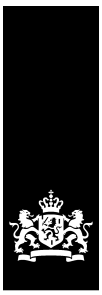

2016 Annual Report

International Human Rights Proceedings

International Law Division
Ministry of Foreign Affairs

Contents

Foreword

After 2015, a year in which the European Court of Human Rights (ECtHR) did not hand down a single judgment in a case involving the Netherlands and therefore found no violations of the Convention, 2016 presented a completely different picture, with no fewer than 11 judgments. That is more than in any other year since the Court assumed its present form. It is also unusual that in only three of those cases did the Court decide a violation had taken place. Although every violation is one too many, as a proportion this is exceptionally low. Generally speaking, in the majority of the cases in which the Court hands down a judgment on the merits – in itself a small proportion of the applications submitted – the Court ultimately finds that there have been one or more violations of the Convention.
On closer examination, the figures are not that unusual after all. Six of the eleven judgments concern the same point of law: is it incompatible with the Convention to expel migrants (in all these cases, Afghan nationals) who have been denied refugee status under article 1F of the Refugee Convention because they are suspected of having committed a war crime or a crime against humanity? In each case the Court's answer was no. Further details of these cases are given in this report.

One of the eleven judgments was given by the Grand Chamber. It found unanimously that the enforcement of a life sentence in Curaçao and Aruba was incompatible with the prohibition of inhuman treatment, since the detainee had received no treatment for his psychological disorder and had therefore been unable to work towards a situation in which he might have become eligible for release at some point. It was therefore impossible in practice to have the life sentence reduced.

In 2016, the human rights treaty bodies of the United Nations found no violations in cases involving the Netherlands. Perhaps most noteworthy is the fact that the Human Rights Committee found that Geert Wilders' acquittal in 2011 did not constitute a violation of the International Covenant on Civil and Political Rights in respect of some of the persons who had lodged a criminal complaint against him.

On another level, it is also noteworthy that for part of 2016 the Netherlands had no national judge at the Court, due to the premature departure of Jos Silvis to take up his appointment as Procurator General at the Supreme Court of the Netherlands. In accordance with the national nomination procedure in force since the turn of the century, the names of three highly qualified people – Martin Kuijer, Rick Lawson and Jolien Schukking – were put forward in November to the Council of Europe, following which its Parliamentary Assembly elected Jolien Schukking as the new Dutch judge. But by now it was 2017. We would remind the reader that in 2005 Jolien was closely involved in the genesis of *International Human Rights Proceedings* in its present form.

Finally, we would like to thank our colleagues at the Ministry of Security and Justice, the Immigration and Naturalisation Service and the Public Prosecution Service for their meticulous commentary on the draft summaries in this report. Our thanks also go to the colleagues seconded from the Council of State and the interns working in the International Law Division for their contributions.

The Hague, March 2017

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Council of Europe

European Court of Human Rights[1]

Judgments

A.G.R. (13442/08, 12 January 2016)
The applicant, an Afghan national, applied for asylum in the Netherlands in 1997. He stated that he had been a member of the People's Democratic Party of Afghanistan (PDPA) during the communist regime and had worked for the security service KhAD/WAD. His asylum application was denied on the grounds that he had failed to establish personal circumstances justifying his fear of persecution. However, the applicant was granted a provisional residence permit under the temporary categorial protection policy for Afghan nationals. In 2001 this was converted into a permanent residence permit since the situation in Afghanistan had not improved. This residence permit was revoked in 2006 on the basis of article 1F of the Refugee Convention: the Government believed that in view of his position within KhAD/WAD, the applicant had to be considered jointly responsible for the crimes committed by this organisation. The Government concluded that there was no real risk that on his return the applicant would be subjected to torture or inhuman treatment (article 3 of the European Convention on Human Rights (ECHR)) and that he could therefore be expelled to Afghanistan.
Before the Court the applicant claimed that if expelled to Afghanistan he would be exposed to treatment incompatible with article 3 of the Convention on account of his work for the KhAD/WAD and the general security situation there. In addition, he claimed that expelling his wife and children to Afghanistan would be in breach of article 3.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant for the duration of the proceedings before it. It declared the complaint concerning a violation of article 3 with regard to the applicant's wife and children inadmissible, since it had not been established that the applicant was authorised to submit this complaint on their behalf. With regard to the applicant himself, the Court held that there was no evidence that since 2005 the applicant had attracted negative attention from any governmental or non-governmental body or any private individual in Afghanistan on account of the personal circumstances he cited. The Court took into account the fact that the UNHCR no longer classified people who worked for the security services during the communist regime in Afghanistan as a specific category of persons exposed to a potential risk of persecution. Furthermore, the Court did not consider the general security situation in the country to be such that for this reason return would entail a real risk of inhuman treatment. It therefore concluded that expulsion to Afghanistan would not give rise to a violation of article 3 of the Convention.

A.W.Q. and D.H. (25077/06, 12 January 2016)
The applicants, a married couple of Afghan nationality, applied for asylum in the Netherlands in 1999. In his application, the husband (the first applicant) stated that he had been a member of the People's Democratic Party of Afghanistan during the communist regime and had served in the army, his last held rank being that of major. His asylum application was denied on the grounds that in view of his rank and his activities for the Afghan army, there were reasons to assume that he had committed crimes as referred to in article 1F of the Refugee Convention. The application submitted by his wife (the second applicant) for herself and her minor children was also denied. The Government concluded that there was no real risk of the applicants being subjected to torture or inhuman treatment (article 3 of the ECHR) if they returned to Afghanistan and that they could therefore be expelled to that country.
The applicants argued before the Court that their expulsion to Afghanistan would be in violation of article 3 of the Convention. The second applicant further complained – also on behalf of their children – that their removal would be contrary to article 2 of the Convention (right to life).

[1]The judgments and 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.

The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicants pending the proceedings before it. Subsequently, the Government granted an asylum residence permit to the second applicant and her children, including her daughter who in the meantime had reached adulthood. The Court saw no reason to continue the examination of the second applicant's complaints and struck this part of the application out of its list of cases.
With regard to the first applicant, the Court noted that he did not flee Afghanistan after the fall of the communist regime but remained in Kabul. It also noted that he was not dismissed from the 'Army Museum', but resigned. He subsequently did not flee the country but moved to Kunduz, where he encountered no problems from the authorities, groups or individuals on account of his past activities for the KhAD. Nor did he flee the country when the Taliban seized power in Kunduz in 1997. It was not until 1998 that he was detained by the Taliban; in 1999 he escaped and fled Afghanistan. The Court held that there were no indications that since his departure the applicant had attracted negative attention from the authorities, any group or any private individual in Afghanistan on account of his atheism, his former membership of the communist party, his activities for the army under the communist regime or any other personal element cited by him, including the fact that images of him had appeared in a film about a Dutch politician made in 2010. The Court further noted that the UNHCR no longer classified members of the armed forces during the communist regime in Afghanistan as a specific category of persons exposed to a potential risk of persecution. Nor did the Court consider the general security situation in the country to be such that for this reason return would entail a real risk of inhuman treatment. It therefore concluded that expulsion to Afghanistan would not give rise to a violation of article 3 of the Convention.

M.R.A. and others (46856/07, 12 January 2016)
The applicants, a married couple and their children, all Afghan nationals, applied for asylum in the Netherlands in 1999. In his application, the husband (the first applicant) stated that he had been arrested by the Taliban after they seized power on account of his membership of the People's Democratic Party of Afghanistan and his activities for the KhAD/WAD, the security service under the communist regime of the PDPA. He claimed that he was about to be executed, but had been released with the help of a Taliban commander who had been bribed. His asylum application was denied because, in view of his position and activities for the KhAD/WAD, there were grounds for assuming that he had committed crimes as referred to in article 1F of the Refugee Convention. The application submitted by his wife (the second applicant) was also denied. The Government concluded there was no real risk of the applicants being subjected to torture or inhuman treatment (article 3 of the ECHR) if they returned to Afghanistan and that they could therefore be expelled to that country.
The applicants complained before the Court that their expulsion would be in violation of article 3 of the Convention. They also complained of violations of their right to respect for family life (article 8 of the ECHR) and the right to an effective remedy (article 13 of the ECHR).
The Government subsequently granted the second applicant and her minor children an asylum residence permit. The Court therefore saw no reason to continue the examination of the complaints of the second applicant and her minor children and struck this part of the application out of its list of cases. Since the applicants' son, who in the meantime had reached adulthood, was engaged in a national procedure to obtain a regular residence permit, in which he had been granted interim relief suspending his removal for the duration of the procedure, the Court concluded that domestic remedies had not been exhausted and declared the application inadmissible to the extent that it referred to the applicants' adult son.
The complaint regarding a violation of article 8, and article 8 in conjunction with article 13 of the Convention was declared inadmissible on the grounds of non-exhaustion of domestic remedies.
With regard to the first applicant the Court noted that after the fall of the communist regime he did not flee the country but moved to Mazar-e-Sharif. There he had lived and worked, apparently without encountering any problems from the authorities or any groups or private individuals on account of his past activities for the KhAD/WAD. The Court also noted that in an interview with the Dutch immigration authorities he had stated that no one in Afghanistan was specifically looking for him.

In so far as the application under article 3 of the Convention was based on the consequences of the publication by the Dutch authorities in September 2013 of 'death lists' (victims of the communist regime), the Court noted that although this had resulted in two days of official mourning in Afghanistan, it had not triggered any concrete acts of persecution or treatment prohibited by article 3 of the Convention directed against former KhAD/WAD employees. The Court further found no indications that the applicant had attracted negative attention from any governmental or non-governmental body or any private individual in Afghanistan on account of the personal circumstances he cited. The Court observed that the UNHCR no longer classified people who had worked for the security services under the communist regime as a high-risk group. Nor did the Court consider the general security situation in the country to be such that for this reason return would entail a real risk of inhuman treatment. It therefore concluded that expulsion to Afghanistan would not give rise to a violation of article 3 of the Convention. Finally, the Court found no violation of article 13 in conjunction with article 3 of the Convention.

S.D.M and others (8161/07, 12 January 2016)

The applicants, a married couple and their child, all Afghan nationals, applied for asylum in the Netherlands in 1996. In submitting his application, the husband (the first applicant) stated that during the communist regime of the People's Democratic Party of Afghanistan he had worked for the security service KhAD/WAD. He subsequently worked under the mujaheddin regime. He also claimed that the Taliban had imposed a death sentence on him for conspiracy. His asylum application was denied and the provisional residence permit initially granted to him was revoked. The reason for this was that in view of his position and activities for the KhAD/WAD, there were grounds for assuming that he had committed crimes as referred to in article 1F of the Refugee Convention. Because the second applicant's asylum application was dependent on that of her husband, her application was also denied and her residence permit revoked. The Government concluded that there was no real risk of the applicants being subjected to torture or inhuman treatment (article 3 of the ECHR) if they returned to Afghanistan and that they could therefore be expelled to that country.

The applicants complained before the Court that their removal to Afghanistan would violate their rights under article 3 of the Convention.

The Government subsequently granted the second applicant, who was by now divorced from the first applicant, and her minor child an asylum residence permit. The Court saw no reason to continue the examination of the complaints of the second applicant and her child and struck this part of the application out of its list of cases.

With regard to the first applicant, the Court noted that after the fall of the communist regime he did not flee the country but worked under the mujaheddin regime without encountering any problems. It further held that there was nothing in the case file demonstrating that the current government of Afghanistan enforces death sentences handed down by Taliban tribunals. The Court also held that there were no indications that, since his departure from Afghanistan in 1996, the first applicant had attracted negative attention from any governmental or non-governmental body or any private individual in Afghanistan on account of his professional activities for the KhAD/WAD or under the regime of the mujaheddin, on account of having been sentenced to death by a Taliban tribunal in 1995 or on account of any other personal element cited by him. Lastly, the Court noted that the UNHCR did not include agents of the security services under the communist regime in their potential risk profiles in respect of Afghanistan. Nor did the Court consider the general security situation in the country to be such that for this reason return would entail a real risk of inhuman treatment. The Court therefore concluded that expulsion to Afghanistan would not give rise to a violation of article 3 of the Convention.

