2015 Annual Report

International Human Rights Proceedings

International Law Division
Ministry of Foreign Affairs

Contents

Foreword

The year 2015 marked the twentieth anniversary of reporting to both Houses of Parliament on international human rights proceedings against the Netherlands. Reporting was initially confined to proceedings before the European Court of Human Rights; later it was expanded to include other bodies. With regard to the Court, this tradition is fully in the spirit of the Brussels Declaration of 27 March 2015, in which the member states of the Council of Europe underlined the importance of providing clear and comprehensive information to interested parties. National parliaments were specifically mentioned. We are aware that the provision of information today takes place in an entirely different context than in the mid-nineties. There have always been numerous private sources of judicial information in the Netherlands, but nowadays they are much more easily accessed. What is more, in the period since the first report, the Court's HUDOC search system has fully matured. Nevertheless, we believe it remains appropriate and necessary for the Government itself to report on cases in which the Netherlands is a party. Incidentally, the summaries of the Court's judgments and decisions you will read in this report have been available since last year in HUDOC.[1]

It will not surprise you to learn that just as in previous years, the bulk of cases relate to immigration law, more specifically asylum law. Nearly all the proceedings involving the Netherlands were in this field. None of the bodies concerned found that the State had violated the relevant convention, with one exception. In December the Committee Against Torture found in two asylum cases that the complainants could not be expelled to Guinea because of the risk they would face there of being subjected to inhuman treatment. You can find summaries of these and all other relevant decisions and views relevant to the Netherlands in this report, and, as always, an overview of activities that proceedings have given rise to. As in the last report, we include a note on the progress of the Kingdom of the Netherlands' reports under the various UN human rights instruments. The coordination of these reporting obligations has been entrusted to the International Law Division since 2013.

In our work regarding human rights proceedings we are dependent on close collaboration with colleagues in other government services, particularly the Legislation and Legal Affairs Department at the Ministry of Security and Justice, the Immigration and Naturalisation Service and the Public Prosecution Service. As in previous years, we benefited from the support provided by a colleague seconded from the Council of State. And our colleagues in the Translation Department of the Ministry of Foreign Affairs have provided indispensable support.

If you have comments or would like further information please contact us at:
djz-ir@minbuza.nl, tel. +31 (0)70 – 348 6724.

The Hague, March 2016

Roeland Böcker, agent
Kanta Adhin, deputy agent

International Law Division
Legal Affairs Department

[1] The Dutch version of this report and the English translation are available at www.rijksoverheid.nl and www.government.nl respectively.

Council of Europe

European Court of Human Rights[2]

A.M.E. (51428/10, 13 January 2015)
The applicant, who claimed to be a Somali national, was registered in Italy in April 2009 as having illegally entered the territory of the European Union. On being registered, he gave his name as M.A. and his date of birth as 1 January 1985. He was subsequently transferred to a reception centre for asylum seekers, where he was granted an Italian residence permit valid until 23 August 2012. On 7 May 2009 he left the reception centre of his own accord. On 29 October 2009 he applied for asylum in the Netherlands, supplying different personal details. In that procedure it became clear that Italy was responsible for processing his asylum application. When on 6 September 2010 the Dutch authorities informed the applicant that they intended to transfer him to Italy, he applied to the Court, claiming that his transfer to Italy would be in breach of article 3 of the Convention because of the poor living conditions there and the absence of reception, care and legal aid.
The Court asked the Government of the Netherlands, on the basis of Rule 39 of the Rules of Court, not to transfer the applicant to Italy for the duration of the proceedings before it. The Court held that, unlike the applicants in *Tarakhel v. Switzerland* (92917/12, 4 November 2014), who were a family with six minor children, the applicant was an able young man with no dependants. In addition, the current situation in Italy could in no way be compared with that in Greece at the time of the judgment in the case of *M.S.S. v. Belgium and Greece* (30696/09, 21 January 2011). The structure and overall situation of the reception arrangements in Italy could not in themselves act as a bar to all removals of asylum seekers to that country. Nor was there any indication that he would not be able to benefit from the resources available in Italy for asylum seekers or that, if difficulties arose, the Italian authorities would not respond in an appropriate manner.
Taking all these considerations into account, the Court concluded that the applicant had not convincingly established that were he to be transferred to Italy, he would be exposed to circumstances that would constitute a violation of article 3 of the Convention. It declared the application inadmissible on the grounds that it was manifestly ill-founded.

M.O.S.H. (63469/09, 3 February 2015)
The applicant, who claimed to be a Somali national, applied for asylum in the Netherlands in May 2009. Although he stated that he was born in Mogadishu in 1993, investigations revealed that he had supplied different personal information when applying for asylum in Italy in 2008. His asylum application was denied on the grounds that under the EU Dublin Regulation, Italy was responsible for processing his application. The applicant challenged this decision before the district court, but his application for review was also denied. He did not appeal to the Administrative Jurisdiction Division of the Council of State against the district court's decision because such an appeal would not automatically have suspended his transfer to Italy.
The applicant argued before the Court that removal to Italy would be contrary to article 3 of the Convention in that no reception and care facilities are available there for asylum seekers, and to article 8 because he has a relative living in the Netherlands.
The Court emphasised the importance of access to an effective legal remedy with automatic suspensive effect, but found that this question did not require answering in the present case because the application was in any event inadmissible on other grounds. It pointed out that the applicant had already been granted reception and a residence permit in Italy. Unlike the applicants in *Tarakhel v. Switzerland* (92917/12, 4 November 2014), who were a family with six minor children, the applicant was an able young man with no dependants. In addition, the current situation in Italy could in no way be compared to that in Greece at the time of the judgment in the case of *M.S.S. v. Belgium and Greece* (30696/09, 21 January 2011). The structure and overall situation of reception arrangements in Italy could not in themselves act as a bar to all removals of asylum seekers to that country. Nor was there any indication that he would not be able to benefit from the resources available in Italy for asylum seekers or that, if difficulties arose, the Italian authorities would not respond in an appropriate manner.
Taking all these considerations into account, the Court concluded that the applicant had not convincingly established that, were he to be transferred to Italy, he would be exposed to circumstances that would constitute a violation of article 3 of the Convention. It declared this part of the application inadmissible on the grounds that it was manifestly ill-founded.

[2] In 2015 there were no *judgments* of the Court in cases involving the Netherlands. The *decisions* summarised here are in chronological order. Of the large number of decisions in which the Court determined that the application was inadmissible or should be struck out of the list, no summary is provided of those decisions which were disposed of with a standard substantiation. For the full list of decisions please see Annexe I.

With regard to the complaint under article 8 of the Convention, the Court found no indication that the applicant had raised this complaint before the domestic authorities and declared this part of the application likewise inadmissible.

O. (24716/14, 3 February 2015)
The applicant, a Sudanese national, applied for asylum in the Netherlands. After his application had been denied, he complained to the Court that there were substantial grounds for believing that he would be subjected to treatment in breach of article 3 of the Convention if he were expelled to Sudan. On 3 November 2014 the Government informed the Court that the applicant had been granted a temporary asylum residence permit.
The Court concluded that since the applicant had been granted a residence permit, the matter had been resolved. Furthermore, in view of his representative's failure to reply to letters from the Court, the applicant could be regarded as no longer wishing to pursue his application. The application was struck out of the list.

J.N. (10260/13, 17 February 2015)
The applicant, who stated that he came from the province of South Kivu in the Democratic Republic of Congo (DRC), made a number of applications for asylum in the Netherlands. These applications were denied. He complained to the Court that there were substantial grounds for believing that he would be subjected to treatment prohibited by article 3 of the Convention if he were expelled to Kinshasa (DRC), because he would be held responsible for the violence in the eastern part of the DRC on account of his ethnic origins.
The Court indicated an interim measure under Rule 39 of the Rules of Court, asking the Government not to remove the applicant to the DRC for the duration of the proceedings before it. It subsequently emerged that the applicant had entered the Schengen area with a Rwandan passport and a Belgian tourist visa. A language analysis performed by the Dutch authorities revealed that the applicant did not originate from the DRC and probably belonged to the linguistic community in Rwanda. The Government argued that the application should be declared inadmissible as an abuse of the right of application since the applicant had supplied false information. Although the Court concluded that there were serious doubts concerning the applicant's identity, nationality and reasons for seeking asylum, it did not consider it sufficiently established that he had deliberately sought to mislead the authorities. It therefore rejected the Government's objection. With regard to the grounds for the application, the Court held that the Government could expect an asylum seeker to relocate to another part of his country of origin to avoid persecution. However, certain guarantees have to be in place: the person concerned must be able to travel to the area in question, gain admittance and settle there. The Court stated that it was aware of the reports of regular human rights violations in the DRC, including discrimination on grounds of ethnicity. However, it held that the applicant had not demonstrated that everyone in the DRC, including Kinshasa but excluding the eastern part of the country, faced a real risk of treatment incompatible with article 3 of the Convention. It had therefore not been established that on being expelled to the DRC, the applicant would be exposed to a real risk of falling victim to a violation of article 3. The Court therefore declared the application inadmissible on the grounds that it was manifestly ill-founded.

Constancia (73560/12, 3 March 2015)
On 1 December 2006 the applicant stabbed to death an eight-year-old boy at a primary school. In the ensuing criminal proceedings he refused to cooperate in any examination of his mental state, so that no diagnosis of his mental health was possible. Despite the absence of a psychological report with clear conclusions, Breda District Court and subsequently Arnhem Court of Appeal found there was sufficient evidence to indicate he was suffering from a mental disorder at the time he committed the offence. He was sentenced to a term of imprisonment and a TBS order confining him to a custodial clinic was imposed. The Supreme Court upheld this ruling in cassation proceedings. The applicant complained to the Court that there had been a violation of article 5 of the Convention (right to liberty) because he had been subjected to a TBS order without an exact diagnosis of his mental state.
The Court recalled that it is permissible to deprive a person who is of unsound mind of his/her liberty if certain minimum conditions have been fulfilled, including the following. First, a true mental disorder must be established on the basis of objective medical expertise; second, it must be of a kind or degree warranting compulsory confinement. The Court added that the national authorities had a certain margin of appreciation in assessing the evidence in an individual case. In the case at issue, the Court noted that the appeal court based its decision on various reports including one based on the criminal file and the audio and audio-visual recordings of interviews with the applicant that was commissioned while the proceedings were pending. Although the experts consulted were unable to establish a precise diagnosis, they did express the view that the

applicant was severely disturbed. The appeal court shared this view on the basis of its own investigation of the case file and the applicant's confused statements. The Court accepted that, faced as it was with the applicant's complete refusal to cooperate in any examination of his mental state, the appeal court was entitled to conclude from the information thus obtained that he was suffering from a genuine mental disorder which, whatever its precise nature might be, was of a kind or degree warranting compulsory confinement. The Court declared the application inadmissible on the grounds that it was manifestly ill-founded.

A.N. and L.K. (29043/14, 17 March 2015)
The applicants, who originate from the Republic of Ingushetia in Russia, applied for asylum in the Netherlands. Their applications were denied. They subsequently applied to the Court claiming that their expulsion to Russia would constitute a violation of article 3 of the Convention.
The Court indicated an interim measure under Rule 39 of the Rules of Court, asking the Government not to remove the applicants to Russia for the duration of the proceedings before it. Since the applicants were then granted asylum, the Court considered that the matter had been resolved within the meaning of article 37, paragraph 1 (b) of the Convention. In addition, there were no special circumstances which would require further examination of the case. The Court therefore lifted the interim measure under Rule 39 and struck the application out of the list.

