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CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS RELATED TO PUBLIC INTERNATIONAL LAW

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CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS RELATED TO PUBLIC INTERNATIONAL LAW

CASES FROM 1 APRIL 2024 TO 6 SEPTEMBER 2024

ECHR, [*Sherov and Others v. Poland*](#), nos. 54029/17, 54117/17, 54128/17, and 54255/17, Chamber judgment of 4 April 2024 (Article 3, prohibition of torture – violation; Article 4 of Protocol No. 4 – violation; Article 13, right to an effective remedy – taken in conjunction with Article 3 and Article 4 of Protocol No. 4, prohibition of expulsion). The applicants are four Tajik nationals, born in 1958, 1981, 1977 and 1983, who currently live in Poland, Austria and Ukraine. The case concerned the applicants' repeated attempts from December 2016 to February 2017 to enter Poland at a Ukrainian border crossing. They were refused entry each time after interviews with border guards, recorded in a summary official note which they had neither read nor signed, and returned to Ukraine. They claimed that on each attempt they had stated their wish to apply for international protection because they were at risk of political persecution in Tajikistan. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that they were denied access to the procedure for claiming asylum in Poland and that they were sent to Ukraine, which was not a safe country for them because they were at risk of being deported to Tajikistan. The Court found the fact that no procedure within which the applicants' applications for international protection could be considered had been initiated when the applicants were at the Polish border crossing and that they were sent back to Ukraine without an examination of whether the receiving State was safe for them and whether they would have access to an effective and adequate asylum procedure there, or whether they would be exposed to a risk of chain *refoulement* and treatment prohibited by Article 3 of the Convention, constituted a violation of the procedural limb of that Article. The Court concluded that the decisions refusing the applicants entry into Poland were not taken with proper regard to the individual situation of each of them and were part of a wider policy of not receiving applications for international protection from persons presenting themselves at the Polish-Ukrainian border and of returning those persons to Ukraine constituted a collective expulsion of aliens within the meaning of Article 4 of Protocol No. 4.

ECHR, [*Tamazount and Others v. France*](#), nos. 17131/19, 19242/19, 55810/20, 28794/21 and 28830/21, Chamber judgment of 4 April 2024 (Article 6 § 1, right of access to a court – no violation; Article 3, prohibition of inhuman or degrading treatment - violation; Article 8, right to respect for private life and correspondence – violation; Article 1 of Protocol No. 1, protection of property – violation). The case concerned five French nationals who are the descendants of "Harkis" (auxiliary forces of Algerian origin who fought alongside the French army during the Algerian War of Independence 1954-1962). Four of the applicants are members of the Tamazount family. They arrived in France at the time of Algerian independence in 1962 or were subsequently born there, where they lived in a Harki Reception Camp (mainly in the Bias camp) until 1975. The fifth applicant lost his father in 1957, when the latter was executed by the Algerian National Liberation Front. The Court found in particular that the *Conseil d'État's* declaration that it lacked jurisdiction, based on the acts of State doctrine, being limited to the applicants' claims that the State was liable for negligence on account of a failure to protect the Harkis and their families in Algeria and to repatriate them systematically to France, could not be considered to have overstepped the margin of appreciation afforded to States in limiting an individual's right of access to a court. There was hence no violation of Article 6 § 1 (right of access to a court). With regard to Articles 3 and 8 of the Convention, the Court found that the day-to-day living conditions of the residents of the Bias camp had not been compatible with respect for human dignity and had moreover involved infringements of their individual freedoms. The Court was mindful of the difficulty of putting a precise figure on the damage sustained by these applicants and of the limits of the analogy with inhumane detention conditions, given the particularities of the historical context.

Nevertheless, it considered that the sums awarded by the domestic courts in the present case had not afforded appropriate and sufficient redress for the violations found.