S.S. (39575/06, 12 January 2016)
The applicant, an Afghan national, submitted an asylum application in the Netherlands in 1998. In submitting his application he stated that during the communist regime of the People's Democratic Party of Afghanistan he had worked for the former security service KhAD/WAD. His asylum application was denied since in view of his activities for the KhAD/WAD, there were grounds for assuming that he had committed crimes as referred to in article 1F of the Refugee Convention. The Government further concluded that there was no real risk of the applicant being subjected to torture or inhuman treatment (article 3 of the ECHR) if he returned to Afghanistan and that he could therefore be expelled to that country.
The applicant complained before the Court that his removal to Afghanistan would expose him to treatment in breach of article 3 of the Convention because of his past work for the KhAD/WAD, the fact that he was regarded as an opponent of the present regime, his atheism, his long absence from the country, his lack of a social network there, his medical situation and the general security situation in Afghanistan.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant pending the proceedings before it.
It noted that the applicant had not fled Afghanistan after the fall of the communist regime but had moved to Mazar-e-Sharif without encountering any problems on account of his past work for the KhAD. The Court further held that there were no indications that the applicant had attracted negative attention from any governmental or non-governmental body or any private individual in Afghanistan on account of circumstances he had cited. Finally, the Court noted that the UNHCR no longer classified people who had worked for the security services under the communist regime as a specific category currently exposed in Afghanistan to a potential risk of persecution. Furthermore, information received from the European Asylum Support Office (EASO) showed there was no indication that members of the military or intelligence services under the former communist regime were specifically targeted by the Taliban or other insurgent groups in Afghanistan. Nor did the Court consider the general security situation in the country to be such that for this reason, return would entail a real risk of inhuman treatment. The Court therefore concluded that expulsion to Afghanistan would not give rise to a violation of article 3 of the Convention.

Garib (43494/09, 23 February 2016)
The applicant wished to move with her two children from a one-room dwelling to a three-room property in the district of Rotterdam known as Tarwewijk, where the Urban Areas (Special Measures) Act applies. Under the Act, it is not permitted to take up residence in the area without a housing permit. Her application for a housing permit was denied on the grounds that she had not been resident in the Rotterdam Metropolitan Region in the six years preceding the submission of the application. In addition, because she was receiving benefit under the Work and Social Assistance Act, she did not meet the income requirement that would have exempted her from applying for a housing permit.
The applicant complained before the Court that her right to liberty of movement and freedom to choose her residence (article 2 of Protocol 4, ECHR) had been violated.
The Court held that there had been a restriction of the applicant's right to freely choose her residence. It then examined whether this restriction was justified under article 2, paragraph 4 of Protocol 4 of the Convention. The Court concluded that the Urban Areas (Special Measures) Act served a legitimate aim, namely to address the problems in 'priority neighbourhoods' and to improve the quality of life there. It further found the Act to be proportionate, having examined whether the interests of the State (in its efforts to establish a better social and economic mix in such areas) and the opposing individual interest (the freedom to choose your own place of residence) had been properly weighed. The Court noted that the legislative process had been conducted properly and that the Act contained safeguards, including a hardship clause, protecting persons who are not in a position to seek alternative housing. It also found that the measures taken under the Act are temporary in nature, limited to specific areas and regularly evaluated. Finally, the Court took into account the fact that the applicant was free to look for housing elsewhere in Rotterdam, outside the areas designated by the Act. It concluded that there had been no violation of article 2 of Protocol 4 of the Convention.
Op 12 September 2016 the case was referred to the Grand Chamber at the applicant's request.

Gillissen (39966/09, 15 March 2016)
The applicant received incapacity benefit under the Incapacity Insurance Act (WAO) from 1996 onwards. He was allowed to earn extra income – up to a certain maximum amount – as a trainer. In administrative proceedings concerning inter alia an order to repay income earned in excess of that amount, the applicant argued that a UWV (Employee Insurance Agency) official had given him permission in 1998 to earn more than the usual maximum amount for a period of five years. There was no written evidence of this arrangement but the applicant referred to two officials by name who allegedly were witness to it. The Central Appeals Court for Public Service and Social Security Matters dismissed the applicant's appeal on the grounds that he had not established the existence of an oral agreement with the UWV official.
Criminal proceedings were also brought against the applicant for benefit fraud. The appeal court ruled that the applicant had established a plausible case for the existence of the arrangement between himself and the UWV official; he was acquitted.
The applicant complained before the Court that his right to a fair hearing (article 6, paragraph 1 of the ECHR) had been violated because the two witnesses were not summoned to appear either before the district court or the Central Appeals Court for Public Service and Social Security Matters in the administrative proceedings concerning his incapacity benefit.
The Court noted that article 6, paragraph 1 of the Convention does not explicitly guarantee the right to have witnesses called or other evidence admitted in proceedings to determine civil rights and obligations. Nevertheless, any restriction imposed on the right of a party to call witnesses and to adduce other evidence in support of his or her case must be consistent with the requirements of a 'fair hearing' within the meaning of article 6, paragraph 1, including the principle of equality of arms. The Court held that article 6, paragraphs 2 and 3 of the Convention are not directly applicable to proceedings to determine civil rights and obligations and that therefore the requirements which arise from the right to be heard in such proceedings are not the same as such requirements in criminal cases. However, the Court deemed it significant in the present case that the requirement of equality of arms, in the sense of a fair balance between the parties, applies in principle to proceedings to determine civil rights and obligations just as it does to criminal cases. The Court held that the Central Appeals Court for Public Service and Social Security Matters should not have left the applicant's offer to produce witness evidence unanswered, since the alleged agreement with the UWV official could have been decisive in the assessment of the case. In addition, the Court observed that the criminal court had acquitted the applicant of fraud on the grounds that he had made a plausible case for the existence of the agreement. Although the Court acknowledged that the test applied to evidence in criminal proceedings differs from that applied in administrative proceedings, the outcome of the criminal case and the reasoning on which it was based could not, in its view, simply be ignored. The Court found that the failure of the Central Appeals Court for Public Service and Social Security Matters to accede to the applicant's request to hear the two witnesses placed him at a disadvantage vis-à-vis the opposing party. For this reason, the Court concluded that there had been a violation of article 6, paragraph 1 of the Convention.

Murray (10511/10, 26 April 2016, Grand Chamber)
The applicant, from Aruba, was sentenced to life imprisonment in 1980 for a murder committed in Curaçao. In imposing the sentence, the Joint Court of Justice of the Netherlands Antilles stated that the most appropriate measure would be a TBS order for confinement in a custodial clinic, but that no such clinic existed in Aruba and transferring the applicant to the Netherlands to enforce a TBS order was impracticable. The applicant served the first part of his sentence in Curaçao and was later transferred to Aruba. He submitted numerous requests for a pardon which were denied because of the risk of reoffending. A review of his sentence on the basis of an amendment to the Curaçao Criminal Code introduced in 2011 – which prescribed a periodic evaluation of life sentences – decided that further enforcement of the sentence served a reasonable purpose since the applicant was still suffering from psychological problems. In 2014 the applicant was pardoned on the grounds of extremely poor health.
The applicant complained before the Court that his life sentence was in breach of the prohibition of torture or inhuman treatment (article 3 of the ECHR) on account of the absence of any prospect of release. Although a statutory provision for periodic review of life sentences was introduced shortly after he had lodged his application with the Court, he argued that he had *de facto* no prospect of release because he had never received psychiatric treatment. As a

result, the risk of reoffending was considered so high that he was ineligible for release. He also complained that the conditions of his detention gave rise to a violation of article 3, in particular because he had not been placed in a special regime for prisoners with psychiatric problems and had received no psychiatric treatment. The applicant died in November 2014. His sister and son continued to pursue the case before the Court.
The Court first noted that a life sentence is not in itself incompatible with article 3 of the Convention. However, life prisoners must be offered the possibility of rehabilitation and the prospect of release. The Court emphasised that although states have a considerable margin of appreciation in determining the measures required to give life prisoners the possibility of rehabilitation, these prisoners should be detained under such conditions and be provided with such treatment that they have a realistic chance of rehabilitating themselves with a view to release. Although prior to the imposition of the life sentence the applicant underwent a medical examination which stated that in view of his mental condition he required treatment, no further examinations were carried out to determine what kind of treatment was necessary and he received no psychiatric treatment during his imprisonment. The opinions of the national courts, which recommended against his release, showed that there was a close connection between the continuing risk of reoffending and the lack of treatment. The necessary treatment thus constituted a precondition for the applicant's possible rehabilitation. As a result, at the time when the application was lodged with the Court any request for a pardon was pointless. His life sentence was therefore *de facto* irreducible, contrary to the requirements of the Court's case law regarding article 3 of the ECHR. This conclusion led the Grand Chamber of the Court to a unanimous decision that there had been a violation of article 3 and that the costs and expenses incurred by the applicant himself and on his behalf should be reimbursed. The Government paid the amount awarded on 28 June 2016.

R.B.A.B. and others (7211/06, 7 June 2016)
The applicants, a married couple, their son and two daughters, all Sudanese nationals, submitted asylum applications in the Netherlands in 2001 and 2003. After these applications had been denied, they applied for asylum a third time, claiming that if they were sent back to Sudan their daughters would be subjected to female genital mutilation (FGM). This application was also denied, primarily on the grounds that the applicants had not substantiated their personal identities or given a credible statement concerning their place of residence in Sudan. They had therefore failed to establish that they did not belong to the group of more highly educated people able to reject the practice of FGM.
The applicants complained before the Court that their expulsion to Sudan would be a violation of the prohibition of torture and inhuman treatment (article 3 of the ECHR), primarily because the two daughters would be subjected to FGM and neither the other applicants nor the Sudanese authorities would be able to protect them.
After the application was lodged with the Court, the older daughter (the third applicant) was granted a residence permit for the purpose of residence with a partner. She then indicated that she did not wish to maintain the application in so far as it concerned her. The Court struck the case out of the list to the extent that it related to the third applicant.
The Court noted that the fact that subjecting a child or adult to FGM is a violation of article 3 of the Convention was not in dispute. Nor was it contested that a considerable majority of girls and women in Sudan have traditionally been subjected to FGM and that the practice continues, though the prevalence of FGM is gradually declining. Despite the fact that there is no national law prohibiting FGM, some provinces in Sudan have passed legislation prohibiting this practice. Action taken by the authorities and NGOs has led to a decrease in FGM and in support for the practice. The Court further noted that the risk of an unmarried woman being subjected to FGM depends on the attitude of her family, particularly her parents. Parents who are against FGM can usually protect their daughters. With regard to the case in question, the Court observed that the younger daughter was a healthy adult woman whose parents and siblings were opposed to FGM. It also noted that with the exception of the older daughter, none of the applicants had been admitted to the Netherlands and it was likely that they would be removed together, as a family, to Sudan. Lastly, the Court observed that the authorities of the province the applicants claim to come from have passed laws prohibiting FGM. In these circumstances, the Court found that it had not been demonstrated that the younger daughter would be exposed to a real risk of FGM on her return to Sudan. The Court concluded unanimously that removal to Sudan would not give rise to a violation of article 3 of the ECHR.

Özçelik (69810/12, 28 June 2016)
The applicant complained before the Court that the lawfulness of his continued detention in a Persistent Offenders Institution (ISD) had not been decided speedily. In the domestic proceedings Arnhem Court of Appeal held that the applicant's appeal against the decision of the district court to prolong the ISD measure had not been dealt with speedily within the meaning of article 6 of the Convention. The appeal court took the view that the decision to accept that a violation of the Convention had occurred constituted in itself sufficient satisfaction for the affront to his sense of justice.
Relying on article 6 of the Convention, the applicant complained before the Court that it took the appeal court too long to decide on his appeal against the continuation of the ISD measure. The Court found it appropriate to consider the complaint under article 5, paragraph 4 of the Convention (right to a speedy decision). The applicant also complained that the appeal court had violated his rights by attaching no consequences to the violation of article 6 it had recognised. The Court heard this complaint under article 5, paragraph 5 of the Convention (right to compensation).
The parties agreed that the appeal against the continuation of the ISD measure had not been decided speedily. The Court regarded the established violation of article 6 as an acknowledgment by the appeal court that the rights guaranteed by article 5, paragraph 4 of the Convention had been violated. The Court saw no reason to decide otherwise and concluded there had been a violation of article 5, paragraph 4 of the Convention. Referring to *Emin v. the Netherlands* (28260/07, judgment of 29 May 2012), the Court noted that the issue in the present case was the same and therefore concluded that there had been a violation of article 5, paragraph 5 of the Convention. It awarded the applicant compensation.
The Government paid the compensation awarded. An Action Report will be sent to the Committee of Ministers in 2017.