Adorisio and others (47315/13), Brigade Distressed Value Master Fund Ltd and others (48490/13), EBL Holding (49000/13) and Integrale Gemeenschappelijke Verzekeringskas (49016/13, 17 March 2015)
The applicants are former shareholders or holders of subordinated bonds issued by *SNS Reaal N.V.* and *SNS Bank N.V.*, whose shares and subordinate bonds were expropriated when the bank, which was in serious difficulties, was nationalised on 1 February 2013. The Minister of Finance set compensation at zero because if they had not been nationalised, *SNS Reaal* and *SNS Bank* would have gone bankrupt or have gone into liquidation, as a result of which the shares and bonds would have been worthless. The applicants subsequently lodged an appeal with the Administrative Jurisdiction Division of the Council of State, which on 25 February 2013 ruled that the expropriation was lawful and that the procedure did not constitute a violation of article 6 of the Convention. The applicants had also instituted proceedings before the Enterprise Division of Amsterdam Court of Appeal contesting the Minister's decision to set compensation at zero. The compensation proceedings before the Enterprise Division were still ongoing at the time of the proceedings before the Court. The applicants asserted that the proceedings before the Administrative Jurisdiction Division constituted a violation of article 6, paragraph 1 of the Convention. More specifically, they complained that the ten-day period for lodging an appeal against the expropriation was too short; they had insufficient time to prepare their case, partly because the Minister of Finance's statement of defence only became available shortly before the hearing and crucial reports were made available to the Minister but not to the applicants.
As noted in the 2014 report, in its decision of 14 January of that year the Court found some of the complaints to be manifestly ill-founded and therefore inadmissible. With respect to the complaint regarding the alleged violation of the right to a fair trial in the appeal proceedings before the Administrative Jurisdiction Division, the Court asked the Government to provide missing information and to submit observations.
The Court held that the requirements of article 6 of the Convention are not necessarily the same for the determination of civil rights and obligations as for criminal matters. The contracting states have greater latitude when dealing with non-criminal cases. Nevertheless, principles deriving from the Court's case law, such as equality of arms, apply to both types of proceedings. The principle of equality of arms means that each party must be afforded a reasonable opportunity to present their case – including evidence – under conditions which do not place them at a substantial disadvantage vis-à-vis their opponent. In addition, both parties are entitled under article 6, paragraph 1 of the Convention to have knowledge of and comment on all evidence adduced or observations filed with a view to influencing the court's decision. The Court took into account the fact that in the current case, the Government felt compelled to intervene in view of the urgent need to prevent damage to the national economy. It took the view that the ten-day time limit for lodging an appeal did not constitute a violation of the right to access to a court. It acknowledged that the applicants had had little time to study the Minister of Finance's statement of defence before the hearing; however, they had not claimed that it contained any statements of fact of which they were as yet unaware, or arguments which they were unable to counter for lack of preparation time. Nor did the fact that the reports were not made available to the applicants in their entirety constitute a violation of article 6. The Court held that the Administrative Jurisdiction Division, sitting in a different composition, had adequately examined the need to withhold parts of the reports and that at least one of the reports was also submitted to the European Commission, which expressed no doubts. The Court emphasised that in the very exceptional circumstances of

the case the undoubted disadvantage at which the applicants found themselves was adequately counterbalanced by the Administrative Jurisdiction's examination of the full report. The Court declared the applications inadmissible on the grounds that they were manifestly unfounded.

M.W. (46938/10, 17 March 2015)
The applicant, an Afghan national, submitted two asylum applications in the Netherlands. The first was denied on the basis of article 1F of the Refugee Convention. An exclusion order was also imposed on him. He claimed before the Court that removal to Afghanistan would be in breach of article 3 of the Convention (prohibition of torture).
After the Government had informed the applicant that his removal to Afghanistan had been scheduled, he requested an interim measure under Rule 39 of the Rules of Court to postpone his removal for the duration of the proceedings. The Court rejected his request and asked the applicant whether in these circumstances he wished to maintain his application. The applicant failed to respond to this enquiry and to a reminder. In this light, the Court held that the applicant might be regarded as no longer wishing to pursue his application, within the meaning of article 37, paragraph 1 (a) of the Convention. It also concluded there were no special circumstances which required the continued examination of the case. It therefore struck the application out of the list.

H.N. (20651/11, 31 March 2015)
The applicant, an Afghan national, applied for asylum in the Netherlands in 2011. Her application was denied. She then lodged an application with the Court under article 3 (prohibition of torture) and article 13 (right to an effective remedy) of the Convention. The Court indicated that it would not be desirable for the applicant to be expelled during the proceedings before the Court (Rule 39 of the Rules of Court).
On 3 February 2015 the applicant informed the Court that she had been granted a temporary residence permit as a family member of an EU citizen. She also expressed the wish to maintain her application to the Court in view of the fact that had she been granted a temporary asylum residence permit in 2011, she would have been eligible for a permanent residence permit in 2016. She further submitted that the legal aid which she had been granted under the Dutch legal aid scheme had been insufficient to cover the legal costs and expenses of proceedings before the Court. She therefore claimed €2,800 in compensation.
The Court held that the mere fact that the applicant would not be eligible for a permanent residence permit in 2016 was not capable of raising an issue under article 3, since that article cannot be construed as guaranteeing the right to a residence permit. More specifically, the Court noted that there was at present no risk for the applicant of expulsion or of treatment contrary to article 3. It also concluded that the complaint under article 13 of the Convention required no further examination. It therefore decided that it was no longer justified to continue the examination of the application within the meaning of article 37, paragraph 1 (c) of the Convention and struck the case out of the list. Finally, it concluded that an applicant is entitled to the reimbursement of costs and expenses only if it has been shown that these have been actually and necessarily incurred. In the absence of any supporting documents submitted by the applicant, the Court dismissed her claim.

Schreurs (73058/13, 14 April 2015)
The applicant was acquitted of money laundering by 's-Hertogenbosch Court of Appeal on 26 February 2013. The appeal court ruled that his activities could be described as fraud, but the applicant could no longer be convicted of that offence. The applicant then applied to the appeal court for compensation for the damage he had suffered as a result of being held in pre-trial detention. This application was denied by decision of 28 June 2013, referring to the grounds for the ruling of 26 February 2013. The applicant subsequently lodged an application under article 6, paragraph 2 of the Convention (presumption of innocence), claiming that the offences of which he had been acquitted had played a role in the refusal to grant him compensation.
The Court concluded that the passage which the applicant claimed to be a violation of the presumption of innocence was contained in the judgment of 26 February 2013. The decision of 28 June 2013 merely quoted the passage verbatim. Since the applicant had not applied to the Court until 18 November 2013, and therefore not within six months of the judgment of 26 February 2013, the Court declared his application inadmissible under article 35, paragraphs 1 and 4 of the Convention.

Basarat (43108/12, 21 April 2015)
The applicant complained to the Court under article 6 of the Convention that he had been convicted on the basis of the evidence of a witness he had not been able to question. Since the applicant and the Government had in the meantime reached a friendly settlement, the Court struck the application out of the list in accordance with article 39 of the Convention.

Chylinski and others (38044/12, 21 April 2015)
The three applicants, one a Polish national, the other two Hungarian nationals, were provisionally arrested at different times and for different offences in connection with a request for their surrender to Poland and Hungary respectively. They were then placed in detention. They applied to the district court arguing that the extension of the detention was unlawful in light of article 23 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between European Union Member States. Their counsel asked the court to make a reference for a preliminary ruling to the Court of Justice of the European Union on the matter. Their request was denied both by the district court and on appeal. The applicants complained before the Court, *inter alia*, that the refusal to make a reference for a preliminary ruling was in breach of article 5, paragraph 4 of the Convention (right to have the lawfulness of detention decided by a court).
The Court held that there had been sufficient opportunities under national law to question the lawfulness of the applicants' detention. Furthermore, it would have been impossible for the Court of Justice to make a preliminary ruling before the domestic courts had to decide on the matter. This means that a preliminary ruling could have provided no guidance to the appeal court in deciding on the lawfulness of the applicants' continued detention. The Court declared the complaints manifestly ill-founded and the applications inadmissible pursuant to article 35, paragraphs 3 (a) and 4 of the Convention.

Kasangaki (44696/13, 21 April 2015)
The applicant, a Ugandan national, submitted an asylum application which was denied. The district court upheld this return decision. The applicant appealed against the district court ruling to the Administrative Jurisdiction Division of the Council of State, citing in particular irregularities with regard to the composition of the single-judge chamber: the judge who delivered the ruling was not the judge who had presided over the hearing. The Administrative Jurisdiction Division allowed the appeal on that specific ground, overturned the decision of the district court and referred the case back to the district court. During this procedure the applicant was placed in aliens' detention, which he challenged on several occasions. Five days after the Administrative Jurisdiction Division delivered its ruling, the applicant was released on the basis of a decision given by the State Secretary for Security and Justice. The applicant claimed that violations of article 5, paragraph 1 of the Convention had taken place in that his detention had become retrospectively unlawful as a result of the Administrative Jurisdiction Division's judgment, and because he was not released immediately but kept in detention for a further five days. Under article 5, paragraphs 4 and 5 of the Convention, he claimed that it had not been possible for him to seek effective judicial review of the lawfulness of his detention within a reasonable time nor had he received any compensation.
The Court held that detention is in principle lawful if it is based on a court order. Unless there is a 'gross and obvious irregularity' in the order, any flaws can be remedied through appeal to the domestic courts. The Court noted that the Administrative Jurisdiction Division had overturned the district court's judgment solely on the formal ground that it had been given in an unlawful composition. It could not therefore find it established that the return decision had also been quashed. For this reason, his detention was not by definition unlawful, nor was it tainted by an irremediable irregularity on any other grounds. This part of the application was therefore manifestly ill-founded. With regard to the complaint under article 5, paragraph 4 of the Convention, the Court held that the applicant had had access to a procedure by which the lawfulness of his detention could be determined speedily by a court, so that this complaint too was manifestly ill-founded.
The Court determined with respect to the complaint under article 5, paragraph 5 of the Convention that this too was manifestly ill-founded in light of the conclusion that his detention was not unlawful. The Court declared the application inadmissible in its entirety.

OvRAN and others (51016/11, 21 April 2015)
The applicants in this case were the Association of Chartered Advisers Netherlands (OvRAN) and four accountants/consultants with Dutch nationality. Under Dutch law, individuals holding the Dutch professional accountancy titles *registeraccountant* and *accountant-administratieconsulent* may only use these titles if they are members of what used to be the professional bodies for these professions – NIvRA and NOvAA respectively. Unhappy with developments within these professional bodies, the applicants set up their own organisation, OvRAN, intended to be an alternative to NIvRA. In civil proceedings the court decided that members of OvRAN who were not also members of NIvRA or NOvAA were not permitted to use the title 'accountant' or to perform statutory audits. The applicants provided no details of these proceedings.
The applicants complained under article 11 of the Convention (freedom of association), article 1 of Protocol No. 1 (protection of property) and in conjunction with these two articles, under article 14 of the Convention (prohibition of discrimination). They argued that they had been compelled to become members of NIvRA or NOvAA, that refusing to become members would result in them being deprived of their professional titles and that membership was not compulsory for foreign accountants licensed to perform audits in the Netherlands.
The Court had first to decide whether domestic remedies had been exhausted. It held that the applicants had sought to effect a change in the law through administrative proceedings. However, article 13 does not go so far as to guarantee a remedy allowing national laws to be challenged as being contrary to the Convention. The applicants had thus chosen an ineffective remedy. They had not provided the Court with any detailed information on the civil or other proceedings. Consequently, the Court declared the application inadmissible under article 35, paragraphs 1 and 4 of the Convention for failure to exhaust domestic remedies.

