespread misconception on the part of the applicants as to the Court's role and the nature of the judicial machinery established by the Convention. It is not the Court's role to substitute itself for the domestic courts; its powers are limited to verifying the Contracting States' compliance with the human rights engagements they undertook in acceding to the Convention. Furthermore, in the absence of powers to intervene directly in the legal systems of the Contracting States, the Court must respect the autonomy of those legal systems. That means that it is not its task to deal with errors of fact or law allegedly committed by a national court unless and in so far as such errors may have infringed rights and freedoms protected by the Convention. It may not itself assess the facts which have led a national court to adopt one decision rather than another. If it were otherwise, the Court would be acting as a court of third or fourth instance, which would be to disregard the limits imposed on its action (*García Ruiz v. Spain* [GC], 1999, § 28; *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], 2012, § 197; *Avotiņš v. Latvia* [GC], 2016, § 99; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 90; *De Tommaso v. Italy* [GC], 2017, §§ 170-72). More specifically, the Court is not competent to rule formally on compliance with domestic law, other international treaties or European Union law (*Avotiņš v. Latvia* [GC], 2016, § 100 and the case-law references cited).

432. Secondly, there is often misunderstanding as to the exact meaning of the term "fair" in Article 6 § 1 of the Convention. The "fairness" required by Article 6 § 1 is not "substantive" fairness, a concept which is part-legal, part-ethical and can only be applied by the trial court (see *Ballıktaş Bingöllü v. Turkey*, 2021, § 78). Article 6 § 1 only guarantees "procedural" fairness, which translates in practical terms into adversarial proceedings in which submissions are heard from the parties and they are placed on an equal footing before the court (*Star Cate Epilekta Gevmata and Others v. Greece* (dec.), 2010). The fairness of proceedings is always assessed by examining them in their entirety, so that an isolated irregularity may not be sufficient to render the proceedings as a whole unfair (*Miroļubovs and Others v. Latvia*, 2009, § 103).

433. Furthermore, the Court respects the diversity of Europe's legal and judicial systems, and it is not the Court's task to standardise them. Just as it is not its task to examine the wisdom of the domestic courts' decisions where there is no evidence of arbitrariness (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, §§ 68, 89 and 94).

That being said, the line dividing "substantive" and "procedural" fairness is a fine one: thus, for example, the Court has often approached the examination of the substance of the domestic courts' decision from the perspective of "inconsistent case-law" (see Section 3 (c) below) or "insufficient reasoning" (see Section 7 below).

b. Scope and limits of the Court's supervision

434. It is primarily for the national authorities, in particular the courts, to interpret, and assess compliance with, domestic law (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 186, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 251), and it is ultimately for the Court to determine whether the way in which that law is interpreted and applied produces consequences that are consistent with the principles of the Convention (see, for example, *Scordino v. Italy (no. 1)* [GC], 2006, § 191), in its capacity as the ultimate authority on the application and interpretation of the Convention (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 286), and by virtue of the principle of subsidiarity and "shared responsibility" between the States Parties and the Court (§ 250). Being mindful of its subsidiary role, the Court will not engage in matters of constitutional interpretation (*Pinkas and Others v. Bosnia and Herzegovina*, 2022, § 45) and will limit its task to the interpretation and application of the Convention as provided for in Article 32 of the Convention, in the light of the principle of the rule of law (*Grzęda v. Poland* [GC], 2022, § 341). For their part, the national authorities and courts must interpret and apply the domestic law in a manner that gives full effect to the Convention (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 250).

435. The Court has always said that it is generally not its task to deal with errors of fact or law allegedly committed by a national court unless and in so far as such errors are manifest and infringed rights and freedoms protected by the Convention (*García Ruiz v. Spain* [GC], 1999, § 28; *Perez v. France* [GC], 2004, § 82; *De Tommaso v. Italy* [GC], 2017, § 170). That being so, the Court cannot call into question the findings of the domestic authorities on alleged errors of law unless they are "arbitrary or manifestly unreasonable" (*Scordino v. Italy (no. 1)* [GC], 2006, § 191, and *Naït-Liman v. Switzerland* [GC], 2018, § 116), which added that a clear error in assessment on the part of the domestic courts could also arise as a result of a misapplication or misinterpretation of the Court's case-law). The Court's sole task in connection with Article 6 is to examine applications alleging that the domestic courts have failed to observe "specific procedural safeguards" laid down in that Article or that "the conduct of the proceedings as a whole did not guarantee the applicant a fair hearing" (*De Tommaso v. Italy* [GC], 2017, § 171). As reiterated in *López Ribalda and Others v. Spain* [GC], 2019, the Court should not act as a court of fourth instance and will not therefore question under Article 6 § 1 the judgment of the national courts, unless their findings can be regarded as "arbitrary or manifestly unreasonable" (§ 149).

436. That being so, it is extremely rare for the Court to question under Article 6 § 1 the national courts' assessment on the grounds that their findings might be regarded as arbitrary or manifestly unreasonable (*Bochan v. Ukraine (no. 2)* [GC], 2015, §§ 61-65; see also, in the context of the administrative offence proceedings, *Sytnyk v. Ukraine*, 2025, §§ 77-82.

This was the case, for example, in *Dulaurans v. France*, 2000, § 38 (see also *Tel v. Turkey*, 2017, § 76), where the Court found a violation of Article 6 § 1 because of a "manifest error of judgment"-that is, an error of fact or law by the national court that is so "evident" as to be characterised as "manifest" in the sense that no reasonable court could ever have made it, as underlined in *Bochan v. Ukraine (no. 2)* [GC], 2015, § 61; *Khamidov v. Russia*, 2007, § 170, where the proceedings complained of had been "grossly arbitrary"; *Anđelković v. Serbia*, 2013, § 24, and *Lazarević v. Bosnia and Herzegovina*, 2020, § 32, where there had been a "denial of justice"; *Bochan v. Ukraine (no. 2)* [GC], 2015, where the domestic court's reasoning was regarded as being "grossly arbitrary" or as entailing a "denial of justice": see §§ 63-65 and the cases cited above, and *Ballıktaş Bingöllü v. Turkey*, 2021, §§ 77-78 (and contrast, for example, *Ballıktaş Bingöllü v. Turkey*, 2021, § 82, and *Société anonyme d'habitations à loyers modérés Terre et Famille v. France* (dec.), 2004). In *Baljak and Others v. Croatia*, 2021, the Court found that the domestic courts' conclusions had been "manifestly unreasonable", referring in particular to its case-law under Article 2 of the Convention and the fact that the courts had imposed an unattainable standard of proof on the applicants (§ 41).

Along similar lines, in *Carmel Saliba v. Malta*, 2016, the Court found it unacceptable for a judgment to be given against an applicant in civil proceedings without any convincing reasons, on the basis of inconsistent and conflicting evidence, while disregarding the applicant's counter-arguments (§ 79). In *Sytnyk v. Ukraine*, 2025, the Court considered that, by accepting a witness' statements as decisive evidence to convict the applicant, without addressing any of the latter's serious arguments putting in doubt its reliability, and by disregarding the defence witness evidence, the domestic courts had distributed the burden of proof in an arbitrary matter and deprived the applicant of any practical opportunity to effectively challenge the charges against him (§ 80).

437. The arbitrariness of the domestic court's conclusions may take the form of a failure to engage with important legal arguments relevant for the outcome of the case. Thus, in the case of *Aykhan Akhundov v. Azerbaijan*, 2023, the applicant's title to real estate was annulled by the Azerbaijani courts with reference to some irregularities in the property title of a company from whom the applicant had acquired that property several years before. In reaching that conclusion, the Azerbaijani courts failed to address the question of time-limits which could have barred a counterclaim introduced by the company (§ 96) and had also misinterpreted or failed to consider the position of a State authority (competent for the registration of real estate) which supported the applicant's claims (§ 103).

Lastly, in this context, a lack of judicial coordination and diligence may have had an undeniable impact on the applicant's fate (*Tel v. Turkey*, 2017, § 67).

In *Ukrkava, TOV v. Ukraine*, 2025, the applicant company complained that the Supreme Court had refused to apply a clear and unambiguous provision of domestic law regarding the time-limits applicable to certain notary-endorsed writs. While the applicant company argued that the opposing party (a bank) has missed the time-limit for enforcing the writ set for disputes between legal persons in the Notary Act, the Supreme Court decided that, for the sake of uniformity, the time-limit should be the same, for legal and natural persons, as under the civil code. The Court stressed that, in principle, a superior national court may legitimately operate a change of interpretation if justified by important considerations and if applied with due regard to its effects on pre-existing situations. However, in the case at hand the considerations of "uniformity" were not sufficient to justify such a departure from the clear text of the law, and the Supreme Court failed to demonstrate any negative effects of the difference between the time-limits for bringing claims under the relevant civil legislation and under the Notary Act. The Court concluded that the reinterpretation of the unequivocal provisions of the

Notary Act on time-limits "rendered the outcome of the proceedings unforeseeable and was contrary to the principle of legal certainty", in breach of Article 6 § 1 of the Convention (§§ 46-50).

In conclusion, a "denial of justice" will occur if no reasons are provided or the reasons given are based on a "manifest" factual or legal error committed by the domestic court (*Ballıktaş Bingöllü v. Turkey*, 2021, § 77, referring to *Moreira Ferreira v. Portugal (no. 2)* [GC], 2017, § 85, in the criminal sphere).

438. Returning to the principle, the Court may not, as a general rule, question the findings and conclusions of the domestic courts as regards:

- The establishment of the facts of the case: as a general rule, the assessment of the facts is within the province of the national courts (*Van de Hurk v. the Netherlands*, 1994, § 61); the Court cannot challenge the findings of the domestic courts, save where they are flagrantly and manifestly arbitrary (*García Ruiz v. Spain* [GC], 1999, §§ 28-29; *Radomilja and Others v. Croatia* [GC], 2018, § 150).
- The interpretation and application of domestic law: it is primarily for the domestic courts to resolve problems of interpretation of national legislation (*Perez v. France* [GC], 2004, § 82), not for the Strasbourg Court, whose role is to verify whether the effects of such interpretation are compatible with the Convention (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 49). In exceptional cases the Court may draw the appropriate conclusions where a Contracting State's courts have interpreted domestic law in an arbitrary or manifestly unreasonable manner (*Barać and Others v. Montenegro*, 2011, §§ 32-34, with further references; *Anđelković v. Serbia*, 2013, §§ 24-27 (denial of justice); *Laskowska v. Poland*, 2007, § 61, and the cases cited above), and this principle is also applicable under other provisions of the Convention (*S., v. and A. v. Denmark* [GC], 2012, § 148 and the reference cited; *Fabris v. France* [GC], 2013, § 60; or *Anheuser-Busch Inc. v. Portugal* [GC], 2007, §§ 85-86; see also *Kushoglu v. Bulgaria*, 2007, § 50; *Işyar v. Bulgaria*, 2008, § 48).
- Nor is the Court competent to rule formally on compliance with other international treaties or European Union law (although it should be borne in mind that the member States must abide by their international obligations: *Grzęda v. Poland* [GC], 2022, § 340). The task of interpreting and applying the provisions of the European Union law falls firstly to the CJEU.[34] The jurisdiction of the European Court of Human Rights is limited to reviewing compliance with the requirements of the Convention, for example with Article 6 § 1 (*Avotiņš v. Latvia* [GC], 2016, § 100 and the case-law references cited). Consequently, in the absence of any arbitrariness which would in itself raise an issue under Article 6 § 1, it is not for the Court to make a judgment as to whether the domestic court correctly applied a provision of European Union law (*Avotiņš v. Latvia* [GC], 2016, § 100), general international law or international agreements (*Waite and Kennedy v. Germany* [GC], 1999, § 54; *Markovic and Others v. Italy* [GC], 2006, §§ 107-108). However, divergences in the case-law of the national courts create legal uncertainty, which is incompatible with the requirements of the rule of law (mutatis mutandis, *Molla Sali v. Greece* [GC], 2018, § 153).
- The admissibility and assessment of evidence[35] (*López Ribalda and Others v. Spain* [GC], 2019, § 149-152): the guarantees under Article 6 § 1 only cover the administration of evidence at the procedural level. The admissibility of evidence or the way it should be assessed on the merits are primarily matters for the national courts, whose task it is to weigh the evidence before them (*García Ruiz v. Spain* [GC], 1999, § 28; *Farange S.A. v. France* (dec.), 2004). The reasons they provide in this regard are nevertheless important for the purposes of Article 6 § 1 and call for the Court's scrutiny (see, for example, *Carmel Saliba v. Malta*, 2016, §§ 69-73).

34. See the thematic guide on European Union law in the Court's case-law.
35. See also the section on "Administration of evidence".

439. In *Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], 2016, the Court reiterated that, the Convention being a constitutional instrument of European public order, the States Parties were required, in that context, to ensure a level of scrutiny of Convention compliance which, at the very least, preserved the foundations of that public order. One of the fundamental components of European public order is the principle of the rule of law, and arbitrariness constitutes the negation of that principle. Even in the context of interpreting and applying domestic law, where the Court leaves the national authorities very wide discretion, it always does so, expressly or implicitly, subject to a prohibition of arbitrariness (§ 145).

440. So, Article 6 § 1 does not allow the Court to question the substantive fairness of the outcome of a civil dispute, where more often than not one of the parties wins and the other loses.

441. A fourth-instance complaint under Article 6 § 1 of the Convention will be rejected by the Court on the grounds that the applicant had the benefit of adversarial proceedings; that he was able, at the various stages of those proceedings, to adduce the arguments and evidence he considered relevant to his case; that he had the opportunity of challenging effectively the arguments and evidence adduced by the opposing party; that all his arguments which, viewed objectively, were relevant to the resolution of the case were duly heard and examined by the courts; that the factual and legal reasons for the impugned decision were set out at length; and that, accordingly, the proceedings taken as a whole were fair (*García Ruiz v. Spain* [GC], 1999, § 29). The majority of fourth-instance applications are declared inadmissible de plano by a single judge or a three-judge Committee (Articles 27 and 28 of the Convention).

c. Consistency of domestic case-law[36]

442. Article 6 § 1 does not confer an acquired right to consistency of case-law. Case-law development is not, in itself, contrary to the proper administration of justice since a failure to maintain a dynamic and evolutive approach would risk hindering reform or improvement (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, § 58; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 116). In principle it is not the Court's role, even in cases which at first sight appear comparable or connected, to compare the various decisions pronounced by the domestic courts, whose independence it must respect.

443. Divergences in case-law are, by nature, an inherent consequence of any judicial system which is based on a network of trial and appeal courts with authority over the area of their territorial jurisdiction. The role of a supreme court is precisely to resolve such conflicts (*Beian v. Romania (no. 1)*, 2007, § 37; *Svilengaćanin and Others v. Serbia*, 2021, §§ 81-82). Such divergences may even arise within the same court. That in itself cannot be considered contrary to the Convention (*Santos Pinto v. Portugal*, 2008, § 41). Furthermore, there can be no "divergence" where the factual situations in issue are objectively different (*Uçar v. Turkey* (dec.), 2009).

The first question for the Court to answer in such cases is whether the "divergence" in the case-law of the national courts is real or, by contrast, different outcomes may be reasonably explained by the different factual and legal framework of the cases. In answering this question, the Court examines whether the domestic courts tried to provide a reasonable explanation for the varied approaches in their decisions (see *Constantinou and Others v. Cyprus*, 2025, §§ 102-103).

444. There may, however, be cases where divergences in case-law lead to a finding of a violation of Article 6 § 1. Here the Court's approach differs depending on whether the divergences exist within the same branch of courts or between two different branches of court which are completely independent from one another.

36. See also the Section IV – A – 2 (b) on "Examples and limits" which deals with the divergences in case-law

445. In the first case (divergences in the case-law of the highest national court), the Court uses three criteria in determining:

- whether the divergences in the case-law are "profound and long-standing" (but see the next paragraph describing some cases where the Court omitted this criterion);
- whether the domestic law provides for mechanisms capable of resolving such inconsistencies; and
- whether those mechanisms were applied and to what effect (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, §§ 116-35; *Beian v. Romania (no. 1)*, 2007, §§ 37 and 39).

In the last-mentioned case, the highest national court had adopted judgments that were "diametrically opposed" and the mechanism provided for in domestic law for ensuring consistent practice had not been used promptly, thus undermining the principle of legal certainty.

446. A practice of profound and long-standing differences which has developed within the country's highest judicial authority is in itself contrary to the principle of legal certainty, a principle which is implicit in all the Articles of the Convention and constitutes one of the basic elements of the rule of law (*Guðmundur Andri Ástráðsson v. Iceland* [GC], 2020, § 238, as regards the principle; *Beian v. Romania (no. 1)*, 2007, § 39).

- In the case cited, the Court noted that instead of fulfilling its task of establishing the interpretation to be pursued, the Supreme Court had itself become a source of legal uncertainty, thereby undermining public confidence in the judicial system. The Court found that this lack of certainty with regard to the case-law had had the effect of depriving the applicant of any possibility of securing the benefits provided for by law, whereas other persons in a similar situation had been granted those benefits (§§ 39-40).
- In *Hayati Çelebi and Others v. Turkey*, 2016, manifest contradictions in the case-law of the Court of Cassation, together with the failure of the mechanism designed to ensure harmonisation of practice within that court, led to the applicants' claim for damages being declared inadmissible, whereas other people in a similar situation had secured a review of the merits of their claims (§ 66).

However, in *Suverénní řád Maltézských rytířů - České velkopřevorství v. the Czech Republic*, 2025, the Court examined the divergence in the case-law without determining whether it was "long-standing" and "profound" (see in the same vein *Latorre Atance v. Spain*, 2025, § 56).

447. According to *Lo Fermo v. Italy* (dec.), 2023, these conditions (inconsistencies being "long-standing" and "profound") are cumulative: thus, if the divergences are "profound" but not "long-standing" (i.e. can be characterised as an isolated incident), they do not undermine the principle of legal certainty (§§ 59-60).

448. However, where the system established in domestic law to settle case-law conflicts has proved effective, since it was introduced fairly quickly and put an end to such conflicts within a short space of time, the Court has not found a violation (*Albu and Others v. Romania*, 2012, § 42; compare *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, §§ 130-132; see also *Croatian Radio-Television v. Croatia*, 2023, where the Court noted that domestic law had provided machinery for overcoming the inconsistencies in the case-law of the second-instance courts and that that machinery had been applied). Thus, in *Šabanović and Others v. Serbia*, 2025, the Court concluded that there has been no violation of Article 6 § 1 of the Convention on account of the discrepancies in the case-law, noting in particular that the domestic authorities had harmonised the case-law within a reasonably short period of time (§§ 111-112).

449. The Court accepted that inconsistencies in the case-law may be resolved not necessarily through a mechanism specially designed for that purpose and thus by other means. In *Lo Fermo v. Italy* (dec.), 2023, the applicant complained that the Council of Administrative Justice for Sicily, which was a

regional chamber of the Italian Council of State, interpreted the material law (a legislative decree) differently than the Council of State itself. The Court noted that the inconsistency in the case-law of the Council of State had been profound, and that the dedicated mechanism provided for by domestic law to overcome such inconsistencies (a referral to the plenary session of the Council of State) had not been applied. However, subsequent to the proceedings in the applicant's case, a ministerial decree has been adopted which redefined the material framework in accordance with the interpretation given to the previously existing norms by the Council of State. The Court concluded that such a change of the legislative framework governing administrative practice, similarly to the operation of a judicial mechanism, could be considered, in certain circumstances, as an appropriate means of overcoming inconsistencies in case-law. The Court concluded that the inconsistency in the applicant's case did not entail a breach of the principle of legal certainty (§ 67).

450. In the second situation, the conflicting decisions are pronounced at last instance by courts in two different branches of the legal system, each with its own independent Supreme Court not subject to any common judicial hierarchy. Here Article 6 § 1 does not go as far as to demand the implementation of a vertical review mechanism or a common regulatory authority (such as a jurisdiction disputes court). In a judicial system with several different branches of courts, and where several Supreme Courts exist side by side and are required to give interpretations of the law at the same time and in parallel, achieving consistency of case-law may take time, and periods of conflicting case-law may therefore be tolerated without undermining legal certainty. So two courts, each with its own area of jurisdiction, examining different cases may very well arrive at divergent but nevertheless rational and reasoned conclusions regarding the same legal issue raised by similar factual circumstances without violating Article 6 § 1 (*Nejdet Şahin and Perihan Şahin v. Turkey* [GC], 2011, §§ 81-83 and 86).

451. Inconsistency of domestic case-law has been examined by the Court, not only under the heading of "fairness", but sometimes under the heading of "access to court". Thus, in *Zouboulidis v. Greece (no. 3)* the applicant brought proceedings before the administrative court claiming damages for a judicial error which had happened in another set of legal proceedings. At the time, the law provided for compensation for damage caused by manifest misconduct by other State authorities and not the courts. In a series of judgments, this law has been applied by analogy to judicial errors: in the applicant's case the courts at two instances did the same. However, the Supreme Administrative Court refused to apply the law by analogy and concluded that there was a gap in the legislation since the legislator had failed to establish conditions for compensation for damage caused by the judiciary and that, in absence of such specific regulations, the administrative courts had no jurisdiction to examine such claims. The Court found that the applicant's right of access to court had been violated because the decision of the Supreme Administrative Court excluded any further possibility for the applicant to pursue his claims and because for more than seven years this legislative gap has been known to the domestic courts but have not been remedied by the legislature (§§ 75-84).