ECHR, [Matthews and Johnson v. Romania](#), nos. 19124/21 and 20085/21 and [Lazăr v. Romania](#), no. 20183/21, Chamber judgment of 9 April 2024 (Article 3, prohibition of inhuman or degrading treatment – inadmissible; Article 5 § 1 (f), right to liberty and security – no violation). The case concerned the applicants' detention and the Romanian courts' ordering their extradition to the United States in March 2021. All three applicants were wanted for, among other charges, racketeering, drugs and money-laundering offences. The Court found, in particular, that the applicants had failed to show that they were at risk of life imprisonment without parole if extradited to the US, noting the sentencing practice in similar cases before trial courts in the US.

ECHR, [Georgia v. Russia \(IV\)](#), no. 39611/18, Chamber judgment of 9 April 2024 (Article 2, right to life – violation; Article 3, prohibition of inhuman or degrading treatment – violation; Article 5 § 1, right to liberty and security – violation; Article 8, right to respect for private and family life – violation; Article 1, protection of property – violation; Article 2, right to education – violation; Protocol No. 1 and Article 2 of Protocol No. 4, freedom of movement – violation). The armed conflict between Georgia and Russia in August 2008 led to a process, which started in 2009 and is known as “borderisation”, blocking people from crossing the administrative boundary lines freely between Georgian-controlled territory and the Russian-backed breakaway Georgian regions of Abkhazia and South Ossetia. The Georgian Government alleged in particular that people had been killed while trying to enter or exit Abkhazia or South Ossetia, while others had been arrested, detained and/or ill-treated for “illegally crossing” the administrative boundary lines. People had been deprived of land, which they used for farming, families had been separated and children had been forced to choose between learning in Russian or making long and perilous journeys to Georgian-controlled territory to attend school. The Court found that it had sufficient evidence, in particular lists of victims, testimonies, media reports and international material, to conclude beyond reasonable doubt that the incidents alleged were not isolated and were sufficiently numerous and interconnected to amount to a pattern or system of violations. Moreover, the apparent lack of an effective investigation into the incidents and the general application of the measures to all people concerned proved that such practices had been officially tolerated by the Russian authorities.

ECHR, [Verein KlimaSeniorinnen Schweiz and Others v. Switzerland](#), no. 53600/20, Grand Chamber judgment of 9 April 2024 (Article 8, right to respect for private and family life – violation; Article 6 § 1, access to court – violation). The case concerned a complaint by four women and a Swiss association, Verein KlimaSeniorinnen Schweiz, whose members are all older women concerned about the consequences of global warming on their living conditions and health. They considered that the Swiss authorities were not taking sufficient action, despite their duties under the Convention, to mitigate the effects of climate change and requested the authorities to take action. The Swiss authorities declared the request inadmissible, finding that the applicants were pursuing general-public interests and were not directly affected in terms of their rights. In their view, the general purpose of the applicants' request was to achieve a reduction in CO2 emissions worldwide and not only in their immediate surroundings. In addition, the Swiss courts reiterated that women over 75 were not the only population group affected by climate change. They had not shown that their rights had been affected in a different way to those of the general population. The Court held that the four individual applicants did not fulfil the victim-status criteria under Article 34 of the Convention and declared their complaints inadmissible. The applicant association, in contrast, had the right (*locus standi*) to bring a complaint regarding the threats arising from climate change in the respondent State on behalf of those individuals who could arguably claim to be subject to specific threats or adverse effects of climate change on their life, health, well-being and quality of life. The Court found that Article 8 of the Convention encompasses a right to

effective protection by the State authorities from the serious adverse effects of climate change on lives, health, well-being and quality of life, and that the Swiss Confederation had failed to comply with its duties ("positive obligations") under the Convention concerning climate change. There had been critical gaps in the process of putting in place the relevant domestic regulatory framework, including a failure by the Swiss authorities to quantify, through a carbon budget or otherwise, national greenhouse gas (GHG) emissions limitations. Switzerland had also failed to meet its past GHG emission reduction targets. In addition, the Court found that Article 6 § 1 of the Convention applied to the applicant association's complaint. The Court held that the Swiss courts had not provided convincing reasons as to why they had considered it unnecessary to examine the merits of the applicant association's complaints. They had failed to take into consideration the compelling scientific evidence concerning climate change and had not taken the complaints seriously.