A.M. (29094/09, 5 July 2016)
The applicant, an Afghan national of Hazara origin, submitted an asylum application in the Netherlands in 2003. He stated that he feared persecution and ill-treatment in Afghanistan on account of his membership of the communist People's Democratic Party, and his involvement in the Revolutionary Guard and the Hezb-e Wahdat party. His application was denied on the grounds that article 1F of the Refugee Convention applied to him. The authorities found that the alleged risk of torture or inhuman treatment (article 3 of the ECHR) had not been established. In 2007 an exclusion order was imposed on the applicant. He did not lodge an appeal with the Administrative Jurisdiction Division of the Council of State against the finding that his applications for review of the decision denying his asylum application and of the decision to impose an exclusion order were unfounded.
The applicant complained before the Court that his expulsion would constitute a violation of article 3 of the ECHR, his right to respect for family life (article 8 of the ECHR) and his right to an effective remedy (article 13 of the ECHR).
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Afghanistan for the duration of the proceedings before it.
With regard to the admissibility of the application, the Government submitted that the applicant had failed to exhaust domestic remedies, as required by article 35, paragraph 1 of the Convention, as he had not lodged an appeal either in the asylum proceedings or the proceedings regarding the exclusion order. According to the Court, there was a close connection between this argument and the applicant's complaint under article 13 of the Convention. The Court held that according to its established case law on article 13 in conjunction with article 3 of the Convention, in cases concerning expulsion or extradition, an effective remedy is only available if that remedy includes a rigorous scrutiny of a claim that substantial grounds are present for believing there is a real risk of treatment incompatible with article 3 of the Convention. The remedy must also have automatic suspensive effect. In the Court's view, the same applies when considering the effectiveness of remedies for the purposes of article 35, paragraph 1 of the Convention. As appeal to the Administrative Jurisdiction Division in asylum cases does not have automatic suspensive effect, the Court could only conclude that this remedy falls short of the second requirement. This finding was not altered by the fact that it is possible to seek interim relief from the Administrative Jurisdiction Division, since such an application for interim relief does not have automatic

suspensive effect either. The Court therefore dismissed the Government's argument that the applicant had not exhausted domestic remedies. It indicated that this did not mean that appeal to the Administrative Jurisdiction Division should be regarded as irrelevant. This would overlook the important role it plays as a supervisory tribunal that seeks to ensure legal consistency in asylum law. In addition, it was quite feasible – while an asylum case is pending before the Court – for the Administrative Jurisdiction Division to decide in continued proceedings to declare an appeal well founded, quash the district court ruling and refer the case back to the district court for a fresh ruling. Such a development at domestic level could affect the applicant's status of 'victim' as referred to in article 34 of the Convention.
With regard to the complaint under article 13, the Court noted that an application for review to the district court in asylum proceedings does have automatic suspensive effect. Article 13 of the Convention does not compel the Contracting States to set up a second level of appeal. The applicant therefore had at his disposal an effective remedy for challenging the denial of his asylum application. The Court concluded that there had been no violation of article 13 in conjunction with article 3 of the Convention.
The Court further concluded that the applicant had not established that there was a real risk of his being subjected to treatment incompatible with article 3 of the Convention. It noted that after the fall of the communist regime in Afghanistan, he had remained in the country without encountering any problems from the Taliban. Furthermore, he was not sought by the mujaheddin party Jamiat-e Islami and attracted no negative attention from any governmental or non-governmental body or any private individual in Afghanistan because of his communist past or his activities for Hezb-e Wahdat. The Court also observed that – although the general situation in Afghanistan for the Hazara minority is far from ideal – there is no real risk for such individuals of treatment prohibited by article 3 if they are removed to Afghanistan. Finally, the Court did not consider the general security situation in Afghanistan to be such that there would be a real risk of inhuman treatment simply by virtue of an individual being returned there.
With regard to the complaint under article 8, the Court held that it is not imperative for a remedy to have automatic suspensive effect for it to be effective as referred to in article 13 of the Convention. In view of the nature of the review carried out by the Administrative Jurisdiction Division in administrative disputes, the Court was satisfied that in respect of a complaint that removal would be contrary to article 8 of the Convention, appeal is an effective remedy for the purposes of article 35, paragraph 1 of the Convention. Since in this connection the applicant failed to exhaust domestic remedies, the Court declared this part of the application inadmissible pursuant to article 35, paragraphs 1 and 4 of the Convention.

Decisions

Mahamed Sambuto (3303/11, 19 January 2016)
The applicant, an Ethiopian national, argued before the Court that the transfer of herself and her minor children to Italy under the EU Dublin Regulation would be incompatible with the prohibition of torture and inhuman treatment (article 3 of the ECHR), in view of the poor conditions prevailing in the reception facilities there. Furthermore, she alleged that she would be expelled, without due consideration of her asylum application by the Italian authorities, to her country of origin or a third country where she would be exposed to treatment in breach of article 3 of the Convention.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Italy until further notice. The Court was subsequently informed that the applicant had left the Netherlands for an unknown destination. The applicant's representative informed the Court that he was no longer in contact with the applicant and was thus unable to state whether or not she wished to pursue the application. In these circumstances the Court held that the applicant could be regarded as no longer wishing to pursue her application, within the meaning of article 37, paragraph 1(a) of the Convention. Furthermore, it found no special circumstances requiring continued examination of the case. The Court therefore struck the application out of its list of cases.

Vrinds (10662/15, 2 February 2016)
The applicant complained before the Court that the difference in the treatment of persons in pre-trial detention (who are not allowed unsupervised visits) and convicted prisoners (who are allowed such visits) was unjustifiable (article 14 in conjunction with article 8 of the ECHR).
The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

Eisa (58099/15, 4 February 2016)
The applicant, a failed asylum seeker of Libyan nationality, did not have a valid travel document. Nor was his place of residence known. The Court (single judge formation) held that it was not currently possible to expel failed asylum seekers without valid travel documents to Libya. Since it was impossible to obtain a travel document for the applicant as long as his whereabouts were unknown, the Court concluded that there was for the moment no risk of treatment incompatible with the Convention. It therefore decided that it was no longer justified to continue the examination of the case as referred to in article 37, paragraph 1(c) of the Convention. Nor were there any special circumstances requiring such continued examination. The Court struck the application out of its list of cases.

Djinisov (29741/10, 9 February 2016)
The applicant complained before the Court of a breach of the presumption of innocence (article 6 of the ECHR) in the proceedings to deprive him of the proceeds of crime, since he had had to face the financial consequences of a crime with which the Public Prosecution Service had declined to charge him for lack of evidence.
The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

F.A. (39670/11, 9 February 2016)
The applicant, an Iranian national, entered the Netherlands in 2001 with an authorisation for temporary stay (MVV), after which she was granted a regular residence permit on the basis of family life with her partner, who was Iranian by birth and had acquired Dutch nationality. The permit was valid until March 2005. In 2008 the applicant applied for an asylum residence permit. In support of her application she stated that she and her partner were not married, that she had lived with him since her arrival in the Netherlands, that she had a child born out of wedlock and that as a result of these circumstances she would be prosecuted by the Iranian authorities for adultery if she had to return there to apply for another MVV. Her application was denied.
The applicant complained before the Court that the Netherlands had not secured her rights and freedoms as defined in article 1 of the Convention. She also complained that her expulsion to Iran would be incompatible with her right to life and the prohibition of torture or inhuman

treatment (articles 2 and 3 of the ECHR). In addition, she complained that expulsion would amount to a disproportionate interference with her right to respect for her family life in the Netherlands (article 8 of the ECHR). Finally, she invoked article 13 of the Convention, claiming that she did not have an effective remedy at her disposal in respect of the alleged breach of article 3 of the Convention.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Iran for the duration of the proceedings before it.
The Court noted that after her regular residence permit had expired the applicant did not apply for its renewal but submitted an asylum application. However, in the Netherlands no assessment under article 8 is made as part of the asylum procedure. The Court saw no reason why the applicant could not be expected to submit either an application for the renewal of her expired residence permit or a new application for a regular residence permit, so that the Dutch authorities would have the opportunity to examine her complaint concerning the alleged violation of article 8 of the Convention. The Court took the view that it could not be said from the outset that such a residence permit application would have no chance of success. It therefore dismissed the complaint under article 8 for failure to exhaust domestic remedies. It further held that by applying for a regular residence permit the applicant could, at least temporarily, defer her expulsion from the Netherlands. For this reason, the Court concluded that the complaint concerning a violation of articles 2 and 3 of the Convention was premature. It further ruled that article 13 was inapplicable because the applicant had no arguable claim under article 3 of the Convention. Finally, the Court concluded that the complaint under article 1 of the Convention was manifestly ill-founded and the application inadmissible.

S.M.H. (5868/13, 17 May 2016)
When she submitted her application, the applicant, a Somali national, was pregnant and the single mother of three minor children born in the Netherlands. She complained before the Court that the transfer of herself and her children to Italy under the EU Dublin Regulation without any guarantees from the Italian government that she would be able to apply for asylum or that she and her children would be provided with reception facilities and medical care pending the examination of her asylum application would entail a real risk of inhuman treatment (article 3 of the ECHR).
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not transfer the applicant to Italy until further notice.
The Court noted that the case involved a single mother with young children who as such belonged to a particularly vulnerable group in need of special protection. It further noted that the situation in Italy could in no way be compared to that in Greece at the time of the *M.S.S. v. Belgium and Greece* judgment (30696/09, 21 January 2011) and that 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. The Court further held that unlike the situation in the *Tarakhel v. Switzerland* judgment (29217/12, 4 November 2014), the Dutch authorities decide in consultation with the Italian authorities how and when the transfer of an asylum seeker is to take place. Where it concerns a family with young children, prior notice of transfer is given to the Italian authorities, allowing them to identify where adequate accommodation is available. The Court accepted that the Italian authorities could not be expected to keep places open for long periods of time in specific reception centres reserved for asylum seekers awaiting transfer to Italy under the Dublin Regulation. For this reason, transfer should take place as soon as possible after a guarantee of placement in a reception centre has been received by the State requesting transfer. The Court noted that the Italian Government was duly informed of the situation and the scheduled arrival of the applicant and her children. The Court had understood that they would be placed in one of the locations that have been earmarked for families with minor children. The Court saw no reason to assume that they would not be able to obtain such a place when they arrived in Italy. It concluded that the applicant had not demonstrated that their transfer to Italy would have serious consequences within the meaning of article 3 of the Convention. For these reasons the Court considered the application to be manifestly ill-founded and therefore inadmissible. Consequently, the application of Rule 39 came to an end.

Van Velzen (21496/10, 17 May 2016)
The applicant complained before the Court that he was convicted in absentia by the limited jurisdiction court even though he had not been notified of the hearing in his case. As a result, his right to a fair trial had been violated (article 6, paragraphs 1 and 3 of the ECHR).
The Court noted that the notice of summons and accusation bearing the applicant's address was delivered to a relative living at the same address. It could not be established whether this relative had ensured that the summons reached the applicant in time. In the appeal proceedings the president of the court ruled that the applicant had not made use of the opportunity offered to him to attend the hearing before the limited jurisdiction court. The Court has allowed for the absence of an oral hearing in cases concerning minor criminal offences. In the current case, the absence of an oral hearing was not in violation of article 6 of the Convention, given the minor nature of the offence at issue and the fine imposed. The Court concluded that the application was manifestly ill-founded and declared it inadmissible pursuant to article 35, paragraphs 3(a) and 4 of the Convention.