The Court may address the complaint about the (in)consistency of the case-law not through the prism of a "profound and long-standing inconsistency" test but rather from the standpoint of a "reasoned decision" guarantee (see for more detail sub-section 7 below). Thus, in *Suverénní řád Maltézských rytířů - České velkopřevorství v. the Czech Republic*, 2025, the applicant complained of a divergence between the reasoning of a chamber of the Constitutional Court which took decision in its case, and the newly emerged jurisprudence of other chambers of the Constitutional Court. The Court focused on the fact that the chamber of the Constitutional Court neither used the mechanism for overcoming such inconsistencies (submitting the matter to the plenary Constitutional Court), nor gave reasons for disagreeing with the jurisprudence of other chambers (§§ 73-78. See also *Latorre Atance v. Spain*, 2025, §§ 56-57).

4. Adversarial proceedings[37]

452. The adversarial principle: the concept of a fair trial comprises the fundamental right to adversarial proceedings (see, for example, the summary of the relevant principles in *Janáček v. the Czech Republic*, 2023, § 46). This is closely linked to the principle of equality of arms (*Regner v. the Czech Republic* [GC], 2017, § 146). In accordance with the right to adversarial proceedings and the right of access to a court, litigants represented by persons dependent to varying degrees on the other party to the proceedings would not be able to state their case and protect their interests in proper conditions (*Capital Bank AD v. Bulgaria*, 2005, § 118).

453. The requirements resulting from the right to adversarial proceedings are in principle the same in both civil and criminal cases (*Werner v. Austria*, 1997, § 66).

454. The desire to save time and expedite the proceedings does not justify disregarding such a fundamental principle as the right to adversarial proceedings (*Nideröst-Huber v. Switzerland*, 1997, § 30).

455. Content (subject to the limits outlined below): the right to adversarial proceedings means in principle the opportunity for the parties to a criminal or civil trial to have knowledge of and comment on all evidence adduced or observations filed, even by an independent member of the national legal service, with a view to influencing the court's decision (*Kress v. France* [GC], 2001, §§ 65 and 74; *Ruiz-Mateos v. Spain*, 1993, § 63; *McMichael v. the United Kingdom*, 1995, § 80; *Vermeulen v. Belgium*, 1996, § 33; *Lobo Machado v. Portugal*, 1996, § 31). This guarantee is not limited to the observations filed by parties to proceedings but is applied to other situations, including with respect to evidence and opinions obtained on a court's initiative (see *Vorotņikova v. Latvia*, 2021, § 26). This requirement may also apply before a constitutional court (see the summary of the relevant case-law in *Janáček v. the Czech Republic*, 2023, §§ 47-54 ; *Milatová and Others v. the Czech Republic*, 2005, §§ 63-66; *Gaspari v. Slovenia*, 2009, § 53).

- The actual effect on the court's decision is of little consequence (*Nideröst-Huber v. Switzerland*, 1997, § 27; *Ziegler v. Switzerland*, 2002, § 38).
- The adversarial principle is just as valid for the parties to the proceedings, or for third parties (*Ferreira Alves v. Portugal (no. 3)*, 2007, § 38; *K.V. Mediterranean Tours Limited v. Türkiye*, 2025, § 84), as it is for an independent member of the national legal service, a representative of the administration, the lower court or the court hearing the case (*Köksoy v. Turkey*, 2020, §§ 34-35 and case-law references cited). This principle also applies to opinions issued by State institutions that are important for settling the dispute, even if they are non-binding (*Vorotņikova v. Latvia*, 2021, § 24).
- The right to adversarial proceedings must be capable of being exercised in satisfactory conditions: a party to the proceedings must have the possibility to familiarise itself with the evidence before the court, as well as the possibility to comment on its existence, contents and authenticity in an appropriate form and within an appropriate time (*Krčmář and Others v. the Czech Republic*, 2000, § 42; *Immeubles Groupe Kosser v. France*, 2002, § 26), if necessary by obtaining an adjournment (*Yvon v. France*, 2003, § 39). It is not sufficient that the applicant is able to consult the case file at the court registry and obtain a copy of the document in question (*Göç v. Turkey* [GC], 2002, § 57).
- The parties should have the opportunity to make known any evidence needed for their claims to succeed (*Clinique des Acacias and Others v. France*, 2005, § 37).
- It is for the parties to a dispute alone to decide whether a document produced by the other party or evidence given by witnesses calls for their comments. Litigants' confidence in the workings of justice is based on the knowledge that they have had the opportunity to express

37. This title is to be read with the one on "Equality of arms".

their views on every document in the file (including documents obtained by the court of its own motion: *K.S. v. Finland*, 2001, § 22; *Nideröst-Huber v. Switzerland*, 1997, § 29; *Pellegrini v. Italy*, 2001, § 45). For an application involving the Constitutional Court, see *Janáček v. the Czech Republic*, 2023, § 53.

The requirement of "adversarial proceedings" is related to the implied guarantee of adequate scope of judicial review (see Section III A (3) above on the "Review by a court having full jurisdiction"). Thus, in *İ.Ç. v. Türkiye*, 2026, the applicant was dismissed from his job as a teacher pursuant to a legislative decree adopted during a state of emergency, on the ground that his name had appeared among the users of *ByLock*, a messaging service allegedly used exclusively by an armed terrorist organization. The Court found that the applicant did not obtain effective judicial review of the employer's decision to terminate him, because the employer did not produce any evidence confirming the fact that the applicant actually used *ByLock*, besides relying on the information provided by the Council of Higher Education, and the domestic courts failed to verify this assertion (§§ 51-63. Compare with *Yüksel Yalçınkaya v. Türkiye* [GC], 2023, where the Court discussed the question of the applicant's access to similar evidence in the context of the criminal proceedings, which resulted in the applicant being unable to demonstrate that this service was not used exclusively by the terrorists, §§ 324-341).

456. Examples of infringement of the right to adversarial proceedings as a result of non-disclosure of the following documents or evidence:

- in proceedings concerning the placement of a child, of reports by the social services containing information about the child and details of the background to the case and making recommendations, even though the parents were informed of their content at the hearing (*McMichael v. the United Kingdom*, 1995, § 80);
- evidence adduced by the public prosecutor, irrespective of whether he was or was not regarded as a "party", since he was in a position, above all by virtue of the authority conferred on him by his functions, to influence the court's decision in a manner that might be unfavourable to the person concerned (*Ferreira Alves v. Portugal (no. 3)*, 2007, §§ 36-39);
- a note from the lower court to the appellate court aimed at influencing the latter court's decision, even though the note did not set out any new facts or arguments (*ibid.*, § 41);
- documents obtained directly by the judges, containing reasoned opinions on the merits of the case (*K.S. v. Finland*, 2001, §§ 23-24);
- opinions on the subject matter of the dispute issued by State institutions that were not parties to the proceedings (*Vorotņikova v. Latvia*, 2021, §§ 24-25);
- substantive written observations submitted to the Constitutional Court, which took them into account (*Janáček v. the Czech Republic*, 2023, §§ 52-54);
- results of the security background checks (in the proceedings concerning the appointment of the applicant to a position of a civil servant, *Kurkut and Others v. Türkiye*, 2024, §§ 105-109).

457. Limits[38]: the right to adversarial proceedings is not absolute and its scope may vary depending on the specific features of the case in question (*Hudáková and Others v. Slovakia*, 2010, §§ 26-27), subject to the Court's scrutiny in the last instance (*Regner v. the Czech Republic* [GC], 2017, §§ 146-147). In the last-mentioned case, the Court pointed out that the proceedings had to be considered as a whole and that any restrictions on the adversarial and equality-of-arms principles could have been sufficiently counterbalanced by other procedural safeguards (§§ 151-161).The adversarial principle does not require that each party must transmit to its opponent documents which have not been presented to the court either (*Yvon v. France*, 2003, § 38).

38. See also section "Examples" above.

458. In several cases with very particular circumstances, the Court found that the non-disclosure of an item of evidence and the applicant's inability to comment on it had not undermined the fairness of the proceedings, in that having that opportunity would have had no impact on the outcome of the case and the legal solution reached was not open to discussion (see, in particular, *Janáček v. the Czech Republic*, 2023, §§ 48 and 51; *Stepinska v. France*, 2004, § 18; *Salé v. France*, 2006, § 19; *Asnar v. France (no. 2)*, 2007, § 26). See also, above, the application of Article 35 § 3 (b) of the Convention in this area. In *Abdulaal Naser and Others v. Denmark*, 2025, the Court stressed that, even where certain documents are in the possession of the authorities, the right to disclosure of relevant evidence is not absolute and that Contracting States enjoy a certain margin of appreciation when precedence is given to superior national interests when denying a party disclosure or discovery, as long as the restrictions do not affect the very essence of the right to due process (§ 164). In that case, the Court noted, in particular, that the documents submitted by the defendant in the case underwent only a very limited redaction of information, and that the redaction referred to had not impaired the assessment of the applicants' claims, which had included the extensive examination and cross-examination of witnesses. The defendant — the Ministry of Defence — had described the information that had been redacted and it had "good cause" to do so: the Court also noted that the disclosure was sought by the applicant to prove their point, and that it was not the State relying on information not made available to the defendants (§ 163).

459. A failure to observe the adversarial principle may be remedied by the appellate body, as long as it has "full jurisdiction" within the meaning of the case-law. Similarly, a procedural shortcoming on the part of an appellate court may be corrected by the lower court to which the case has been remitted (*Köksoy v. Turkey*, 2020, §§ 36-39). See also *Seksimp Group SRL v. the Republic of Moldova*, §§ 38-41, concerning the absence of the applicant company in the first-instance court proceedings, which have been remedied in the appellate proceedings.

460. The court itself must respect the adversarial principle, for example if it decides a case on the basis of a ground or objection which it has raised of its own motion (*Čepek v. the Czech Republic*, 2013, § 45, and compare *Clinique des Acacias and Others v. France*, 2005, § 38, with *Andret and Others v. France* (dec.), 2004, inadmissible: in the last-mentioned case the Court of Cassation informed the parties that new grounds were envisaged and the applicants had an opportunity to reply before the Court of Cassation gave judgment).

461. While domestic courts can give a new legal qualification to the facts of the case, the adversarial principle would be breached if one of the parties was "taken by surprise" by the fact that the court based its decision on a ground raised of its own motion: courts must exercise special diligence where the dispute takes an unexpected turn which not even a diligent party would have been able to anticipate (*Vegotex International S.A. v. Belgium* [GC], 2022, §§ 135 and 136). Thus, in *Ben Amamou v. Italy*, 2023, the applicant suffered injuries as a result of a traffic accident. In the proceedings before the lower courts his claim against the insurance company was rejected on the ground that another vehicle implicated in the accident has not been identified. However, the Court of Cassation decided this case on a different legal ground (the criterion of co-responsibility of the two vehicles involved in the accident) which the applicant failed to prove. Neither the judgments of the lower courts nor the pleadings of the respondent/the prosecutor made reference to this legal criterion, which, in addition: had not yet become part of well-established jurisprudence (§ 75); was decisive for the outcome of the case (§ 76); and had serious consequences for the applicant who lost other possibilities to claim an indemnity (§ 77). The Court concluded that the applicant had been "taken by surprise" by the use of this new criterion, which made the proceedings unfair.

5. Equality of arms[39]

462. The principle of “equality of arms” is inherent in the broader concept of a fair trial and is closely linked to the adversarial principle (*Regner v. the Czech Republic* [GC], 2017, § 146). The requirement of “equality of arms”, in the sense of a “fair balance” between the parties, applies in principle to civil as well as to criminal cases (*Feldbrugge v. the Netherlands*, 1986, § 44).

463. Content: maintaining a “fair balance” between the parties. Equality of arms implies that each party must be afforded a reasonable opportunity to present his case — including his evidence — under conditions that do not place him at a “substantial disadvantage” vis-à-vis the other party (*Kress v. France* [GC], 2001, § 72; *Stran Greek Refineries and Stratis Andreadis v. Greec*e, 1994, § 46; *Regner v. the Czech Republic* [GC], 2017, § 146; *Dombo Beheer B.V. v. the Netherlands*, 1993, § 33; *Seksimp Group SRL v. the Republic of Moldova*, 2025, § 36).

- This principle, which covers all aspects of procedural law in the Contracting States, is also applicable in the specific sphere of service of judicial documents on the parties, although Article 6 § 1 cannot be interpreted as prescribing a specific form of service of documents (*Avotiņš v. Latvia* [GC], 2016, § 119).
- It is inadmissible for one party to make submissions to a court without the knowledge of the other and on which the latter has no opportunity to comment. It is a matter for the parties alone to assess whether a submission deserves a reaction (*APEH Üldözötteinek Szövetsége and Others v. Hungary*, 2000, § 42) and more recently *Janáček v. the Czech Republic*, 2023, § 53. See also the limits mentioned above.
- However, if observations submitted to the court are not communicated to either of the parties there will be no infringement of equality of arms as such (*Kress v. France* [GC], 2001, § 73), but rather of the broader fairness of the proceedings (*Nideröst-Huber v. Switzerland*, 1997, §§ 23-24; *Clinique des Acacias and Others v. France*, 2005, §§ 36-37).

464. Examples of failure to observe the equality of arms principle: this principle was found to have been breached in the following cases because one of the parties had been placed at a clear disadvantage:

- A party’s appeal was not served on the other party, who therefore had no possibility to respond (*Beer v. Austria*, 2001, § 19).
- Time had ceased to run against one of the parties only, placing the other at a substantial disadvantage (*Platakou v. Greece*, 2001, § 48; *Wynen and Centre hospitalier interrégional Edith-Cavell v. Belgium*, 2002, § 32).
- Only one of the two key witnesses was permitted to be heard (*Dombo Beheer B.V. v. the Netherlands*, 1993, §§ 34-35).
- The opposing party enjoyed significant advantages as regards access to relevant information, occupied a dominant position in the proceedings and wielded considerable influence with regard to the court’s assessment (*Yvon v. France*, 2003, § 37).
- The opposing party held positions or functions which put them at an advantage and the court made it difficult for the other party to challenge them seriously by not allowing it to adduce relevant documentary or witness evidence (*De Haes and Gijsels v. Belgium*, 1997, §§ 54 and 58).
- In administrative proceedings the reasons given by the administrative authority were too summary and general to enable the appellant to mount a reasoned challenge to their assessment; and the tribunals of fact declined to allow the applicant to submit arguments in support of his case (*Hentrich v. France*, 1994, § 56).

39. See also sections “Adversarial proceedings” and “Examples” above on limits.

- The denial of legal aid to one of the parties deprived them of the opportunity to present their case effectively before the court in the face of a far wealthier opponent (*Steel and Morris v. the United Kingdom*, 2005, § 72).
- In its *Martinie v. France* [GC], 2006, § 50, the Court considered that there was an imbalance detrimental to litigants on account of State Counsel's position in the proceedings before the Court of Audit: unlike the other party, he was present at the hearing, was informed beforehand of the reporting judge's point of view, heard the latter's submissions at the hearing, fully participated in the proceedings and could express his own point of view orally without being contradicted by the other party, and that imbalance was accentuated by the fact that the hearing was not public.
- The prosecutor intervened in support of the arguments of the applicant's opponent (*Menchinskaya v. Russia*, 2009, §§ 35-39).
- The judge refused to adjourn a hearing even though the applicant had been taken to hospital in an emergency and his lawyer had been unable to represent him at the hearing, thus irretrievably depriving him of the right to respond adequately to his opponent's submissions (*Vardanyan and Nanushyan v. Armenia*, 2016, §§ 88-90).
- Substantive written observations were not communicated to the applicant during the proceedings (*Janáček v. the Czech Republic*, 2023, §§ 52-54).

465. However, the Court found compatible with Article 6 § 1 a difference of treatment in respect of the hearing of the parties' witnesses (evidence given under oath for one party and not for the other), as it had not, in practice, influenced the outcome of the proceedings (*Ankerl v. Switzerland*, 1996, § 38). Moreover, the Court did not find that the applicant had been put at a "substantial disadvantage" when the opposing party had in practice had more time to prepare its reply, because the case was fairly straightforward and the applicant had already had many opportunities to state his case (*Ali Riza v. Switzerland*, 2021, §§ 131-135). More generally, in *Regner v. the Czech Republic* [GC], 2017, the Court pointed out that the proceedings had to be considered as a whole and that any restrictions on the adversarial and equality-of-arms principles could have been sufficiently counterbalanced by other procedural safeguards (§§ 151-161).

466. Specific case of a civil-party action: the Court has distinguished between the system of a complaint accompanied by a civil-party action and an action brought by the public prosecutor, who is vested with public authority and responsible for defending the general interest (*Guigue and SGEN-CFDT v. France* (dec.), 2004). As a result, different formal conditions and time-limits for lodging an appeal (a shorter time-limit for the private party) did not breach the "equality of arms" principle, provided that meaningful use could be made of that remedy (cf. the special nature of the system concerned).

467. The Court has also found it compatible with the principle of equality of arms for a provision to limit the civil party's possibilities of appeal without limiting those of the public prosecutor — as their roles and objectives are clearly different (*Berger v. France*, 2002, § 38).

468. As regards cases opposing the prosecuting authorities and a private individual, the prosecuting authorities may enjoy a privileged position justified for the protection of the legal order. However, this should not result in a party to civil proceedings being put at an undue disadvantage vis-à-vis the prosecuting authorities (*Stankiewicz v. Poland*, 2006, §§ 68-69, concerning the refusal to order the reimbursement of litigation costs following civil proceedings instituted unsuccessfully by the prosecuting authorities).

6. Administration of evidence

469. General principles:[40] the Convention does not lay down rules on evidence as such (*Mantovanelli v. France*, 1997, § 34). The admissibility of evidence and the way it should be assessed are primarily matters for regulation by national law and the national courts (*García Ruiz v. Spain* [GC], 1999, § 28; *Moreira de Azevedo v. Portugal*, 1990, §§ 83-84). The same applies to the probative value of evidence and the burden of proof (*Tiemann v. France and Germany* (dec.), 2000). It is also for the national courts to assess the relevance of proposed evidence (*Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], 2012, § 198). Presumptions of fact or of law operate in every legal system, and the Convention does not prohibit such presumptions in principle; however, individuals must be afforded effective judicial safeguards (*Lady S.R.L. v. Republic of Moldova*, 2018, § 27). The Court has also accepted that the principle of legal certainty implies that a party relying on the assessment made by a court in a previous case on an issue also arising in the case at hand may legitimately expect the court to follow its previous ruling, unless there is a valid reason for departing from it (*Siegle v. Romania*, 2013, §§ 38-39, and *Rozalia Avram v. Romania*, 2014, §§ 42-43).

470. However, the Court's task under the Convention is to ascertain whether the proceedings as a whole were fair, including the way in which evidence was taken (*Elsholz v. Germany* [GC], 2000, § 66; *Devinar v. Slovenia*, 2018, § 45). It must therefore establish whether the evidence was presented in such a way as to guarantee a fair trial (*Blücher v. the Czech Republic*, 2005, § 65). The Court should not act as a fourth-instance body and will therefore not question under Article 6 § 1 the national courts' assessment, unless their findings can be regarded as arbitrary or manifestly unreasonable (*Bochan v. Ukraine (no. 2)* [GC], 2015, § 61, and *López Ribalda and Others v. Spain* [GC], 2019, §§ 149, 159-161).

471. It is therefore not the role of the Court to determine, as a matter of principle, whether particular types of evidence — for example, evidence obtained unlawfully in terms of domestic law — may be admissible. It must examine whether the proceedings as a whole, including the way in which the evidence was obtained, were fair; this involves an examination of the unlawfulness in question and, where the violation of another Convention right is concerned, the nature of the violation found (see *López Ribalda and Others v. Spain* [GC], 2019, § 150, in which these principles, developed in a criminal context, were applied to a civil case, §§ 150-152). In the judgment cited, the Court laid down criteria for determining whether the use of information obtained in violation of Article 8 or of domestic law as evidence rendered civil proceedings unfair (§§ 151-152). In that case, the Court did not find a violation of Article 8 on account of the secret video-surveillance of employees. However, the employees argued that the video-surveillance had been installed in breach of domestic law and that the national courts had not addressed that question, having deemed it irrelevant. The Court examined whether the use of images obtained by means of covert video-surveillance as evidence in civil proceedings had undermined the fairness of the proceedings as a whole. It found no violation of Article 6 in this particular case (§§ 154-158). The Court found to that same effect concerning dismissal proceedings and the admission in evidence of lawful GPS data concerning the mileage of the applicant's company vehicle (*Florindo de Almeida Vasconcelos Gramaxo v. Portugal*, 2022, §§ 132-139).

472. In the course of the proceedings, care must be taken to protect vulnerable individuals, for example those with a mental disability, and their dignity and interests in relation to Article 8 (*Evers v. Germany*, 2020, §§ 82-84).

473. It is the duty of the national courts to conduct a proper examination of the submissions, arguments and evidence adduced by the parties (*Van de Hurk v. the Netherlands*, 1994, § 59). Accordingly, it is for litigants to adduce relevant and sufficient evidence in support of their case (*Fleischner v. Germany*, 2019, §§ 40-41).