K.O.J. (7149/12, 2 June 2015)
The applicant, a Somali national, arrived in the Netherlands with her daughter in March 2011, having travelled through other countries including Italy, and applied for asylum. The authorities refused her application because on the basis of the EU Dublin Regulation, Italy was responsible for processing her application. The applicant argued before the Court that her transfer to Italy would expose her to the risk of treatment in breach of article 3 of the Convention.
In March 2015 the applicant was nevertheless granted an asylum residence permit and withdrew her application. The Court struck the application out of the list.

Q.A. (23816/08, 2 June 2015)
The applicant was sentenced by the district court to a term of seven months in a young offender institution for participation in gang rape. The district court also ordered the enforcement of a previous suspended sentence of 31 days for theft. The applicant lodged an appeal and then appeal in cassation against the judgment. In the cassation proceedings the Supreme Court reduced the sentence for gang rape to six months and a week because the reasonable time requirement (article 6 of the Convention) had been exceeded. At that point the applicant had already spent seven months in pre-trial detention and he was therefore released. He was subsequently summoned to serve the suspended sentence for theft. Since he had now reached the age of majority, this sentence was transposed into 23 days in an adult institution. The applicant lodged an objection to this decision, *inter alia* with the attorney general responsible for this policy area, arguing that the enforcement of the 23-day term of detention should be set off against the 23 days over and above his sentence that he had already spent in pre-trial detention in the gang rape case.
After the applicant and the Government reached a friendly settlement, the Court struck the application out of the list.

E.T. (46563/14, 16 June 2015)
The applicant, who comes from North Sudan and belongs to the Nuba population, claimed that there were substantial grounds for believing that his expulsion to Sudan would be in breach of article 3 of the Convention. He further complained under article 13 of the Convention of not having had an effective remedy for his complaint under article 3.
The applicant was granted a temporary asylum residence permit during the proceedings before the Court, which therefore struck the application out of the list.

Othymia Investments BV (75292/10, 16 June 2015)
In this case the tax authorities exchanged information pertaining to the applicant, a limited liability company, with the Spanish authorities. The applicant was subsequently informed of this exchange, which took place pursuant to Council Directive 77/799/EEC of concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation. The Directive obliges the competent authorities to exchange any information that may enable them to effect a correct assessment of taxes on income and on capital, provided the conditions stated in the Directive are complied with. In the Netherlands the Directive was implemented in the International Assistance (Levying of Taxes) Act (WIB). The basic principle is that the company in question be informed in advance of the exchange of information. In the present case, the applicant was notified afterwards pursuant to section 5, subsection 5 of the WIB because it was suspected of international tax fraud. The applicant company complained before the Court of a violation of article 13 of the Convention, partly because it had not had access to a procedure capable of preventing the disclosure before it took place.
The Court held that in order to examine the complaint under article 13 it must first establish whether the applicant had an 'arguable claim' that it was the victim of a violation of article 8 of the Convention. On the basis of the interpretation of the Directive in question by the Court of Justice of the European Union, the Court concluded that this was not the case, since the investigation and provision of information to the Spanish tax authorities without first notifying the applicant was in accordance with the law, served a legitimate aim and was necessary in a democratic society. It ruled further that the complaint that the Administrative Jurisdiction Division of the Council of State had limited the possibility of awarding compensation to pecuniary damage only had no basis in fact. What is more, the applicant company had the benefit of *ex post facto* review at two instances before administrative tribunals meeting the requirements of article 6 of the Convention. The Court concluded that the complaints under article 13 of the Convention were manifestly ill-founded and declared the application inadmissible.

Van Weerelt (784/14, 16 June 2015)
According to the Dutch Tax Administration, the applicant, a Dutch national, was the beneficiary of assets held in a bank account in Switzerland administered by a Liechtenstein foundation. The applicant failed to provide any relevant information despite repeated requests from the Tax Administration. Following various tax procedures, a punitive fine was imposed. In addition to tax proceedings, civil proceedings were initiated against the applicant in attempt to obtain relevant information about the foundation.
The applicant argued that in the civil proceedings he was compelled to cooperate actively in gathering evidence that could be used against him in the tax proceedings. Alternatively, he claimed that national law had no safeguards in place to limit such use of tax information in criminal cases. In his view, this constituted a violation of the *nemo tenetur* principle (the right not to incriminate oneself) enshrined in article 6 of the Convention.
The Court held that the Tax Administration was entitled to ask the applicant to supply information that could not be obtained from any other source, for the purpose of levying taxes and interest. In addition, it noted that the Supreme Court had acted pre-emptively to prevent the misuse of this information for the purpose of determining a criminal charge against the applicant. In any case, no criminal charge had yet been laid against the applicant, nor could it be assumed at this point that the requirements of article 6 would not be met in any future proceedings in this matter. With regard to the alternative complaint, the Court observed that the Supreme Court had handed down a ruling providing a statutory safeguard for the *nemo tenetur* principle. Given the place occupied by the Convention in domestic law, there were thus sufficient safeguards to guarantee the applicant's rights under the Convention. The Court concluded that the application was manifestly ill-founded and declared it inadmissible.

A.A.Q. (42331/05, 30 June 2015)
The applicant, an Afghan national, submitted an asylum application in the Netherlands which was denied on the basis of article 1F of the Refugee Convention. His wife and eight children were granted residence permits at different times. Having exhausted all legal remedies in the Netherlands, the applicant travelled to Germany to apply for asylum there. This application was still pending and the applicant had been granted a temporary residence permit for the duration of procedures. The applicant complained to the Court that he would be exposed to a real risk of treatment incompatible with articles 2 and 3 of the Convention if he was expelled to Afghanistan, due to his high-ranking position in the Afghan army under the rule of the People's Democratic Party of Afghanistan. In addition, he asserted under article 8 of the Convention that the Dutch authorities' refusal to grant him a residence permit violated his right to family life with his wife and children who could not be expected to return to Afghanistan, because they feared persecution and

because they had become rooted in Dutch society. Thirdly, he argued under article 13 that he had not had an effective remedy for his complaints under articles 3 and 8 of the Convention.
With regard to the complaints under article 2 and 3 of the Convention the Court noted that since the applicant had been granted a temporary residence permit pending asylum procedures in Germany, he was currently not at risk of being removed to Afghanistan.
Therefore, he could not be regarded as a victim under article 34 of the Convention. Accordingly, this part of the application was incompatible *ratione personae* with the provisions of the Convention (article 35, paragraphs 3 and 4) and should be declared inadmissible.
With regard to the complaint under article 8, the Court established that the existence of family life between the applicant and his wife was not in dispute. With respect to his children, who are all adults, the Court observed that relationships between adult relatives do not necessarily attract the protection of article 8 if there are no other elements of dependence beyond the normal emotional ties. It concluded that such dependence had not been established, as a result of which the applicant's relationship with his children fell outside the scope of article 8. The Court further held that the State had struck a fair balance between the applicant's right to family life with his wife and the public interest. The seriousness of the crimes referred to in article 1F weighed very heavily in striking that balance. In this context, the Court took into account the possibility of excluding persons falling under article 1F from the right to family unity provided for in the UNHCR guidelines. The State was also entitled to take account of the implausibility of the applicant's wife being unaware of the facts held against the applicant in the framework of article 1F. The Court held that it was not necessary to examine whether the applicant could exercise his right to family life with his wife in Afghanistan as he did not, for the time being, risk removal to Afghanistan. Furthermore, under the Schengen Borders Code, his wife was allowed to stay in Germany for a maximum period of ninety days every six months and had availed herself of this possibility. Finally, to establish whether a violation of article 13 had occurred, the Court had to examine whether there was an arguable claim. The Court concluded that this was not the case, and even if it had been, the applicant was able to have the negative decisions on his asylum application and his application for a family-life-based residence permit reviewed by the district court and subsequently by the Administrative Jurisdiction Division. In these proceedings, the applicant was given ample opportunity to state his case, to challenge the submissions by the adversary party and to submit relevant information.
The Court further noted that the applicant's arguments under the Convention were considered in the proceedings at issue. The Court concluded that this part of the complaint was manifestly ill-founded and declared the application inadmissible.

S.S. (67743/14, 1 September 2015)
The applicant, an Iranian national, applied for asylum in the Netherlands. His application was denied. He claimed that he had left Iran illegally and had no valid travel documents because he attracted unwelcome attention from the Iranian authorities. He complained to the Court that his removal to Iran would expose him to a real risk of being subjected to treatment proscribed by article 3 of the Convention.
The Court considered the Government's argument that removal to Iran at that point would only be possible if the applicant had valid travel documents and that the Iranian embassy only issued travel documents to Iranian nationals who confirmed that they wanted to return to Iran voluntarily. The Court then noted that as long as the applicant had no travel documents the Dutch authorities would make no preparations to remove him to Iran. Furthermore, the Court stated that the applicant's cooperation was an indispensable condition (*conditio sine qua non*) for acquiring such documents and he had refused to comply. It lastly noted that should any practical steps aimed at the applicant's removal be taken in the future, it would be possible for the applicant to challenge them. Finally, in accordance with article 37, paragraph 1 (c) of the Convention, the Court held that it was no longer justified to continue the examination of the application and struck the case out of the list.

D.T. v. the Netherlands and Georgia (28199/12, 15 September 2015)
The applicant, a Georgian national, applied for asylum in the Netherlands in 2007. In his application he claimed to have worked as a military-trained senior border guard on the border between Georgia and Azerbaijan. His work focused on combating drug trafficking in what is known as the neutral zone. He was on several occasions ordered by his superior to escort a suspected Azeri drug smuggler over the border. He initially refused, but eventually complied as his mother was being held hostage. During an incident on Georgian territory the drug smuggler was shot in the applicant's car with the applicant's service weapon by someone from the Special Operations Department (SOD). The applicant stated that he fled because the SOD and the Azeri drugs mafia were looking for him. His asylum application was denied on the basis of a person-specific country report drawn up by the Minister of Foreign Affairs. This report revealed that according to several

sources, the applicant was not wanted by the SOD and was not suspected of having committed criminal offences. His application was also denied on the grounds that he could have sought assistance from the Georgian authorities if he had reason to fear corrupt public officials or the Azeri drugs mafia.
The Court held, firstly, that the national authorities were best placed to assess the credibility of the facts in a case. The information from the person-specific country report – to the effect that the applicant was dismissed in connection with a reorganisation – matches information from the country report of 15 December 2009, which revealed that corruption was one of the major reasons for a radical restructuring of the Georgian police force. The Court concluded that there were no indications that since his departure from Georgia, the applicant had been the object of negative attention from the Georgian authorities or individuals involved in the shooting incident. Consequently, it had not been established that if expelled to Georgia, the applicant would face a real risk of being subjected to treatment in breach of article 3 of the Convention. The Court declared this part of the application manifestly ill-founded. It also concluded that article 13 of the Convention was not applicable in this case because there was no arguable claim under article 3. The complaint under this article was therefore also manifestly ill-founded and the Court declared the application inadmissible.