ECHR, [Duarte Agostinho and Others v. Portugal and 32 Others](#), no. 39371/20, Grand Chamber decision of 9 April 2024 (inadmissible). The applicants, six young Portuguese nationals, complained of the existing, and serious future, impacts of climate change. They submitted that Portugal was already experiencing a range of climate-change impacts, including increases in mean temperatures and extreme heat, which was a major driver of wildfires. They relied on various Convention Articles, international instruments such as the 2015 Paris Agreement and the UN Convention on the Rights of the Child, and general reports and expert findings concerning the harm caused by climate change. In the applicants' view, Portugal and the 32 other respondent States bore responsibility for the situation in issue. They submitted that they were currently exposed to a risk of harm from climate change, and that the risk was set to increase significantly over the course of their lifetimes. They argued that their generation was particularly affected by climate change and that, given their ages, the interference with their rights was more marked than in the case of previous generations. As concerned the extraterritorial jurisdiction of the respondent States other than Portugal, the Court found that there were no grounds in the Convention for the extension, by way of judicial interpretation, of their extraterritorial jurisdiction in the manner requested by the applicants. It followed that territorial jurisdiction was established in respect of Portugal, whereas no jurisdiction could be established as regards the other respondent States. The applicants' complaint against the other respondent States had therefore to be declared inadmissible pursuant to Article 35 §§ 3 and 4 of the Convention. Having regard to the fact that the applicants had not pursued any legal avenue in Portugal concerning their complaints, the applicants' complaint against Portugal was also inadmissible for non-exhaustion of domestic remedies.

ECHR, [Carême v. France](#), no. 7189/21, Grand Chamber decision of 9 April 2024 (inadmissible). The case concerned the complaint of the applicant, former resident and mayor of the Grande-Synthe municipality, that France had taken insufficient steps to prevent climate change and that this failure entailed a violation of his right to life and his right to respect for his private and family life and his home. Having regard to the fact that the applicant had no relevant links with Grande-Synthe and that, moreover, he did not currently live in France, the Court considered that for the purposes of any potentially relevant aspect of Article 2 (right to life) or Article 8 (right to respect for private and family life or home) he could not claim to have victim status under Article 34 of the Convention, and that was true irrespective of the status he invoked, namely that of a citizen or former resident of Grande-Synthe.

ECHR, [Kirkorov v. Lithuania](#), no. 12174/22, Chamber judgment of 18 April 2024 (inadmissible). The case concerned the ban on the applicant, a popular singer and music producer in Russia, from entering Lithuania because he was considered a threat to national security. The Lithuanian authorities found in particular that he was a tool for Russia's propaganda in States of the former USSR and that, by regularly giving concerts in Crimea, he supported the Russian State's policy of aggression. Overall, the Court found that the Lithuanian authorities' assessment, which had been based on the applicant's statements and

behaviour, had not been arbitrary or without basis. In particular the applicant had openly stated that he supported Russia's actions in the Crimean Peninsula and referred to himself as Vladimir Putin's "representative on stage". The courts had moreover weighed up the interests of national security and public order against the applicant's actions and the ban imposed on him and not found it to be disproportionate. The Court also highlighted that the national courts, the Seimas (Lithuanian Parliament) and the European Parliament had all acknowledged the need for exposing Russian disinformation and propaganda warfare. The Court declared the applicant's complaint under Article 10 inadmissible as manifestly ill-founded. The Court noted that the applicant could have, but had not, brought an action for damages in the Lithuanian civil courts with regard to his complaint about loss of income from cancelled concerts. That complaint was therefore declared inadmissible because the applicant had not used all the legal avenues available at national level.