Lacroix (47367/09, 17 May 2016)
The applicant complained before the Court about the length of the civil proceedings he was involved in (article 6 of the ECHR).
The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

Castelijns (7599/15, 17 May 2016)
The applicant complained before the Court that the difference in the treatment of persons in pre-trial detention (who are not allowed unsupervised visits) and convicted prisoners (who are allowed such visits) was unjustifiable (article 14 in conjunction with article 8 of the ECHR).
The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

Smetsers (7603/15, 17 May 2016)
The applicant complained before the Court that the difference in the treatment of persons in pre-trial detention, who are not allowed unsupervised visits, and convicted prisoners, who are, was unjustifiable (article 14 in conjunction with article 8 of the ECHR).
The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

M.M.R. (64047/10, 24 May 2016)
The applicant, who stated that she came from the province of South Kivu in the eastern part of the Democratic Republic of the Congo (DRC) and belonged to the Banyamulenge (Tutsi) minority, submitted an asylum application in the Netherlands which was denied.
The applicant complained before the Court that her expulsion to the DRC would give rise to a violation of her right to life (article 2 of the ECHR) and the prohibition of torture and inhuman treatment (article 3 of the ECHR), more specifically because she would be at risk of becoming a victim of sexual violence and the DRC authorities would be unable to offer her sufficient protection against such violence.
The Court found it more appropriate to deal with the complaint under article 2 in the context of its examination of the related complaint under article 3 of the Convention. It reiterated that article 3 does not, as such, preclude the Contracting States from relying on the existence of a relocation alternative in their assessment of an individual's claim that return would expose him/her to a real risk within the meaning of that article. The conditions for reliance on the existence of a relocation alternative are that the person to be expelled must be able to travel to the area in question, gain admittance and settle there. The Court stated that it was aware of regular reports of human rights violations in the DRC, including discrimination based on ethnicity and sexual violence against women. However, it held that the applicant had not demonstrated that everyone living in the DRC, including Kinshasa but excluding the eastern part of the country, faced a real risk of suffering treatment prohibited by article 3 of the Convention. Furthermore, the Court found no indications that the applicant's personal position would be any worse than that of most other women of Banyamulenge origin currently living in the DRC. Although the general situation in the DRC for women, including those of Banyamulenge origin, is far from ideal, the Court took the view that it was not so harrowing

that removal of a woman to the DRC would in itself give rise to a real risk of treatment prohibited by article 3 of the Convention. It had therefore not been established that the applicant, if expelled to the DRC, would face a real risk of becoming a victim of a violation of article 3 of the Convention. The Court concluded that the application was manifestly ill-founded and declared it inadmissible pursuant to article 35, paragraphs 3 and 4 of the Convention.

Weldemariam and others (24872/15, 26 May 2016)
The applicant was granted an asylum residence permit in 2013. She subsequently submitted applications on behalf of her husband, her two biological children and her two foster children for authorisations for temporary stay (MVV) for the purpose of family reunification under the policy on family members of persons who have been granted an asylum residence permit. Due to the departure of the relevant case worker at the Dutch Refugee Council, these MVV applications were not submitted within the required time limit (within three months of the issue of the applicant's asylum residence permit). The applications were therefore rejected for exceeding the time limit. The applicant had also submitted MVV applications on behalf of her biological children for the purpose of family reunification under article 8 of the Convention. These applications too were rejected.
The applicant complained before the Court of a violation of her right to family life (article 8 of the ECHR) and her right to an effective remedy (article 13 of the ECHR). At the time when she submitted her application to the Court the proceedings to review the refusal to issue regular MVVs for her biological children were still pending. Subsequently, regular MVVs for the purpose of family reunification were granted for her biological children. For this reason, the Court (in single judge formation) struck this part of the application out of the list in accordance with article 37, paragraph 1(a) of the Convention. The applicant maintained her application in so far as it related to her foster children. She had not submitted an application on behalf of these children for regular MVVs. The Court concluded that the admissibility criteria of articles 34 and 35 of the Convention had not been met in respect of the remaining part of the application.

Calderon Silva (4784/15, 31 May 2016)
The applicant complained before the Court that his extended pre-trial detention was unjustified, or in the alternative, that the decisions taken regarding his detention were not sufficiently substantiated (article 5, paragraph 1(c) and article 5, paragraph 3 of the ECHR). The applicant and the Government reached a friendly settlement. The Court struck the application out of its list of cases in accordance with article 39 of the Convention.

C.M.M. (46970/07, 14 June 2016)
The applicant, a national of the Democratic Republic of the Congo (DRC), applied for asylum in 2001. In support of his statements he submitted an expert report showing that he had been arrested in the DRC by the local intelligence service and was wanted for endangering national security. The Ministry of Foreign Affairs then issued a person-specific report casting doubt on the applicant's statements and the expert report he had submitted. His account in support of his asylum application was found to lack credibility and his application was denied.
The applicant complained before the Court that he would be exposed to a real risk of treatment prohibited by article 3 of the Convention if returned to the DRC. He also complained under article 13 that he had not had an effective remedy. Furthermore, he expressed criticism of the way in which information had been gathered for the person-specific report and the way it had been used in the asylum procedure.
The Court noted that it is for the domestic courts to assess the evidence, including person-specific reports, before them and emphasised the Court's subsidiary role in this. It further observed that the denial of the asylum application was reviewed by the district court and by the Administrative Jurisdiction Division of the Council of State on appeal and that both judicial bodies had independently and with full jurisdiction examined whether the applicant's removal would be compatible with article 3 of the Convention. For this purpose the district court had full access to all the evidentiary material and the documents on which the person-specific report was based. The Court found that the use of the person-specific report in the asylum procedure raised no issues under article 3 of the Convention. It noted that the applicant had not substantiated his claim that he had attracted the negative attention of the DRC

authorities. The Court therefore concluded that the applicant had failed to establish that he faced a real risk of treatment incompatible with article 3 of the Convention if removed to the DRC, declaring this part of the application to be manifestly ill-founded. It further ruled that article 13 was not applicable to the case, since the applicant had no arguable claim under article 3 of the Convention. This complaint was also declared manifestly ill-founded. The Court then declared the application inadmissible.

A.F. (61060/11, 21 June 2016)
The applicant, an Afghan national, submitted his first asylum application in 2000, based on his fear of persecution on account of, inter alia, his activities for the security service under the communist regime, the KhAD/WAD. This application and subsequent applications were denied as there were substantial grounds for believing that he had committed crimes as referred to in article 1F of the Refugee Convention.
The applicant complained before the Court of a violation of the prohibition of torture and inhuman treatment (article 3 of the ECHR), the right to respect for family life (article 8 of the ECHR) and the right to an effective remedy (article 13 of the ECHR).
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Afghanistan for the duration of the proceedings before it. The applicant was asked to supplement his application. It then emerged that the applicant's representative had lost contact with him and did not know his whereabouts.
The Court took the view that the applicant's failure to keep his lawyer informed of his whereabouts indicated that he no longer wished to pursue his application. It found no special circumstances requiring the continued examination of the case. The Court therefore struck the application out of the list of cases.

Cabral (37617/10, 28 June 2016)
The applicant, a Dutch national, was charged with robbing three supermarkets with an accomplice named V. and with a street mugging. V. made incriminating statements to the police with regard to the applicant's participation in all four offences. He was then summonsed to give evidence during the applicant's trial. Because V. was himself suspected of having taken part in the supermarket robberies he had the right to remain silent with respect to them, which he did. Regarding the mugging, he testified that he had not witnessed the offence but had heard that the applicant had not been involved. This exculpatory statement was not believed and V. was charged with perjury. The applicant was found guilty on all charges. In the appeal proceedings, V. was no longer willing to give any testimony. The applicant's conviction was upheld on appeal with regard to all four offences.
The applicant complained before the Court that he was convicted solely or to a decisive extent on the basis of statements made to police by a witness whom he could not cross-examine (article 6, paragraph 3(d) of the ECHR). The Court referred to *Seton v. the United Kingdom* (55287/10, judgment of 31 March 2016) and concluded that V. could not have been compelled to answer questions because he had been charged on those counts himself. The Court then examined whether V.'s statement to the police was the sole or decisive evidence leading to the conviction of the applicant. In doing so, it emphasised that it was not acting as a fourth instance and would therefore only take the view that there had been a violation of article 6 of the Convention if the judgment of the national court was arbitrary or manifestly unreasonable. If that proved to be the case, the Court would ascertain whether there were sufficient counterbalancing factors. For the first three charges there was sufficient alternative evidence; the Court therefore declared the application in this respect manifestly ill-founded. With regard to the fourth charge, the Court could not, on the basis of the information available, determine the admissibility of the complaint. It therefore decided to adjourn the examination of this part of the application.

A. and B. (10827/12, 5 July 2016)
The applicants, both Mongolian nationals, submitted asylum applications in 2009. Their applications were denied on the grounds that their account in support of their applications was not positively persuasive.
The applicants complained before the Court that they faced a real risk of torture or inhuman treatment (article 3 of the ECHR) if expelled to Mongolia, due to the threats they had received and the source of those threats (X., a client of the first applicant). They also complained that they had no effective remedy (article 13 of the ECHR) in relation to their complaint under article 3 of the Convention.
The Court noted that there were no indications that the general situation in Mongolia was so serious that the return of the applicants would expose them to treatment in violation of article 3 of the Convention. Nor had they established that because of their personal situation they would face a real risk of such treatment. Like the Dutch authorities, the Court saw no reason to doubt the applicants' account of having received threatening calls and of the first applicant being assaulted in the stairwell of the building where they lived. Nor was there any reason to doubt that the first applicant had had a car accident in October 2008. However, the applicants' claim that X. was implicated in these incidents was wholly unsubstantiated and appeared to be based on personal assumptions and speculation. The Court also took account of the fact that following the presentation of the applicants at the Mongolian Embassy, which confirmed their nationality, no Mongolian travel documents had been issued to date. Furthermore, there were no indications that any governmental or non-governmental body or private individual in Mongolia was searching for the applicants. The Court therefore declared the complaint under article 3 of the Convention manifestly ill-founded.
Finally, the Court concluded that the right to an effective remedy (article 13 of the ECHR) was not applicable to the case because the applicants had no arguable claim under article 3 of the Convention. This complaint was therefore also declared manifestly ill-founded. The Court then declared the application inadmissible.

Hunde (17931/16, 5 July 2016)
The applicant, a failed asylum seeker from Ethiopia, complained before the Court of a violation of his right to life (article 2 of the ECHR) because during his stay in the 'refugee garage' (an abandoned indoor car park that was occupied by asylum seekers) his life had been at serious risk due to violence by and between other residents, against which no adequate protection had been offered by the State. In addition, he claimed that both the inhumane conditions in the refugee garage and the fact that he was compelled to cooperate in his departure in order to obtain shelter and social assistance were a breach of the prohibition on inhuman treatment (article 3 of the ECHR). Finally, he complained that his right to a fair trial (article 6 of the ECHR) had been violated because the judgment on his appeal in the national proceedings concerning reception did not address his argument that he had in the meantime been granted an asylum residence permit and that the Dutch authorities should therefore have granted him emergency social assistance retroactively.
The Court found it more appropriate to deal with the complaint under article 2 in the context of its examination of the complaint under article 3. It did not accept the applicant's argument that the findings of the European Committee of Social Rights (ECSR) of 1 July 2014 in case no. 90/2013 (*CEC v. the Netherlands*) and in case no. 86/2012 (*Feantsa v. the Netherlands*) should lead automatically to the conclusion that the denial of shelter and social assistance diminished his human dignity in a manner incompatible with article 3 of the Convention. Nor did article 3 entail an obligation to provide all persons illegally resident in a Contracting State with free and unlimited health care. Furthermore, the applicant was not in a situation similar to that at issue in *M.S.S. v. Belgium and Greece* (30696/09, judgment of 21 January 2011). Unlike the applicant in that case, the present applicant was a failed asylum seeker under a legal obligation to leave the country. In addition, the uncertainty of his situation was not related to the assessment of his asylum application by the Dutch authorities. His asylum application had already been examined and denied. Moreover, it could not be said that the Dutch authorities had shown indifference or failed to act with regard to their obligations under article 3 of the Convention. After his asylum proceedings ended, the applicant was afforded a four-week grace period to organise his voluntary return to his country of origin, during which period he had access to reception facilities. After this period, he could have applied for shelter at a reception centre where his liberty would have been restricted. The fact that admission to

this centre was dependent on his cooperation in his departure was in itself not incompatible with article 3 of the Convention. The Court also took account of the fact that if it was impossible for the applicant to return to his country of origin either voluntarily or involuntarily, for reasons beyond his control, he could have applied for a residence permit under the no-fault policy. The applicant had never applied for such a permit, nor had he ever argued that he could not leave the Netherlands independently. The Court further observed that voluntary return to Ethiopia was possible. To the extent that article 3 of the Convention requires states to take action in situations of extreme poverty – including in the case of irregular migrants – the Dutch authorities had already addressed this in practical terms. The Court referred to the no-fault policy, admission to restrictive accommodation, deferral of removal for medical reasons, access to medically necessary care and the scheme providing basic provisions for irregular migrants ('Bed, Bath and Bread'). In these circumstances it could not be said that the Dutch authorities had fallen short with regard to their obligations under article 3 of the Convention. The Court concluded that this part of the application was manifestly ill-founded. With regard to the complaint under article 6 of the Convention, the Court held that this provision (article 6, paragraph 1 of the ECHR) obliges domestic courts to give reasons for their judgments and decisions without, however, going so far as to require a detailed answer to every argument. The Court concluded that this complaint too was manifestly ill-founded and declared the application inadmissible.