40. See also the section on "Fourth instance".

474. There is no absolute right to the disclosure of any evidence (*Adomaitis v. Lithuania*, 2022, §§ 70-73, concerning the secret interception of telephone communications as a basis for disciplinary penalties against a public official.[41]

475. The principles governing the administration of evidence in civil and criminal proceedings are not necessarily the same, the courts applying a more lenient standard of proof in civil proceedings (*Roccella v. Italy*, 2023, § 50). The applicant was prosecuted for the criminal offence of insult. The first-instance court acquitted the applicant, relying in particular on a statement by a witness for the defence. The court of appeal, which only examined the civil limb of the case, found that witness not to be credible and, without hearing him directly, awarded damages against the applicant. The Court noted that the cross-examination of the witness in question had taken place in the criminal proceedings before the court of first instance. As to the court of appeal, it had only examined the civil limb of the case so that it was possible for it to rely on the transcripts and not on the direct oral examination of witnesses (compare to criminal proceedings where the appeal courts made a different assessment of testimonies given before the first-instance court — *Dan v. the Republic of Moldova*, 2020, § 61 et seq.).

a. Witness statements

476. Article 6 § 1 does not explicitly guarantee the right to have witnesses called, and the admissibility of witness evidence is in principle a matter of domestic law. However, the proceedings in their entirety, including the way in which evidence was permitted, must be "fair" within the meaning of Article 6 § 1 (*Dombo Beheer B.V. v. the Netherlands*, 1993, § 31).

- The court must reply to a request to hear witnesses that has been submitted in the appropriate manner (*Carmel Saliba v. Malta*, 2016, § 77).
- Where courts refuse requests to have witnesses called, they must give sufficient reasons and the refusal must not be tainted by arbitrariness: it must not amount to a disproportionate restriction of the litigant's ability to present arguments in support of his case (*Wierzbicki v. Poland*, 2002, § 45).
- A difference of treatment in respect of the hearing of the parties' witnesses may be such as to infringe the "equality of arms" principle (*Ankerl v. Switzerland*, 1996, § 38, where the Court found that the difference of treatment had not placed the applicant at a substantial disadvantage vis-à-vis his opponent; contrast *Dombo Beheer B.V. v. the Netherlands*, 1993, § 35, where only one of the two participants in the events in issue was allowed to give evidence (violation)).
- The court must also give reasons for finding that witness evidence is unreliable or irrelevant (*Carmel Saliba v. Malta*, 2016, §§ 69-70).
- A refusal to allow the cross-examination of a witness may be in breach of Article 6 § 1 (*Carmel Saliba v. Malta*, 2016, § 76).

477. A difference of treatment in respect of the hearing of the parties' witnesses may be such as to infringe Article 6 (*Dolenc v. Slovenia*, 2022, §§ 64 et seq., concerning the Hague Evidence Convention).

b. Expert opinions

478. Domestic rules on the admissibility of expert evidence must afford litigants the possibility of challenging it effectively (*Letinčić v. Croatia*, 2016, § 50). The Court reiterated the applicable general principles in *Hamzagić v. Croatia*, 2021, §§ 40-44. There is no objection per se to experts participating as lay members in the decision-making process within a court (*Pabla Ky v. Finland*, 2004, § 32).

479. Refusal to order an expert opinion:

41. See also, for more details, sub-section (c) below, "Non-disclosure of evidence"

- Refusal to order an expert opinion is not, in itself, unfair; the Court must ascertain whether the proceedings as a whole were fair (*H. v. France*, 1989, § 61 and 70). The reasons given for the refusal must be reasonable (*Hamzagić v. Croatia*, 2021, §§ 57-58).
- Refusal to order a psychological report in a case concerning child custody and access must also be examined in the light of the particular circumstances of the case (*Elsholz v. Germany* [GC], 2000, § 66, and mutatis mutandis *Sommerfeld v. Germany* [GC], 2003, § 71).
- In a child abduction case (*Tiemann v. France and Germany* (dec.), 2000) the Court examined whether a Court of Appeal had given sufficient grounds for its refusal to allow the applicant's request for a second expert opinion, in order to ascertain whether the refusal had been reasonable.

480. Appointment of an expert: where an expert has been appointed by a court, the parties must be able to attend the interviews held by him or her or to be shown the documents he or she has taken into account; what is essential is that the parties should be able to participate properly in the proceedings (*Letinčić v. Croatia*, 2016, § 50; *Devinar v. Slovenia*, 2018, § 46).

481. As with witnesses, parties should be able to put questions to the experts, but this right is also not absolute: thus, in *Cangı and Others v. Türkiye*, 2023, the Court concluded that the questions formulated by the domestic courts to the experts were sufficient to address the central issue of the case, and that the applicants did not argue before the Court that their questions, which the domestic courts refused to put to the experts, could have been decisive or concerned a key issue that had been left unassessed (§§ 48-51). However, the Court found a violation of Article 6 since the applicants had not had an opportunity to acquaint themselves with the materials on which the main experts had relied in reaching their conclusions (§§ 52- 55).

482. Article 6 § 1 of the Convention does not expressly require an expert heard by a "tribunal" to fulfil the same independence and impartiality requirements as the tribunal itself (*Sara Lind Eggertsdóttir v. Iceland*, 2007, § 47; *Letinčić v. Croatia*, 2016, § 51). However, given that their opinions are influential on the outcome of the proceedings, the neutrality of experts is important and, on the question of expert evidence, the Court has drawn on the principles of independence and impartiality that are applicable to a "tribunal" (*Çöçelli and Others v. Türkiye*, 2022, §§ 58-63).

483. A lack of neutrality on the part of an expert, together with his or her position and role in the proceedings, can tip the balance of the proceedings in favour of one party to the detriment of the other, in violation of the equality of arms principle (*Sara Lind Eggertsdóttir v. Iceland*, 2007, § 53; *Letinčić v. Croatia*, 2016, § 51); likewise, the expert may occupy a preponderant position in the proceedings and exert considerable influence on the court's assessment (*Yvon v. France*, 2003, § 37; *Letinčić v. Croatia*, 2016, § 51). To sum up, the position occupied by the expert throughout the proceedings, the manner in which his or her duties are performed and the way the judges assess his or her opinion are relevant factors to be taken into account in assessing whether the principle of equality of arms has been complied with (*Test-Achats v. Belgium*, 2022, § 19; *Çöçelli and Others v. Türkiye*, 2022, §§ 54-5; *Devinar v. Slovenia*, 2018, § 47).

484. In the case of *Test-Achats v. Belgium*, 2022, the principle of equality of arms was breached on account of a partnership entered into between the applicant's opponent and a university institute chaired by the expert appointed by the Court of Appeal, the decisive impact of the expert report on the proceedings and the dismissal of the applicant's request that the expert report be excluded — even though the applicant had had an opportunity to criticise its content and form before the court (§§ 22-24).

485. The principle that Article 6 § 1 does not oblige courts to give a detailed answer to every argument raised is particularly true of experts, who are not directly concerned by that provision (*Test-Achats v. Belgium*, 2022, § 25, concerning the alleged lack of adversarial debate in respect of the

expert report in that the expert had purportedly failed to answer certain questions raised by the applicant).

486. Moreover, just like observance of the other procedural safeguards enshrined in Article 6 § 1, compliance with the adversarial principle relates to proceedings in a "tribunal" and no general, abstract principle may therefore be inferred from this provision that, where an expert has been appointed by a court, the parties must in all instances be able to attend the interviews conducted by the expert or to be shown the documents he or she has taken into account. What is essential is that the parties should be able to participate properly in the proceedings before the "tribunal" (*Test-Achats v. Belgium*, 2022, § 20).

487. A medical expert report pertaining to a technical field that is not within the judges' knowledge is likely to have a preponderant influence on their assessment of the facts; it is an essential piece of evidence and the parties must be able to comment effectively on it (*Mantovanelli v. France*, 1997, § 36; *Storck v. Germany*, 2005, § 135). It is an important requirement that the expert should be independent from the parties to the case, both formally and in practice (*Tabak v. Croatia*, 2022, § 60).

488. Where the only expert opinion produced before a court was issued by a specialist body, for example in relation to disability benefits, it will have a decisive influence on the court in the absence of a second opinion by an independent expert (*Devinar v. Slovenia*, 2018, §§ 49-50; see also *Hamzagić v. Croatia*, 2021, §§ 45-58). However, the following should be noted.

The Convention does not bar the national courts from relying on expert opinions drawn up by specialist bodies that are themselves parties to the case where this is required by the nature of the issues in dispute (*Letinčić v. Croatia*, 2016, § 61; *Devinar v. Slovenia*, 2018, § 47). The fact that an expert is employed by the same administrative authority that is a party to the case might give rise to doubts on the part of the applicant as the opposing party, but what is decisive is whether such doubts can be held to be objectively justified (*Devinar v. Slovenia*, 2018, §§ 48 and 51; see *Hamzagić v. Croatia*, 2021, §§ 49-52, concerning a disability pension granted in one country but not in another, where the applicant's doubts were not held to be justified). When requesting a second opinion by an independent expert, the applicant is thus required to produce sufficient material to substantiate the request (*Devinar v. Slovenia*, §§ 56-58). Should the applicant fail to do so, despite having had the right to comment on the expert opinion and challenge it in writing and orally or to submit an opposing opinion by a specialist of his or her choice, the Court will find no violation of Article 6 (§ 56). There may also be a finding of no violation where the matter has been examined by several experts whose opinions converged, and the applicant has not produced any evidence that could give rise to doubts in that regard (*Krunoslava Zovko v. Croatia*, 2017, §§ 48-50). The expert's position in the defendant company and the weight attached to the expert report in the proceedings may raise an apparent issue as to the expert's neutrality (*Tabak v. Croatia*, 2022, § 66); however, if the applicant was legally represented in the domestic proceedings and did not raise this issue despite having the opportunity to do so, he or she has failed to act with the necessary diligence (see §§ 69 and 79-82, applying in particular the relevant principles set out in *Zubac v. Croatia* [GC], 2018).

489. The expert's neutrality and impartiality/independence can also concern the manner in which he or she has presented his or her opinion, for example in the use of certain expressions or language in the forensic report, bearing in mind that the applicable standards are not the same as those applicable to judges (*Çöçelli and Others v. Türkiye*, 2022, §§ 58-63).

490. Concerning the parties' rights vis-à-vis the expert: compare *Feldbrugge v. the Netherlands*, 1986, § 44 (violation), with *Olsson v. Sweden (no. 1)*, 1988, §§ 89-91 (no violation). As regards the requirement to disclose an adverse report, see *L. v. the United Kingdom* (dec.), 1999, and as regards access to material in a guardianship case file, see *Evers v. Germany*, 2020, §§ 86-93). For the appointment of a medical expert not specialising in the applicant's condition, see *Hamzagić v. Croatia*, 2021, § 54.

c. Non-disclosure of evidence

491. In certain cases, overriding national interests have been put forward to deny a party fully adversarial proceedings by refusing to disclose evidence, such as national security considerations (*Regner v. the Czech Republic* [GC], 2017 — compare with *Corneschi v. Romania*, 2022; *Miryana Petrova v. Bulgaria*, 2016, §§ 39-40), or the need to keep certain police investigation/surveillance methods secret (*Adomaitis v. Lithuania*, 2022, § 68).

492. In the Court's view, the right to disclosure of relevant evidence is not absolute. However, only measures restricting the rights of a party to the proceedings which do not affect the very essence of those rights are permissible under Article 6 § 1 (*Regner v. the Czech Republic* [GC], 2017, § 148 ; *Adomaitis v. Lithuania*, 2022, §§ 68-74).

493. For that to be the case, any difficulties caused to the applicant by a limitation of his or her rights must be sufficiently counterbalanced by the procedure followed by the judicial authorities. Where evidence has been withheld from the applicant on public-interest grounds, the Court must scrutinise the decision-making procedure to ensure that, as far as possible, it complied with the requirements to provide adversarial proceedings and equality of arms and incorporated adequate safeguards to protect the applicant's interests (*Regner v. the Czech Republic* [GC], 2017, §§ 147-49).

494. The above-mentioned case raised the issue of the need to preserve the confidentiality of classified documents. The Court had regard to the proceedings as a whole, examining whether the restrictions on the adversarial and equality-of-arms principles had been sufficiently counterbalanced by other procedural safeguards (§ 151). The Court held that the proceedings as a whole had offset the restrictions curtailing the applicant's enjoyment of the rights afforded to him in accordance with the principles of adversarial proceedings and equality of arms (§ 161). Conversely, in *Corneschi v. Romania*, 2022, after noting that the applicant had not unequivocally waived his right to be informed (§§ 94-96), the Court examined whether the restriction of access to documents had been "necessary" (§ 100), before determining whether there had been any counterbalancing measures (see §§ 101 et seq., in particular §§ 105-108 on the question whether the applicant's lawyer had been able to defend him effectively) and found a violation of Article 6 of the Convention.

495. The reasons for non-disclosure, and the importance of the evidence not disclosed to a party but available to the courts, are key elements to consider in this context. *UAB Ambercore DC and UAB Arcus Novus v. Lithuania*, 2023, concerned the exclusion of two companies from a tender on account of their alleged links to the Russian security service. The domestic courts referred to classified documents and information, received from the Lithuanian security service, but these had not been made available either to the applicant companies or to their lawyers. While the reports as such were not available to the applicants, their content was rather explicitly described in the administrative decisions and in the courts' judgments. The courts' judgments were also based on numerous pieces of unclassified material, the classified information not being of decisive value. The Court also noted that the applicant companies had had ample opportunities to discuss the facts of the case and that the Lithuanian courts had enquired into the extent to which classified materials could be disclosed. The Court relied on the fact that the Lithuanian courts decided not to disclose the documents for national security reasons, a sphere which traditionally forms part of the inner core of State sovereignty, and there was nothing to suggest that the classification of documents had been carried out arbitrarily (§ 116).

496. In *Adomaitis v. Lithuania*, 2022, concerning the secret interception of telephone communications to provide a basis for a disciplinary penalty against a prison governor in the form of dismissal, the Court took into account the need to keep certain police investigation/surveillance methods secret (§ 68). However, there must be an opportunity to review whether the contested surveillance measure has been lawfully ordered and executed; in the context of such a review, the person concerned must, "at the very least", be provided with "sufficient information" about the existence of an authorisation and about the decision authorising the surveillance (§ 68).

7. Reasoning of judicial decisions

497. The guarantees enshrined in Article 6 § 1 include the obligation for courts to give sufficient reasons for their decisions (*H. v. Belgium*, 1987, § 53, and for a summary of the principles, *Zayidov v. Azerbaijan (no. 2)*, 2022, § 91). A reasoned decision shows the parties that their case has truly been heard, and thus contributes to a greater acceptance of the decision (*Magnin v. France* (dec.), 2012, § 29). A failure of a national court to address important legal arguments or to give reasons was also analysed under the heading of "arbitrariness" (*Aykhan Akhundov v. Azerbaijan*, 2023, §§ 105 et seq.; *Sytnyk v. Ukraine*, 2025, § 80).

498. Although a domestic court has a certain margin of appreciation when choosing arguments and admitting evidence, it is obliged to justify its activities by giving reasons for its decisions (*Suominen v. Finland*, 2003, § 36; *Carmel Saliba v. Malta*, 2016, §§ 73 and 79).

499. The reasons given must be such as to enable the parties to make effective use of any existing right of appeal (*Hirvisaari v. Finland*, 2001, § 30 in fine).

500. Article 6 § 1 obliges courts to give reasons for their decisions, but cannot be understood as requiring a detailed answer to every argument (*García Ruiz v. Spain* [GC], 1999, § 26; *Perez v. France* [GC], 2004, § 81; *Van de Hurk v. the Netherlands*, 1994, § 61; *Jahnke and Lenoble v. France* (dec.), 2000).

501. The extent to which this duty to give reasons applies may vary according to the nature of the decision (*Ruiz Torija v. Spain*, 1994, § 29; *Hiro Balani v. Spain*, 1994, § 27) and can only be determined in the light of the circumstances of the case: it is necessary to take into account, *inter alia*, the diversity of the submissions that a litigant may bring before the courts and the differences existing in the Contracting States with regard to statutory provisions, customary rules, legal opinion and the presentation and drafting of judgments (*Ruiz Torija v. Spain*, 1994, § 29; *Hiro Balani v. Spain*, 1994, § 27). As to whether the Court of Cassation did not examine a ground of appeal raised by the applicant, or whether it assessed the relevance of the ground of appeal before deciding to reject it by means of brief reasoning, see *Tourisme d'affaires v. France*, 2012, §§ 28 et seq.; and also *Higgins and Others v. France*, 1998, § 43. In a case where a court had not explicitly examined the applicant's complaint, the Court was able to accept that their silence on that complaint could reasonably be construed as an implicit rejection in the circumstances of the case (*Čivinskaitė v. Lithuania*, 2020, §§ 142-144). Where the case concerns national security, the secret nature of the documents concerned may limit the scope of the obligation to give reasons for judicial decisions (compare *Regner v. the Czech Republic* [GC], 2017, § 158 in fine, and, mutatis mutandis, *Šeks v. Croatia*, 2022, § 71).

502. However, where a party's submission is decisive for the outcome of the proceedings, it requires a specific and express reply (*Ruiz Torija v. Spain*, 1994, § 30; *Hiro Balani v. Spain*, 1994, § 28; *Seksimp Group SRL v. the Republic of Moldova*, 2025, § 47; and compare *Petrović and Others v. Montenegro*, 2018, § 43).

503. The courts are therefore required to examine:

- the litigants' main arguments (*Buzescu v. Romania*, 2005, § 67; *Donadze v. Georgia*, 2006, § 35); specific, pertinent and important points (*Mont Blanc Trading Ltd and Antares Titanium Trading Ltd v. Ukraine*, 2021, §§ 82 and 84).
- pleas concerning the rights and freedoms guaranteed by the Convention and its Protocols: the national courts are required to examine these with particular rigour and care (*Fabris v. France* [GC], 2013, § 72 in fine; *Paun Jovanović v. Serbia*, 2023, § 108; *Wagner and J.M.W.L. v. Luxembourg*, 2007, § 96). This is a consequence of the subsidiarity principle.

A court's duty to give reasons may concern, not only the main legal or factual question of the case, but also an important auxiliary matter such as the amount of the legal costs (see *Finanziaria D'Investimento Fininvest S.P.A. and Berlusconi v. Italy*, 2026, where the Court found that the Court of

Cassation failed to sufficiently justify the amount of the procedural costs charged to the applicant company, §§ 251-56).

504. Article 6 § 1 does not require a supreme court to give more detailed reasoning when it simply applies a specific legal provision to dismiss an appeal on points of law as having no prospects of success, without further explanation (*Gorou v. Greece (no. 2)* [GC], 2009, § 41; *Burg and Others v. France* (dec.), 2003; compare *Paun Jovanović v. Serbia*, 2023, § 109, which concerned a direct application to a constitutional court and the lack of clarity as to a precondition for its jurisdiction to hear the case). In *Paun Jovanović v. Serbia*, 2023, the Court reiterated that the above principle assumes that there has been a prior detailed judgment on the issues and/or a hearing before a lower court (see § 109 and the case-law references cited).

505. Similarly, in the case of an application for leave to appeal, which is the precondition for a hearing of the claims by the superior court and the eventual issuing of a judgment, Article 6 § 1 cannot be interpreted as requiring that the rejection of leave be itself subject to a requirement to give detailed reasons (*Bufferne v. France* (dec.), 2002; *Kukkonen v. Finland (no. 2)*, 2009, § 24). Compare *Gorou v. Greece (no. 4)*, 2007, § 22.

506. Furthermore, in dismissing an appeal, an appellate court may, in principle, simply endorse the reasons for the lower court's decision (*García Ruiz v. Spain* [GC], 1999, § 26; contrast *Tatishvili v. Russia*, 2007, § 62). However, the notion of a fair procedure requires that a national court which has given sparse reasons for its decisions, whether by incorporating the reasons of a lower court or otherwise, did in fact address the essential issues which were submitted to its jurisdiction and did not merely endorse without further ado the findings reached by a lower court (*Helle v. Finland*, 1997, § 60). This requirement is all the more important where a litigant has not been able to present his case orally in the domestic proceedings (*ibid.*).

507. However, appellate courts (at second instance) with responsibility for filtering out unfounded appeals and with jurisdiction to deal with questions of fact and law in civil proceedings are required to give reasons for their refusal to accept an appeal for adjudication (*Hansen v. Norway*, 2014, §§ 77-83). In the case cited, the Court of Appeal had refused to consider an appeal by the applicant against a decision by the first-instance court in civil proceedings, holding that it was "clear that the appeal will not succeed" and in doing so simply reproducing the wording of the Code of Civil Procedure.

508. Furthermore, a constitutional court that has departed from one of its previous judgments simply by expressing its "disagreement" with its earlier position has not provided sufficient reasons (*Grzęda v. Poland* [GC], § 315). Concerning a lack of clarity as to a precondition for appealing directly to a constitutional court, which resulted in a violation of Article 6, see *Paun Jovanović v. Serbia*, 2023 (§§ 105-110) and concerning insufficient reasons in a dispute over the dismissal of constitutional court judges and the protection of the safeguards of judicial independence, see *Ovcharenko and Kolos v. Ukraine*, 2023, § 126.