ECHR, [Zăicescu and Fălticineanu v. Romania](#), no. 42917/16, Chamber judgment of 23 April 2024 (Article 8, right to respect for private and family life – taken in conjunction with Article 14, prohibition of discrimination – violation; Article 3, prohibition of inhuman or degrading treatment – taken in conjunction with Article 14, prohibition of discrimination – inadmissible). The case concerned the retrial and acquittal of two army officers in the 1990s who had been convicted in the 1950s of war crimes and crimes against humanity for their involvement in, among other crimes, the persecution of Romanian Jews in 1941, in particular the Iași pogrom, which Mr Zăicescu had survived, and the placement of a high number of Jews in ghettos, which was the case for both applicants. The Court found in particular that the revision of historical convictions for crimes connected with the Holocaust had not been adequately justified by the Government, and must have caused feelings of vulnerability and humiliation in Holocaust victims such as the applicants leading to a violation of Article 8 taken in conjunction with Article 14. However, the Court found, by a majority, the complaints under Article 3 (prohibition of inhuman or degrading treatment) in conjunction with Article 14 inadmissible. The ill-treatment the applicants had suffered had taken place nine years before the Convention had come into existence and 50 years before Romania had signed the Convention, and the most important procedural steps incumbent on the Government had taken place long before Romania had become a High Contracting Party.

ECHR, [M.B. v. the Netherlands](#), no. 71008/16, Chamber judgment of 23 April 2024 (Article 5 § 1 – violation). The applicant is a Syrian national who was born in 1997 and at the time of lodging his application was being held in immigration detention in Rotterdam (the Netherlands). The applicant entered the Netherlands in October 2015 and applied for asylum. He was arrested shortly afterwards on suspicion of participation in a terrorist organisation and placed in pre-trial detention. He was convicted to 10 months' detention by a first-instance court. He was released in September 2016, but immediately placed in immigration detention pending the assessment of his asylum application. The case concerned the decision to order the applicant's immigration detention on the ground that he posed a threat to public order. Relying on Article 5 § 1 (right to liberty and security), Mr M.B. alleged that this decision was unlawful and arbitrary. The Court noted the legitimate concerns which exist when an asylum applicant is released from detention shortly after having been convicted on terrorism related charges. The Court, however, held that the detention of the applicant was arbitrary since there was no sufficiently close connection between the applicant's immigration detention and the aim of preventing his unauthorised entry.

ECHR, [Aydin Sefa Akay v. Türkiye](#), no. 59/17, Chamber judgment of 23 April 2024 (Article 5 § 1, right to liberty and security – violation; Article 8, right to respect for private life and home – violation). The case concerned a UN judge's arrest and pre-trial detention, as well as the search of his house and person, in the aftermath of the 2016 attempted military coup in Türkiye, in spite of his diplomatic immunity. He was working remotely from his home in Istanbul for the United Nations International Residual Mechanism for Criminal Tribunals ("the UN Criminal Tribunals Mechanism") when arrested. The Court was not convinced by the

national courts' interpretation of international law when rejecting his claim for diplomatic immunity. It also found that Mr Akay appeared to have been entitled to full diplomatic immunity, including the inviolability of his person and private residence and being shielded from any form of arrest or detention, under international law. His arrest, pre-trial detention, search of his house and person had thus been unlawful. Moreover, the courts had only first examined the issue of the applicant's diplomatic immunity after over eight months, rendering futile any protection Mr Akay had had as an international judge, and had not examined it at all in relation to the searches of his house and person.

ECHR, [The J. Paul Getty Trust and Others v. Italy](#), no. 35271/19, Chamber judgment of 2 May 2024 (Article 1 of Protocol No. 1, protection of property – no violation). The case concerned a confiscation order, issued by the Italian authorities, aimed at the recovery of a cultural heritage object, specifically the "Victorious Youth", a bronze statue dating from the classical Greek period (300-100 BC) attributed to Lysippos. The statue, which had been allegedly illegally purchased by the J. Paul Getty Trust, is currently housed at the Getty Villa Museum in Malibu (California, United States of America). The Italian authorities acted with the purpose of recovering an unlawfully exported piece of cultural heritage. The Court reiterated that the protection of a country's cultural and artistic heritage was a legitimate aim for the purposes of the Convention. It furthermore noted that several international instruments stressed the importance of protecting cultural goods from unlawful exportation, such as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State, and Regulation 116/2009/EC on the export of cultural goods. As to the protection afforded by the Convention, the Court considered that the legitimacy under of State measures aimed at protecting cultural heritage against unlawful exportation from the country of origin, or at ensuring its recovery and return therein in cases where the unlawful act had nonetheless taken place, in both cases with a view to facilitating in the most effective way wide public access to works of art, could not be called into question. The Court further held that owing, in particular, to the Getty Trust's negligence or bad faith in purchasing the statue despite being aware of the claims of the Italian State and their efforts to recover it, the confiscation order had been proportionate to the aim of ensuring the return of an object that was part of Italy's cultural heritage.