E.M. (32452/14, 3 November 2015)
The applicant, an Angolan national, complained to the Court that her transfer to Italy under the EU Dublin Regulation would be in violation of article 3 of the Convention (prohibition of torture and inhuman treatment). Furthermore, the Netherlands' refusal to process her asylum application was in breach of article 8 of the Convention (right to family life) because her transfer to Italy would separate her from her newborn child, who had Dutch nationality.
The Court asked the Government, on the basis of Rule 39 of the Rules of Court, not to transfer the applicant to Italy for the duration of the proceedings before it. The Netherlands subsequently withdrew the decision that Italy was responsible for processing the asylum application and stated that it accepted responsibility for processing. The applicant wished to pursue her complaint because she took the view that the fact that the Netherlands had agreed to process her asylum application did not guarantee that her rights under article 8 would be respected.
The Court held that as a result of the Netherlands' decision to process the asylum application, there was no longer any risk of the applicant being transferred to Italy. There was therefore no reason to continue the examination of the complaint under article 3 and it struck this part of the application out of list. Since no definitive decision had been given on the asylum application and there was no evidence that the applicant had applied for a regular residence permit, the Court concluded that the complaint under article 8 of the Convention was premature and rejected it as inadmissible.

J.A. and others (21459/14, 3 November 2015)
The applicants, a mother and her two daughters (one a minor), all Iranian nationals, complained to the Court that their removal to Italy under the EU Dublin Regulation would expose them to a real risk of treatment incompatible with article 3 of the Convention (prohibition of torture and inhuman treatment). The mother also claimed that due to her state of health, she was dependent on the care of her sister, who lives in the Netherlands.
The Court asked the Government, on the basis of Rule 39 of the Rules of Court, not to transfer the applicants to Italy for the duration of the proceedings before it. The Netherlands informed the Court that following the *Tarakhel* judgment (*Tarakhel v. Switzerland*, 29217/12, 4 November 2014), it would not transfer the applicants to Italy without guarantees from the Italian authorities that the family would remain together in accommodation suited to the age of the children. The Court then lifted the interim measure under Rule 39.
The Court held that the case involved a single mother with one adult and one minor daughter who therefore belonged to the group requiring special protection. It reiterated that the current situation in Italy for asylum-seekers could in no way be compared to the situation in Greece at the time of the *M.S.S. v. Belgium and Greece* judgment (30696/09, 21 January 2011). The Italian Government had been informed about the applicants' scheduled arrival and the medical situation of one of them. Furthermore, the first applicant would be escorted in order to avert the risk of suicide. The applicants would be placed in one of the 161 reception facilities in Italy which have been earmarked for families with minor children. The Court held that the applicants had not demonstrated that their transfer would have serious consequences within the meaning of article 3 of the Convention. Nor had it been established that they would not be entitled to appropriate medical care in Italy. For these reasons, the Court declared the application inadmissible on the grounds that it was manifestly ill-founded.

A.T.H. (54000/11, 17 November 2015)
The applicant, who was born in Ethiopia, claimed to be an Eritrean national since both her parents were nationals of that country. In 2007, she applied for asylum in Italy under a different name. She was granted a residence permit valid until 2012. She further alleged that having been granted a residence permit, she was no longer eligible for food or medical assistance, and was forced to live on the streets. In 2009, the applicant left Italy and travelled to the Netherlands. She was pregnant at the time and was subsequently diagnosed as being HIV positive. She applied for asylum in the Netherlands. Her application was denied pursuant to the EU Dublin Regulation. The applicant complained under article 2 (right to life) and article 3 (prohibition of torture and inhuman treatment) of the Convention that her transfer to Italy under the terms of the Dublin Regulation would expose her to a real risk of death due to the very poor living conditions in Italy.
The Court asked the Government, on the basis of Rule 39 of the Rules of Court, not to transfer the applicant to Italy for the duration of the proceedings before it. After the Government had informed the Court, at the Court's request, about the practical consequences of the *Tarakhel* judgment (*Tarakhel v. Switzerland*, 29217/12, 4 November 2014), the Court lifted the interim measure under Rule 39.
The Court observed that the applicant was to be regarded as seeking asylum in Italy as the validity of her Italian residence permit had expired. Referring to its considerations in the *Tarakhel* judgment, the Court also took into account the fact that the applicant's health and her situation as a single mother meant that she belonged to a vulnerable group requiring special protection. It reiterated that the current situation in Italy for asylum seekers could in no way be compared to the situation in Greece at the time of the *M.S.S. v. Belgium and Greece* judgment (30696/09, 21 January 2011). The Court noted that the Italian authorities had been duly informed by the Dutch authorities that the applicant was an HIV-positive single mother with a minor child. In Italy, they would be assigned to one of the 161 reception facilities which have been earmarked for families with minor children. The Court ruled that the applicant had not demonstrated that if she and her child were transferred to Italy, they would face the risk of hardship severe enough to fall within the scope of article 3. It saw no grounds for assuming that the applicant would not have access to the facilities available in Italy for a single mother seeking asylum. It also pointed out that she could submit a fresh application to the Court should the need arise. The Court therefore declared the application inadmissible on the grounds that it was manifestly ill-founded.

F.J., A.J. and R.P. (37504/12 and 78146/12, 17 November 2015)
The applicants, all Iranian nationals, applied for asylum in the Netherlands in June 2011 and February 2009 respectively. These applications, and R.P.'s second application, were denied. The applicants complained that their removal to Iran would constitute a breach of article 3 of the Convention (prohibition of torture and inhuman treatment). R.P. also alleged that his removal to Iran would be in breach of article 2 of the Convention (right to life) and that the Iranian authorities would not respect the rights enshrined in articles 5, 6, 8, 9 and 10 of the Convention. Lastly, R.P. complained that the appeal proceedings before the Administrative Jurisdiction Division of the Council of State could not be regarded as constituting an effective remedy under article 13 of the Convention. The Government submitted that the removal of failed asylum seekers to Iran was only possible if they held a valid travel document; furthermore the Iranian mission only issued travel documents to Iranian nationals who had confirmed that they wished to return to Iran. Consequently, an attempt to obtain a travel document would only be successful if the applicants in question were willing to cooperate. The applicants had no valid travel documents and were not prepared to return to Iran voluntarily.
The Court noted that the Netherlands would not proceed to remove the applicants to Iran until the applicants had valid travel documents. However, their cooperation was an indispensable condition (*conditio sine qua non*) for obtaining a travel document from the Iranian mission. Lastly, it noted that, should any steps aimed at the applicants' removal to Iran nevertheless be taken in the future, the applicants could challenge such steps. In this light, there were no grounds for continuing the examination of the alleged violation of articles 2 and 3 of the Convention. The Court struck this part of the application out of the list. With regard to R.P.'s other complaints, the Court found there was no appearance of a violation of the provisions invoked; as a result, these complaints were manifestly ill-founded and therefore inadmissible.

Herman (35965/14, 17 November 2015)
The applicant was arrested on suspicion of robbery. He was remanded in police custody 8.5 hours after his arrest and 7.5 hours after he was brought before the public prosecutor. As a result, the statutory limit of 6 hours for remand for investigative purposes (article 61, Code of Criminal Procedure) was exceeded. The duty assistant public prosecutor stated in an official report that this had been a mistake. In the national proceedings, the investigating judge decided that procedural requirements had not been met, but that the remand in police custody had not been unlawful. The district court and appeal court ('s-Hertogenbosch) acknowledged that an irregularity had occurred. Because this did not result in any specific disadvantage to the applicant, it did not lead to a reduction in his sentence. The applicant then submitted an application to the Court, claiming a violation of article 5, paragraph 1 (c) of the Convention.
The parties failed to reach a friendly settlement. In a unilateral declaration, the Government recognised that the deprivation of liberty had been in breach of article 5, paragraph 1, opening words and (c) of the Convention and that no compensation had been paid, in breach of article 5, paragraph 5. It granted the applicant an amount in compensation.
The Court considered the declaration and the offer of compensation sufficient and struck the application out of the list under article 37, paragraph 1 (c) of the Convention.

L.N.T. (28686/14, 17 November 2015)
The applicant, an Eritrean national, complained to the Court that her transfer to Italy under the EU Dublin Regulation would be in violation of her rights under article 3 of the Convention (prohibition of torture and inhuman treatment). She also complained of violations of article 8 and 13 of the Convention.
The Court asked the Government, on the basis of Rule 39 of the Rules of Court, not to transfer the applicant to Italy for the duration of the proceedings before it. The Government then informed the Court that the applicant would be invited to submit a fresh asylum application which would be examined in the Netherlands and that the Italian authorities had been informed that she would not be transferred. The applicant subsequently withdrew her application to the Court, which struck the case out of the list under article 37, paragraph 1 (b) of the Convention and lifted the interim measure.

Nzapali (6107/07, 17 November 2015)
The applicant, a Congolese national, was until 1997 a high-ranking member of the military under the Mobutu regime in what was then Zaire. He applied for asylum in the Netherlands with his wife and one of his daughters in 1998. His son already had a residence permit and another daughter was born in the Netherlands in 2002. His asylum application was denied because there were compelling reasons for assuming that he had committed offences as referred to in article 1F of the Refugee Convention. However, he was not expelled as the Dutch authorities accepted that he would face a real risk of treatment proscribed by article 3 of the Convention if he returned. In 2004, the applicant was convicted by a Dutch court of acts of torture carried out in the Democratic Republic of Congo and sentenced to a term of imprisonment. He was then subjected to an exclusion order. He claimed to have been placed in an impossible situation: he had been subjected to an exclusion order, which meant he could not stay in the Netherlands, while article 3 of the Convention impeded his expulsion to his country of origin. Nor were there many opportunities for him to settle in another country outside the Netherlands. In 2008 he was granted a valid residence permit in Belgium. He complained to the Court that the exclusion order was in breach of article 3 of the Convention, because under the order he was committing a criminal offence by staying in the Netherlands but he was unable to travel to any other country. He also complained that the order was in breach of article 8 of the Convention because it forced him to go into hiding, thereby preventing him from seeing his family. Finally, he submitted under article 13 of the Convention that he had had no effective remedy against the imposition of the exclusion order.
With regard to the complaint under article 3 of the Convention, the Court held that imposing an exclusion order on someone who could not return to his/her country of origin did not in itself constitute a violation of article 3, even if it rendered him/her liable to criminal prosecution and conviction. However, an issue under article 3 could arise if several sets of criminal proceedings were brought against such a person and/or if, despite making reasonable efforts to find a third country prepared to admit him/her, that person continued to face the risk of an interminable series of prosecutions and criminal convictions and was helpless to prevent such a predicament. The Court noted that this was not at issue in the present case. It concluded that the complaint under article 3 was therefore manifestly ill-founded. With regard to the complaint under article 8, the Court concluded that the applicant had not exhausted domestic remedies and that on these grounds it should be rejected pursuant to article 35, paragraphs 1 and 4 of the Convention. Since no violation of the Convention had been established, the complaint under article 13 was also ill-founded. For these reasons, the Court declared the application inadmissible.