509. Furthermore, the Court found no violation in a case where no specific response had been given to an argument relating to an inconsequential aspect of the case — namely the absence of a signature and a stamp, which was a flaw of a formal rather than substantive nature and had been promptly rectified (*Mugoša v. Montenegro*, 2016, § 63). However, the Court has emphasised the importance of sufficient reasons being provided by the court, for example in civil liability proceedings relating to a criminal act (see *Carmel Saliba v. Malta*, 2016, § 78, and the link with safeguards in "criminal" matters). Lastly, it has held that a deficiency in the provision of reasons may result in a "denial of justice" (*Ballıktaş Bingöllü v. Turkey*, 2021, § 77, and see under "Fourth instance" above)[42].

42. See the section on "Fourth instance".

The repeated and persistent failure to give reasons for a decision may affect the overall fairness of the proceedings even when this defect has been finally rectified: thus, in *Vujović and Lipa D.O.O. v. Montenegro (no. 2)*, 2025, the Court of Appeal repeatedly failed to provide reasoning for its decisions, despite four remittals by the Constitutional Court (see §§ 59-63). It is noteworthy that the Court of Appeal's failure to give reasons had also resulted in a significant delay in the examination of the case which led to a finding of a violation of the "reasonable time" requirement of Article 6 (see § 84, and that the Court also found a breach of Article 1 of Protocol No. 1 to the Convention on account of the irreparable losses of property suffered by the applicant company (see § 108).

B. Public hearing

Article 6 § 1 of the Convention

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing by [a] 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 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 court in special circumstances where publicity would prejudice the interests of justice."

1. Hearing

510. General principles: in principle, litigants have a right to a public hearing because this protects them against the administration of justice in secret with no public scrutiny (*Straume v. Latvia*, 2022, §§ 124-125 — regarding the principle of the secrecy of judicial investigations, see *Ernst and Others v. Belgium*, 2003, §§ 67-68). By rendering the administration of justice visible, a public hearing contributes to the achievement of the aim of Article 6 § 1, namely a fair trial (*Malhous v. the Czech Republic* [GC], 2001, §§ 55-56). While a public hearing constitutes a fundamental principle enshrined in Article 6 § 1, the obligation to hold such a hearing is not absolute (*De Tommaso v. Italy* [GC], 2017, § 163). The right to an oral hearing is not only linked to the question whether the proceedings involve the examination of witnesses who will give their evidence orally (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 187). To establish whether a trial complies with the requirement of publicity, it is necessary to consider the proceedings as a whole (*Axen v. Germany*, 1983, § 28).

511. In proceedings before a court of first and only instance the right to a "public hearing" under Article 6 § 1 entails an entitlement to an "oral hearing" (*Göç v. Turkey* [GC], 2002, § 47; *Fredin v. Sweden (no. 2)*, 1994, §§ 21-22; *Allan Jacobsson v. Sweden (no. 2)*, 1998, § 46; *Selmani and Others v. the former Yugoslav Republic of Macedonia*, 2017, §§ 37-39) unless there are exceptional circumstances that justify dispensing with such a hearing (*Hesse-Anger and Anger v. Germany* (dec.), 2001; *Mirovni Inštitut v. Slovenia*, 2018, § 36). The exceptional character of such circumstances stems essentially from the nature of the questions at issue, for example in cases where the proceedings concern exclusively legal or highly technical questions (*Koottummel v. Austria*, 2009, § 19), and not from the frequency of such questions (*Miller v. Sweden*, 2005, § 29; *Mirovni Inštitut v. Slovenia*, 2018, § 37). For a recapitulation of the case-law, see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 188-190.

512. The absence of a hearing at second or third instance may be justified by the special features of the proceedings concerned, provided a hearing has been held at first instance (*Helmers v. Sweden*, 1991, § 36, but contrast §§ 38-39; *Salomonsson v. Sweden*, 2002, § 36). Thus, leave-to-appeal proceedings and proceedings involving only questions of law, as opposed to questions of fact, may

comply with the requirements of Article 6 even though the appellant was not given an opportunity of being heard in person by the appeal or cassation court (*Miller v. Sweden*, 2005, § 30). Regard therefore needs to be had to the particularities of proceedings in the highest courts.

513. The Court has examined whether the lack of a public hearing at the level below may be remedied by holding a public hearing at the appeal stage. In a number of cases, it has found that the fact that proceedings before the appellate court are held in public cannot remedy the lack of a public hearing at the lower levels of jurisdiction where the scope of the appeal proceedings is limited, in particular where the appellate court cannot review the merits of the case, including a review of the facts and an assessment as to whether the penalty was proportionate to the misconduct. If, however, the appellate court has full jurisdiction, the lack of a hearing before a lower level of jurisdiction may be remedied before that court (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 192 and the case-law references cited). As a result, a complaint concerning the lack of a public hearing may be closely linked to a complaint concerning the allegedly insufficient extent of the review performed by the appellate body (*ibid.*, § 193). The lack of a hearing in the trial court can only be remedied by a full public rehearing before the appellate court (*Khrabrova v. Russia*, 2012, § 52).

514. The Court has emphasised the importance of an adversarial hearing before the body performing the judicial review of a decision not complying with the guarantees of Article 6, where that body has a duty to ascertain whether the factual basis for the decision was sufficient to justify it (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 211). In this particular case, the lack of a hearing either at the stage of the disciplinary decision or at the judicial review stage, combined with the insufficiency of the judicial review, gave rise to a violation of Article 6 § 1 (§ 214).

515. Accordingly, unless there are exceptional circumstances that justify dispensing with a hearing (see the summary of the case-law in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 190), the right to a public hearing under Article 6 § 1 implies a right to an oral hearing at least at one level of jurisdiction (*Fischer v. Austria*, 1995, § 44; *Salomonsson v. Sweden*, 2002, § 36).

516. In *Vilho Eskelinen and Others v. Finland* [GC], 2007, § 74, the Court found no violation of Article 6 § 1 on account of the lack of a hearing. It attached weight to the fact that the applicants had been able to request a hearing, although it had been for the courts to decide whether a hearing was necessary; that the courts had given reasons for refusing to hold a hearing; and that the applicants had been given ample opportunity to put forward their case in writing and to comment on the submissions of the other party (*ibid.*). For a case where interim measures were taken without a hearing being held, see *Helmut Blum v. Austria*, 2016, §§ 70-74.

517. It may also be legitimate in certain cases for the national authorities to have regard to the demands of efficiency and economy (*Eker v. Turkey*, 2017, § 29). In the case cited, the Court did not deny that the proceedings at two levels of jurisdiction had taken place without a hearing. It pointed out that the legal issues had not been especially complex and that it had been necessary to conduct the proceedings promptly (§ 31). The dispute had concerned textual and technical matters that could be adequately determined on the strength of the case file. Moreover, the proceedings had involved an exceptional emergency procedure (an application for an order for publication of a reply in a newspaper), which the Court found to be necessary and justifiable in the interests of the proper functioning of the press.

518. However, the Court found a violation of Article 6 § 1 in *Straume v. Latvia*, 2022, concerning the freedom of expression of a representative of an air traffic controllers' trade union, where no public hearing on the merits had been held by the courts at first instance or on appeal. The Court did not accept, in particular, the reasons given by the national courts to justify excluding the public and emphasised that the subject matter of the dispute had called for public scrutiny (§§ 127-129).

519. It should be noted that in the context of disciplinary proceedings, in view of what is at stake — namely the impact of the possible penalties on the lives and careers of the persons concerned and

their financial implications — the Court has held that dispensing with an oral hearing should be an exceptional measure and should be duly justified in the light of its case-law (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, §§ 208-211). The case cited is also important in relation to disciplinary sanctions against a judge. The Court emphasised the specific context of disciplinary proceedings conducted against judges (§§ 196, 211 and 214).

520. As regards proceedings concerning prisoners, incarceration cannot in itself justify not giving them a hearing before a civil court (*Igranov and Others v. Russia*, 2018, §§ 34-35). Practical reasons may be taken into consideration but the principles of the right to a fair hearing must be observed and the prisoner must have the opportunity to ask to be present at the hearing (*Altay v. Turkey (no. 2)*, 2019, § 77). If the prisoner has not made such a request when this possibility was not provided for in domestic law, that does not mean that the prisoner has waived his or her right to appear in court (§ 78).

In this context, the first question to be determined is whether the nature of the dispute dictates that the prisoner should appear in person (*Zayidov v. Azerbaijan (no. 2)*, 2022, §§ 88-89). If so, the domestic authorities are required to take practical measures of a procedural nature to ensure the prisoner's effective participation in the hearing in his or her civil case (*Yevdokimov and Others v. Russia*, 2016, §§ 33-47 — referring to *Marcello Viola v. Italy*, 2006, as regards participation in the hearing via video link and other types of practical measures; see the case-law references cited — and § 52). In the case cited, the domestic courts had refused to allow prisoners to attend hearings in civil proceedings to which they were parties, on the grounds that no provision was made in domestic law for transferring the prisoners to the court. Finding that the applicants had been deprived of the opportunity to present their cases effectively, the Court held that the domestic authorities had failed to meet their obligation to ensure respect for the principle of a fair trial (§ 52 — see also *Altay v. Turkey (no. 2)*, 2019, §§ 78-81).

Furthermore, a practical problem arising because the applicant is serving a prison sentence in a different country does not preclude consideration of alternative procedural options, such as the use of modern communication technologies, so that the applicant's right to be heard can be respected (*Pönkä v. Estonia*, 2016, § 39).

521. In *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, the Grand Chamber summarised some examples of situations where a hearing was, or was not, necessary (§§ 190-191).

522. Specific applications:

- A hearing may not be required where there are no issues of credibility or contested facts which necessitate a hearing and the courts may fairly and reasonably decide the case on the basis of the parties' submissions and other written materials (*Döry v. Sweden*, 2002, § 37; *Saccoccia v. Austria*, 2008, § 73; *Mirovni Inštitut v. Slovenia*, 2018, § 37).
- The Court has also accepted that forgoing a hearing may be justified in cases raising merely legal issues of a limited nature (*Allan Jacobsson v. Sweden (no. 2)*, 1998, § 49; *Valová, Slezák and Slezák v. Slovakia*, 2004, §§ 65-68) or questions of fact (*Ali Riza v. Switzerland*, 2021, § 117) or law which present no particular complexity (*Varela Assalino v. Portugal* (dec.), 2002; *Speil v. Austria* (dec.), 2002). The same also applies to highly technical questions (for example, *Ali Riza v. Switzerland*, 2021, § 119). The Court has had regard to the technical nature of disputes over social-security benefits, which are better dealt with in writing than by means of oral argument. It has repeatedly held that in this sphere the national authorities, having regard to the demands of efficiency and economy, could abstain from holding a hearing since systematically holding hearings could be an obstacle to the particular diligence required in social-security proceedings (*Schuler-Zgraggen v. Switzerland*, 1993, § 58; *Döry v. Sweden*, 2002, § 41; and contrast *Salomonsson v. Sweden*, 2002, §§ 39-40).

- The judgment in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, specified that notwithstanding the technical nature of some discussions and depending on what was at stake in the proceedings, public scrutiny could be viewed as a necessary condition both for transparency and for the protection of litigants' rights (§§ 208 and 210).
- For example, holding an oral hearing will be deemed necessary when it comes to examining issues of law and important factual questions (*Fischer v. Austria*, 1995, § 44), or assessing whether the facts were correctly established by the authorities (*Malhous v. the Czech Republic* [GC], 2001, § 60) and ensuring a more thorough review of facts in dispute (*Ramos Nunes de Carvalho e Sá v. Portugal* [GC], 2018, § 211), and where the circumstances require the courts to gain a personal impression of the applicant, to allow the applicant to explain his personal situation, in person or through his representative (*Miller v. Sweden*, 2005, § 34 in fine; *Andersson v. Sweden*, 2010, § 57) — for example when the court needs to hear evidence from the applicant about his personal suffering in order to determine the level of compensation to award him (*Göç v. Turkey* [GC], 2002, § 51; *Lorenzetti v. Italy*, 2012, § 33) or to obtain information about the applicant's character, behaviour and dangerousness (*De Tommaso v. Italy* [GC], 2017, § 167; *Evers v. Germany*, 2020, § 98) — or where the court requires clarifications on certain points, *inter alia* by this means (*Fredin v. Sweden (no. 2)*, 1994, § 22; *Lundevall v. Sweden*, 2002,§ 39).

523. The case of *Pönkä v. Estonia*, 2016, concerned the use of a simplified procedure (reserved for small claims) and the court's refusal to hold a hearing, without providing reasons for its application of the written procedure (§§ 37-40). The case of *Mirovni Inštitut v. Slovenia*, 2018, concerned a challenge against a decision to reject a bid in a tendering procedure. The domestic court had given no explanation for refusing to hold a hearing, thus preventing the Court from determining whether the domestic court had simply neglected to deal with the applicant institute's request for a hearing or whether it had decided to dismiss it and, if so, for what reasons (§ 44). In both cases the Court found that the refusal to hold a hearing had breached Article 6 § 1 (*Pönkä v. Estonia*, 2016, § 40; *Mirovni Inštitut v. Slovenia*, 2018, § 45). As to the extent of the reasons to be provided, in *Cimperšek v. Slovenia* the Court emphasised the importance of justifying the refusal to hold a hearing on the basis of the factual circumstances of the case (§ 45).

524. In *Straume v. Latvia*, 2022, concerning the freedom of expression of a representative of an air traffic controllers' trade union, the Court did not accept, in particular, the reasons given by the national courts to justify excluding the public and emphasised that the subject matter of the dispute had called for public scrutiny (§§ 127-129).

525. In a case concerning hearings before the Court of Arbitration for Sport (CAS), the Court found that the matters relating to the question whether the sanction imposed on the applicant for doping had been justified, had required a hearing open to public scrutiny. It observed that the facts had been contested and that the penalties which the applicant had been liable to incur carried a significant degree of stigma and were likely to adversely affect her professional honour. It therefore concluded that there had been a violation of Article 6 § 1 on account of the lack of a public hearing before the CAS (*Mutu and Pechstein v. Switzerland*, 2018, §§ 182-183).

526. Whenever an oral hearing is to be held, the parties have the right to attend (for the holding of a hearing earlier than scheduled in the context of an appeal on points of law by the public prosecutor, depriving the applicant of her right to appear in court, see *Andrejeva v. Latvia* [GC], 2009, §§ 99-101), to make oral submissions, to choose another way of participating in the proceedings (for example by appointing a representative) or to ask for an adjournment. For the effective exercise of those rights, the parties must be informed of the date and place of the hearing sufficiently in advance to be able to make arrangements. The Court has stated that the national courts are required to check the validity of the notification prior to embarking on the merits of the case. The analysis set out in the domestic decisions must go beyond a mere reference to the dispatch of a judicial summons and must make the

most of the available evidence in order to ascertain whether an absent party was in fact informed of the hearing sufficiently in advance. A domestic court's failure to ascertain whether an absent party received the summons in due time and, if not, whether the hearing should be adjourned, is in itself incompatible with genuine respect for the principle of a fair hearing and may lead the Court to find a violation of Article 6 § 1 (see *Gankin and Others v. Russia*, 2016, §§ 39 and 42, and the summary of the principles established in the case-law concerning notification of hearings, the provision of information to the parties and the question of waiving the right to a hearing, §§ 34-38).

527. In some situations, appearing in person may be problematic, and the Court has found that a litigant's participation in civil proceedings via video link (Skype), with his lawyer present in the courtroom, was compatible with the right to a fair hearing in the circumstances of the particular case (*Jallow v. Norway*, 2021, concerning proceedings for parental responsibility involving a foreign applicant who was not allowed to enter the country).

528. Presence of press and public: The public character of proceedings before judicial bodies protects litigants against the administration of justice in secret with no public scrutiny and thus constitutes one of the means whereby confidence in the courts can be maintained, contributing to the achievement of the aim of a fair trial (*Diennet v. France*, 1995, § 33; *Martinie v. France* [GC], 2006, § 39; *Gautrin and Others v. France*, 1998, § 42; *Hurter v. Switzerland*, 2005, § 26; *Lorenzetti v. Italy*, 2012, § 30). Article 6 § 1 does not, however, prohibit courts from deciding, in the light of the special features of the case, to derogate from this principle (*Martinie v. France* [GC], 2006, §§ 40-44). Holding proceedings, whether wholly or partly, in camera must be strictly required by the circumstances of the case (*Lorenzetti v. Italy*, 2012, § 30). The wording of Article 6 § 1 provides for several exceptions.

529. According to the wording of Article 6 § 1, "[t]he 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 society" (*B. and P. v. the United Kingdom*, 2001, § 39; *Zagorodnikov v. Russia*, 2007, § 26);
- "where the interests of juveniles or the protection of the private life of the parties so require": the interests of juveniles or the protection of the private life of the parties are in issue, for example, in proceedings concerning the residence of minors following their parents' separation, or disputes between members of the same family (*B. and P. v. the United Kingdom*, 2001, § 38); however, in cases involving the transfer of a child to a public institution the reasons for excluding a case from public scrutiny must be subject to careful examination (*Moser v. Austria*, 2006, § 97). As for disciplinary proceedings against a doctor, while the need to protect professional confidentiality and the private lives of patients may justify holding proceedings in private, such an occurrence must be strictly required by the circumstances (*Diennet v. France*, 1995, § 34; and for an example of proceedings against a lawyer: *Hurter v. Switzerland*, 2005, §§ 30-32);
- "or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice": it is possible to limit the open and public nature of proceedings in order to protect the safety and privacy of witnesses, or to promote the free exchange of information and opinion in the pursuit of justice (*B. and P. v. the United Kingdom*, 2001, § 38; *Osinger v. Austria*, 2005, § 45).

530. The Court has added that the case-law concerning the holding of a hearing as such, relating mainly to the right to address the court as enshrined in Article 6 § 1 (see above) is applicable by analogy to hearings that are open to the public. Thus, where a hearing takes place in accordance with domestic law, it must in principle be public. The obligation to hold a public hearing is not absolute since the circumstances that may justify dispensing with one will essentially depend on the nature of the issues to be determined by the domestic courts (*De Tommaso v. Italy* [GC], 2017, §§ 163-67). "Exceptional circumstances — including the highly technical nature of the matters to be

determined - may justify the lack of a public hearing, provided that the specific subject matter does not require public scrutiny" (*Lorenzetti v. Italy*, 2012, § 32).

531. The mere presence of classified information in the case file does not automatically imply a need to close a trial to the public. Accordingly, before excluding the public from a particular set of proceedings, the courts must consider specifically whether such exclusion is necessary for the protection of a public interest, and must confine the measure to what is strictly necessary in order to attain the aim pursued (*Nikolova and Vandova v. Bulgaria*, 2013, §§ 74-77, concerning a hearing held in camera because of documents classified as State secrets; see also, regarding the principles, *Vasil Vasilev v. Bulgaria*, 2021, §§ 105-106). A similar approach applies to proceedings for damages in connection with the interception of a lawyer's telephone conversations (*ibid.*, §§ 107-109).

532. Lastly, the lack of a hearing may or may not be sufficiently remedied at a later stage in the proceedings (*Malhous v. the Czech Republic* [GC], 2001, § 62; *Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, §§ 60-61; *Diennet v. France*, 1995, § 34).

533. Waiver of the right to a public hearing/to appear at the hearing: neither the letter nor the spirit of Article 6 § 1 prevents an individual from waiving his right to a public hearing of his own free will, whether expressly or tacitly, but such a waiver must be made in an unequivocal manner and must not run counter to any important public interest (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 59; *Håkansson and Sturesson v. Sweden*, 1990, § 66; *Exel v. the Czech Republic*, 2005, § 46). The summons to appear must also have been received in good time (*Yakovlev v. Russia*, 2005, §§ 20-22; *Dilipak and Karakaya v. Turkey*, 2014, §§ 79-87).

534. Conditions governing a waiver of these rights: the person concerned must consent (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 59), of his own free will (*Albert and Le Compte v. Belgium*, § 35). The right may be waived expressly or tacitly (*Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 59). But it must be done in an unequivocal manner (*Albert and Le Compte v. Belgium*, 1983, § 35; *Håkansson and Sturesson v. Sweden*, 1990, § 67) — as the Court emphasised more recently in *Vasil Vasilev v. Bulgaria*, 2021, § 111 — and it must not run counter to any important public interest (*Håkansson and Sturesson v. Sweden*, § 66).

535. Failure to request a public hearing does not necessarily mean that the person concerned has waived the right to have one held; regard must be had to the relevant domestic law (*Göç v. Turkey* [GC], 2002, § 48 in fine; *Exel v. the Czech Republic*, 2005, § 47; see also *Vasil Vasilev v. Bulgaria*, 2021, § 111). Whether or not the applicant requested a public hearing is irrelevant if the applicable domestic law expressly excludes that possibility (*Eisenstecken v. Austria*, 2000, § 33).