T.M. and Y.A. (209/16, 5 July 2016)
The applicants, a mother and son of Iranian nationality, entered the Netherlands in 2014 on valid Schengen visas for the purpose of visiting a family member. After the expiry of their visas, they submitted applications for asylum. Their reason for seeking asylum was that they feared persecution in their country of origin on account of being Christians. Their applications were denied.
Before the Court the applicants complained that if they were expelled to Iran they would face a real risk of treatment prohibited by article 3 of the Convention (prohibition of torture and inhuman treatment) in view of their recent conversion to Christianity. Even if the Iranian authorities had not been aware of their conversion, they would become aware of it on the applicants' return as they would no longer observe Islamic rules and practices but intended actively to practise their Christian faith.
The Court noted that before assessing the risk of treatment contrary to article 3 of the Convention, the Dutch authorities first examined the credibility of the applicants' statements with respect to their conversion to Christianity in Iran and the question of whether their activities in the Netherlands were the result of a genuine conversion which had attained a sufficient level of cogency, seriousness, cohesion and importance. The Court saw no grounds to depart from the conclusions drawn by the Dutch authorities concerning the credibility of the applicants' alleged conversion, conclusions which were reached after a thorough examination of all the relevant and available information. Nor were there any indications that the national procedure lacked effective guarantees to protect the applicants against *refoulement* or was otherwise flawed. Consequently, the applicants had failed to substantiate their allegations that their removal to Iran would give rise to a violation of article 3 of the Convention. The Court therefore concluded that the complaint was manifestly ill-founded and declared the application inadmissible.

M.H.A. (61402/15, 5 July 2016)
The applicant, an Afghan national, submitted an asylum application in 2011. After this application was denied, he submitted a fresh application in 2013 based on his conversion to Christianity. This application too was denied. In 2015 he submitted a third application based, inter alia, on the fact that his faith had deepened since his conversion. This application was denied on the grounds that no new facts or circumstances had been presented.
The applicant complained before the Court that his expulsion to Afghanistan would be in breach of the prohibition on torture and inhuman treatment (article 3 of the ECHR) on account of his conversion to Christianity, the fact that he had become westernised as a result of having lived abroad for over four years and his Hazara origins.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Afghanistan for the duration of the proceedings before it.

The Court noted that in the present case the Dutch authorities had been confronted with a 'sur place' conversion (one that did not take place in the country of origin). Before assessing the risk of treatment proscribed by article 3 of the Convention, they therefore had to assess the credibility of the applicant's statements about his conversion, whether his conversion was genuine and whether it had attained a sufficient level of cogency, seriousness, cohesion and importance. Following a thorough examination of all relevant and available information, the Dutch authorities came to a number of conclusions on this issue. There were no indications that the proceedings before those authorities lacked effective safeguards protecting the applicant against *refoulement* or were otherwise flawed. The applicant had made no submissions that would have led the Court to depart from the conclusions of the Dutch authorities regarding the credibility of his conversion. In this light, the Court concluded that the applicant had failed to show that his return to Afghanistan would expose him to a real risk of treatment contrary to article 3 of the Convention on account of his conversion. It therefore declared the complaint to be manifestly ill-founded.
In so far as the application related to the applicant's westernisation, the Court noted that he had failed to raise this issue before the Dutch authorities and that domestic remedies had therefore not been exhausted in this respect.
With regard to the applicant's Hazara origins, the Court pointed out that it appeared that the Dutch authorities were planning to expel him to Kabul, where the Hazara are not in the minority. In addition, the applicant had failed to demonstrate the existence of individual circumstances relating to his ethnicity that would expose him to treatment contrary to article 3 of the Convention on his return to Kabul. The Court therefore considered this complaint too to be manifestly ill-founded and declared the application inadmissible.

J.G. (70602/14, 5 July 2016)
The applicant, an Afghan national, submitted an asylum application in 2003. After the denial of this application and of a second application, he submitted a third application in 2008 based on his conversion to Christianity. This third application and subsequent applications (also based on his conversion) were denied on the grounds that no new facts or circumstances had been adduced.
Before the Court the applicant complained that his expulsion to Afghanistan would be in violation of his right to life (article 2 of the ECHR) and the prohibition of torture and inhuman treatment (article 3 of the ECHR) in view of his conversion.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant to Afghanistan for the duration of the proceedings before it.
The Court noted that in the present case the Dutch authorities had been confronted with a 'sur place' conversion. Before assessing the risk of treatment proscribed by article 3 of the Convention, they therefore had to assess the credibility of the applicant's statements about his conversion, whether his conversion was genuine and whether it had attained a sufficient level of cogency, seriousness, cohesion and importance. It also noted that the applicant had had the opportunity to challenge the decisions denying his asylum applications in judicial review and appeal proceedings. Although the district court's examination of the denial of his applications based on his conversion was limited to the question of whether he had submitted newly emerged facts or altered circumstances, the Court saw no objection to such a restricted examination of repeat asylum applications provided a full examination had previously taken place of the grounds on which the original asylum application was based. In the present case there was no reason to doubt the thoroughness of the examination of the original application. Most importantly, the Court found that the examinations both at administrative level and by the courts of the applications based on the applicant's conversion addressed the issue of whether that conversion was genuine. To that end, account was taken of all the statements made by the applicant and all the documents he submitted. It was precisely because these examinations concluded that the conversion was not credible that the authorities took the view that there was no need to revisit the decision on the original application. According to the Court, there were no indications that the proceedings before those authorities lacked effective safeguards protecting the applicant against *refoulement* or were otherwise flawed. The Court saw no reason to depart from the conclusions of the Dutch authorities regarding the credibility of his conversion. In this light, the Court concluded that the applicant had failed to show that

his return to Afghanistan would expose him to a real risk of treatment contrary to articles 2 or 3 of the Convention on account of his conversion. It concluded that the complaint was manifestly ill-founded and declared the application inadmissible.

Firay Gerechiher Geremedhin (45558/09, 23 August 2016)
The applicant, who comes from Eritrea, his wife, and their daughter who was born in a refugee camp in Saudi Arabia, were accepted for resettlement in the Netherlands as refugees. In 2007 they were granted asylum residence permits. When they fled Eritrea, the applicant and his wife left their son, as well as four children from the applicant's previous marriage, in the care of their grandparents. The applicant's spouse filed a request for advice regarding the issue of an authorisation for temporary stay (MVV) for the purpose of family reunification with their son; the applicant did the same for his four children from his first marriage. The Visa Service issued a positive recommendation on the issue of an MVV for the couple's son. After formally applying for and receiving an MVV, and subsequently being admitted to the Netherlands, the son was granted a residence permit. The Visa Service issued a negative recommendation on the issue of an MVV for the four children from the applicant's first marriage. There are no legal remedies against such a recommendation. Neither the four children nor the applicant himself submitted a formal application for an MVV.
The applicant complained of a violation of his right to respect for family life (article 8 of the ECHR) because the four children born of his first marriage were not allowed to settle with him in the Netherlands even though he is their sole remaining parent, and the medical condition of his daughter who was allowed entry prevents the exercise of family life in Sudan, where these four children were living at the time the present application was lodged. The applicant also complained of the lack of an effective remedy with regard to the alleged violation of article 8 of the Convention, arguing that the fact that no appeal lies from a negative recommendation on the issue of an MVV is incompatible with article 13 of the Convention.
The Court noted that article 35, paragraph 1 of the Convention requires applicants to exhaust domestic remedies. The applicant had two options for obtaining clarity regarding his children's eligibility for an MVV: either the submission by the applicant or his children of a request for free advice on the issue of an MVV or a formal application for an MVV filed directly by his children at a Dutch diplomatic mission. The applicant was assisted by a lawyer when he filed the request for advice and it could therefore be assumed that he was aware that, unlike a decision on a formal application for an MVV, a negative recommendation was not open to appeal. The Netherlands is not obliged to allow foreign nationals to await the outcome of their immigration proceedings in its territory. The Court saw no reason to assume that the applicant was unable to ensure that his four children lodged applications for an MVV for the purpose of family reunification with the embassy in Sudan. If the decision had been negative, the applicant would have had legal remedies at his disposal which would have afforded the Dutch administrative and judicial authorities the opportunity to examine an alleged violation of article 8 of the Convention. Furthermore, it had not been argued or demonstrated that it was no longer possible to lodge such applications. The complaint was therefore declared inadmissible for failure to exhaust domestic remedies. For this reason the complaint under article 13 of the Convention was also declared inadmissible.

A.K.C. (36953/09, 30 August 2016)
Together with his wife and two youngest children the applicant, an Afghan national, applied for asylum in the Netherlands in 1997. Their three oldest children joined them in the Netherlands at a later date. The applicant's asylum application was denied under article 1F of the Refugee Convention. In 2003 the applicant submitted an application for a residence permit on humanitarian grounds, in particular on account of his family life in the Netherlands and the risk of torture or inhuman treatment (article 3 of the ECHR) were he to be returned to Afghanistan. This application was also denied and an exclusion order was imposed on the applicant. The exclusion order was lifted in 2012 following the implementation of Directive 2008/115/EC on common standards and procedures in member states for returning illegally staying third-country nationals. The exclusion order, which was only valid on Dutch territory, was replaced in 2013 by the entry ban applying to the whole of the Schengen Area. In 2016 the entry ban was lifted because the applicant had been living in Belgium since 2012 and had been granted a residence permit there as a family member of an EU citizen (his daughter).

The applicant complained that if he were expelled to Afghanistan he would be exposed to treatment prohibited by article 3 of the Convention.
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant until further notice. The Court concluded that as a result of the applicant obtaining a residence permit in Belgium, he no longer faced the risk of being expelled to Afghanistan, where he feared treatment incompatible with article 3 of the Convention. For this reason, the Court considered the complaint to be manifestly ill-founded and the application inadmissible. It also discontinued the application of Rule 39.

U.A.H.M (49929/11, 30 August 2016)
The applicant, a Somali national, complained before the Court that her transfer to Italy under the EU Dublin Regulation would be in violation of the prohibition of torture and inhuman treatment (article 3 of the ECHR).
The Court decided to apply Rule 39 of the Rules of Court, indicating that the Government should not expel the applicant until further notice. The Government then informed the Court that the applicant had been granted a Dutch residence permit and that transfer to Italy was no longer at issue. The Court found that the matter had been resolved within the meaning of article 37, paragraph 1(b) of the Convention. In addition, it found no special circumstances which required the further examination of the application. It therefore struck the application out of the list of cases and discontinued the application of Rule 39.

Mehida Mustafić-Mujić and others (49037/15, 30 August 2016)
The applicants are all relatives of persons who died in the Srebrenica massacre in July 1995. They complained before the Court of a violation of the right to life (article 2 of the ECHR) because of the refusal to prosecute three Dutch army officers belonging to the UN peacekeeping force in the former Yugoslavia for making their relatives leave the UN compound after Bosnian Serb units had taken Srebrenica and its surroundings, or at least to institute a criminal investigation into the involvement of the three officers in the deaths of their family members.
The Court noted first that this case differed from other cases involving the procedural aspect of article 2 of the Convention, in that the information available was unusually extensive and detailed and contained material collected from national and international sources. The result of all the investigations is that there is no uncertainty as regards the nature and degree of involvement of the three officers. It was not possible, therefore, for the Court to conclude that the investigations had been ineffective or inadequate.
Furthermore, the Court noted that the State's obligations under article 2 could be adequately discharged through its contribution to the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The Court rejected the complaint that the Military Chamber of Arnhem Appeal Court, which ruled that the three officers would not be prosecuted, was not independent. In the Court's view, the fact that a military judge sits in the Chamber does not undermine its independence: military members of the Chamber are not in that capacity subject to military authority or discipline, and the same guarantees of independence apply to them as to civilian judges. The Court further concluded that there were no grounds to support the view that the judges in this case were biased. With regard to the complaint that the appeal court had applied an incorrect legal framework, that for accessory crimes, the Court held that since it was beyond dispute that the three Dutch officers were not directly involved in the killings, the appeal court had acted correctly. According to the Court, the appeal court's conclusion that criminal proceedings would not result in conviction was reasonable, since this conclusion was reached in the context of an examination of whether there was sufficient evidence to justify prosecution.
Finally, the Court saw no reason to conclude that there was any misrepresentation of facts or arguments by the appeal court. The finding that the Dutch officers were not aware of the imminent massacre was in line with the findings of the ICTY. Furthermore, the findings of the appeal court were consistent with those in the civil proceedings, where different parties were involved and a different legal test applicable. The Court considered the application to be manifestly ill-founded and therefore inadmissible.