ECHR, [M.M. v. France](#), no. 13303/21, Chamber decision of 23 May 2024 (Article 3, prohibition of inhuman or degrading treatment – inadmissible; Article 6 § 1, right of access to a court – inadmissible). The case concerned the French courts' refusal to open an investigation into a criminal complaint (with an application for civil-party status) which had been lodged by the applicant, an Egyptian national, against the Egyptian President, Abdel Fattah al-Sisi, for alleged torture and acts of barbarity, while President Sisi had been on an official visit to France in 2014. The applicant claimed to have been seriously injured when a projectile fired by an officer in the Egyptian army had hit him in the eye, during a crackdown in Cairo on protests against the coup d'état of 3 July 2013. The application before the Court concerned the decision not to investigate the allegations in the applicant's criminal complaint owing to the public international law principle of immunity of heads of State. The Court first observed that there were no special features in the present case capable of creating an extraterritorial jurisdictional link that would have imposed a procedural obligation on the French authorities themselves to investigate allegations of acts of torture that had taken place in Egypt (procedural limb of Article 3 of the Convention). It concluded that the applicant did not fall within France's jurisdiction with respect to the acts of which he had complained under Article 3 of the Convention and rejected this part of the application as inadmissible. The Court next reiterated that where civil proceedings were brought in the domestic courts, the respondent State was required by Article 1 of the Convention to secure in those proceedings respect for the rights protected by Article 6. The Court, like the domestic courts, considered that President Sisi enjoyed immunity from criminal jurisdiction when abroad, by virtue of the rules of

customary international law. Such immunity, however, did not entail a total deprivation of the right of access to a court for the purposes of Article 6 of the Convention. The Court did not find anything manifestly unreasonable or arbitrary in the assessment of the domestic courts and considered that the limitation of the applicant's right of access to a court had not been disproportionate to the legitimate aim pursued. It concluded that this part of the application was inadmissible as being manifestly ill-founded.

ECHR, [Zarema Musayeva and Others v. Russia](#), no. 4573/22, Chamber judgment of 28 May 2024 (Article 2, right to life – violation; Article 3, prohibition of inhuman and degrading treatment – violation; Article 5 § 1, right to liberty and security – violation; Article 6 § 1, right to a fair trial – violation; Article 18, limitation on use of restrictions on rights – violation; Article 34, right of individual petition - violation). The case concerned Zarema Musayeva, wife of a former Chechen Supreme Court judge, who was forcibly removed in January 2022 by the police from her home in the Nizhniy Novgorod region in Russia and taken 2,000 km away to Grozny in Chechnya, as well as her subsequent detention and the administrative and criminal proceedings brought against her there. It also concerned the ill-treatment that Ms Musayeva and her husband and daughter had been subjected to by the Chechen police, against the background of repeated public death threats against them by high-ranking Chechen officials, including the President Ramzan Kadyrov, who had promised to “hunt them down” and “cut their heads off”. The Court found that the Russian authorities, whose representatives had been the source of the death threats, had to have been aware of but had done nothing about the real and immediate risk to the lives of Ms Musayeva, her husband and their daughter. It also found that they had been ill-treated by the Chechen police and that Ms Musayeva's arrest and detention had been arbitrary and intended as retaliation against her family, who were involved in human rights work and opposition activities in Chechnya. The hurried administrative proceedings against her, without legal representation and while she was quite obviously unwell, had breached fair trial guarantees. Lastly, the Court held, unanimously, that in early March 2022 the Russian authorities had stopped providing updates on medical treatment given to Ms Musayeva, who suffers from diabetes, in spite of an interim measure it had issued, in violation of Article 34 (right of individual petition).