536. Examples: waiver of the right to a public hearing in disciplinary proceedings: *Le Compte, Van Leuven and De Meyere v. Belgium*, 1981, § 59; *H. v. Belgium*, 1987, § 54. Unequivocal waiver of the right to a public hearing: *Schuler-Zgraggen v. Switzerland*, 1993, § 58; and contrast *Exel v. the Czech Republic*, 2005, §§ 48-53; and *Vasil Vasilev v. Bulgaria*, 2021, § 111.

2. Delivery

537. The public character of proceedings before judicial bodies protects litigants against the administration of justice in secret with no public scrutiny and constitutes a basic safeguard against arbitrariness (*Fazliyski v. Bulgaria*, 2013, § 69, concerning a case classified secret — violation). It is also a means of maintaining confidence in the courts (*Pretto and Others v. Italy*, 1983, § 21). Even in indisputable national-security cases, such as those relating to terrorist activities, some States have opted to classify only those parts of the judicial decisions whose disclosure would compromise national security or the safety of others, thus illustrating that there exist techniques which could accommodate legitimate security concerns without fully negating fundamental procedural guarantees such as the publicity of judicial decisions (*Fazliyski v. Bulgaria*, 2013, § 69).

538. Article 6 § 1 states "Judgment shall be pronounced publicly", which would seem to suggest that reading out in open court is required. The Court has found, however, that "other means of rendering a judgment public" may also be compatible with Article 6 § 1 (*Straume v. Latvia*, 2022, § 126; *Moser v. Austria*, 2006, § 101).

539. In order to determine whether the forms of publicity provided for under domestic law are compatible with the requirement for judgments to be pronounced publicly within the meaning of Article 6 § 1, "in each case the form of publicity to be given to the judgment under the domestic law ... must be assessed in the light of the special features of the proceedings in question and by reference to the object and purpose of Article 6 § 1" (*Pretto and Others v. Italy*, 1983, § 26; *Axen v. Germany*, 1983, § 31). The object pursued by Article 6 § 1 in this context — namely, to ensure scrutiny of the judiciary by the public with a view to safeguarding the right to a fair trial — must have been achieved during the course of the proceedings, which must be taken as a whole (*ibid.*, § 32, and *Straume v. Latvia*, 2022, § 133; see also, mutatis mutandis, in relation to expulsion and national security, *Raza v. Bulgaria*, 2010, § 53).

540. Where judgment is not pronounced publicly it must be ascertained whether sufficient publicity was achieved by other means.

541. In the following examples sufficient publicity was achieved by means other than public pronouncement:

- Higher courts which did not publicly pronounce decisions rejecting appeals on points of law: in order to determine whether the manner in which a Court of Cassation delivered its judgment met the requirements of Article 6 § 1, account must be taken of the entirety of the proceedings conducted in the domestic legal order and of the role of that court therein (*Pretto and Others v. Italy*, 1983, § 27).

  In finding no violation of Article 6 § 1 the Court paid particular attention to the stage of the procedure and to the scrutiny effected by these courts — which was limited to points of law — and to the judgments they delivered, upholding the decisions of the lower courts without any change to the consequences for the applicants. In the light of these considerations it found that the requirement for public pronouncement had been complied with where, by being deposited in the court registry, the full text of the judgment had been made available to everyone (*ibid.*, §§ 27-28) in addition to its publication in the Official Gazette (*Straume v. Latvia*, 2022, § 131 ; *Ernst and Others v. Belgium*, 2003, §§ 69-70), or where a judgment upholding that of a lower court which itself had been pronounced publicly had been given without a hearing (*Axen v. Germany*, 1983, § 32).
- Trial court: the Court found no violation in a case where an appellate court publicly delivered a judgment summarising and upholding the decision of a first-instance court which had held a hearing but had not delivered its judgment in public (*Lamanna v. Austria*, 2001, §§ 33-34).
- Cases concerning the residence of children: while the domestic authorities are justified in conducting these proceedings in chambers in order to protect the privacy of the children and the parties and to avoid prejudicing the interests of justice, and to pronounce the judgment in public would, to a large extent, frustrate these aims, the requirement under Article 6 § 1 concerning the public pronouncement of judgments is satisfied where anyone who can establish an interest may consult or obtain a copy of the full text of the decisions, those of special interest being routinely published, thereby enabling the public to study the manner in which the courts generally approach such cases and the principles applied in deciding them (*B. and P. v. the United Kingdom*, 2001, § 47).

542. In the following cases, failure to pronounce the judgment publicly led to the finding of a violation:

- In a child residence case between a parent and a public institution: giving persons who established a legal interest in the case access to the file and publishing decisions of special

interest (mostly of the appellate courts or the Supreme Court) did not suffice to comply with the requirements of Article 6 § 1 concerning publicity (*Moser v. Austria*, 2006, §§ 102-03).

- When courts of first and second instance examined in chambers a request for compensation for detention without their decisions being pronounced publicly or publicity being sufficiently ensured by other means (*Werner v. Austria*, 1997, §§ 56-60).
- Where a claim for damages was examined with the public excluded and the judgments were made available to the parties after a certain period of time without being made accessible to the public in some form — notification of the parties to the proceedings alone not being sufficient (*Vasil Vasilev v. Bulgaria*, 2021, §§ 116-117).
- Where the first-instance judgment was not pronounced publicly, only the operative part of the appellate court's judgment was read out in public and no public hearing was held, with the result that the proceedings had not been subject to sufficient public scrutiny — even if it was possible to ask for an anonymised copy of the judgment to be provided at the court's discretion (*Straume v. Latvia*, 2022, §§ 130-133, and case-law references cited).

543. Where only the operative part of the judgment is read out in public: it must be ascertained whether the public had access by other means to the reasoned judgment which was not read out and, if so, the forms of publicity used must be examined in order to subject the judgment to public scrutiny (*Ryakib Biryukov v. Russia*, 2008, §§ 38-46 and case-law references cited in §§ 33-36). As the reasons which would have made it possible to understand why the applicant's claims had been rejected were inaccessible to the public, the object pursued by Article 6 § 1 was not achieved (*ibid.*, § 45; see also *Straume v. Latvia*, 2022, §§ 130-133).

C. Length of proceedings

Article 6 § 1 of the Convention

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] tribunal ..."

544. In requiring cases to be heard within a "reasonable time", the Convention underlines the importance of administering justice without delays which might jeopardise its effectiveness and credibility (*H. v. France*, 1989, § 58; *Katte Klitsche de la Grange v. Italy*, 1994, § 61). Article 6 § 1 obliges the Contracting States to organise their legal systems so as to enable the courts to comply with its various requirements.

545. The Court has repeatedly stressed the importance of administering justice without delays which might jeopardise its effectiveness and credibility (*Scordino v. Italy (no. 1)* [GC], 2006, § 224). Where the Court finds that in a particular State there is a practice incompatible with the Convention resulting from an accumulation of breaches of the "reasonable time" requirement, this constitutes an "aggravating circumstance of the violation of Article 6 § 1" (*Bottazzi v. Italy* [GC], 1999, § 22; *Scordino v. Italy (no. 1)* [GC], 2006,§ 225). For the length of execution proceedings, see section on "Execution of judgments".

1. Determination of the length of the proceedings

546. As regards the starting-point of the relevant period, time normally begins to run from the moment the action was instituted before the competent court (*Poiss v. Austria*, 1987, § 50; *Bock v. Germany*, 1989, § 35), unless an application to an administrative authority is a prerequisite for bringing court proceedings, in which case the period may include the mandatory preliminary

administrative procedure (*Kress v. France* [GC], 2001, § 90; *König v. Germany*, 1978, § 98; *X v. France*, 1992, § 31; *Schouten and Meldrum v. the Netherlands*, 1994, § 62).

547. Thus, in some circumstances, the reasonable time may begin to run even before the issue of the writ commencing proceedings before the court to which the claimant submits the dispute (*Vilho Eskelinen and Others v. Finland* [GC], 2007, § 65; *Golder v. the United Kingdom*, 1975, § 32 in fine; *Erkner and Hofauer v. Austria*, 1987, § 64). However, this is exceptional and has been accepted where, for example, certain preliminary steps were a necessary preamble to the proceedings (*Blake v. the United Kingdom*, 2006, § 40). For the case of a civil-party claim introduced within the framework of criminal proceedings, see *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, §§ 207-208; *Arnoldi v. Italy*, 2017, §§ 25-40; see also *Molchanova v. Ukraine* (dec.), 2023, § 28 in which the Court calculated the overall length of the proceedings from the moment a civil claim was introduced by the applicant within the criminal case concerning the death of her son).

548. Article 6 § 1 may also apply to proceedings which, although not wholly judicial in nature, are nonetheless closely linked to supervision by a judicial body. This was the case, for example, with a procedure for the partition of an estate which was conducted on a non-contentious basis before two notaries, but was ordered and approved by a court (*Siegel v. France*, 2000, §§ 33-38). The duration of the procedure before the notaries was therefore taken into account in calculating the reasonable time.

549. As to when the period ends, it normally covers the whole of the proceedings in question, including appeal proceedings (*König v. Germany*, 1978, § 98 in fine), and thus both interim and final decisions (*Mierlă and Others v. Romania* (dec.), 2022, § 78). It extends right up to the decision which disposes of the dispute (*Poiss v. Austria*, 1987, § 50). Hence, the reasonable-time requirement applies to all stages of the legal proceedings aimed at settling the dispute, not excluding stages subsequent to the judgment on the merits (*Robins v. the United Kingdom*, 1997, §§ 28-29), meaning that the final determination of costs and expenses may be covered within the period under examination (*Čičmanec v. Slovakia*, 2016, § 50).

550. The execution of a judgment, given by any court, is therefore to be considered as an integral part of the proceedings for the purposes of calculating the relevant period (*Martins Moreira v. Portugal*, 1988, § 44; *Silva Pontes v. Portugal*, 1994, § 33; *Di Pede v. Italy*, 1996, § 24). Time does not stop running until the right asserted in the proceedings actually becomes effective (*Estima Jorge v. Portugal*, 1998, §§ 36-38; contrast with *Diaco and Lenchi v. Italy*, 2025, §§ 75 et seq., with further references, where the Court examined only the delay of the enforcement as such).

551. Where the pronouncement of a decision at a public hearing and the drafting of the full text of the decision take place at separate times, the proceedings are not deemed to have been completed until the final reasoned decision is deposited at the registry of the the court that gave it, or until the parties concerned are notified of the decision, including where a lengthy period elapses between the pronouncement of the decision and its notification to the parties (*Mierlă and Others v. Romania* (dec.), 2022, §§ 78 and 82).

552. Proceedings before a constitutional court are taken into consideration where, although the court has no jurisdiction to rule on the merits, its decision is capable of affecting the outcome of the dispute before the ordinary courts (*Deumeland v. Germany*, 1986, § 77; *Pammel v. Germany*, 1997, §§ 51-57; *Süßmann v. Germany*, 1996, § 39). Nevertheless, the obligation to hear cases within a reasonable time cannot be construed in the same way as for an ordinary court (*ibid.*, § 56; *Oršuš and Others v. Croatia* [GC], 2010, § 109)[43]. This may concern, for example, the order in which cases are heard or the assessment of the complexity of the case (*A.T. v. Slovenia* (dec.), 2022, §§ 19, 21-22).

43. And see below.

553. Lastly, as regards the intervention of third parties in civil proceedings, the following distinction should be made: where the applicant has intervened in domestic proceedings only on his or her own behalf the period to be taken into consideration begins to run from that date, whereas if the applicant has declared his or her intention to continue the proceedings as heir he or she can complain of the entire length of the proceedings (*Scordino v. Italy (no. 1)* [GC], 2016, § 220).

2. Assessment of the reasonable-time requirement

a. Principles

554. Obligation on member States: they are required to organise their judicial systems in such a way that their courts are able to guarantee everyone's right to a final decision on disputes concerning civil rights and obligations within a reasonable time (*Comingersoll S.A. v. Portugal* [GC], 2000, § 24; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 142). The State's responsibility under the Convention concerns various aspects of the proceedings and may involve increasing resources in response to unreasonable delays and taking a range of legislative, organisational, budgetary and other measures (*Bieliński v. Poland*, 2022, § 44).

555. Assessment in the specific case: The reasonableness of the length of proceedings coming within the scope of Article 6 § 1 must be assessed in each case according to the particular circumstances (*Frydlender v. France* [GC], 2000, § 43), which may call for a global assessment (; *Comingersoll S.A. v. Portugal* [GC], 2000, § 23; *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 214; *Obermeier v. Austria*, 1990, § 72).

556. The whole of the proceedings must be taken into account (*König v. Germany*, 1978, § 98 in fine).

- While different delays may not in themselves give rise to any issue, they may, when viewed together and cumulatively, result in a reasonable time being exceeded (*Deumeland v. Germany*, 1986, § 90). Thus, although the length of each stage of the proceedings (approximately one and a half years) might not be considered unreasonable as such, the overall duration may nonetheless be excessive (*Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], 2017, §§ 210-11).
- A delay during a particular phase of the proceedings may be permissible provided that the total duration of the proceedings is not excessive (*Pretto and Others v. Italy*, 1983, § 37).
- The national authorities may have remained active throughout the proceedings, with delays being caused by procedural defects (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 213).
- "Long periods during which the proceedings ... stagnate" without any explanations being forthcoming are not acceptable (*Beaumartin v. France*, 1994, § 33).

557. The assessment of whether the time taken was reasonable may also have regard to the special characteristics of the proceedings in question (see *Omdahl v. Norway*, 2021, §§ 47 and 54-55, concerning the division of a deceased person's estate between the heirs, which took more than twenty-two years).

558. The restrictions necessitated by a pandemic, such as the COVID-19 health crisis, may have an adverse effect on the processing of cases by the domestic courts (*Q and R v. Slovenia*, 2022, § 80), although this cannot in principle release the State from all responsibility for the excessive length of the proceedings in question.

559. The applicability of Article 6 § 1 to preliminary proceedings or interim measures, including injunctions, will depend on whether certain conditions are fulfilled (*Micallef v. Malta* [GC], 2009, §§ 83-86).[44]

44. See section "Scope".

560. Proceedings for a preliminary ruling from the Court of Justice of the European Union (CJEU) are not taken into consideration in the assessment of the length of time attributable to the domestic authorities (*Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], 2017, § 208; *Pafitis and Others v. Greece*, 1998, § 95[45]).

561. If the State has introduced a compensatory remedy for breaches of the reasonable-time principle and the remedy, examined as a whole, has not caused the applicant to lose "victim" status for the purposes of Article 34 of the Convention, this constitutes an "aggravating circumstance" in the context of a violation of Article 6 § 1 for exceeding a reasonable time (*Scordino v. Italy (no. 1)* [GC], 2006, § 225).

b. Criteria

562. The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and in accordance with the following criteria: the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (*Comingersoll S.A. v. Portugal* [GC], 2000; *Frydlender v. France* [GC], 2000, § 43; *Sürmeli v. Germany* [GC], 2006, § 128; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 143; *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 209). The *Bieliński v. Poland* judgment, 2022, summarised the applicable case-law principles (§§ 42-44).

i. Complexity of the case

563. The complexity of a case may relate both to the facts and to the law (*Papachelas v. Greece* [GC], 1999, § 39; *Katte Klitsche de la Grange v. Italy*, 1994, § 55). It may relate, for instance, to the involvement of several parties in the case (*H. v. the United Kingdom*, 1987, § 72) or to the various items of evidence that have to be obtained (*Humen v. Poland* [GC], 1999, § 63). A case may be legally complex because of the scarcity of precedents at national level, or the need to seek a ruling from the CJEU on questions relating to the interpretation of European law (*Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], 2017, § 212).

564. In *Nicolae Virgiliu Tănase v. Romania* [GC], 2019, proceedings involving a civil-party claim were of "considerable factual complexity", which had increased because of the many expert reports required (§ 210) — with regard to expert reports, compare with *Q and R v. Slovenia*, § 79, 2022.

565. The complexity of the domestic proceedings may explain their length (*Tierce v. San Marino*, 2003, § 31). However, while acknowledging the complexity of insolvency proceedings, the Court has found that a duration of approximately twenty-five years and six months did not satisfy the "reasonable time" requirement (*Cipolletta v. Italy*, 2018, § 44).

566. Even if the case in itself is not a particularly complex one, the lack of clarity and foreseeability in the domestic law may also render its examination difficult and contribute decisively to extending the length of the proceedings (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 150).

ii. The applicant's conduct

567. Article 6 § 1 does not require applicants actively to cooperate with the judicial authorities, nor can they be blamed for making full use of the remedies available to them under domestic law (*Erkner and Hofauer v. Austria*, 1987, § 68) or for consequences linked to their medical condition (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 211). Nevertheless, the national authorities cannot be held accountable for any resulting increase in the length of the proceedings (*ibid.*).

568. The person concerned is required only to show diligence in carrying out the procedural steps relating to him, to refrain from using delaying tactics and to avail himself of the scope afforded by

45. See the thematic guide on European Union law in the Court's case-law.

domestic law for shortening the proceedings (*Unión Alimentaria Sanders S.A. v. Spain*, 1989, § 35). The Court will consider the impact of such requests on the length of proceedings (*Q and R v. Slovenia*, 2002, § 78).

569. Applicants' behaviour constitutes an objective fact which cannot be attributed to the respondent State and which must be taken into account for the purpose of determining whether or not the reasonable time referred to in Article 6 § 1 has been exceeded (*Poiss v. Austria*, § 57; *Wiesinger v. Austria*, 1991, § 57; *Humen v. Poland* [GC], 1999, § 66). An applicant's conduct cannot by itself be used to justify periods of inactivity.

570. Some examples concerning the applicant's conduct:

- a lack of alacrity by the parties in filing their submissions may contribute decisively to the slowing-down of the proceedings (*Vernillo v. France*, 1991, § 34);
- frequent/repeated changes of counsel (*König v. Germany*, 1978, § 103);
- requests or omissions which have an impact on the conduct of the proceedings (*Acquaviva v. France*, 1995, § 61), or lack of diligence in carrying out procedural steps (*Keaney v. Ireland*, 2020, § 95); see also *Sürmeli v. Germany* [GC], 2006, § 131;
- an attempt to secure a friendly settlement (*Pizzetti v. Italy*, 1993, § 18; *Laino v. Italy* [GC], 1999, § 22);
- proceedings brought erroneously before a court lacking jurisdiction (*Beaumartin v. France*, 1994, § 33);
- litigious behaviour as evidenced by numerous applications and other claims (*Pereira da Silva v. Portugal*, 2016, §§ 76-79).

571. Although the domestic authorities cannot be held responsible for the conduct of a defendant, the delaying tactics used by one of the parties do not absolve the authorities from their duty to ensure that the proceedings are conducted within a reasonable time (*Mincheva v. Bulgaria*, 2010, § 68).

iii. Conduct of the competent authorities

572. The State is responsible for all its authorities: not just the judicial organs, but all public institutions (*Martins Moreira v. Portugal*, 1988, § 60); for the extent of the State's responsibility, see *Bieliński v. Poland*, 2022, § 44, concerning backlogs of cases, delays in producing reports, including expert opinions, structural deficiencies and measures to be taken/resources to be allocated within the judicial system. Only delays attributable to the State may justify a finding of failure to comply with the "reasonable time" requirement (*Humen v. Poland* [GC], 1999, § 66; *Buchholz v. Germany*, 1981, § 49; *Papageorgiou v. Greece*, 1997, § 40). The Court examines the proceedings as a whole, meaning that although the national authorities may be deemed responsible for certain procedural defects which caused delays in the proceedings, they may still have complied with their duty to examine the case expeditiously under Article 6 (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 211).

573. Even in legal systems applying the principle that the procedural initiative lies with the parties, the latter's attitude does not absolve the courts from the obligation to ensure the expeditious trial required by Article 6 § 1 (*Sürmeli v. Germany* [GC], 2006, § 129; *Pafitis and Others v. Greece*, 1998, § 93; *Tierce v. San Marino*, 2003, § 31).

574. The same applies where the cooperation of an expert is necessary during the proceedings: responsibility for the preparation of the case and the speedy conduct of the trial lies with the judge (*Sürmeli v. Germany* [GC], 2006, § 129; *Capuano v. Italy*, 1987, §§ 30-31; *Versini v. France*, 2001, § 29).

575. Although the obligation to give a decision within a "reasonable time" also applies to a constitutional court, it cannot be construed in the same way as for an ordinary court. Its role as guardian of the Constitution makes it particularly necessary for a constitutional court sometimes to take into account other considerations than the mere chronological order in which cases are entered

on the list, such as the nature of a case and its importance in political and social terms (compare *Oršuš and Others v. Croatia* [GC], 2010, § 109; *Süßmann v. Germany*, 1996, §§ 56-58; *Voggenreiter v. Germany*, 2004, §§ 51-52). Furthermore, while Article 6 requires that judicial proceedings be expeditious, it also lays emphasis on the more general principle of the proper administration of justice (*Von Maltzan and Others v. Germany* (dec.) [GC], 2005, § 132). Nevertheless, a chronic overload cannot justify excessive length of proceedings (*Probstmeier v. Germany*, 1997, § 64). For an example of unreasonably lengthy proceedings before a constitutional court, see *Project-Trade d.o.o. v. Croatia*, 2020, §§ 101-102, and for the suspension of the examination of a case by the ordinary courts pending the adoption of a position by the Constitutional Court, see *Bieliński v. Poland*, 2022, § 47.