S.B. and M.R. (63999/13 and 60814/14, 17 November 2015)
The applicants, both Iranian nationals, submitted their first applications for asylum in the Netherlands in January 2012 and February 2011 respectively. These and subsequent applications were denied. The applicants complained that their removal to Iran would constitute a violation of article 3 of the Convention (prohibition of torture and inhuman treatment). They further complained under article 13 of the Convention that they did not have an effective remedy in respect of their complaints. S.B. also alleged a violation of article 13 in conjunction with article 9 (freedom of thought, conscience and religion) of the Convention.
The Court asked the Government, on the basis of Rule 39 of the Rules of Court, not to expel the applicants to Iran for the duration of the proceedings before it. The Government observed that the removal of failed asylum seekers to Iran was only possible if they had valid travel documents and that the Iranian embassy only issued travel documents to applicants who had confirmed that they wished to return to Iran voluntarily. The applicants had no travel documents and did not wish to return to Iran.
The Court then noted that as long as the applicants had no travel documents the Dutch authorities would make no preparations to remove them to Iran. Furthermore, the applicants' cooperation was an indispensable condition (*conditio sine qua non*) for acquiring such documents. It further noted that should any steps aimed at the applicants' removal be taken in the future, it would be possible for the applicants to challenge them. There was thus no justification for the Court to continue examining the complaint under article 3 of the Convention and it struck this part of the application out of the list. With regard to the other complaints, the Court found there was no appearance of a violation of the provisions invoked, declaring them manifestly ill-founded and therefore inadmissible.

Committee of Ministers

Judgments of the European Court of Human Rights[3]

Geerings (30810/03, 1 March 2007 (grounds) and 14 February 2008 (just satisfaction)
The Court held that there had been a violation of the presumption of innocence through the imposition of a confiscation order based on offences of which the applicant had been acquitted.
On 17 June 2013 the Government sent an Action Report to the Committee. The Committee's secretariat asked for clarification of the general measures regarding the practice of confiscation outlined in the Action Report. Further clarification was sent to the Committee on 14 April 2015.

Vidgen (29353/06, 10 July 2012)
The Court ruled that the applicant's right to a fair trial had been violated because he was convicted solely on the basis of statements made by a witness without having had the opportunity to question him (article 6, paragraphs 1 and 3 (d) of the Convention).
The applicant served his sentence and was released. On 4 June 2013 his application for a retrial was granted by 's-Hertogenbosch Court of Appeal. The appeal court decided that the investigating judge should hear two witnesses afresh, as well as the applicant, who now lives in Australia. These procedures had been initiated but would take time. In its Action Plan of
11 May 2015, the Government informed the Committee of Ministers that the criminal proceedings were expected to conclude at the end of 2015. However, at the end of 2015 they were still ongoing.

Jeunesse (12738/10, 3 October 2014, Grand Chamber)
The Court ruled that the Government had acted in violation of the applicant's right to family life under article 8 of the Convention and that the Netherlands had a positive obligation to grant her residence rights since the circumstances were exceptional. The Court held that the Government had taken insufficient account of the nationality of the applicant, the long period she had lived in the Netherlands, the children's best interests and the difficulties the family would encounter if they settled in the applicant's country of origin.
The applicant was granted a residence permit. The Government paid the compensation and costs awarded to her. On 1 April 2015 it sent an Action Report to the Committee, stating that it saw no grounds for amending immigration policy regarding family reunification. However, the Immigration and Naturalisation Service (IND) had been reminded of the importance of a thorough and transparent weighing of interests in every case, in which personal circumstances should be taken into account. To this end, the work instructions of the IND on the application of article 8 of the Convention had been modified. On 24 September 2015 the Committee ruled that this would prevent future violations and adopted a Final Resolution, thereby closing the case.

Jaloud (47708/08, 20 November 2014, Grand Chamber)
The Court ruled that the Netherlands had violated its procedural obligations under article 2 of the Convention (right to life) in that the investigation into a fatal shooting in Iraq in 2004 involving a Dutch soldier had been insufficiently effective. The Government paid the compensation and costs awarded to the applicant. On 20 May 2015 it informed the Committee of Ministers in an Action Plan on the way in which the Netherlands would further execute the judgment. The Government noted that due to the lapse of time and the fact that certain shortcomings in the investigation were irreparable, it would be impossible to perform a fresh investigation that would comply with the standards laid down by the Court in its judgment. What is more, the public prosecutor's view, expressed in 2004, that it was reasonable for the Dutch soldier to believe he was acting in self-defence was still tenable. Other than criminal prosecution, the Public Prosecution Service had no instruments at its disposal for having the events of 2004 examined by a criminal court. However, the applicant could submit a complaint under article 12 of the Code of Criminal Procedure to Arnhem-Leeuwarden Court of Appeal, which if it considered the complaint well founded, might then order that criminal proceedings be instituted.
Pending the Committee's hearing of the case, the secretariat asked the Government to expand on the issue of why the Public Prosecution Service had decided not to prosecute the Dutch soldier. It complied with this request in the form of a revised Action Plan submitted on 4 September 2015.The revised Plan discussed in some detail the considerations that led to the decision not to prosecute taken in 2004, as well as the considerations that arose from further investigative activities in 2007.

[3] Measures taken by the Government to execute Court judgments dating from before the reporting year which were transmitted to the Committee of Ministers in the framework of its responsibility to supervise the execution of judgments under article 46, paragraph 2 of the Convention.

Since the shortcomings in the investigation established by the Court had not undermined the 2004 decision of the public prosecutor, the Public Prosecution Service concluded that there were no grounds for regarding the soldier in question as a suspect and there was therefore no reason to prosecute him. With a view to executing the Court's judgment, the Public Prosecution Service sent an official report to the chair of the Board of Prosecutors General in August 2015.
This report was also submitted to the Committee of Ministers. The revised Action Plan further described how a complaint under article 12 of the Code of Criminal Procedure could be lodged with the Arnhem-Leeuwarden Court of Appeal.
In the framework of general measures to execute the judgment and at the request of the Dutch parliament, the system of military criminal law as it applied during operations by Dutch military personnel in high-risk areas between 2000 and 2005 was evaluated by independent experts. This case was included in the evaluation. The outcome was 21 recommendations in a report presented to parliament by the Borghouts Committee, which in turn led to a number of concrete measures being taken with regard to military operations. The Public Prosecution Service is also engaged in drafting a manual to safeguard the effectiveness of investigations in this type of situation. In addition further instructions are being developed for the Royal Military Constabulary on coordination and cooperation with local justice authorities and coalition partners in areas where military operations are underway.

Geisterfer (15911/08, 9 December 2014)
The Court found that there had been a violation of article 5, paragraph 1 (c) in conjunction with article 5, paragraph 3 of the Convention in this case because the applicant had been taken back into custody without sufficient substantiation of the claim that he was a serious threat to public order.
The Government paid the compensation and costs awarded to the applicant. On 4 September 2015 an Action Report was sent to the Committee, outlining the Government's view that the circumstances of the case were exceptional and therefore uncommon. This case involved long-term pre-trial detention and after his release, the applicant was taken back into custody. It is expected that steps to draw the Court's judgment to the attention of the general public and the judiciary would prevent future violations. The judgment had already been applied by Amsterdam Court of Appeal and has been incorporated into the assessment framework.

Reports of the European Committee of Social Rights[4]

Conference of European Churches (CEC) (90/2013, 1 July 2014)
The European Committee of Social Rights concluded in this case that article 13, paragraph 4 (right to social and medical assistance) and article 31, paragraph 2 (right to housing) of the European Social Charter (ESC) had been violated because the Netherlands excludes unlawfully residing aliens from access to food, clothing and shelter.
On 15 April 2015 the Committee of Ministers referred explicitly in its resolution to the limitation on the personal scope of the Charter, thereby confirming the Dutch position that persons residing illegally in the country do not fall under its scope. The Committee of Ministers recommended that the Netherlands report on any possible developments at national level regarding the reception of aliens. In accordance with article D of the revised European Social Charter in conjunction with article 10 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, the Government reported in October 2015 on the follow-up of this case to the European Committee of Social Rights in the framework of the annual national report on the Charter. The resolution of the Committee of Ministers brought the collective complaints procedure to an end.

European Federation of National Organisations working with the Homeless (FEANTSA) (86/2012, 2 July 2014)
In this case the European Committee of Social Rights concluded that articles 13 (right to social and medical assistance), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion) and 31 (right to housing) of the Charter had been violated because the Dutch Social Support Act provided insufficient guarantees that the facilities to which these rights refer were available in practice and of sufficient quality for anyone in need. With regard to articles 13 and 31, the ECSR concluded that these were equally applicable to homeless persons residing illegally in the Netherlands**.**
On 15 April 2015, the Committee of Ministers referred explicitly in its resolution to the limitation on the personal scope of the Charter, thereby confirming the Dutch position that persons residing illegally in the country do not fall under its scope. The Committee of Ministers recommended that the Netherlands report on any possible developments at national level regarding shelter for the homeless.
In accordance with article D of the revised European Social Charter in conjunction with article 10 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, the Government reported in October 2015 on the follow-up of this case to the European Committee of Social Rights in the framework of the annual national report on the Charter. The resolution of the Committee of Ministers brought the collective complaints procedure to an end.

[4] Resolutions adopted by the Council of Ministers under article D of the revised European Social Charter in conjunction with article 9 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints prompted by reports from the European Committee of Social Rights in the framework of the collective complaints procedure under the European Social Charter.

United Nations

Human Rights Committee

E.L.K. (2050/2011, 30 March 2015)
The author, an Angolan national, applied for asylum in the Netherlands in 2001. After procedures lasting for six years, the final negative decision was upheld on appeal. The author then asked the State Secretary to use his discretionary powers to grant him a temporary residence permit. The denial of this request was also upheld on appeal. The author subsequently applied to the European Court of Human Rights, which declared his application inadmissible since it had not been submitted within the prescribed time limit. The author then turned to the Human Rights Committee, complaining that partly due to the length of procedures he had developed personal and social ties in the Netherlands and that his expulsion by the State party would constitute a violation of his rights under article 17 of the International Covenant on Civil and Political Rights (ICCPR).
The Committee held that the author's explanations of his ties in the Netherlands remained general and that he had failed to explain why his removal to Angola would be a disproportionate measure in breach of article 17 ICCPR. Accordingly, the Committee concluded that the author had failed to sufficiently substantiate his complaint and declared the communication inadmissible.

Committee for the Elimination of Discrimination against Women

N. (39/2012, 17 February 2014)[5]

The author, a Mongolian national, applied for asylum in the Netherlands, claiming that in Mongolia she had been the victim of repeated physical abuse, including rape, at the hands of her former employer and the Mongolian authorities were neither willing nor able to offer her protection. Her asylum application was denied. She argued before the Committee that she had experienced gender-based violence that could be deemed to be discrimination. She further asserted that because the UN Women's Convention (CEDAW) applies to all women within the territories of the States parties, it also applies to third-country nationals applying for asylum in the Netherlands. She claimed that the Government had an obligation to protect women against discrimination in their countries of origin by granting them the right to remain in the Netherlands. She claimed that the Government had acted in violation of articles 2 (elimination of discrimination), 3 (ensuring the full development and advancement of women) and 6 (suppression of exploitation of women) of the UN Women's Convention.