ECHR, [M.C. v. Türkiye](#), no. 31592/18, Chamber judgment of 4 June 2024 (Article 5 § 1, right to liberty and security – violation). The case concerned the Turkish authorities' decision to extradite the applicant, who had been apprehended in May 2017 at Istanbul airport, to Russia where he was wanted in connection with a homicide case. He was placed in detention pending extradition but was released in December 2018 and returned to Georgia. Mr M.C. complains that his extradition to Russia would have been in breach of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), given his severe medical problems and the fact that he had actively engaged in combat for the Georgian army during the Abkhazia war between 1992 and 1995. Relying on Article 5 § 1 (right to liberty and security), he also complained that his detention pending extradition for over one and a half years was unlawful and arbitrary.

ECHR, [Chelleri and Others v. Croatia](#), nos. 49358/22, 49562/22 and 54489/22, Chamber decision of 16 May 2024 (inadmissible). The case concerned the applicants' (all Slovenian fishermen) convictions for minor offences by the Croatian courts for activities in maritime waters claimed both by Croatia and Slovenia. The Court held that it did not have jurisdiction to rule on the validity and legal effects of the 2017 arbitration award which set out the maritime boundary between the two countries. As, among other indicators, under Croatian law the maritime boundary was set out clearly, the applicants could not have been unaware that their conduct in the disputed waters would constitute minor offences under the applicable Croatian legislation. The applications were therefore manifestly ill-founded and inadmissible. A total of 451 applications have been lodged by Slovenian nationals (and one company) against Croatia in respect of minor-offence proceedings conducted against them in that country on account of their activities in the waters in question. Concurrently, there are also over 800 applications on

the Court's docket lodged by Croatian nationals against Slovenia in respect of minor-offence proceedings conducted against them in Slovenia regarding their activities in the waters concerned.

ECHR, [Andrey Rylkov Foundation and Others v. Russia](#), no. 37949/18 and 84 others, Chamber judgment of 18 June 2024 (Article 11, freedom of assembly and association – violation; Article 10, freedom of expression – violation). The applicants are four organisations which had been declared “undesirable” (e.g. one based in Washington D.C., the Free Russia Foundation; one in Toronto; one in Strasbourg; one in Prague and three organisations based in Russia and a number of Russian nationals.) New Russian legislation in 2015 introduced a new power for the Prosecutor General to designate any non-Russian entity as an “undesirable organisation” where it was felt the organisation undermined the foundations of the Russian constitutional order, defence capabilities, or national security. This designation imposed severe restrictions on an organisation, including bans on having offices or carrying out projects in Russia; using Russian bank accounts; disseminating content through the media; and on the public accessing their website from within Russia. In 2021 Russian nationals were also prohibited from participating in the activities of an “undesirable organisation”, even when resident outside Russia. Penalties ranged from fines to imprisonment and hard labour. The Court held that there had been a violation of Article 11 (freedom of assembly and association) in respect of some of the applicants and a violation of Article 10 (freedom of expression) in respect of all applicants who had been convicted for their involvement with “undesirable organisations”. The Court found in particular that the legal provision dealing with the designation of “undesirable organisations” had not met the “quality of law” requirement, as it had not been clear what otherwise legitimate actions on the part of the applicants would lead to either a designation as “undesirable” or to sanctions.

ECHR, [Friedrich and Others v. Poland](#), no. 25344/20 and 17 other applications, Chamber judgment of 20 June 2024 (Article 5 §§ 1, 2, right to liberty and security – violation; Article 10, freedom of expression – violation). The applicants, born between 1964 and 1992, are 16 Greenpeace activists and two journalists of Australian, Austrian, Bulgarian, Croatian, Fijian, German, Italian, Polish, or Spanish nationality. The case concerned the Polish Border Guard Service's boarding of the Rainbow Warrior ship, interrupting a protest being held at sea, the immobilisation of the applicants and their vessels, and the arrest of two applicants and their being taken ashore. The applicants complained, in particular, of being corralled on the bow of the Rainbow Warrior or of the arrest record in terms of their deprivation of liberty being unlawful and unjustified; that the remedy before the Polish courts was ineffective; and that the intervention by the border guards limited their rights to free expression and assembly.