576. Since it is for the member States to organise their legal systems in such a way as to guarantee the right to obtain a judicial decision within a reasonable time, an excessive workload cannot be taken into consideration (*Vocaturo v. Italy*, 1991, § 17; *Cappello v. Italy*, 1992, § 17; regarding an exceptionally heavy workload, see, for example, *Bieliński v. Poland*, 2022, § 46). Nonetheless, a temporary backlog of business does not involve liability on the part of the State provided the latter has taken reasonably prompt remedial action to deal with an exceptional situation of this kind (*Buchholz v. Germany*, 1981, § 51). Methods which may be considered, as a provisional expedient, include choosing to deal with cases in a particular order, based not just on the date when they were brought but on their degree of urgency and importance and, in particular, on what is at stake for the persons concerned. However, if a state of affairs of this kind is prolonged and becomes a matter of structural organisation, such methods are no longer sufficient and the State must ensure the adoption of effective measures (*Zimmermann and Steiner v. Switzerland*, 1983, § 29; *Guincho v. Portugal*, 1984, § 40). The fact that such backlog situations have become commonplace does not justify the excessive length of proceedings (*Unión Alimentaria Sanders S.A. v. Spain*, 1989, § 40).

577. Furthermore, the introduction of a reform designed to speed up the examination of cases cannot justify delays since States are under a duty to organise the entry into force and implementation of such measures in a way that avoids prolonging the examination of pending cases (*Fisanotti v. Italy*, 1998, § 22). In that connection, the adequacy or otherwise of the domestic remedies introduced by a member State in order to prevent or provide redress for the problem of excessively long proceedings must be assessed in the light of the principles established by the Court (*Scordino v. Italy (no. 1)* [GC], 2006, §§ 178 et seq. and 223). A far-reaching reform of the national justice system affecting a particular court's operational capacity does not exempt the State from its Convention obligation to act diligently (*Bara and Kola v. Albania*, 2021, §§ 68-71).

578. The State was also held to be responsible for the failure to comply with the reasonable-time requirement in a case where there was an excessive amount of judicial activity focusing on the applicant's mental state. The domestic courts continued to have doubts in that regard despite the existence of five reports attesting the applicant's soundness of mind and the dismissal of two guardianship applications; moreover, the litigation lasted for over nine years (*Bock v. Germany*, 1989, § 47).

579. A strike by members of the Bar cannot by itself render a Contracting State liable with respect to the "reasonable time" requirement; however, the efforts made by the State to reduce any resultant delay are to be taken into account for the purposes of determining whether the requirement has been complied with (*Papageorgiou v. Greece*, 1997, § 47).

580. Where repeated changes of judge slow down the proceedings because each of the judges has to begin by acquainting himself with the case, this cannot absolve the State from its obligations regarding the reasonable-time requirement, since it is the State's task to ensure that the administration of justice is properly organised (*Lechner and Hess v. Austria*, 1987, § 58).

581. While it is not the Court's function to analyse the manner in which the national courts interpreted and applied the domestic law, it nonetheless considers that judgments quashing previous findings and remitting the case are usually due to errors committed by the lower courts and that the

repetition of such judgments may point to a shortcoming in the justice system (*Lupeni Greek Catholic Parish and Others v. Romania* [GC], 2016, § 147). Similarly, in *Vujović and Lipa D.O.O. v. Montenegro (no. 2)*, 2025, the Court found the total length of proceedings to be excessive and to have been mainly caused by the cumulative effect of the Court of Appeal repeatedly failing to comply with the Constitutional Court's decisions, which was entirely attributable to the authorities (§§ 84-87).

iv. What is at stake in the dispute

582. Examples of categories of cases which by their nature call for particular expedition:

- Particular diligence is required in cases concerning civil status and capacity (*Bock v. Germany*, 1989, § 49; *Laino v. Italy* [GC], 1999, § 18; *Mikulić v. Croatia*, 2002, § 44).
- Child custody cases must be dealt with speedily (*Hokkanen v. Finland*, 1994, § 72; *Niederböster v. Germany*, 2003, § 39), all the more so where the passage of time may have irreversible consequences for the parent-child relationship (*Tsikakis v. Germany*, 2011, §§ 64 and 68) — likewise, cases concerning parental responsibility and contact rights call for particular expedition (*Laino v. Italy* [GC], 1999, § 22; *Paulsen-Medalen and Svensson v. Sweden*, 1998, § 39). The requirement of special diligence applies to foster care proceedings instituted by grandparents whose grandchildren had been left without parental care (*Q and R v. Slovenia*, 2022, § 80).
- Employment disputes by their nature call for expeditious decision (*Frydlender v. France* [GC], 2000, § 45; *Vocaturo v. Italy*, 1991, § 17; and *Ruotolo v. Italy*, 1992, § 17; see also the references in *Bara and Kola v. Albania*, 2021, § 72) — whether the issue at stake is access to a liberal profession (*Thlimmenos v. Greece* [GC], 2000, §§ 60 and 62), the applicant's whole professional livelihood (*König v. Germany*, 1978, § 111), the continuation of the applicant's occupation (*Garcia v. France*, 2000, § 14), an appeal against dismissal (*Frydlender v. France* [GC], 2000, § 45; *Buchholz v. Germany*, 1981, § 52), the applicant's suspension (*Obermeier v. Austria*, 1990, § 72), transfer (*Sartory v. France*, 2009, § 34) or reinstatement (*Ruotolo v. Italy*, 1992, § 117), or where an amount claimed is of vital significance to the applicant (*Doustaly v. France*, 1998, § 48). This category includes pensions disputes (*Borgese v. Italy*, 1992, § 1818; see also *Bieliński v. Poland*, 2022, § 48).). For a dispute about a promotion, see *Bara and Kola v. Albania*, 2021, § 72.
- Exceptional diligence is required from the authorities in the case of an applicant who suffers from an "incurable disease" and has "reduced life expectancy" (*X v. France*, 1992, § 47; *A. and Others v. Denmark*, 1996, §§ 78-81; *Pailot v. France*, 1998, § 68).

583. Other precedents:

- Special diligence was required of the relevant judicial authorities in investigating a complaint lodged by an individual alleging that he had been subjected to violence by police officers (*Caloc v. France*, 2000, § 120).
- In a case where the applicant's disability pension made up the bulk of his resources, the proceedings by which he sought to have that pension increased in view of the deterioration of his health were of particular significance for him, justifying special diligence on the part of the domestic authorities (*Mocié v. France*, 2003, § 22); see also in this context, the case of a reduction in means of subsistence, *Bieliński v. Poland*, 2022, § 48.
- In a case concerning an action for damages brought by an applicant who had suffered physical harm and was aged 65 when she applied to join the proceedings as a civil party, the issue at stake called for particular diligence from the domestic authorities (*Codarcea v. Romania*, 2009, § 89).
- The issue at stake for the applicant may also be the right to education (*Oršuš and Others v. Croatia* [GC], 2010, § 109).

584. On the contrary, special diligence is not required, for example, for a claim for compensation relating to damage sustained in a road accident (*Nicolae Virgiliu Tănase v. Romania* [GC], 2019, § 213) or the division of a deceased person's estate between the heirs, as specified in *Omdahl v. Norway*, 2021, §§ 63-64.

585. For a case concerning a delay in the drafting of the reasons for a court judgment, see *Mierlă and Others v. Romania* (dec.), 2022, § 80.

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The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

Chamber judgments that were not final within the meaning of Article 44 of the Convention when this update was published are marked with an asterisk (*) in the list below. Article 44 § 2 of the Convention provides: "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". In cases where a request for referral is accepted by the Grand Chamber panel, it is the subsequent Grand Chamber judgment, not the Chamber judgment, that becomes final.

The hyperlinks to the cases cited in the electronic version of the Guide are directed to the HUDOC database (http://hudoc.echr.coe.int) which provides access to the case-law of the Court (Grand Chamber, Chamber and Committee judgments and decisions, communicated cases, advisory opinions and legal summaries from the Case-Law Information Note) and of the Commission (decisions and reports), and to the resolutions of the Committee of Ministers.

The Court delivers its judgments and decisions in English and/or French, its two official languages. HUDOC also contains translations of many important cases into more than thirty non-official languages, and links to around one hundred online case-law collections produced by third parties.

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A. v. the United Kingdom, no. 35373/97, ECHR 2002-X
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A.T. v. Slovenia (dec.), no. 20952/21, 20 September 2022
A. and Others v. Denmark, 8 February 1996, Reports of Judgments and Decisions 1996-I
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Acar and Others v. Turkey (dec.), nos. 26878/07 and 32446/07, 12 December 2017
Aćimović v. Croatia, no. 61237/00, ECHR 2003-XI
Acquaviva v. France, 21 November 1995, Series A no. 333-A
Adorisio and Others v. the Netherlands (dec.), no. 47315/13 and 2 others, 17 March 2015
Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult [GC], request no. P16-2022-001, Supreme Court of Finland, 13 April 2023
Aerts v. Belgium, 30 July 1998, Reports of Judgments and Decisions 1998-V
Agrokompleks v. Ukraine, no. 23465/03, 6 October 2011
Air Canada v. the United Kingdom, 5 May 1995, Series A no. 316-A
Airey v. Ireland, 9 October 1979, Series A no. 32
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Andrejeva v. Latvia [GC], no. 55707/00, ECHR 2009
Andret and Others v. France (dec.), no. 1956/02, 25 May 2004
Andronicou and Constantinou v. Cyprus, 9 October 1997, Reports of Judgments and Decisions 1997-VI
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Annoni di Gussola and Others v. France, nos. 31819/96 and 33293/96, ECHR 2000-XI
APEH Üldözötteinek Szövetsége and Others v. Hungary, no. 32367/96, ECHR 2000-X
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Arlewin v. Sweden, no. 22302/10, 1 March 2016
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Arribas Antón v. Spain, no. 16563/11, 20 January 2015
Arrozpide Sarasola and Others v. Spain, nos. 65101/16 and 2 others, 23 October 2018
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Ashingdane v. the United Kingdom, 28 May 1985, Series A no. 93
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Association Burestop 55 and Others v. France, nos. 56176/18 and 5 others, 1 July 2021
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Atanasova v. Bulgaria, no. 72001/01, 2 October 2008
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Ateş Mimarlik Mühendislik A.Ş. v. Turkey, no. 33275/05, 25 September 2012
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Aviakompaniya A.T.I., ZAT v. Ukraine, no. 1006/07, 5 October 2017
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Axen v. Germany, 8 December 1983, Series A no. 72
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Aykhan Akhundov v. Azerbaijan, no. 43467/06, 1 June 2023
Azienda Agricola Silverfunghi S.a.s. and others v. Italy, nos. 48357/07 and 3 others, 24 June 2014
Azzopardi and Others v. Malta (dec.), nos. 16467/17 and 24115/17, 12 March 2019

—B—

B. and P. v. the United Kingdom, nos. 36337/97 and 35974/97, ECHR 2001-III
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Baka v. Hungary [GC], no. 20261/12, ECHR 2016
Bakan v. Turkey, no. 50939/99, 12 June 2007
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Běleš and Others v. the Czech Republic, no. 47273/99, ECHR 2002-IX
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Ben Amamou v. Italy, no. 49058/20. 29 June 2023
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Benghezal v. France, no. 48045/15, 24 March 2022
Benthem v. the Netherlands, 23 October 1985, Series A no. 97
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Boulois v. Luxembourg [GC], no. 37575/04, ECHR 2012
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Brumărescu v. Romania [GC], no. 28342/95, ECHR 1999-VII
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Buchholz v. Germany, 6 May 1981, Series A no. 42
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Collectif national d'information et d'opposition à l'usine Melox — Collectif Stop Melox and Mox v. France (dec.), no. 75218/01, 28 March 2006
Colloredo Mannsfeld v. the Czech Republic, nos. 15275/11 and 76058/12, 15 December 2016
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Croatian Radio-Television v. Croatia, no. 52132/19 and 19 Others, 2 March 2023
Crompton v. the United Kingdom, no. 42509/05, 27 October 2009
Cubanit v. Romania (dec.), no. 31510/02, 4 January 2007
Cudak v. Lithuania [GC], no. 15869/02, ECHR 2010
Cyprus v. Turkey [GC], no. 25781/94, ECHR 2001-IV

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Dağtekin and Others v. Turkey, no. 70516/01, 13 December 2007
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Dan v. the Republic of Moldova (no. 2), 57575/14, 10 November 2020
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De Bruin v. the Netherlands (dec.), no. 9765/09, 17 September 2013
De Geouffre de la Pradelle v. France, 16 December 1992, Series A no. 253-B
De Haan v. the Netherlands, 26 August 1997, Reports of Judgments and Decisions 1997-IV
De Haes and Gijsels v. Belgium, 24 February 1997, Reports of Judgments and Decisions 1997-I
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Deumeland v. Germany, 29 May 1986, Series A no. 100

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Dimopulos v. Turkey, no. 37766/05, 2 April 2019
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Frydlender v. France [GC], no. 30979/96, ECHR 2000-VII
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G.L. and S.L. v. France (dec.), no. 58811/00, ECHR 2003-III (extracts)
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García Ruiz v. Spain [GC], no. 30544/96, ECHR 1999-I
Gaspari v. Slovenia, no. 21055/03, 21 July 2009
Gautrin and Others v. France, 20 May 1998, Reports of Judgments and Decisions 1998-III
Georgel and Georgeta Stoicescu v. Romania, no. 9718/03, 26 July 2011
Georgiadis v. Greece, 29 May 1997, Reports of Judgments and Decisions 1997-III
Geraguyn Khorhurd Patgamavorakan Akumb v. Armenia (dec.), no. 11721/04, 14 April 2009
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Gorou v. Greece (no. 2) [GC], no. 12686/03, 20 March 2009
Gorou v. Greece (no. 4), no. 9747/04, 11 January 2007
Gorraiz Lizarraga and Others v. Spain, no. 62543/00, ECHR 2004-III
Grace Gatt v. Malta, no. 46466/16, 8 October 2019
Gracia Gonzalez v. Spain, no. 65107/16, 6 October 2020
Granos Organicos Nacionales S.A. v. Germany, no. 19508/07, 22 March 2012
Gražulevičiūtė v. Lithuania, no. 53176/17, 14 December 2021
Green v. the United Kingdom, no. 22077/19, 8 April 2025
Grzęda v. Poland [GC], no. 43572/18, 15 March 2022
Guðmundur Andri Ástráðsson v. Iceland [GC], no. 26374/18, 1 December 2020
Guigue and SGEN-CFDT v. France (dec.), no. 59821/00, ECHR 2004-I
Guincho v. Portugal, 10 July 1984, Series A no. 81
Gülmez v. Turkey, no. 16330/02, 20 May 2008
Gumenyuk and Others v. Ukraine, no. 11423/19, 22 July 2021
Gyulumyan and Others v. Armenia (dec.), nos. 25240/20 and 3 others, 21 November 2023

—H—

H. v. Belgium, 30 November 1987, Series A no. 127-B
H. v. France, 24 October 1989, Series A no. 162-A
H. v. the United Kingdom, 8 July 1987, Series A no. 120
Håkansson and Sturesson v. Sweden, 21 February 1990, Series A no. 171-A
Hamzagić v. Croatia, no. 68437/13, 9 December 2021
Hansen v. Norway, no. 15319/09, 2 October 2014
Hanževački v. Croatia, no. 49439/21, 5 September 2023
Harabin v. Slovakia, no. 58688/11, 20 November 2012
Harisch v. Germany, no. 50053/16, 11 April 2019
Hasan Tunç and Others v. Turkey, no. 19074/05, 31 January 2017
Hayati Çelebi and Others v. Turkey, no. 582/05, 9 February 2016
Helle v. Finland, 19 December 1997, Reports of Judgments and Decisions 1997-VIII
Helmers v. Sweden, 29 October 1991, Series A no 212-A
Helmut Blum v. Austria, no. 33060/10, 5 April 2016
Hentrich v. France, 22 September 1994, Series A no. 296-A
Herma v. Germany (dec.), no. 54193/07, 8 December 2009
Hesse-Anger and Anger v. Germany (dec.), no. 45835/99, ECHR 2001-VI
Higgins and Others v. France, 19 February 1998, *Reports of Judgments and Decisions* 1998-I
Hiro Balani v. Spain, 9 December 1994, Series A no. 303-B
Hirvisaari v. Finland, no. 49684/99, 27 September 2001
Hokkanen v. Finland, 23 September 1994, Series A no. 299-A
Holding and Barnes PLC v. the United Kingdom (dec.), no. 2352/02, ECHR 2002-IV
Holub v. the Czech Republic, no. 24880/05, 14 December 2010
Hôpital local Saint-Pierre d'Oléron and Others v. France, nos. 18096/12 and 20 others, 8 November 2018
Hornsby v. Greece, 19 March 1997, Reports of Judgments and Decisions 1997-II
Hotter v. Austria (dec.), no. 18206/06, 7 October 2010

Howald Moor and Others v. Switzerland, nos. 52067/10 and 41072/11, 11 March 2014
Hudáková and Others v. Slovakia, no. 23083/05, 27 April 2010
Humen v. Poland [GC], no. 26614/95, 15 October 1999
Hurter v. Switzerland, no. 53146/99, 15 December 2005
Hussein and Others v. Belgium, no. 45187/12, 16 March 2021

—I—

İ.Ç. v. Türkiye, no. 48061/19, 13 January 2026
I.T.C. Ltd v. Malta (dec.), no. 2629/06, 11 December 2007
Igranov and Others v. Russia, no. 63246/10, 9 January 2018
Ilievska and Zdraveva v. North Macedonia, nos. 19689/21 and 42794/22, 13 November 2025
Ilnseher v. Germany [GC], nos. 10211/12 and 27505/14, 4 December 2018
Immeubles Groupe Kosser v. France, no. 38748/97, 21 March 2002
Immobiliare Saffi v. Italy [GC], no. 22774/93, ECHR 1999-V
Indra v. Slovakia, no. 46845/99, 1 February 2005
Işgın v. Türkiye, no. 41747/10, 4 October 2022
Işyar v. Bulgaria, no. 391/03, 20 November 2008
Ivan Atanasov v. Bulgaria, no. 12853/03, 2 December 2010

—J—

J.C. and Others v. Belgium, no. 11625/17, 12 October 2021
Jahnke and Lenoble v. France (dec.), no. 40490/98, ECHR 2000-IX
Jakutavičius v. Lithuania, no. 42180/19, 13 February 2024
Janković v. Slovenia (dec.), no. 15118/22, 15 September 2025
Jallow v. Norway, no. 36516/19, 2 December 2021
James and Others v. the United Kingdom, 21 February 1986, Series A no. 98
Janáček v. the Czech Republic, no. 9634/17, 2 February 2023
Jann-Zwicker and Jann v. Switzerland, no. 4976/20, 13 February 2024
Jenița Mocanu v. Romania, no. 11770/08, 17 December 2013
John v. Germany (dec.), no. 15073/03, 13 February 2007
Jones and Others v. the United Kingdom, nos. 34356/06 and 40528/06, ECHR 2014
Jovanović c. Serbie, n° 32299/08, 2 octobre 2012
Juričić c. Croatia, n° 58222/09, 26 juillet 2011
Jurisic and Collegium Mehrerau v. Austria, no. 62539/00, 27 July 2006
Justine v. France, no. 78664/17, 21 November 2024
Juszczyszyn v. Poland, no. 35599/20, 6 October 2022

—K—

K.D.B. v. the Netherlands, 27 March 1998, Reports of Judgments and Decisions 1998-II
K.S. v. Finland, no. 29346/95, 31 May 2001
K.V. Mediterranean Tours Limited v. Türkiye, no. 41120/17, 10 June 2025
Kakamoukas and Others v. Greece [GC], no. 38311/02, 15 February 2008
Kalogeropoulou and Others v. Greece and Germany (dec.), no. 59021/00, ECHR 2002-X
Kamenos v. Cyprus, no. 147/07, 31 October 2017
Kamenova v. Bulgaria, no. 62784/09, 12 July 2018
*Kandemir v. Türkiye**, no. 30906/19, 3 February 2026
Karahasanoğlu v. Turkey, nos. 21392/08 and 2 others, 16 March 2021