The Committee dismissed the Government's argument that the author had not exhausted domestic remedies because in the national procedures she had not explicitly raised the issue of sex-based discrimination, merely a violation of the *non-refoulement* principle. It reiterated that the essence of the principle of *non-refoulement* is that the States parties do not return people to countries where they may be exposed to persecution, including gender-based persecution. The Committee further held that it was competent to examine the communication, even if the violence in question had taken place outside Dutch territory. With regard to the merits of the complaint, the Committee found that the author had not sufficiently substantiated the alleged violations of articles 3 and 6. Nor had she substantiated her claim that the Mongolian authorities could not protect her against her employer. Furthermore, she had failed to explain why her employer would still be a real threat to her, five years after the events in question, or to demonstrate that the Mongolian authorities had not protected her previously and would not be able to protect her if she returned. She had remained in Mongolia for six months after reporting her employer to the police and had failed, in that period, to check on the progress of her complaints with the police. Nor had she explained why she had not complained to the prosecuting authorities or the courts. The Committee saw no grounds for the view that the Mongolian authorities had acted in bad faith or had failed to react adequately to her complaints. It pointed out that Mongolia is also a State party to the UN Women's Convention and the Optional Protocol (right to petition) It also saw no grounds for the complaint that Mongolia lacked an effective legal system capable of prosecuting and sanctioning her employer. The Committee decided that the communication was inadmissible.

D.G. (52/2013, 23 July 2015)

The author, a Bulgarian national, arrived in the Netherlands in 2007. She first worked in a restaurant and subsequently as a sex worker, until a violent incident occurred. From April 2010 she was in contact with P&G292, a centre offering information, advice and support to sex workers in Amsterdam, and completed various procedures to obtain shelter and benefits under the Social Support Act. The author claimed that the State party had violated her rights under articles 2, 5, 11, 12 and 16 of the UN Women's Convention (CEDAW) owing to its failure to comply with its positive obligation to protect her as a vulnerable person and a victim of human trafficking. She considered that too many procedural requirements were imposed on her, while her status as a victim of human trafficking was not properly assessed. Both these factors prevented her from gaining access to social benefits and shelter.

The Committee observed that it had first to decide whether the communication was admissible before considering its merits. In this context it held that the author had not substantiated her claim to be the victim of gender-based violence. Although the violent incident had an element of gender-based violence, the author only sought contact with P&G292 in April 2010, rather than immediately after the incident. Nor had she ever lodged a complaint concerning the incident with the authorities or a non-governmental organisation, or invoked the incident as grounds for receiving shelter or social benefits. The Committee pointed out that she had never applied for a residence permit or complained to the authorities or assistance agencies that she had been the victim of a violent incident. The Committee concluded that the author had insufficiently substantiated her communication, and therefore declared it inadmissible under article 4, paragraph 2 (c) of the Optional Protocol.

[5] The Government was only notified of the Committee's views in 2015.

Committee Against Torture

F.B. (613/2014, 20 November 2015)
The complainant, a Guinean national, applied for asylum in the Netherlands. The grounds for her first and second asylum application were that if she returned, she would be forced to continue to live with her step-mother's brother, to whom she had been forcibly married. Her second application was also based on the claim that she would be forced to undergo further female genital mutilation (FGM). She underwent reconstructive genital surgery in the Netherlands. In her third asylum application she claimed she would be forced to undergo FGM once again if she returned. All three applications were denied. The complainant argued before the Committee that her forced return to Guinea would violate the principle of *non-refoulement* as referred to in article 3 of the Convention against Torture (CAT).
At the Committee's request, the complainant's return was postponed while the Committee considered her complaint.
In assessing the communication, the Committee took account of the fact that although FGM is banned in Guinea, it is still widespread, with a prevalence of approximately 95% in the total population of women and girls and 91% in the Peul ethnic group, to which the complainant belongs. The Government's claim that only 1.2% of women above the age of 19 are subjected to FGM can be explained by the fact that FGM is predominantly performed when girls are under the age of fourteen and unmarried. Consequently, the figure cited does not mean there is a reduced risk for unmarried women over 19 who are assumed not to have undergone FGM when they were younger. Though the Ministry of Foreign Affairs' person-specific report revealed that the complainant had supplied incorrect information about herself and her family situation, these inconsistencies did not undermine the reality of the prevalence of FGM in Guinea or the fact that victims of FGM in Guinea do not have access to an effective remedy and to appropriate protection by the authorities. The Committee concluded that the Government had taken insufficient account of what the complainant had already experienced in Guinea, her position as a single woman in Guinean society, the inability of the authorities there to offer her protection and her fears as to what would happen if she returned to Guinea.
In light of all these factors and the specific circumstances of the case, the Committee found there were substantial grounds for believing that the complainant would be at risk of torture if she returned to Guinea. Her removal to her country of origin would thus constitute a breach of article 3 of the Convention. It also took the view that the Government had an obligation to refrain from forcibly returning the complainant to Guinea or any other country where she would face a risk of being expelled to Guinea.

M.C. (569/2013, 30 November 2015)
The complainant, a Guinean national, applied for asylum in the Netherlands. The grounds for his application were that he was arrested by the military at the stadium in Conakry during the violent repression of a demonstration held there on 28 September 2009. He claims he was tortured by the Guinean authorities during his detention and as a result suffered from post-traumatic stress disorder (PTSD). He was able to escape and flee to the Netherlands. His asylum application was denied. He complained before the Committee that his forced return to Guinea would be a violation of the principle of *non-refoulement* enshrined in article 3 of the Convention against Torture (CAT).
At the Committee's request, his expulsion to Guinea was postponed while the Committee considered his complaint.
The Committee held that, given the political and human rights situation in Guinea, and more specifically, the situation of persons involved in the events in the Conakry stadium on 28 September 2009, the complainant's imprisonment and his detailed statements regarding his torture and inhuman treatment, which were supported by medical reports, there were substantial grounds for believing that the complainant would be at risk of being subjected to torture if returned to his country of origin. It therefore concluded that his expulsion to Guinea would amount to a breach of article 3 of the Convention. Furthermore, the Government had an obligation to refrain from forcibly returning the complainant to Guinea or any other country where he would face a risk of being expelled to Guinea.

Other developments

Council of Europe[6]

Reform of the ECHR supervisory system
The Interlaken-Izmir-Brighton reform process was followed up during the Belgian chairmanship of the Committee of Ministers with the High-level Conference '*Implementation of the European Convention on Human Rights, our shared responsibility*' on 26 and 27 March 2015. The Brussels Declaration stresses the importance of the implementation of the ECHR by the national authorities to reduce the number of applications to the Court, and of the execution of Court judgments by the member states.
Under the chairmanship of Martin Kuijer (Ministry of Security and Justice), the drafting group charged with formulating proposals for the longer-term future of the ECHR supervisory system concluded its report in 2015. The report identifies challenges to the ECHR system in the following areas:
1. inadequate national implementation of the ECHR;
2. the Court's workload and maintaining the legitimacy of its judgments;
3. problems with the execution of Court judgments;
4. credibility of the ECHR system when there are differences of interpretation between the ECHR and other international instruments.

The conclusion of the report was that solutions to these challenges can for the time being be found within the existing ECHR structure.

Steering Committee for Human Rights (CDDH)
One of the tasks of the Steering Committee for Human Rights is to prepare decision-making by the Committee of Ministers of the Council of Europe in the area of human rights. The Committee consists of representatives of all the 47 Council of Europe member states and draws up conventions, protocols, guidelines, handbooks and recommendations with the aim of shaping and strengthening the Council's *acquis*. In 2015 it continued its activities relating to the reform of the Court on the basis of the Interlaken, Izmir and Brighton Declarations. In that framework it adopted the report referred to above on the ECHR supervisory system in the longer term and presented it to the Committee of Ministers. In addition, the Steering Committee worked on preparing a recommendation on human rights and business, as well as guidelines on human rights in culturally diverse societies, both for the Committee of Ministers. It also completed a feasibility study on the impact of the economic crisis and austerity measures on human rights.

Meeting of ECtHR agents
In 2015 the government agents who represent the States in proceedings before the Court met with the Court and its registrars to discuss procedural issues on one occasion. The meeting coincided with the departure of registrar Erik Fribergh after a ten-year period of office. His successor is Roderick Liddell. At the meeting the Registry informed the agents about the ongoing efforts to develop more efficient working methods in the interests of reducing the length of proceedings. The procedural rule introduced by the Court in 2014 on the submission of applications (rule 47: applications will not be accepted unless they comply with a number of basic requirements) is working satisfactorily. In 2015 around 26% of applications failed to meet the requirements. Applicants were notified of this by the Registry and given the opportunity to submit a fresh application in accordance with the rules. The Court will remain alert to the risk of the rule creating too high a threshold for use of the individual right of petition. The agents were also informed about developments regarding the 'Superior Court Network', which is still at the pilot stage. The aim of the network is to give a deeper dimension to the existing dialogue between the Court and the highest national courts and to increase each side's knowledge of the rules and practice of law at national and European level.

European Social Charter/collective complaints procedure
In 2015 the European Committee of Social Rights (ECSR) organised for the second time a meeting to discuss procedural matters with the fifteen Council of Europe member states that have accepted the collective complaints procedure under the European Social Charter (ESC). At the secretariat's invitation, the Netherlands gave a presentation on the role of the government agent in the ESC procedure. The Dutch practice and the differences with the ECtHR proceedings were explained. The member states urged that there should be an endpoint to the procedure relating to national reporting on follow-up to ECSR-reports. At present, a member state must continue to report even if it believes it has taken all the measures required. This was followed by discussion on the possibility of suspending a pending case if a State has admitted that its national practice is not in accordance

[6] Documents relating to these issues can be found at www.coe.int.

with the ESC. The ECtHR has devised a number of simple solutions to deal with this situation and to avoid the need for a final judgment. The Netherlands emphasised that a similar solution in the context of the ESC is not only in line with the subsidiary character of international supervisory mechanisms, it is also suited to the relationship between the member states and the ECSR, which is in the nature of a dialogue.

United Nations

Reporting to treaty bodies

In May 2015, at its 69th session, the Committee on the Rights of the Child considered the Netherlands' fourth report under the Convention on the Rights of the Child (CRC). An appreciation of the recommendations adopted by the Committee was sent to the House of Representatives on 13 November 2015 (2015-2016 session, Parliamentary Papers 26150, no. 47).

In August 2015, at its 87th session, the Committee on the Elimination of Racial Discrimination reviewed the Netherlands' combined 19th to 21st reports under the Convention on the Elimination of All Forms of Racial Discrimination (CERD). An appreciation of the recommendations adopted by the Committee was sent to the House of Representatives on 28 October 2015 (2015-2016 session, Parliamentary Papers 30950 no. 80).

In December 2015 written information was supplied under the International Convention for the Protection of All Persons from Enforced Disappearance (CED) to the Committee on Enforced Disappearances in response to the Committee's 2014 recommendations to the Netherlands.