ECHR, [Ukraine v. Russia \(re Crimea\)](#), nos. 20958/14 and 38334/18, Grand Chamber judgment of 25 June 2024 (violations of: Articles 2, right to life; 3, prohibition of inhuman or degrading treatment; 5, right to liberty and security; 6, right to a fair trial; 7, no punishment without law; 8, right to respect for private and family life; 9, freedom of religion; 10, freedom of expression; 11, freedom of assembly; 14 prohibition of discrimination; 18, limitation on use of restrictions on rights; Article 1 of Protocol No. 1, protection of property; Article 2 of Protocol No. 1, right to education; Article 2 of Protocol No. 4, freedom of movement; failure to comply with Article 38, obligation to furnish necessary facilities for the examination of the case) The case concerned Ukraine's allegations of a pattern (“administrative practice”) of violations of the European Convention on Human Rights by the Russian Federation in Crimea beginning in February 2014. It also concerned allegations of a pattern of persecution of Ukrainians for their political stance and/or pro-Ukrainian activity (“Ukrainian political prisoners”) which had occurred predominantly in Crimea but also in other parts of Ukraine or in the Russian Federation since early 2014. The Ukrainian Government alleged that those human-rights violations had been part of a campaign of repression, which included in particular disappearances; ill-treatment;

unlawful detention; impossibility to opt out of Russian citizenship; suppression of Ukrainian media and of the Ukrainian language in schools; pre-trial detention in overcrowded conditions; prosecution and conviction on fabricated charges without a fair trial in reprisal for any pro-Ukrainian stance; and, transfers from Crimea to prisons in Russia. The Court held, unanimously, under Article 46 (binding force and implementation of judgments), that Russia had to take measures as soon as possible for the safe return of the relevant prisoners transferred from Crimea to penal facilities located on the territory of the Russian Federation. The Court considered that it had sufficient evidence – in particular intergovernmental and nongovernmental organisation reports, corroborated by witness testimony and other material – to conclude beyond reasonable doubt that the incidents had been sufficiently numerous and interconnected to amount to a pattern or system of violations. Moreover, the apparent lack of an effective investigation into the incidents and/or the general application of the measures to all people concerned, among other things, proved that such practices had been officially tolerated by the Russian authorities.

ECHR, [Djeri and Others v. Latvia](#), nos. 50942/20 and 2022/21, Chamber judgment of 18 July 2024 (Article 8, right to respect for private and family life – inadmissible; Article 2 of Protocol No. 1, right to education – inadmissible; Article 14, prohibition of discrimination – taken in conjunction with Article 2 of Protocol No. 1, right to education – no violation). The case concerned 2018 amendments to the law whereby the use of Latvian – the national language – was increased in all pre-schools in Latvia, both public or private, and the use of Russian was consequently reduced. It followed two other cases *Valiullina and Others v. Latvia* (nos. 56928/19 and 2 others, 14 September 2023) and *Džibuti and Others v. Latvia* (nos. 225/20 and 2 others, 16 November 2023) concerning, respectively, the 2018 education reform in public and private primary and secondary schools. The Court found in particular that the measures taken by the Latvian Government to increase the use of the national language in pre-schools had been proportionate and necessary to prepare pupils for primary education, to ensure unity in the education system and to ensure a sufficient level of Latvian for residents to participate effectively in public life.

ECHR, [Couso Permuy v. Spain](#), no. 2327/20, Chamber judgment of 25 July 2024 (Article 6, right of access to court – no violation). The case concerned the killing in 2003 of the applicant's brother, a camera operator on mission in Iraq, and the decision to discontinue the criminal proceedings opened in Spain to investigate. The Court noted that legislative reform restricting the Spanish courts' jurisdiction in such cases had led to the decision to discontinue the proceedings in 2015. In particular, the new wording of the law meant that the national courts could only have jurisdiction if the US servicemen accused of the killing were physically present in Spain. The Court found that the reasons given to justify the reform – the risk of overburdening the courts and practical difficulties in obtaining evidence in such cases – had been legitimate. Indeed, there had been nothing arbitrary or manifestly unreasonable in the Spanish courts' limiting litigation to only those cases where there was a sufficient link to Spain. Moreover, the applicant had been able to bring his complaints before the Spanish courts and a very thorough criminal investigation had been carried out. In any event, it would not have been possible to proceed to trial because the US authorities would not surrender the accused servicemen and Spanish law did not allow trials *in absentia*.