Károly Nagy v. Hungary [GC], no. 56665/09, ECHR 2017
Karrar v. Belgium, no. 61344/16, 31 August 2021
Katsikeros v. Greece, no. 2303/19, 21 July 2022
Katte Klitsche de la Grange v. Italy, 27 October 1994, Series A no. 293-B
Keaney v. Ireland, no. 72060/17, 30 April 2020
Kemmache v. France (no. 3), 24 November 1994, Series A no. 296-C
Kenedi v. Hungary, no. 31475/05, 26 May 2009
Kerojärvi v. Finland, 19 July 1995, Series A no. 322
Khamidov v. Russia, no. 72118/01, 15 November 2007
Khandanyan v. Armenia (dec.), no. 19022/22, 7 October 2025
Khrabrova v. Russia, no. 18498/04, 2 October 2012
Kılıç and Others v. Turkey, no. 33162/10, 3 December 2013
Kingsley v. the United Kingdom [GC], no. 35605/97, ECHR 2002-IV
Kinský v. the Czech Republic, no. 42856/06, 9 February 2012
Kitanovska and Barbulovski v. North Macedonia, nos. 53030/19 and 31378/20, 9 May 2023
Klausecker v. Germany, no. 415/07, 6 January 2015
Klauz v. Croatia, no. 42856/06, 9 February 2012
Kleyn and Others v. the Netherlands [GC], nos. 39343/98 and 3 others, ECHR 2003-VI
Kök v. Turkey, no. 1855/02, 19 October 2006
Köksoy v. Turkey, no. 31885/10, 13 January 2021
König v. Germany, 28 June 1978, Series A no. 27
Konkurrenten.no AS v. Norway (dec.), no. 47341/15, 5 November 2019
Kontalexis v. Greece, no. 59000/08, §§ 42-44, 31 May 2011
Koottummel v. Austria, no. 49616/06, 10 December 2009
Kosmidis and Kosmidou v. Greece, no. 32141/04, 8 November 2007
Koulias v. Cyprus, no. 48781/12, 26 May 2020
Kövesi v. Romania, no. 3594/19, 5 May 2020
Koženiakina v. Lithuania, no. 231/15, 2 October 2018
Koziy v. Ukraine, no. 10426/02, 18 June 2009
Kraska v. Switzerland, 19 April 1993, Series A no. 254-B
Krčmář and Others v. the Czech Republic, no. 35376/97, 3 March 2000
Kress v. France [GC], no. 39594/98, ECHR 2001-VI
Kreuz v. Poland, no. 28249/95, ECHR 2001-VI
Krikorian v. France (dec.), no. 6459/07, 26 November 2013
Kristiansen and Tyvik AS v. Norway, no. 25498/08, 2 May 2013
Krivtsova v. Russia, no. 35802/16, 12 July 2022
Kroi and Nocka v. Albania, no. 84056/17, 26 August 2025
Krunoslava Zovko v. Croatia, no. 56935/13, 23 May 2017
Kübler v. Germany, no. 32715/06, 13 January 2011
Kudła v. Poland [GC], no. 30210/96, ECHR 2000-XI
Kukkonen v. Finland (no. 2), no. 47628/06, 13 January 2009
Kulykov and Others v. Ukraine, nos. 5114/09 and 17 others, 19 January 2017
Kunert v. Poland, no. 8981/14, 4 April 2019
Kural v. Türkiye, no. 84388/17, 19 March 2024
Kurkut and Others v. Türkiye, nos. 58901/19 and 6 others, 25 June 2024
Kurşun v. Turkey, no. 22677/10, 30 October 2018
Kushoglu v. Bulgaria, no. 48191/99, 10 May 2007
Kutić v. Croatia, no. 48778/99, ECHR 2002-II
Kuzhelev and Others v. Russia, nos. 64098/09 and 6 others, 15 October 2019
Kyprianou v. Cyprus [GC], no. 73797/01, ECHR 2005-XIII
Kyrtatos v. Greece, no. 41666/98, ECHR 2003-VI (extracts)

—L—

L. v. the United Kingdom (dec.), no. 34222/96, ECHR 1999-VIhttps://hudoc.echr.coe.int/eng?i=001-169057
L'Érablière A.S.B.L. v. Belgium, no. 49230/07, ECHR 2009
Laçi v. Albania, no. 28142/17, 19 October 2021
Lady S.R.L. v. Republic of Moldova, no. 39804/06, 23 October 2018
Laidin v. France (no. 2), no. 39282/98, 7 January 2003
Laino v. Italy [GC], no. 33158/96, ECHR 1999-I
Lamanna v. Austria, no. 28923/95, 10 July 2001
Langborger v. Sweden, 22 June 1989, Series A no. 155
Laskowska v. Poland, no. 77765/01, 13 March 2007
Latorre Atance v. Spain, no. 33818/22, 18 December 2025
Lavents v. Latvia, no. 58442/00, 28 November 2002
Le Calvez v. France, 29 July 1998, Reports of Judgments and Decisions 1998-V
Le Compte, Van Leuven and De Meyere v. Belgium, 23 June 1981, Series A no. 43
Lechner and Hess v. Austria, 23 April 1987, Series A no. 118
Legros and Others v. France, nos. 72173/17 and 17 others, 9 November 2023
Letinčić v. Croatia, no. 7183/11, 3 May 2016
Levages Prestations Services v. France, 23 October 1996, Reports of Judgments and Decisions 1996-V
Levrault v. Monaco (dec.), no. 47070/20, 8 July 2024
Libert v. Belgium (dec.), no. 44734/98, 8 July 2004
Liga Portuguesa de Futebol Profissional v. Portugal (déc.), no. 49639/09, 3 April 2012
Lithgow and Others v. the United Kingdom, 8 July 1986, Series A no. 102
Lobo Machado v. Portugal, 20 February 1996, Reports of Judgments and Decisions 1996-I
Lo Fermo v. Italy (dec.), no. 58977/12, 20 June 2023
Loiseau v. France (dec.), no. 46809/99, ECHR 2003-XII
Loizides v. Cyprus, no. 31029/15, 5 July 2022
López Ribalda and Others v. Spain, [GC], nos. 1874/13 and 8567/13, 17 October 2019
Loquifer v. Belgium, nos. 79089/13 and 2 others, 20 July 2021
Lorenzetti v. Italy, no. 32075/09, 10 April 2012
Lorenzo Bragado and Others v. Spain, nos. 53193/21 and 5 others, 22 June 2023
Loste v. France, no. 59227/12, 3 November 2022
Lovrić v. Croatia, no. 38458/15, 4 April 2017
Luka v. Romania, no. 34197/02, 21 July 2009
Lunari v. Italy, no. 21463/93, 11 January 2001
Lundevall v. Sweden, no. 38629/97, 12 November 2002
Luordo v. Italy, no. 32190/96, ECHR 2003-IX
Lupaş and Others v. Romania, nos. 1434/02 and 2 others, ECHR 2006-XV (extracts)
Lupeni Greek Catholic Parish and Others v. Romania [GC], no. 76943/11, ECHR 2016 (extracts)

—M—

M.H. v. Poland, no. 73247/14, 1 December 2022
M.K. and Others v. France, nos. 34349/18 and 2 others, 8 December 2022
M.N. and Others v. Belgium (dec.) [GC], no. 3599/18, 5 May 2020
M.L. v. Slovakia, no. 34159/17, 14 October 2021
M.M. v. France (dec.), no. 13303/21, 16 April 2024
Maaouia v. France [GC], no. 39652/98, ECHR 2000-X
Mackay and BBC Scotland v. the United Kingdom, no. 10734/05, 7 December 2010
Magnin v. France (dec.), no. 26219/08, 10 May 2012

Magomedov and Others v. Russia, nos. 33636/09 and 9 others, 28 March 2017
Majorana v. Italy (dec.), no. 75117/01, 26 May 2005
Makrylakis v. Greece, no. 34812/15, 17 November 2022
Malhous v. the Czech Republic [GC], no. 33071/96, 12 July 2001
Mamatkulov and Askarov v. Turkey [GC], nos. 46827/99 and 46951/99, ECHR 2005-I
Manoilescu and Dobrescu v. Romania and Russia (dec.), no. 60861/00, ECHR 2005 VI
Mantovanelli v. France, 18 mars 1997, Reports of Judgments and Decisions 1997-II
Manzano Diaz v. Belgium, no. 26402/17, 18 May 2021
Marc-Antoine v. France (dec.), no. 54984/09, 4 June 2013
Marcello Viola v. Italy, no. 45106/04, ECHR 2006-XI (extracts)
Marić v. Croatia (déc), no. 37333/17, 10 November 2020
Marina Aucanada Group S.L. v. Spain, no. 7567/19, 8 November 2022
Marini v. Albania, no. 3738/02, 18 December 2007
Markovic and Others v. Italy [GC], no. 1398/03, ECHR 2006-XIV
Martinie v. France [GC], no. 58675/00, ECHR 2006-VI
Martins Moreira v. Portugal, 26 October 1988, Series A no. 143,
Martynyuk v. Ukraine (dec.), no. 82673/17, 2 July 2025
Marušić v. Croatia (dec.), no. 79821/12, 23 May 2017
Maširević v. Serbia, no. 30671/08, 11 February 2014
Masson and Van Zon v. the Netherlands, 28 September 1995, Series A no. 327-A
Matheus v. France, no. 62740/00, 31 March 2005
Mats Jacobsson v. Sweden, 28 June 1990, Series A no. 180-A
McElhinney v. Ireland [GC], no. 31253/96, ECHR 2001-XI (extracts)
McGinley and Egan v. the United Kingdom, 9 June 1998, Reports of Judgments and Decisions 1998-III
McGonnell v. the United Kingdom, no. 28488/95, ECHR 2000-II
McMichael v. the United Kingdom, 24 February 1995, Series A no. 307-B
McVicar v. the United Kingdom, no. 46311/99, ECHR 2002-III
Meli and Swinkels Family Brewers N.V. v. Albania, nos. 41373/21 and 48801/21, 16 July 2024
Melnyk v. Ukraine, no. 23436/03, 28 March 2006
Menchinskaya v. Russia, no. 42454/02, 15 January 2009
Mercieca and Others v. Malta, no. 21974/07, 14 June 2011
Mérigaud v. France, no. 32976/04, 24 September 2009
Metaxas v. Greece, no. 8415/02, 27 May 2004
Mežnarić v. Croatia, no. 71615/01, 15 July 2005
Micallef v. Malta [GC], no. 17056/06, ECHR 2009
Mierlă and Others v. Romania (dec.), no. 25801/17 and two others, 17 May 2022
Miessen v. Belgium, no. 31517/12, 18 October 2016
Mihalache v. Romania [GC], no. 54012/10, 8 July 2019
Miholapa v. Latvia, no. 61655/00, 31 May 2007
Mihova v. Italy (dec.), no. 25000/07, 30 March 2010
Mihail Mihăilescu v. Romania, no. 3795/15, 12 January 2021
Mikhail Mironov v. Russia, no. 58138/09, 6 October 2020
Mikhno v. Ukraine, no. 32514/12, 1 September 2016
Mikulić v. Croatia, no. 53176/99, ECHR 2002-I
Miladinova v. Bulgaria, no. 31604/17, 7 February 2023
Milatová and Others v. the Czech Republic, no. 61811/00, ECHR 2005-V
Miller v. Sweden, no. 55853/00, 8 February 2005
Mincheva v. Bulgaria, no. 21558/03, 2 September 2010
Miracle Europe Kft v. Hungary, no. 57774/13, 12 January 2016
Miragall Escolano and Others v. Spain, nos. 38366/97 and 9 others, ECHR 2000-I
Miroļubovs and Others v. Latvia, no. 798/05, 15 September 2009

Mirovni Inštitut v. Slovenia, no. 32303/13, 13 March 2018
Miryana Petrova v. Bulgaria, no. 57148/08, 21 July 2016
Misiūnas v. Lithuania, no. 38687/22, 7 October 2025
Mocié v. France, no. 46096/99, 8 April 2003
Molchanova v. Ukraine (dec.), no. 4465/18, 26 September 2023
Molla Sali v. Greece [GC], no. 20452/14, 19 December 2018
Momčilović v. Croatia, no. 11239/11, 26 March 2015
Momčilović v. Serbia, no. 23103/07, 2 April 2013
Monnell and Morris v. the United Kingdom, 2 March 1987, Series A no. 115
Mont Blanc Trading Ltd and Antares Titanium Trading Ltd v. Ukraine, no. 11161/08, 14 January 2021
Montcornet de Caumont v. France (dec.), no. 59290/00, ECHR 2003-VII
Morawska v. Poland (dec.), no. 3508/12, 7 January 2020
Moreira de Azevedo v. Portugal, 23 October 1990, Series A no. 189
Moreira Ferreira v. Portugal (no. 2) [GC], no. 19867/12, ECHR 2017 (extracts)
Morel v. France, no. 34130/96, ECHR 2000-VI
Morice v. France [GC], no. 29369/10, ECHR 2015
Moroko v. Russia, no. 20937/07, 12 June 2008
Moser v. Austria, no. 12643/02, 21 September 2006
Moskalj v. Croatia, no. 60272/21, 15 October 2024
Mosteanu and Others v. Romania, no. 33176/96, 26 November 2002
Mugoša v. Montenegro, no. 76522/12, 21 June 2016
Munteanu v. Romania (dec.), no. 54640/13, 11 February 2020
Mustafa and Mustafova v. Bulgaria, no. 7428/17, 1 July 2025
Mustafa Tunç and Fecire Tunç v. Turkey [GC], no. 24014/05, 14 April 2015
Musumeci v. Italy, no. 33695/96, 11 January 2005
Mutu and Pechstein v. Switzerland, nos. 40575/10 and 67474/10, 2 October 2018

—N—

N.D. and N.T. v. Spain [GC], nos. 8675/15 and 8697/15, 13 February 2020
Nalbant and Others v. Turkey, no. 59914/16, 3 May 2022
Naït-Liman v. Switzerland [GC], no. 51357/07, 15 March 2018
Naki and AMED Sportif Faaliyetler Kulübü Derneği v. Turkey, no. 48924/16, 18 May 2021
Naku v. Lithuania and Sweden, no. 26126/07, 8 November 2016
Nataliya Mikhaylenko v. Ukraine, no. 49069/11, 30 May 2013
National & Provincial Building Society, Leeds Permanent Building Society and Yorkshire Building Society v. the United Kingdom, 23 October 1997, Reports of Judgments and Decisions 1997-VII
Nazsız v. Turkey (dec.), no. 22412/05, 26 May 2009
Ndayegamiye-Mporamazina v. Switzerland, no. 16874/12, 5 February 2019
Nedelcho Popov v. Bulgaria, no. 61360/00, 22 November 2007
Nejdet Şahin and Perihan Şahin v. Turkey [GC], no. 13279/05, 20 October 2011
Neshev v. Bulgaria (dec.), no. 40897/98, 13 March 2003
Nicholas v. Cyprus, no. 63246/10, 9 January 2018
Nicholas v. Cyprus (dec.), no. 37371/97, 14 March 2000
Nicolae Virgiliu Tănase v. Romania [GC], no. 41720/13, 25 June 2019
Nideröst-Huber v. Switzerland, 18 February 1997, Reports of Judgments and Decisions 1997-I
Niederböster v. Germany, no. 39547/98, ECHR 2003-IV (extracts)
Nikolyan v. Armenia, no. 74438/14, 3 October 2019
Nikoloudakis v. Greece, no. 35322/12, 26 March 2020
Nikolova and Vandova v. Bulgaria, no. 20688/04, 17 December 2013
Nunes Dias v. Portugal (dec.), nos. 2672/03 and 69829/01, ECHR 2003-IV

—O—

Obermeier v. Austria, 28 June 1990, Series A no. 179
Oerlemans v. the Netherlands, 27 November 1991, Series A no. 219
Ogieriakhi v. Ireland (dec.), no. 57551/17, 30 April 2019
OGIS-Institut Stanislas, OGEC Saint-Pie X and Blanche de Castille and Others v. France, nos. 42219/98 and 54563/00, 27 May 2004
Ohneberg v. Austria, no. 10781/08, 18 September 2012
Okyay and Others v. Turkey, no. 36220/97, ECHR 2005-VII
Oktay Alkan v. Türkiye, no. 24492/21, 20 June 2023
Oleksandr Volkov v. Ukraine, no. 21722/11, ECHR 2013
Oleynikov v. Russia, no. 36703/04, 14 March 2013
Olsson v. Sweden (no. 1), 24 March 1988, Series A no. 130
Olujić v. Croatia, no. 22330/05, 5 February 2009
Omdahl v. Norway, no. 46371/18, 22 April 2021
OOO Link Oil SPB v. Russia (dec.), no. 42600/05, 25 June 2009
Oorzhak v. Russia, no. 4830/18, 30 March 2021
Organisation nationale des syndicats d'infirmiers libéraux (ONSIL) v. France (dec.), no. 39971/98, ECHR 2000-IX
Oršuš and Others v. Croatia [GC], no. 15766/03, ECHR 2010
Ortenberg v. Austria, 25 November 1994, Series A no. 295-B
Osinger v. Austria, no. 54645/00, 24 March 2005
Osman v. the United Kingdom 28 October 1998, Reports of Judgments and Decisions 1998-VIII
Ovcharenko and Kolos v. Ukraine, nos. 27276/15 and 33692/15, 12 January 2023
Ouzounis and Others v. Greece, no. 49144/99, 18 April 2002

—P—

P., C. and S. v. the United Kingdom, no. 56547/00, ECHR 2002-VI
Pabla Ky v. Finland, no. 47221/99, ECHR 2004-V
Pafitis and Others v. Greece, 26 February 1998, Reports of Judgments and Decisions 1998-I
Pająk and Others v. Poland, nos. 25226/18 and 3 others, 24 October 2023
Pailot v. France, 22 April 1998, Reports of Judgments and Decisions 1998-II
Paksas v. Lithuania [GC], no. 34932/04, ECHR 2011
Paluda v. Slovakia, no. 33392/12, 23 May 2017
Pammel v. Germany, 1 July 1997, Reports of Judgments and Decisions 1997-IV
Panjeheighalehei v. Denmark (dec.), no. 11230/07, 13 October 2009
Papachelas v. Greece [GC], no. 31423/96, ECHR 1999-II
Papaioannou v. Greece, no. 18880/15, 2 June 2016
Papageorgiou v. Greece, 22 October 1997, Reports of Judgments and Decisions 1997-VI
Paparrigopoulos v. Greece, no. 61657/16, 30 June 2022
Papon v. France (dec.), no. 344/04, ECHR 2005-XI
Parlov-Tkalčić v. Croatia, no. 24810/06, 22 December 2009
Parol v. Poland, no. 65379/13, 11 October 2018
Pasquini v. San Marino, no. 50956/16, 2 May 2019
Pastore v. Italy (dec.), no. 46483/99, 25 May 1999
Patricolo and Others v. Italy, nos. 37943/17 and 2 others, 23 May 2024
Paulsen-Medalen and Svensson v. Sweden, 19 February 1998, Reports of Judgments and Decisions 1998-I
Paun Jovanović v. Serbia, no. 41394/15, 7 February 2023
Pedro Ramos v. Switzerland, no. 10111/06, 14 October 2010

Peleki v. Greece, no. 69291/12, 5 March 2020
Pellegrin v. France [GC], no. 28541/95, ECHR 1999-VIII
Pellegrini v. Italy, no. 30882/96, ECHR 2001-VIII
Pengezov v. Bulgaria, no. 66292/14, 10 October 2023
Peñafiel Salgado v. Spain (dec.), no. 65964/01, 16 April 2002
Pereira da Silva v. Portugal, no. 77050/11, 22 March 2016
Perez v. France [GC], no. 47287/99, ECHR 2004-I
Pérez de Rada Cavanilles v. Spain, 28 October 1998, Reports of Judgments and Decisions 1998-VIII
Peruš v. Slovenia, no. 35016/05, 27 September 2012
Pescador Valero v. Spain, no. 62435/00, ECHR 2003-VII
Petko Petkov v. Bulgaria, no. 2834/06, 19 February 2013
Petrella v. Italy, no. 24340/07, 18 March 2021
Petrović and Others v. Montenegro, no. 18116/15, 17 July 2018
Pétur Thór Sigurðsson v. Iceland, no. 39731/98, ECHR 2003-IV
Philis v. Greece (no. 1), 27 August 1991, Series A no. 209
Philis v. Greece (no. 2), 27 June 1997, Reports of Judgments and Decisions 1997-IV
Pierre-Bloch v. France, 21 October 1997, Reports of Judgments and Decisions 1997-VI
Pini and Others v. Romania, nos. 78028/01 and 78030/01, ECHR 2004-V (extracts)
Pinkas and Others v. Bosnia and Herzegovina, no. 8701/21, 4 October 2022
Pişkin v. Turkey, no. 33399/18, 15 December 2020
Pizzetti v. Italy, 26 February 1993, Series A no. 257-C
Platakou v. Greece, no. 38460/97, ECHR 2001-I
Plazzi v. Switzerland, no. 44101/18, 8 February 2022
Pocius v. Lithuania, no. 35601/04, 6 July 2010
Podbielski and PPU Polpure v. Poland, no. 39199/98, 26 July 2005
Poiss v. Austria, 23 April 1987, Series A no. 117
Polyakh and Others v. Ukraine, nos. 58812/15 and 4 others, 17 October 2019
Pönkä v. Estonia, no. 64160/11, 8 November 2016
Posti and Rahko v. Finland, no. 27824/95, ECHR 2002-VII
Potocka and Others v. Poland, no. 33776/96, ECHR 2001-X
Pravednaya v. Russia, no. 69529/01, 18 November 2004
Preda and Dardari v. Italy (dec.), nos. 28160/95 and 28382/95, ECHR 1999-III
Pretto and Others v. Italy, 8 December 1983, Series A no. 71
Pridatchenko and Others v. Russia, nos. 2191/03 and 3 others, 21 June 2007
Prince Hans-Adam II of Liechtenstein v. Germany [GC], no. 42527/98, ECHR 2001-VIII
Probstmeier v. Germany, 1 July 1997, Reports of Judgments and Decisions 1997-IV
Procola v. Luxembourg, 28 September 1995, Series A no. 326
Prodan v. Moldova, no. 49806/99, ECHR 2004-III (extracts)
Project-Trade d.o.o. v. Croatia, no. 1920/14, 19 November 2020
Pudas v. Sweden, 27 October 1987, Series A no. 125-A
Puolitaival and Pirttiaho v. Finland, no. 54857/00, 23 November 2004