Telegraaf Media Nederland Landelijke Media B.V. and Jolande Gertrude van der Graaf (33847/11, 30 August 2016)
The applicants are the publisher of the daily newspaper *De Telegraaf* (the first applicant) and a journalist (the second applicant). In 2009 *De Telegraaf* published two articles written by the second applicant. In response, the General Intelligence and Security Service (AIVD) launched an investigation into the second applicant's involvement in the leaking of state secrets. In the interests of national security it was deemed necessary to investigate whether the state secrets were still in the possession of unauthorised third parties and to prevent more state secrets being leaked. The second applicant was suspected of offences defined in article 98 and 98a of the Criminal Code. A warrant for the search of her home was subsequently issued. The investigating judge asked the second applicant to hand over various documents and a number of mobile phones. She refused to do so, after which her home was searched, during which documents and electronic information carriers were seized. The applicants lodged a complaint with The Hague District Court seeking the return of the seized documents and information carriers. The district court declared the complaint unfounded. The public prosecutor subsequently notified the second applicant that the prosecution against her had been dropped on the grounds that the evidence had been obtained unlawfully. Invoking the right of freedom of expression, including the freedom to receive and impart information (article 10 of the ECHR), the applicants lodged an appeal in cassation against the decision of the district court. The Supreme Court declared the appeal inadmissible for lack of interest since all the items connected to the complaint had been returned to the second applicant.
The applicants complained before the Court of a violation of article 10 of the Convention on account of the search of the second applicant's home, the seizure of various documents and other items and the 'chilling effect' these actions would have on potential sources. In a unilateral declaration the Government confirmed that there had been a violation of article 10 of the Convention. The Court noted that the Government had attempted to reach a friendly settlement directly with the applicants, through their representatives, without the involvement of the Court. Although the negotiations regarding the settlement were not supervised by the Court, it had no reason to believe that there had been any abuse by either party or any imbalance in power. The position of the first applicant as publisher of a large national newspaper and the fact that both applicants were ably represented by experienced counsel throughout were significant in this regard. Finally, the Court noted that the Government had in the meantime introduced legislation to prevent the recurrence of violations in the future: the Independent Review of the Use of Special Powers under the 2002 Intelligence and Security Services Act (Lawyers and Journalists) Interim Order, published in the Government Gazette of 23 December 2015, and a bill amending the Code of Criminal Procedure to establish the right to source protection in the free gathering of news (source protection in criminal cases). The Court accepted the unilateral declaration and struck the application out of its list of cases.

Barbara van Beukering and Het Parool B.V. (27323/14, 20 September 2016)
The applicants are the chief editor (the first applicant) and the publisher (the second applicant) of the daily newspaper *Het Parool*. In 2009 *Het Parool* published an article about R.P., a young rapper due to appear in court on charges of stabbing three staff members at a homeless shelter where he was staying, one of whom died as a result. The article was accompanied by a portrait photo of R.P., a still picture from a documentary in which R.P. had voluntarily taken part. The documentary mentioned his lifestyle as a rapper and member of a street gang. It was broadcast twice and could be downloaded free of charge from the internet. The article and photo were published both in the newspaper itself and on its website. In 2009 R.P. was convicted of manslaughter and attempted manslaughter. Shortly afterwards R.P. wrote to the first applicant demanding the removal of the portrait image from the newspaper's website and payment of compensation. R.P. also brought a civil claim in this respect, which was dismissed by Amsterdam District Court. R.P. lodged an appeal against this judgment with Amsterdam Court of Appeal. The appeal court overturned the judgment of the district court, ruling that in the circumstances of the case, R.P.'s right to respect for his private life (article 8 of the ECHR) should weigh more heavily than the first applicant's right to freedom of expression, including the right to impart information. The article and accompanying photo had recognisably linked R.P. with serious crimes of which he had not yet been convicted. A photo in which he was less easily identifiable would have constituted a less serious interference with

his right to privacy without significantly detracting from the impact or informative value of the article. This judgment was upheld by the Supreme Court in cassation proceedings.
Before the Court the applicants complained under article 10 of the Convention about the finding that publication of the photo was unlawful and about the award to R.P. of a sum in respect of non-pecuniary damage.
The Court noted that there had undeniably been an interference with the applicants' freedom of expression. It then examined whether this interference was necessary in a democratic society within the meaning of article 10, paragraph 2 of the Convention. The applicants' right to freedom of expression (article 10 of the ECHR) was weighed against R.P.'s right to respect for his private life (article 8 of the ECHR). The Court did not consider that the appeal court had acted unreasonably in deciding that R.P.'s interests outweighed those of the first applicant. This conclusion was supported by the recommendations of the Committee of Ministers and the Court's own case law. The award of €1,500 in respect of non-pecuniary damage was relatively modest and did not incline the Court to any other view. It considered the application to be manifestly ill-founded and declared it inadmissible.

Akdag (49437/14, 18 October 2016)
The applicant, who has both Dutch and Turkish nationality, was born and raised in the Netherlands. She had a relationship with S., a Dutch national born in Suriname, and in 2012 they had a son. Initially, the child was given up for adoption, but after three months was returned to the applicant at her request. Shortly afterwards S. acknowledged paternity and obtained joint parental responsibility. In June 2012 the applicant, S. and their son emigrated to Suriname and went to live with S.'s parents. In July 2013 the applicant and her son returned to the Netherlands. S. followed two weeks later; shortly afterwards their relationship ended. After the applicant had lodged a criminal complaint against S., as he was planning to take their child back to Suriname, S. applied to The Hague District Court for an order enabling him to return to Suriname with his son. S. relied on article 12 of the Hague Convention on the Civil Aspects of International Child Abduction. Although Suriname is not a party to this Convention, the district court found that the International Child Abduction (Implementation) Act allowed it to apply the Convention by analogy. The district court ruled that by bringing her son to the Netherlands without S.'s permission, the applicant had acted in breach of S.'s parental responsibility. With regard to the question of whether it should order the child's return, the district court took account of the fact that the applicant's statements had made it clear that she could not return to Suriname with her son. The district court concluded that separation from his mother would place the child in an intolerable situation as referred to in article 13 of the Hague Child Abduction Convention. In the appeal proceedings the appeal court found that the applicant had insufficiently substantiated her claim that she could not return to Suriname. It therefore dismissed the argument that the child would be placed in an intolerable situation if he returned to Suriname and ordered his return.
The applicant complained before the Court that her right to respect for family life (article 8 of the ECHR) had been violated. The Court concluded that the ties between the applicant and her son amounted to 'family life' within the meaning of article 8 of the Convention and that the decision ordering his return to Suriname interfered with her rights under this article. The Court noted that the appeal court had made a thorough examination of the claim that the applicant could not return to Suriname. It concluded that the appeal court's decision to order the child's return to Suriname had struck a fair balance between the competing interests. These were, on the one hand, the shared interest of the applicant and her son in continuing their family life in the Netherlands and on the other, the child's own interest, recognised as paramount by the Hague Child Abduction Convention, not to be wrongfully removed from a parent who has joint parental responsibility for him, in this case his father, and thereafter wrongly retained. The Court concluded that the interference complained of was not disproportionate to the legitimate aim. It declared the complaint manifestly ill-founded and the application inadmissible.

Committee of Ministers[2]

Geerings (30810/03, 1 March 2007 (merits) 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 (article 6, paragraph 2 of the ECHR).

Following the judgment of 1 March 2007, 's-Hertogenbosch Court of Appeal reduced the amount specified in the confiscation order. The Government repaid the sum paid in excess of the reduced amount. In addition, it paid the applicant the compensation and amount for costs and expenses awarded in the judgment of 14 February 2008.

On 17 June 2013 the Government sent an Action Report on this case to the Committee of Ministers. However, 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.

On 15 July 2016, a revised Action Plan was sent to the Committee, informing it that in September 2007 the Board of Procurators General had published guidelines emphasising that in cases concerning the deprivation of illegally obtained advantage, the proceeds of a crime of which a person has been acquitted cannot be confiscated unless it has been established that this person actually benefited from the offence with which he/she was charged. The Committee was also informed that the Supreme Court had confirmed the Court's findings that a confiscation order cannot be imposed if it has not been established beyond all reasonable doubt that the person concerned actually committed the offence and if it cannot be established as fact that any advantage, illegal or otherwise, was actually obtained. Since this judgment, the Supreme Court has applied this rule in a number of cases. The Government further stated that it believed that the Public Prosecution Service and the Dutch judiciary had been properly informed of and would abide by the principles set out in the judgment of 1 March 2007 and further specified by the Supreme Court, thus preventing any similar violations in the future.

Voskuil (64752/01, 22 November 2007), Sanoma Uitgevers B.V. (38224/03, 14 September 2010) and Telegraaf Media Nederland Landelijke Media B.V. and others (39315/06, 22 November 2012)

In all three cases the Court found that there had been a violation of the right to freedom of expression, more particularly the right of journalists not to disclose their sources (article 10 of the ECHR). On 20 August 2013 a joint Action Plan was sent to the Committee, informing it that the Government was planning to amend the 2002 Intelligence and Security Services Act to oblige the intelligence and security services to obtain the consent of The Hague District Court before using special powers vis-à-vis journalists with the aim of identifying their sources, directly or indirectly. In addition, a new article was to be included in the Code of Criminal Procedure, giving witnesses to whom information has been entrusted in the context of professional news reporting or the gathering of information for that purpose, or the reporting of news in the context of public debate, the right to refuse to give evidence or identify their sources of information. The Code would also be amended to enable journalists to refuse to comply with an order to surrender an object if by doing so they would be in breach of their duty to protect their sources.

On 12 September 2016 a new joint Action Plan was sent to the Committee, informing it that the bill amending the 2002 Intelligence and Security Services Act had been introduced in the House of Representatives and that, in response to an evaluation of the Act, the Government had decided to prepare a completely new Act in which the bill would be incorporated. The new legislative proposal was expected to be introduced in Parliament before the end of 2016. The Committee was also informed that pending the entry into force of a new Act, an interim order had been introduced under which the intelligence and security services now had to submit to an independent committee consisting of legal experts any plan to use special powers vis-à-vis a journalist in order to identify their sources. This independent committee issues binding opinions on whether the use of special powers is lawful or not (Independent Review of the Use

[2] 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.

of Special Powers under the 2002 Intelligence and Security Services Act (Lawyers and Journalists) Interim Order). The Committee was further informed that the bill amending the Code of Criminal Procedure was introduced in the House of Representatives on 17 September 2014, was itself amended on 31 August 2015 and was scheduled for debate in Parliament in September 2016.

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 he was not able to question at the hearing because the witness exercised his right not to testify (article 6, paragraphs 1 and 3(d) of the ECHR).
The applicant served his sentence and was released. On 4 June 2013 his application for a retrial was granted by the Supreme Court , which referred the case to 's-Hertogenbosch Court of Appeal, a different appeal court than the one which had decided on his appeal. On 28 October 2015 's-Hertogenbosch Court of Appeal gave judgment. The appeal court examined one of the witnesses in the presence of the applicant's counsel. The witness was no longer able to refuse to testify and the defence had the opportunity to question him and to observe him during questioning. According to the appeal court, the fact that the witness stated that he could not remember much and that the defence had only been given the opportunity to question him 15 years later did not constitute a breach of the applicant's right to a fair trial. The appeal court properly examined the credibility of the witness and believed him to be credible. It further concluded that there was sufficient evidence to convict the applicant of being a co-perpetrator in the commission of offences under the Opium Act. The applicant has lodged an appeal in cassation with the Supreme Court and proceedings are pending. The government informed the Committee of this in the Action Plan of 3 November 2016, stating that the Committee would be informed of the outcome of the proceedings.