Annexes: overviews and statistics

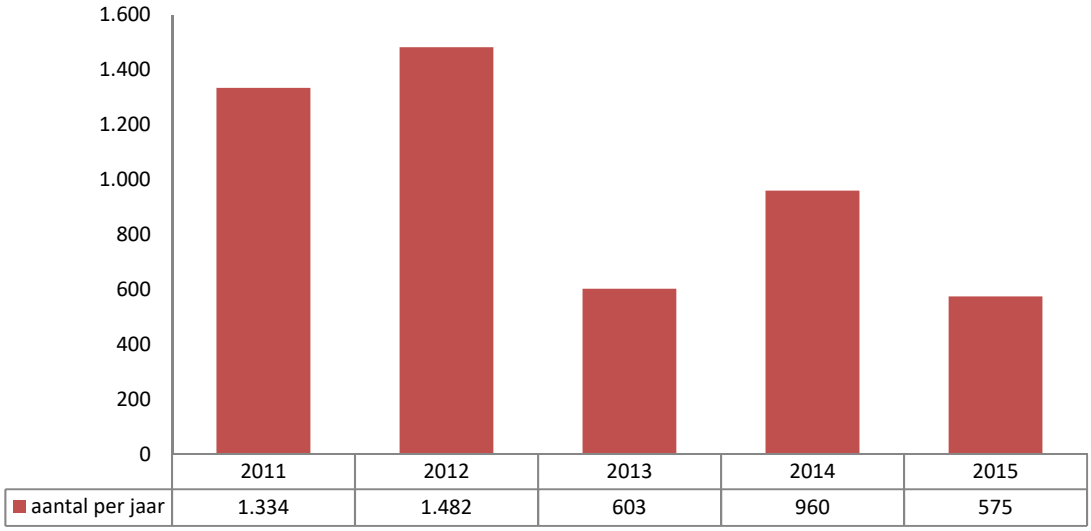
Annexe 1

Council of Europe

European Court of Human Rights[7]

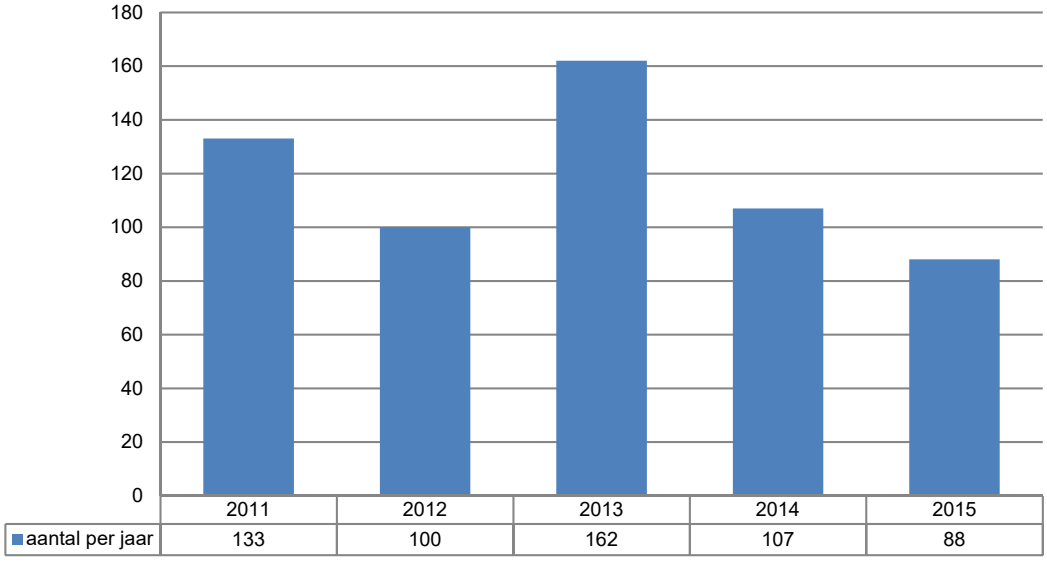
Statistics

Cases against the Netherlands pending before the ECtHR on 31 December 2015



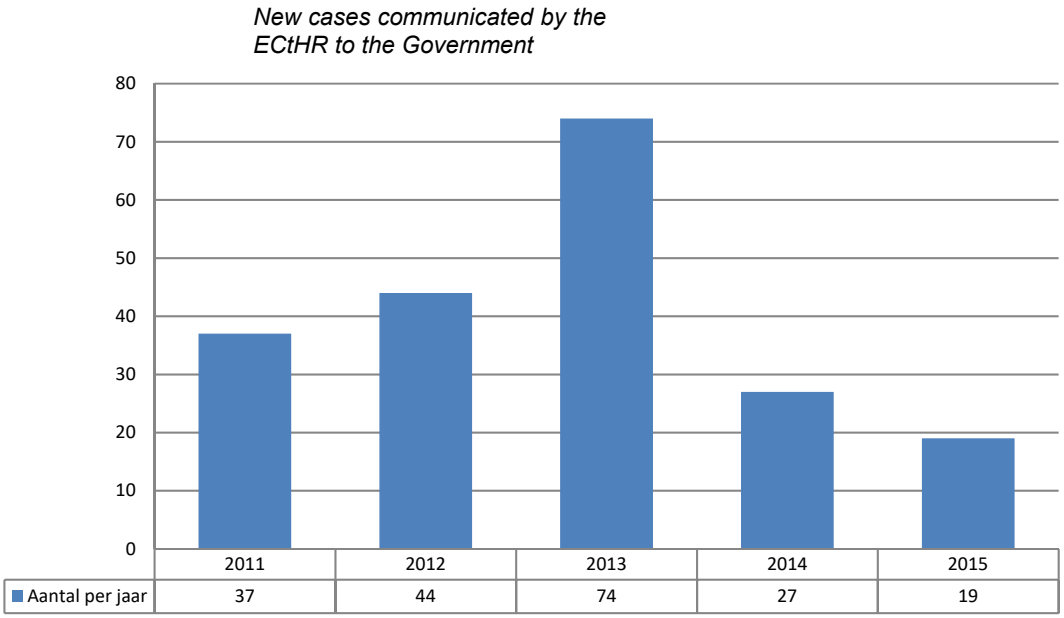
Red: Annual total

Cases being processed by the Government on 31 December 2015

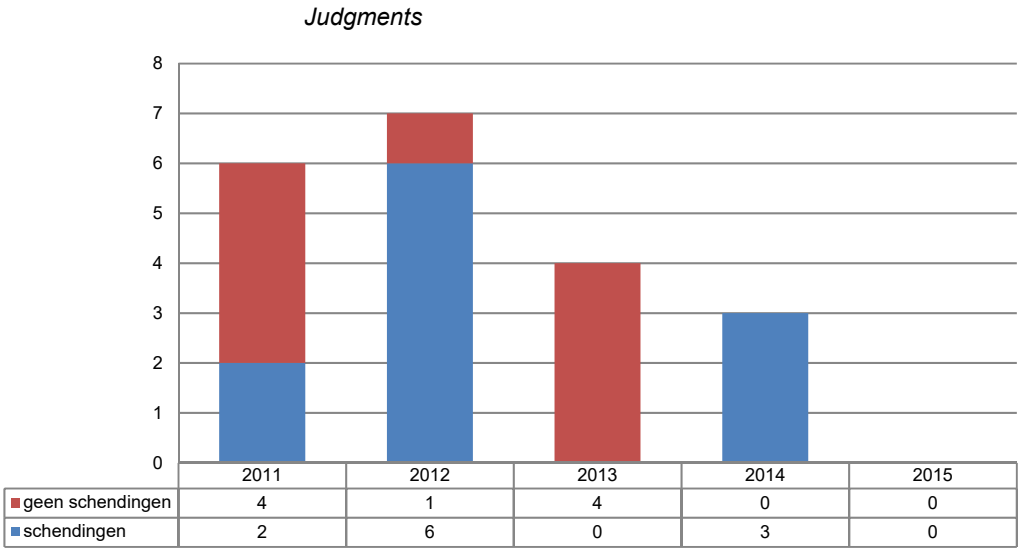


Blue: Annual total

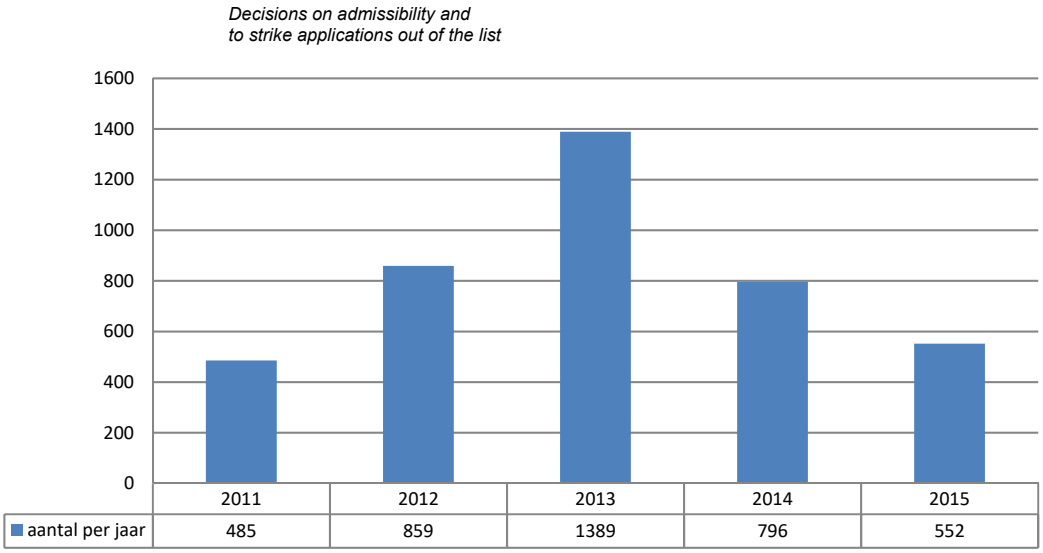
[7] Statistics for all the member states of the Council of Europe are contained in the *Survey of Activities 2015* published by the Court Registry (http://www.echr.coe.int/Pages/home.aspx?p=reports&c=#n1347956867932_pointer).



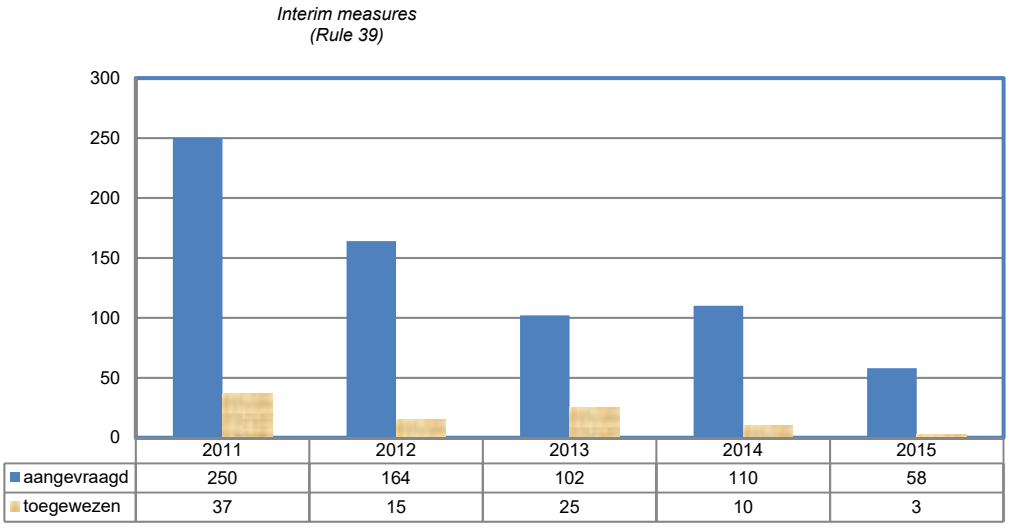
Blue: Annual total



Red: No violation
Blue: Violation

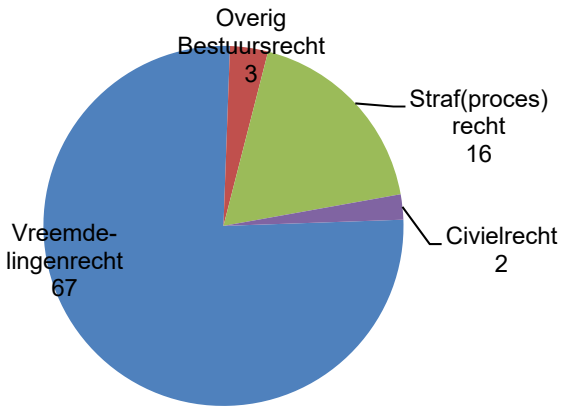


Blue: Annual total



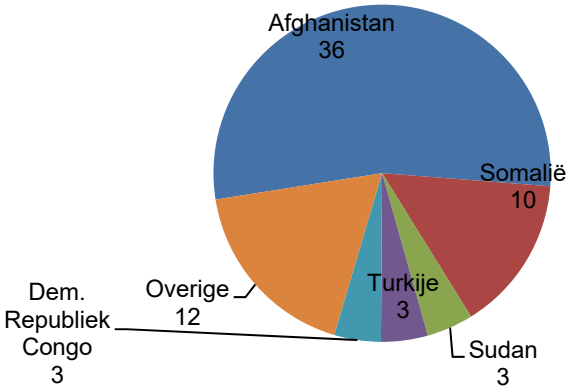
Blue: Applied for
Pink: Granted

Cases being processed by the Government, numbers per category in 2015



Red: Other administrative law 3
Green: Criminal (procedural) law 16
Purple: Civil law 2
Blue: Immigration law 67