—R—

R.P. and Others v. the United Kingdom, no. 38245/08, 9 October 2012
R.S. v. Germany (dec.), no. 19600/15, 28 March 2017
RTBF v. Belgium, no. 50084/06, ECHR 2011
Radomilja and Others v. Croatia [GC], nos. 37685/10 and 22768/12, 20 March 2018
Ramljak v. Croatia, no. 5856/13, 27 June 2017
Ramos Nunes de Carvalho e Sá v. Portugal [GC], nos. 55391/13 and 2 others, 6 November 2018
Raylyan v. Russia, no. 22000/03, 15 February 2007

Raza v. Bulgaria, no. 31465/08, 11 February 2010
Reczkowicz v. Poland, no. 43447/19, 22 July 2021
Refah Partisi (The Welfare Party) and Others v. Turkey (dec.), nos. 41340/98 and 3 others, 3 October 2000
Regner v. the Czech Republic [GC], no. 35289/11, 19 September 2017
Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria, no. 40825/98, 31 July 2008
Renouard v. France, no. 46911/21, 27 November 2025
Repcevirág Szövetkezet v. Hungary, no. 70750/14, 30 April 2019
Reuther v. Germany (dec.), no. 74789/01, ECHR 2003-IX
Ribarev v. North Macedonia, no. 39987/22, 13 November 2025
Ringeisen v. Austria, 16 July 1971, Series A no. 13
Robins v. the United Kingdom, 23 September 1997, Reports of Judgments and Decisions 1997-V
Roccella v. Italy, 44764/16, 15 June 2023
Roche v. the United Kingdom [GC], 32555/96, ECHR 2005-X
Rolf Gustafson v. Sweden, 1 July 1997, Reports of Judgments and Decisions 1997-IV
Romańczyk v. France, no. 7618/05, 18 November 2010
Ronald Vermeulen v. Belgium, no. 5475/06, 17 July 2018
Rotaru v. Romania [GC], no. 28341/95, ECHR 2000-V
Rousounidou v. Cyprus (dec.) no. 38744/21, 25 January 2024
Rozalia Avram v. Romania, no. 19037/07, 16 September 2014
Ruianu v. Romania, no. 34647/97, 17 June 2003
Ruiz-Mateos v. Spain, 23 June 1993, Series A no. 262
Ruiz Torija v. Spain, 9 December 1994, Series A no. 303-A
Ruotolo v. Italy, 27 February 1992, Series A no. 230-D
Rustavi 2 Broadcasting Company Ltd and Others v. Georgia, no. 16812/17, 18 July 2019
Ryabykh v. Russia, no. 52854/99, ECHR 2003-IX
Ryakib Biryukov v. Russia, no. 14810/02, ECHR 2008

—S—

S., v. and A. v. Denmark [GC], nos. 35553/12 and 2 others, 22 October 2018
Šabanović and Others v. Serbia, nos. 39819/16 and 4 others, 7 October 2025
Sabeh El Leil v. France [GC], no. 34869/05, 29 June 2011
Sabin Popescu v. Romania, no. 48102/99, 2 March 2004
Sablon v. Belgium, no. 36445/97, 10 April 2001
Saccoccia v. Austria (dec.), no. 69917/01, 5 July 2007
Saccoccia v. Austria, no. 69917/01, 18 December 2008
Sace Elektrik Ticaret ve Sanayi A.Ş. v. Turkey, no. 20577/05, 22 October 2013
Sacilor Lormines v. France, no. 65411/01, ECHR 2006-XIII
Sadomski v. Poland, no. 56297/21, 9 May 2025
Sailing Club of Chalkidiki "I Kelyfos" v. Greece, nos. 6978/18 and 8547/18, 21 November 2019
Sakellaropoulos v. Greece (dec.), no. 38110/08, 6 January 2011
Salesi v. Italy, no. 26 February 1993, Series A no. 257-E
Salomonsson v. Sweden, no. 38978/97, 12 November 2002
*Salvador Coutinho dos Santos Amado v. Portugal**, no. 44794/19, 3 February 2026
Şamat v. Turkey, no. 29115/07, 21 January 2020
San Leonard Band Club v. Malta, no. 77562/01, ECHR 2004-IX
Sanglier v. France, no. 50342/99, 27 May 2003
Sanofi Pasteur v. France, no. 25137/16, 13 February 2020
Santambrogio v. Italy, no. 61945/00, 21 September 2004
Santos Pinto v. Portugal, no. 39005/04, 20 May 2008

Saoud v. France, no. 9375/02, 9 October 2007
Sara Lind Eggertsdóttir v. Iceland, no. 31930/04, 5 July 2007
Sartory v. France, no. 40589/07, 24 September 2009
Sassi and Benchellali v. France (dec.), nos. 35884/21 and 35886/21, 15 October 2024
Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland [GC], no. 931/13, ECHR 2017 (extracts)
Savino and Others v. Italy, nos. 17214/05 and 2 others, 28 April 2009
Savitskyy v. Ukraine, no. 38773/05, 26 July 2012
Scalzo v. Italy, no. 8790/21, 6 December 2022
Scerri v. Malta, no. 36318/18, 7 July 2020
Schipani and Others v. Italy, no. 38369/09, 21 July 2015
Schmidt v Latvia, no. 22493/05, 27 April 2017
Schouten and Meldrum v. the Netherlands, 9 December 1994, Series A no. 304
Schreiber and Boetsch v. France (dec.), no. 58751/00, ECHR 2003-XII
Schuler-Zgraggen v. Switzerland, 24 June 1993, Series A no. 263
Scordino v. Italy (no. 1) [GC], no. 36813/97, ECHR 2006-V
Sdružení Jihočeské Matky v. the Czech Republic (dec.), no. 19101/03, 10 July 2006
Sedat Doğan v. Turkey, no. 48909/14, 18 May 2021
Seksimp Group SRL v. the Republic of Moldova, no. 30085/13, 15 May 2025
Sekul v. Croatia (dec.), no. 43569/13, 30 June 2015
Selin Aslı Öztürk v. Turkey, no. 39523/03, 13 October 2009
Selmani and Others v. the former Yugoslav Republic of Macedonia, no. 67259/14, 9 February 2017
Semenya v. Switzerland [GC], no. 10934/21, 10 July 2025
Sharxhi and Others v. Albania, no. 10613/16, 11 January 2018
Siałkowska v. Poland, no. 8932/05, 22 March 2007
Siegel v. France, no. 36350/97, ECHR 2000-XII
Siegle v. Romania, no. 23456/04, 16 April 2013
Sigalas v. Greece, no. 19754/02, 22 September 2005
Sigma Radio Television Ltd v. Cyprus, nos. 32181/04 and 35122/05, 21 July 2011
Šikić v. Croatia, no. 9143/08, 15 July 2010
Silva Pontes v. Portugal, 23 March 1994, series A nº 286-A
*Simoncini v. San Marino**, no. 14396/24, 19 February 2026
Sine Tsaggarakis A.E.E. v. Greece, no. 17257/13, 23 May 2019
Skorobogatykh v. Russia (dec.), no. 37966/02, 8 June 2006
Słomka v. Poland, no. 68924/12, 6 December 2018
Smirnov v. Russia (dec.), no. 14085/04, 6 July 2006
Société anonyme d'habitations à loyers modérés Terre et Famille v. France (dec.), no. 62033/00, 17 February 2004
Société de gestion du port de Campoloro and Société fermière de Campoloro v. France, no. 57516/00, 26 September 2006
Sokurenko and Strygun v. Ukraine, nos. 29458/04 and 29465/04, 20 July 2006
Sommerfeld v. Germany [GC], no. 31871/96, ECHR 2003-VIII (extracts)
Somorjai v. Hungary, no. 60934/13, 28 August 2018
Sotiris and Nikos Koutras ATTEE v. Greece, no. 39442/98, ECHR 2000-XII
Sovtransavto Holding v. Ukraine, no. 48553/99, ECHR 2002-VII
Speil v. Austria (dec.), no. 42057/98, 5 September 2002
Sporrong and Lönnroth v. Sweden, 23 September 1982, Series A no. 52
Spūlis and Vaškevičs v. Latvia (dec.), nos. 2631/10 and 12253/10, 18 November 2014
Sramek v. Austria, 22 October 1984, Series A no. 84
Stanev v. Bulgaria [GC], no. 36760/06, ECHR 2012
Stankiewicz v. Poland, no. 46917/99, ECHR 2006-VI
Stankov v. Bulgaria, no. 68490/01, 12 July 2007

Star Cate Epilekta Gevmata and Others v. Greece (dec.), no. 54111/07, 6 July 2010
Staroszczyk v. Poland, no. 59519/00, 22 March 2007
Stavroulakis v. Greece (dec.), no. 22326/10, 28 January 2014
Steck-Risch and Others v. Liechtenstein, no. 63151/00, 19 May 2005
Steel and Morris v. the United Kingdom, no. 68416/01, ECHR 2005-II
Stegarescu and Bahrin v. Portugal, no. 46194/06, 6 April 2010
Stepinska v. France, no. 1814/02, 15 June 2004
Stichting Landgoed Steenbergen and Others v. the Netherlands, no. 19732/17, 16 February 2021
Stichting Mothers of Srebrenica and Others v. the Netherlands (dec.), no. 65542/12, ECHR 2013 (extracts)
Stoimenovikj and Miloshevikj v. North Macedonia, no. 59842/14, 25 March 2021
Stoianoglo v. the Republic of Moldova, no. 19371/22, 24 October 2023
Storck v. Germany, no. 61603/00, ECHR 2005-V
Stran Greek Refineries and Stratis Andreadis v. Greece, 9 December 1994, Series A no. 301-B
Straume v. Latvia, no. 59402/14, 2 June 2022
Stubbings and Others v. the United Kingdom, 22 October 1996, Reports of Judgments and Decisions 1996-IV
Sturua v. Georgia, no. 45729/05, 28 March 2017
Stylianidis v. Cyprus (dec.), no. 24269/18, 8 February 2024
Succi and Others v. Italy, nos. 55064/11 and 2 others, 28 October 2021
Suda v. the Czech Republic, no. 1643/06, 28 October 2010
Sukût v. Turkey (dec.), no. 59773/00, 11 September 2007
Suominen v. Finland, no. 37801/97, 1 July 2003
Sürmeli v. Germany [GC], no. 75529/01, ECHR 2006-VII
Süßmann v. Germany, 16 September 1996, Reports of Judgments and Decisions 1996-IV
Suren Antonyan v. Armenia, no. 20140/23, 23 January 2025
Suverénní řád Maltézských rytířů - České velkopřevorství v. the Czech Republic, no. 15440/22, 11 September 2025
Švarc and Kavnik v. Slovenia, no. 75617/01, 8 February 2007
Svilengaćanin and Others v. Serbia, nos. 50104/10 and 9 others, 12 January 2021
Syndicat National Des Journalistes and Others v. France, no. 41236/18, 14 December 2023
Syngelidis v. Greece, no. 24895/07, 11 February 2010
Sytnyk v. Ukraine, no. 16497/20, 24 April 2025
Szücs v. Austria, 24 November 1997, Reports of Judgments and Decisions 1997-VII

—T—

Tabbane v. Switzerland (dec.), no. 41069/12, 1 March 2016
Tabor v. Poland, no. 12825/02, 27 June 2006
Tamazount and others v. France, nos. 17131/19 and 4 others, 4 April 2024
Taratukhin v. Russia, no. 74778/14, 15 September 2020
Taşkın and Others v. Turkey, no. 46117/99, ECHR 2004-X
Tatishvili v. Russia, no. 1509/02, ECHR 2007-I
Tel v. Turkey, no. 36785/03, 17 October 2017
Tence v. Slovenia, no. 37242/14, 31 May 2016
Ternovskis v. Latvia, no. 33637/02, 29 April 2014
Terra Woningen B.V. v. the Netherlands, 17 December 1996, Reports of Judgments and Decisions 1996-VI
Test-Achats v. Belgium, no. 77039/12, 13 December 2022
Teteriny v. Russia, no. 11931/03, 30 June 2005
The Holy Monasteries v. Greece, 9 December 1994, Series A no. 301-A

Thiam v. France, no. 80018/12, 18 October 2018
Thierry v. France (dec.), no. 37058/19, 31 January 2023
Thlimmenos v. Greece [GC], no. 34369/97, ECHR 2000-IV
Tiemann v. France and Germany (dec.), nos. 47457/99 and 47458/99, ECHR 2000-IV
Tierce v. San Marino, no. 69700/01, ECHR 2003-VII
Tığrak v. Turkey, no. 70306/10, 6 July 2021
TMMOB and Karakuş Candan v. Türkiye, no. 46514/15, 11 June 2024
Timofeyev and Postupkin v. Russia, nos. 45431/14 and 22769/15, 19 January 2021
Țîmpău v. Romania, no. 70267/17, 5 December 2023
Tinnelly & Sons Ltd and Others and McElduff and Others v. the United Kingdom, 10 July 1998, Reports of Judgments and Decisions 1998-IV
Titan Total Group S.R.L. v. the Republic of Moldova, no. 61458/08, 6 July 2021
Tocono and Profesorii Prometeişti v. Moldova, no. 32263/03, 26 June 2007
Toivanen v. Finland, no. 46131/19, 9 November 2023
Tolstoy Miloslavsky v. the United Kingdom, 13 July 1995, Series A no. 316-B
Torri v. Italy, 1 July 1997, Reports of Judgments and Decisions 1997-IV
Tosti v. Italy (dec.), no. 27791/06, 12 May 2009
Tourisme d'affaires v. France, no. 17814/10, 16 February 2012
Toziczka v. Poland, no. 29995/08, 24 July 2012
Transado-Transportes Fluviais Do Sado, S.A. v. Portugal (dec.), no. 35943/02, ECHR 2003-XII
Trapeznikov and Others v. Russia, nos. 5623/09 and 3 others, 5 April 2016
Tre Traktörer Aktiebolag v. Sweden, 7 July 1989, Series A no. 159
Tregubenko v. Ukraine, no. 61333/00, 2 November 2004
Treguet v. Russia, no. 45580/15, 20 September 2022
Treska v. Albania and Italy (dec.), no. 26937/04, ECHR 2006-XI (extracts)
Trevisanato v. Italy, no. 32610/07, 15 September 2016
Tsanova-Gecheva v. Bulgaria, no. 43800/12, 15 September 2015
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Tsfayo v. the United Kingdom, no. 60860/00, 14 November 2006
Tsikakis v. Germany, no. 1521/06, 10 February 2011
Tsulukidze and Rusulashvili v. Georgia, nos. 44681/21 and 17256/22, 29 August 2024
Tuleya v. Poland, nos. 21181/19 and 51751/20, 6 July 2023
Turczanik v. Poland, no. 38064/97, ECHR 2005-VI
Tuziński v. Poland (dec), no. 40140/98, 30 March 1999

—U—

UAB Ambercore DC and UAB Arcus Novus v. Lithuania, no. 56774/18, 13 June 2023
Uçar v. Turkey (dec.), no. 12960/05, 29 September 2009
Ukrkava, TOV v. Ukraine, no. 10233/20, 6 February 2025
Ullens de Schooten and Rezabek v. Belgium, nos. 3989/07 and 38353/07, 20 September 2011
Ulyanov v. Ukraine (dec.), no. 16472/04, 5 October 2010
Unédic v. France, no. 20153/04, 18 December 2008
Unión Alimentaria Sanders S.A. v. Spain, 7 July 1989, Series A no. 157
Urechean and Pavlicenco v. the Republic of Moldova, nos. 27756/05 and 41219/07, 2 December 2014
Užukauskas v. Lithuania, no. 16965/04, 6 July 2010

—V—

Vachik Karapetyan and Others v. Armenia, no. 15736/16, 15 May 2025
Valová, Slezák and Slezák v. Slovakia, no. 44925/98, 1 June 2004
Van de Hurk v. the Netherlands, 19 April 1994, Series A no. 288
Van Marle and Others v. the Netherlands, 26 June 1986, Series A no. 101
Van Orshoven v. Belgium, 25 June 1997, Reports of Judgments and Decisions 1997-III
Vardanyan and Nanushyan v. Armenia, no. 8001/07, 27 October 2016
Varela Assalino v. Portugal (dec.), no. 64336/01, 25 April 2002
Vasil Vasilev v. Bulgaria, no. 7610/15, 16 November 2021
Vasilchenko v. Russia, no. 34784/02, 23 September 2010
Vegotex International S.A. v. Belgium [GC], no. 49812/09, 3 November 2022
Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC], no. 53600/20, 9 April 2024
Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2), no. 32772/02, 4 October 2007
Veres v. Spain, no. 57906/18, 8 November 2022
Verlagsgruppe News GmbH v. Austria (dec.), no. 62763/00, 16 January 2003
Vermeulen v. Belgium, 20 February 1996, Reports of Judgments and Decisions 1996-I
Vernillo v. France, 20 February 1991, Series A no. 198
Versini v. France, no. 40096/98, 10 July 2001
Victor Laurențiu Marin v. Romania, no. 75614/14, 12 January 2021
Vilho Eskelinen and Others v. Finland [GC], no. 63235/00, ECHR 2007-II
Vocaturo v. Italy, 24 May 1991, Series A no. 206-C
Voggenreiter v. Germany, no. 47169/99, ECHR 2004-I (extracts)
Von Maltzan and Others v. Germany (dec.) [GC], nos. 71916/01 and 2 others, ECHR 2005-V
Vujović and Lipa D.O.O. v. Montenegro (no. 2), no. 43050/22, 21 November 2025

—W—

Wagner and J.M.W.L. v. Luxembourg, no. 76240/01, 28 June 2007
Waite and Kennedy v. Germany [GC], no. 26083/94, ECHR 1999-I
Wałęsa v. Poland, no. 50849/21, 23 November 2023
Wallishauser v. Austria, no. 156/04, 17 July 2012
Warsicka v. Poland, no. 2065/03, 16 January 2007
Weissman and Others v. Romania, no. 63945/00, ECHR 2006-VII (extracts)
Werner v. Austria, 24 November 1997, Reports of Judgments and Decisions 1997-VII
Wettstein v. Switzerland, no. 33958/96, ECHR 2000-XII
Wierzbicki v. Poland, no. 24541/94, 18 June 2002
Wiesinger v. Austria, 30 October 1991, Series A no. 213
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Woś v. Poland, no. 22860/02, ECHR 2006-VII
Wynen and Centre hospitalier interrégional Edith-Cavell v. Belgium, no. 32576/96, ECHR 2002-VIII

—X—

X v. France, 31 March 1992, Series A no. 234-C
X and Others v. Russia, nos. 78042/16 and 66158/14, 14 January 2020
X and Others v. Slovenia, nos. 27746/22 and 28291/22, 19 December 2024
Xavier Lucas v. France, no. 15567/20, 9 June 2022
Xero Flor w Polsce sp. z o.o. v. Poland, no. 4907/18, 7 May 2021
Xhoxhaj v. Albania, no. 15227/19, 9 February 2021

—Y—

Yagtzilar and Others v. Greece, no. 41727/98, ECHR 2001-XII
Yakovlev v. Russia, no. 72701/01, 15 March 2005
Yankov v. Bulgaria (dec.), no. 44768/10, 18 June 2019
Yavorivskaya v. Russia, no. 34687/02, 21 July 2005
Yevdokimov and Others v. Russia, nos. 27236/05 and 10 others, 16 February 2016
Yvon v. France, no. 44962/98, ECHR 2003-V
Yüksel Yalçınkaya v. Türkiye [GC], no. 15669/20, 26 September 2023

—Z—

Z and Others v. the United Kingdom [GC], no. 29392/95, ECHR 2001-V
Zafferani and Others v. San Marino, nos. 38127/22 and 6 others, 9 January 2025
Zagorodnikov v. Russia, no. 66941/01, 7 June 2007
Zalli v. Albania (dec.), no. 52531/07, 8 February 2011
Zander v. Sweden, 25 November 1993, Series A no. 279-B
Zapletal v. the Czech Republic (dec.), no. 12720/06, 30 November 2010
Zappia v. Italy, 26 September 1996, Reports of Judgments and Decisions 1996-IV
Zavodnik v. Slovenia, no. 53723/13, 21 May 2015
Ziegler v. Switzerland, no. 33499/96, 21 February 2002
Zielinski, Pradal, Gonzalez and Others v. France [GC], nos. 24846/94 and 9 others, ECHR 1999-VII
Zimmermann and Steiner v. Switzerland, 13 July 1983, Series A no. 66
Zollmann v. the United Kingdom (dec.), no. 62902/00, ECHR 2003-XII
Zolotas v. Greece, no. 38240/02, 2 June 2005
Zouboulidis v. Greece (no. 3), no. 57246/21, 4 June 2024
Zubac v. Croatia [GC], no. 40160/12, 5 April 2018
Zumtobel v. Austria, 21 September 1993, Series A no. 268-A
Żurek v. Poland, no. 39650/18, 16 June 2022
Zustović v. Croatia, no. 27903/15, 22 April 2021
Zvolský and Zvolská v. the Czech Republic, no. 46129/99, ECHR 2002-IX