Gillissen (39966/09, 15 March 2016)
The Court ruled that the applicant's right to a fair hearing had been violated because the refusal of the Central Appeals Court for Public Service and Social Security Matters to grant his request to examine witnesses placed him at a disadvantage vis-à-vis his opponent (article 6, paragraph 1 of the ECHR).
The Government paid the sum awarded to the applicant in costs and expenses. On 14 December 2016 an Action Report was sent to the Committee informing it that the Government did not consider individual measures necessary in the applicant's case, but that the judgment had been discussed internally by the Central Appeals Court for Public Service and Social Security Matters and would be brought to the attention of the other highest administrative courts in consultations. The judgment has already been applied by the Central Appeals Court for Public Service and Social Security Matters and has therefore been incorporated in national case law, thus preventing similar violations in the future.

United Nations

Human Rights Committee

G.E. (2299/2013, 3 November 2016)

The author, a Ghanaian national, is HIV positive. He was granted a temporary regular residence permit on the grounds of a medical emergency for a period of three years. During this period he had access to social provision. On 1 February 2011 the Immigration and Naturalisation Service (IND) denied his application for renewal of the residence permit on the basis of a report from the Medical Advisor's Office which stated that medical treatment for HIV infection was available in Ghana. The author failed to lodge a timely objection to the decision denying his application. A second application for renewal was also denied, and the author's subsequent objection and application for judicial review were declared unfounded. An application for judicial review of a negative decision on an objection does not suspend the legal consequences of the decision. Subsequently the social provision (including social assistance and medical insurance) he had been receiving was terminated. Necessary medical treatment in connection with his HIV status continued and he received a monthly allowance from the municipality's Excluded Immigrants Fund. His requests for shelter, medical treatment and benefits were refused.

The author complained before the Committee that refusing him shelter and benefits on the grounds that he lacked a residence permit amounted to inhuman and degrading treatment (article 7 of the International Covenant on Civil and Political Rights, ICCPR). He further complained that the prohibition of interference with a person's right to privacy (article 17 of the ICCPR) and the prohibition of discrimination (article 26 of the ICCPR) had been violated.

The Committee noted that after the author's application for the renewal of his residence permit had been denied, he continued to receive free medical treatment, HIV medication and a monthly allowance from the municipality of Amsterdam. He had also been able to stay with various friends or rent a room. Furthermore, the Central Agency for the Reception of Asylum Seekers (COA) offered him shelter, which he refused on the grounds that his freedom would be restricted there. In this context the Committee observed that even if access to such shelter meant that the author had to accept certain restrictions, he had not explained how such a restriction would affect his medical treatment for HIV so negatively as to put his health or life at serious risk. The Committee therefore concluded that the complaints regarding a violation of articles 7 and 17 had been insufficiently substantiated. The complaint under article 26 regarding the difference in treatment of third-country nationals with similar medical conditions depending on whether or not they hold a residence permit was likewise unsubstantiated. The Committee decided that the communication was inadmissible.

Rabbae, A.B.S. and N.A. (2124/2011, 18 November 2016)

The authors all have dual nationality (Dutch and Moroccan). Between 2006 and 2009 various individuals and organisations lodged criminal complaints with the police accusing Geert Wilders, member of the House of Representatives and founder of the Party for Freedom (PVV), of insulting behaviour and incitement to discrimination, violence and hatred. The Public Prosecution Service decided not to prosecute Mr Wilders, arguing that his statements were within the limits of freedom of expression in public debate. The authors lodged a complaint with Amsterdam Court of Appeal, asking it to order the prosecution of Mr Wilders so that a court could decide on his actions. On 21 January 2009 the appeal court ordered the Public Prosecution Service to institute criminal proceedings against Mr Wilders. He was charged with intentionally insulting a group of people on account of their race or religion, and of inciting hatred and discrimination on the grounds of race or religion. The authors joined the proceedings as aggrieved parties, claiming symbolic compensation of €1 each. On 23 June 2011 Amsterdam District Court acquitted Mr Wilders on all the charges. It found that nearly all Mr Wilders' statements were directed against Islam as a religion and not against Muslims. Consequently, the authors' claims as aggrieved parties were declared inadmissible.

The authors claimed that Mr Wilders' acquittal was contrary to article 20, paragraph 2 of the Covenant, which provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence must be prohibited by law. They also complained of a violation of the prohibition of discrimination (article 26 of the ICCPR). The authors took the view that the district court's judgment did not weigh their interests against Mr Wilders' right to freedom of expression. Finally, they claimed they had not, as victims, been

provided with an effective remedy (article 2, paragraph 3 of the ICCPR), nor had they had a fair hearing regarding their claim for compensation in the criminal proceedings (article 14, paragraph 1 of the ICCPR).
The Committee held that there had been no violation of article 14, paragraph 1 since the authors had been given the opportunity to join the criminal proceedings as alleged victims of a criminal offence and introduce their claim, their lawyers were able to adduce arguments regarding the charges brought against the defendant and they were able to submit documentation and testify before the court. With regard to the alleged violations of article 2, paragraph 3, article 20, paragraph 2 and article 26, the Committee pointed out that article 20, paragraph 2 of the Covenant is narrowly crafted to ensure that other fundamental rights, including the right to freedom of expression, are not infringed. It recalled that freedom of expression embraces even expression that may be regarded as offensive. It took into account the fact that the Netherlands had established a legislative framework through which statements contemplated by article 20, paragraph 2 of the Covenant are prohibited under criminal law and which allows victims to trigger and participate in a prosecution. The Committee observed that such a prosecution had taken place in the present case and the trial court had issued a detailed judgment evaluating Mr Wilders' statements in light of the applicable law. In the Committee's view, the Netherlands had taken necessary and proportionate measures to prohibit statements made in violation of article 20, paragraph 2 and to guarantee the right of the authors to an effective remedy in order to protect them from the consequences of such statements. It pointed out that the obligation under article 20, paragraph 2 of the Covenant does not extend to ensuring that a person who is charged with incitement to discrimination, hostility or violence will invariably be convicted by a court of law. The Committee concluded that there had been no violation of article 2, paragraph 3, read in conjunction with articles 26 and 20, paragraph 2 of the Covenant.

Implementation of earlier Views of the Human Rights Committee

Timmer (2097/2011, 24 July 2014)
The author was ordered by the single judge trying criminal cases to pay a fine of €220 for assaulting a police officer and refusing to identify himself. Under the rules on leave to appeal in minor cases, the appeal court decided that the author's appeal would not be considered. The author claimed that this violated his rights under article 14, paragraph 5 of the Covenant, since he was denied his rights of appeal and as a result no substantive review took place of the grounds for his appeal.
On 13 March 2012 the Government informed the Committee that – bearing in mind the Committee's View in the *Mennen v. the Netherlands* case (1797/2008, 27 July 2010) – it acknowledged that a violation of article 14, paragraph 5 of the Covenant had taken place. It was willing to pay the author €1,000 in compensation and to reimburse him for the costs he had incurred in the proceedings before the Committee. However, the author took the view that compensation did not provide an effective remedy, since the State had not allowed a review of his conviction which could have restored his reputation. The Committee agreed and found in its View of 24 July 2014 that a violation of the provision in question and of article 2, paragraph 3 of the Covenant had indeed taken place. It concluded that the author should be provided with an effective remedy or other appropriate solution and that the State should amend its legislation to prevent similar violations in the future.
On 10 February 2015 the Government informed the Committee that it was planning to modernise the Code of Criminal Procedure. As part of this process, article 410a on leave to appeal in minor cases would be amended. On 2 April 2015 the Government informed the Committee that it intended to reimburse the author for the fine he had paid and his costs and expenses in the domestic proceedings as well as those before the Committee. It was also planning to remove the offence in question from his criminal record. By letter of 10 March 2016 the Government confirmed that these measures had been taken and that the amendment of the Code of Criminal Procedure had been set in motion. The Committee closed the case in November 2016 with its finding that its recommendations had been sufficiently implemented.

Committee on the Elimination of Discrimination against Women

F.M. (89/2015, 7 November 2016)
The author, a Guinean national, complained before the Committee that her expulsion to Guinea would be in breach of the prohibition of discrimination against women, in particular because of the forced marriage she had undergone there, the risk she faced of being subjected to female genital mutilation (FGM) and the disadvantaged position of women in Guinea in general (articles 1, 2, 3 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW).
The Committee asked the Government not to expel the author while her case was pending. The Government complied with this request.
In July the Government informed the Committee that the author had been granted a regular residence permit, so expulsion was no longer at issue. The Committee therefore decided to end its examination of the communication.

Committee against Torture

P.A. (611/2014, 2 May 2016)

The complainant, a Kazakhstan national, applied for asylum in 2002. His application was based on his ethnic and religious background as a Russian Orthodox Christian. His oldest son had been recruited by jihadists and his youngest son had been approached by them. When he expressed his opposition to these developments, he was threatened and ill-treated by the jihadists. The local authorities failed to help him and he was himself detained without charge, tortured and raped. His asylum application was denied.

The complainant submitted before the Committee that his forcible removal to Kazakhstan would violate the prohibition of *refoulement* (article 3 of the CAT). At the Committee's request, the complainant's return was postponed while the Committee considered his complaint.

The Committee recalled that the existence in a country of gross violations of human rights is not in itself a sufficient ground for believing that an individual would be subjected to such violations. Conversely, the absence of a consistent pattern of flagrant human rights violations does not mean that an individual would not be subjected to such violations. The risk of torture must be assessed on grounds that go beyond mere theory or suspicion. It need not be highly probable, but must be personal, present, foreseeable and real. The Committee held that even if it were to be accepted that the complainant had suffered ill-treatment in the past, the question was whether he was currently at risk of torture in Kazakhstan. The Committee observed that Kazakhstan has a large Russian minority, especially in the northern part of the country and that the complainant, while born a Christian, had said he was an atheist. Furthermore, he had not established that he was wanted by the authorities in Kazakhstan or that he would be targeted by them if he returned. The Committee also said that it had taken into account the fact that the complainant had failed to provide any explanation regarding his whereabouts in the period between the proceedings to review the denial of his asylum application in 2002 (these in fact took place in 2004) and the submission of his application for a residence permit on medical grounds in 2012, and regarding whether in that period he had received any threats of torture or assault. The Committee finally noted that the complainant had not demonstrated his involvement in any public activity.

On the basis of all the information submitted by the parties and in view of the general human rights situation in Kazakhstan, the Committee considered that it had not been established that the complainant would be exposed to a foreseeable, real and personal risk of torture if he were returned to Kazakhstan. His expulsion to that country would not therefore constitute a violation of article 3 of the Convention.

Other developments

Council of Europe[3]

Reform of the ECHR supervisory system

As a follow-up to the Brighton Declaration (2012), the Steering Committee for Human Rights (CDDH) published a report at the end of 2015 entitled 'The longer-term future of the system of the European Convention on Human Rights'. By decision of 31 March 2016 the Committee of Ministers welcomed the report, endorsed its conclusions and called on the member states to take the measures necessary to ensure better implementation of the Convention and improved execution of judgments handed down by the European Court of Human Rights. It also agreed to further study of two issues:

- the national process of selection and the process by which judges are elected by the Parliamentary Assembly, with a view to guaranteeing the quality of judges and thereby maintaining the authority of the Court's judgments; and
- the place occupied by the Convention in the European and international legal order, with a view to preventing the Convention system from losing credibility through differences of interpretation between the Convention and other international instruments.

In 2016 two expert meetings took place to discuss the first issue. Significant differences emerged between national procedures for the selection of candidate judges, even though the national procedure is the starting point for the entire process. If the governments of the member states have a transparent, balanced and impartial procedure for selecting qualified candidates, the end result is a nomination list consisting of suitable candidates among whom the Parliamentary Assembly makes its choice. Although a deliberate choice was made within the Convention system to have judges elected by a democratic body, this does not mean that the procedure followed by the Parliamentary Assembly should be immune from scrutiny and criticism. More specifically, consideration should be given to ways of making the election procedure transparent, open and predictable for all candidates. Following the discussions, the CDDH will examine whether adjustments to the selection and election procedures are desirable, and if so, what form they should take.

The Court itself is constantly working on adjustments to its working methods to increase efficiency and reduce its workload. Among other things, it is currently taking a more active approach to encouraging parties to reach a friendly settlement, with a view to reducing the length of proceedings. In addition, it aims to abbreviate the account of the facts sent to the member states and to produce shorter judgments. The agents of the various governments are consulting with the Court on these issues and on new working methods, and are involved in their evaluation.