ECHR, [Ždanoka v. Latvia \(no. 2\)](#), no. 42221/18, Chamber judgment of 25 July 2024 (Article 3 of Protocol No. 1, right to free elections – no violation). The case concerned the removal of Ms Ždanoka, a former MEP, from the candidate list for the 2018 parliamentary elections, owing to her active membership of the Communist Party of Latvia during the post-independence struggles against the Soviet Union. She had been a candidate for the Latvian Union of Russians. The Court found in particular that restricting from standing for election individuals who had endangered and continued to endanger the independence of the Latvian State and the principles of a democratic State governed by the rule of law was legitimate and

proportionate. The authorities had therefore acted within their discretion (“margin of appreciation”) in doing so in Ms Ždanoka’s case.

ECHR, [Shlosberg v. Russia](#), no. 32648/22, Chamber judgment of 3 September 2024 (Article 3 of Protocol No. 1, right to free elections – violation). The case concerned an opposition politician who stood as a candidate in the 2021 State Duma elections and was disqualified on account of his involvement in an organisation classified as extremist by the Russian authorities. This “involvement”, according to the authorities, had consisted in taking part in a peaceful rally in support of Alexei Navalny and in encouraging others to do the same. The Court found, in particular, that exercising the Convention right to peaceful assembly could not constitute grounds for any sanction, including disqualification from standing for Parliament. This reason had been an arbitrary ground for disqualification. That consideration was all the more relevant with regard to the action for which the applicant had been criticised, which consisted in merely encouraging other people to take part in this rally. The applicant’s disqualification, while formally complying with positive law, had thus been based on arbitrary grounds.

ECHR, [Mukhtarli v. Azerbaijan and Georgia](#), no. 39503/17, Chamber judgment of 5 September 2024 (as regards Georgia: Article 3 and 5 on account of the failure to carry out an effective investigation into the applicant’s allegations of abduction, ill-treatment and unlawful transfer to Azerbaijan – violation; as regards Azerbaijan: Articles 3 and 5 as to the applicant’s ill-treatment and detention – no violation, Article 5 § 3 as to the applicant’s pre-trial detention – violation; Article 8, right to respect for private and family life – violation). The case concerns the alleged abduction, ill-treatment and covert transfer of the applicant, a well-known Azerbaijani journalist living in Germany, from Georgia to Azerbaijan in 2017, and his subsequent arrest and pretrial detention there. He asserts that these actions were intended to silence him and to punish him for his journalistic activities. As regards Georgia, the applicant complained about his alleged abduction, ill-treatment and forcible transfer to Azerbaijan, and the relevant authorities’ failure to conduct an effective investigation in that regard. As regards Azerbaijan, the applicant alleged that his arrest and detention there was unlawful and unjustified. The Court found it impossible to establish with sufficient certainty the actual events that led to the applicant’s disappearance from Tbilisi and reappearance in Azerbaijan. In the Court’s view, this difficulty stemmed, in particular, from the failure of the relevant Georgian authorities to conduct an effective and diligent investigation in violation of Georgia’s positive obligations under Article 3 and 5 of the Convention. In the light of the foregoing, the Court could, however, not reach a conclusion “beyond reasonable doubt” that the applicant was abducted, ill-treated and forcibly transferred to Azerbaijan with the involvement (either active or passive) or acquiescence of the Georgian authorities. It, accordingly, found no substantive violation of Articles 3 and 5 of the Convention in respect of the Georgian authorities. With regard to Azerbaijan, the Court considered that the authorities failed to give “relevant” and “sufficient” reasons to justify the need for the applicant’s pre-trial detention in violation of Article 5 § 3. Moreover, the Court found that the search of the contents of the applicant’s mobile telephone was not “in accordance with the law” within the meaning of paragraph 2 of Article 8.