Immigration cases by nationality on 31 December 2015



Blue: Afghanistan 36
Red: Somalia 10
Green: Sudan 3
Purple: Turkey 3
Light blue: Democratic Republic of Congo 3
Dark blue: Other 12

Decisions[8]

Name	App. no.	Date
A.A.Q.	42331/05	30 June 2015 (*)
A.M.E.	51428/10	13 January 2015 (*)
A.N. and L.K.	29043/14	17 March 2015 (*)
A.T.H.	54000/11	17 November 2015 (*)
Adorisio and others	47315/13	17 March 2015 (*)
+Brigade Distressed Value Master Fund Ltd and others	48490/13	
+Integrale Gemeenschappelijke Verzekeringskas	49016/13	
Ahmed Hasan	42165/12	19 February 2015
Ali Abdalla and Saleh Yeslam	31672/13	27 August 2015
Bahri-El Outmani	52904/07	25 June 2015
Basarat	43108/12	21 April 2015 (*)
Chylinski	38044/12	21 April 2015 (*)
Constancia	73560/12	3 March 2015 (*)
D.T.	28199/12	15 September 2015 (*)
E.M.	32452/14	3 November 2015 (*)
E.T.	46563/14	16 June 2015 (*)
F.J. and A.J.	37504/12	17 November 2015 (*)
H.N.	20651/11	31 March 2015 (*)
Habi	16049/07	25 June 2015
Haroetjoenjan	10664/13	22 October 2015
Hashemi	61379/14	23 April 2015
Herman	35965/14	17 November 2015 (*)
Hersi Abdulle	6744/12	23 January 2015
J.A. and others	21459/14	3 November 2015 (*)
J.N.	10260/13	17 February 2015 (*)
K.O.J.	7149/12	2 June 2015 (*)
Kasangaki	44696/13	21 April 2015 (*)
Khachatryan and others	45662/15	5 October 2015
L.N.T.	28686/14	17 November 2015 (*)
M.O.S.H.	63469/09	3 February 2015 (*)
M.R.	60814/14	17 November 2015 (*)
M.W.	46938/10	17 March 2015 (*)
Milkovics	40958/12	21 April 2015
Mohammed Naser Omar	38903/14	23 April 2015
Nzapali	6107/07	17 November 2015 (*)
O.	24716/14	3 February 2015 (*)
Othymia Investments	75292/10	16 June 2015 (*)
Ovran and others	51016/11	21 April 2015 (*)
Q.A.	23816/08	2 June 2015 (*)
R.P.	78146/12	17 November 2015 (*)
Renfrum and Van Hetten	30719/12	26 November 2015
Rohamian	58719/14	23 April 2015
S.B.	63999/13	17 November 2015 (*)
S.S.	67743/14	1 September 2015 (*)
Schreurs	73058/13	14 April 2015 (*)
Targus	50642/12	21 April 2015
Van Weerelt	784/14	16 June 2015 (*)

[8] Cases marked (*) are summarised in the section entitled 'Council of Europe'.

Cases being processed by the Government as at 31 December 2015

Name	App. no.	Article ECHR
A. and B.	10827/12	arts. 3 and 13
A.A.	66848/10	arts. 3 and 8
A.G.R.	13442/08	art. 3
A.K.C.	36953/09	art. 3
A.M.	29094/09	art. 3
A.R.	26268/09	arts. 3 and 8
A.R.	63104/11	arts. 3, 8 and 13
A.S.A.	49773/15	art. 3
A.W.Q. and D.H.	25077/06	art. 3
Abdulfatah	55830/10	arts. 3 and 8
Abdullahi Ahmed	40858/10	art. 3
Ahdour	45140/10	arts. 8 and 14
Ahmed Sheekh	80450/13	art. 8
Aiaz	17085/11	arts. 3 and 13
Ali Hassan	23710/10	arts. 8, 13 and 14
Azizi	73877/10	arts. 3, 8, 9 and 10
Bala	52826/15	art. 3
Baydar	55385/14	art. 6
Breijer	41596/13	art. 6
Bushara Alrayah Bushara and others	7211/06	art. 3
Cabdi Qadir Mucalim	5888/10	art. 3
Calderon Silva	4784/15	art. 5
Castelijns	7599/15	arts. 8 and 14
Cerci	25392/14	art. 8
Cüzdan	6315/08	art. 8
Djinisov	29741/10	art. 6
E.K.	72586/11	art. 3
E.S.	28214/10	art. 3
Eisa	58099/15	art. 3
El Allati	45892/13	art. 6
F.	61060/11	arts. 3, 8 and 13
F.A.	39670/11	arts. 2, 3, 8 and 13
Farah Ilmi	13943/10	arts. 8 and 13
G.	44270/10	arts. 3 and 13
G.G.S.	53926/09	arts. 3, 8 and 13
G.R.S.	77691/11	arts. 3 and 8
Garib	43494/09	art. 2 of Prot. 4
Gereghiher Geremedhin	45558/09	art. 8
Gillissen	39966/09	art. 6
H.U.N.	63857/09	arts. 3 and 13
Hokkeling	30749/12	art. 6
Ismail	67295/10	art. 8
J.G.	70602/14	arts. 2 and 3
J.W.	16177/14	art. 3
Jalal	32373/11	arts. 3, 8 and 13
Justice	64724/10	art. 3
Lacroix	47367/09	art. 6
M.	2156/10	art. 6
M.A.A.	59207/10	arts. 3 and 13
M.H.A.	61402/15	art. 3
M.M.	15993/09	art. 3
M.M.R.	64047/10	arts. 2 and 3

M.R.A. and others	46856/07	arts. 3 and 8
Maassen	10982/15	art. 5
Mahamed Sambuto	3303/11	art. 3
Mamadshahkhan	48294/10	arts. 3 and 13
Mfwa Muyuku	46970/07	arts. 3 and 13
Mohamed Hassan	7186/14	arts. 8 and 14 and art. 1 of Prot. 12
Murray	10511/10	arts. 3, 5 and 13
Ndjabu Ngabu and others	39321/14	art. 3
Nodrat	20732/10	arts. 3, 8 and 13
Omid	34151/11	art. 3
Özcelik	69810/12	art. 6
P.N.	10944/13	arts. 3, 8 and 13
Popalzay	43538/11	arts. 3, 8 and 13
Pormes	25402/14	art. 8
S.D.M. and others	8161/07	arts. 2 and 3
S.F.	8159/11	arts. 3, 8 and 13
S.H.S.	12037/10	arts. 3 and 8
S.M.H.	5868/13	art. 3
S.R. II	46727/10	arts. 3 and 8
S.S.	39575/06	art. 3
Saber Yacoub	20102/13	arts. 3 and 13
Said Good	50613/12	arts. 3 and 5
Saraj Zada	3540/11	arts. 3, 8 and 13
Sedieqi	1390/11	arts. 3, 8 and 13
Smetsers	7603/15	arts. 8 and 14
Soleimankheel and others	41509/12	arts. 3, 8 and 13
Storimans v. Russische Fed.	26302/10	arts. 2 and 13
Telegraaf and Van der Graaf	33847/11	art. 10
U.A.H.M.	49929/11	art. 3
Van de Kolk	23192/15	art. 6
Van Engel	600/14	art. 8
Van Velzen	21496/10	art. 6
Vrinds	10662/15	arts. 8 and 14
Yeshtla	37115/11	art. 8
Z.L.	33314/09	arts. 3 and 6
Z.N.	71676/14	arts. 3 and 13

Committee of Ministers

ECtHR cases under supervision on 31 December 2015

Name	App. no.	Date judgment/decision
Mathew	24919/03	29 September 2005
Geerings	30810/03	1 March 2007
Voskuil	64752/01	22 November 2007
Sanoma Uitgevers B.V.	38224/03	14 September 2010
Vidgen	29353/06	10 July 2012
De Telegraaf Media NL Landelijke Media BV and others	39315/06	22 November 2012
K.	11804/09	27 November 2012
Jaloud	47708/08	20 November 2014
Geisterfer	15911/08	9 December 2014

Annexe 2

United Nations

General

In 2015 the UN treaty bodies:

- informed the Government of 8 new communications;
- established views in 5 cases, in 2 of which a violation was found to have occurred.

Human Rights Committee

View

Name	Comm. no.	Date
E.L.K.	2050/2011	30 March 2015

Cases being processed by the Government as at 31 December 2015

Name	Comm. no.	Article ICCPR
Abdoellaeva	2498/2014	arts. 23, 24 and 26
Abo Al-Qas Al-Jaberi	2634/2015	art. 14
George Egyir	2299/2013	arts. 7, 17 and 26
Martha S. Piqué-Babel and others	2673/2015	arts. 23, 24 and 26
Maryam and Jamshed Hasemi	2489/2014	arts. 23, 24 and 26
Nathalien Kurt	2326/2014	art. 14, para. 4 and art. 17
Mohamed Rabbae and others	2124/2011	arts. 20, 26 and 27
S.Y.	2392/2014	art. 2, para. 3, and art. 14, para. 5
Saïd Lamrini	2362/2014	arts. 14 and 17
Suada Amza and others	2683/2015	arts. 23, 24 and 26

Committee on the Elimination of Discrimination against Women

Views

Name	Comm. no.	Date
N.	39/2012	17 February 2014
D.G.	52/2013	23 July 2015

Cases being processed by the Government as at 31 December 2015

Name	Comm. no.	Article CEDAW
Fatime Magassouba	89/2015	arts. 1, 2 (d, e), 3, 6, 16, (a, b, c, g)

Committee Against Torture

Views

Name	Comm. no.	Date
F.B.	613/2014	20 November 2015
M.C.	569/2013	30 November 2015

Cases being processed by the Government as at 31 December 2015

Name	Comm. no.	Article CAT
Hermine Azatyan and Gegham Hajrapetyan	719/2015	art. 3
Harutyun Israyeliyan	685/2015	art. 3
Nisanthan Kandasamy	623/2014	art. 3
Rasathiran Paramalingam	696/2015	art. 3
Aleksandr Pechkunov	611/2014	art. 3
Ragulan Thurairajah	692/2015	art. 3