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 in the area of human rights. Its recommendation on human rights and business was adopted by the Committee of Ministers in 2016, as were its guidelines on human rights in culturally diverse societies. As a follow-up, the CDDH launched a study of freedom of expression in culturally diverse societies, focusing on the balance between this freedom and other rights and freedoms. In addition work started in 2016 in three other areas: the obstacles facing organisations working in the field of human rights, including human rights defenders, in the member states; alternatives to detention for migrants; and better observance of social rights. In the field of women's rights, an analysis was made of legislation on preventing and combating female genital mutilation and forced marriage, both internationally and within Council of Europe member states. On this basis, the CDDH began to prepare a guide to good and promising practices, which is due to be completed in 2017.

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

European Social Charter/collective complaints procedure

By the end of 2016 a total of 36 complaints were pending before the European Committee of Social Rights (ECSR) which had been submitted under the collective complaints procedure of the European Social Charter. Twenty-one of these were submitted in 2016. On average, 60% of complaints are submitted by international NGOs, 30% by national trade unions and the remaining 10% by international trade unions and national NGOs (only Finland has accorded the right to complain to national NGOs). The ECSR aims to process complaints within a period of two years.

Of the complaints lodged in 2016, 15 concerned the same complaint submitted by the international NGO *University Women of Europe* against all the 15 states (including the Netherlands) that have recognised the right of collective complaint. The complaint concerns the right to work and the right to equal pay for men and women.

In 2016 the discussions with the ECSR on aspects of the collective complaint procedure continued. Prompted by the ECSR report on a specific complaint and the related recommendations of the Committee of Ministers, the Netherlands drew attention to the complexity of the reporting system for member states. The CDDH will include this issue in its study of ways to improve compliance with social rights.

United Nations

Reporting to treaty bodies

On 10 November 2016, at its 1457th and 1458th meetings, the Committee on the Elimination of Discrimination against Women considered the Netherlands' sixth report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Committee published its recommendations on 18 November 2016.

On 1 September 2016 written information was supplied under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) to the Committee on the Elimination of Racial Discrimination in response to the recommendations the latter had made to the Netherlands in 2015.

On 8 November 2016 the Committee on Enforced Disappearances published a report under the International Convention for the Protection of All Persons from Enforced Disappearances (CED) in which the Committee evaluated the written information supplied by the Netherlands in 2015 in response to a number of specific recommendations that it had made to the Netherlands in 2014.

Annexes: overviews and statistics

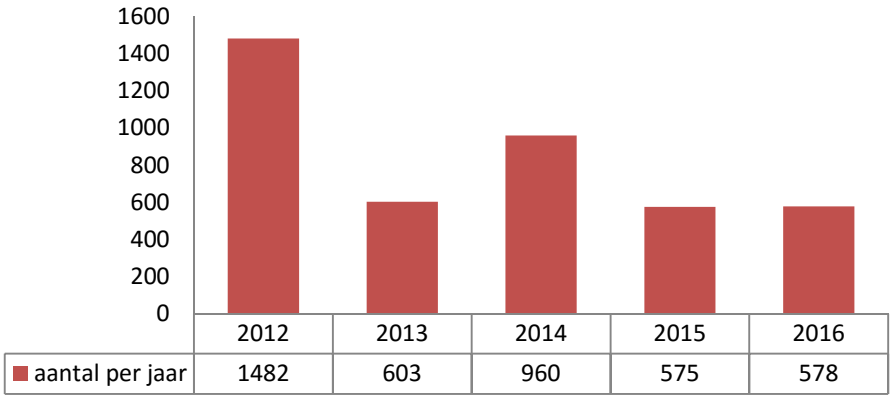
Annexe I

Council of Europe

European Court of Human Rights[4]

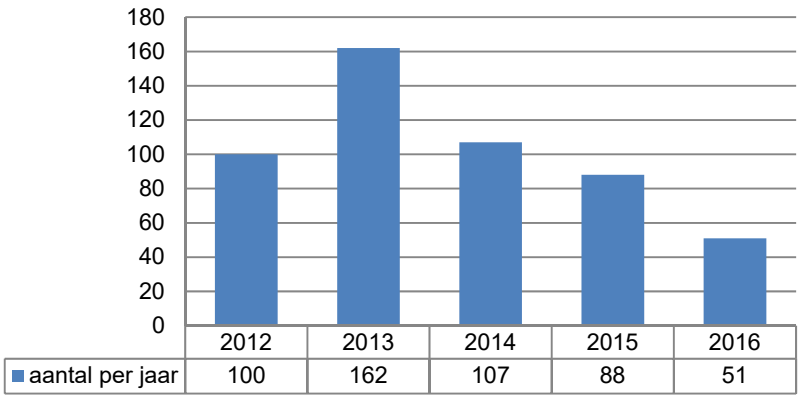
Statistics

Cases against the Netherlands pending before the ECtHR on 31 december 2016



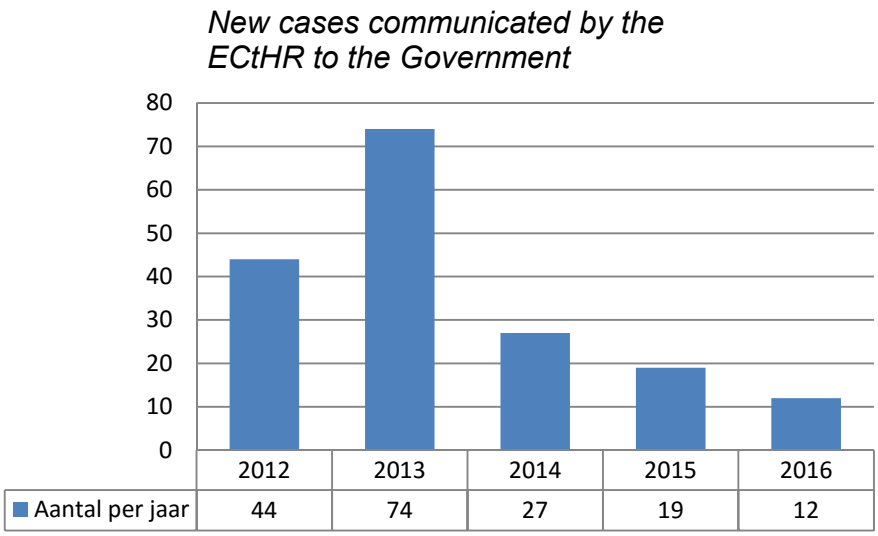
Red: Annual total

Cases being processed by the Government on 31 December 2016

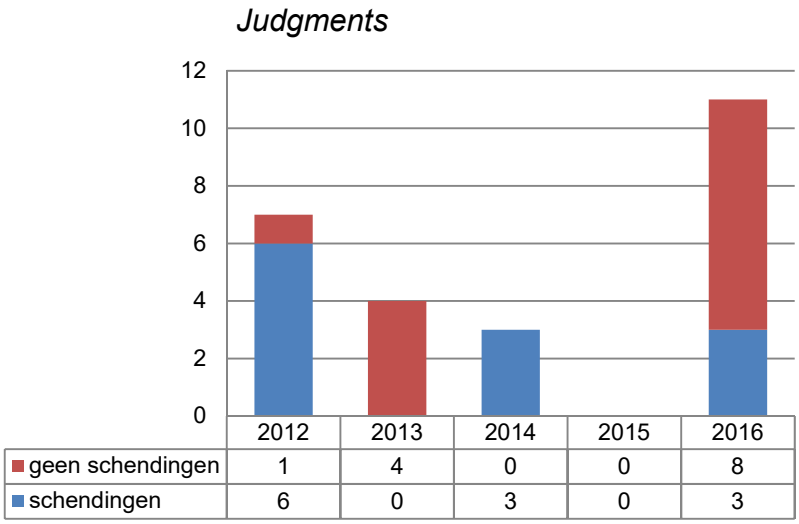


Blue: Annual total

[4] Statistics for all member states of the Council of Europe are contained in *Survey of Activities 2016*, published by the Court Registry.

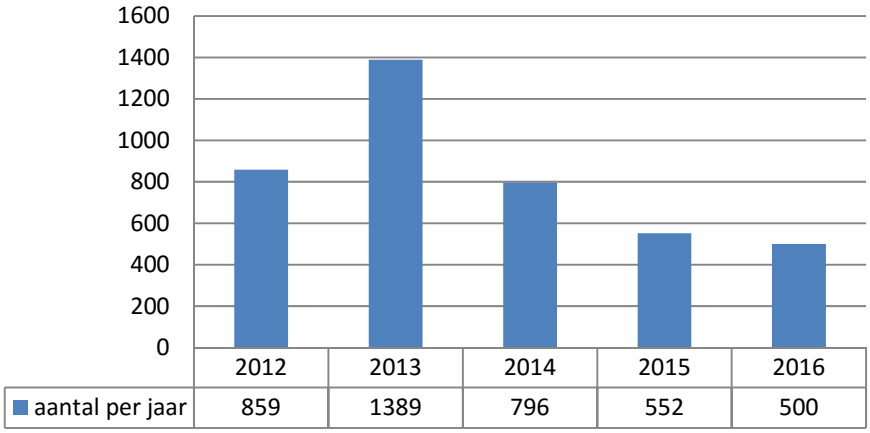


Blue: Annual total



Red: No violation
Blue: Violation

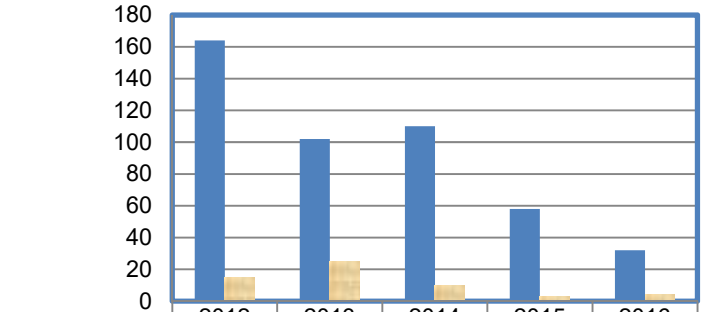
Decisions on admissibility and to strike applications out of the list



	2012	2013	2014	2015	2016
aantal per jaar	859	1389	796	552	500

Blue: Annual total

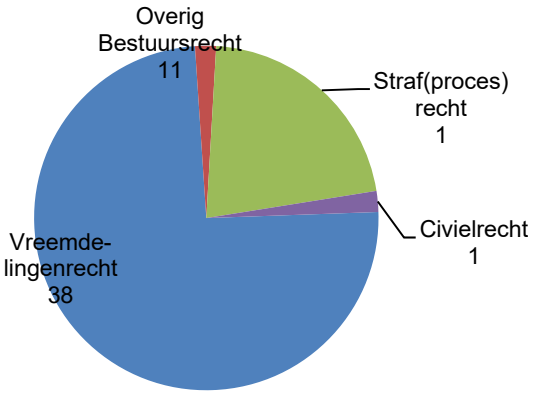
Interim measures (Rule 39)



	2012	2013	2014	2015	2016
aangevraagd	164	102	110	58	32
toegewezen	15	25	10	3	4

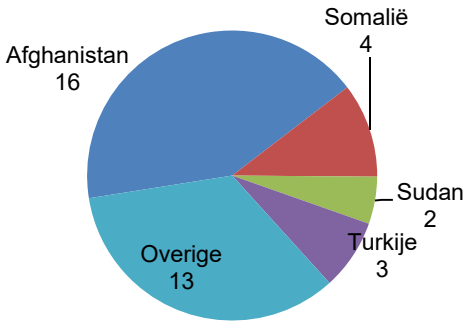
Blue: Applied for
Pink: Granted

Cases being processed by the Government, numbers per category in 2016



Red: Other administrative law 11
Green: Criminal (procedural) law 1
Purple: Civil law 1
Blue: Immigration law 38

Immigration cases by nationality on 31 December 2016



Dark blue: Afghanistan 16
Red: Somalia 4
Green: Sudan 3
Purple: Turkey 3
Light blue: Other 13

Judgments and decisions[5]

Judgments

Name	App. no.	Date
A.G.R.	13442/08	12 January 2016 (*)
A.M.	29094/09	5 July 2016 (*)
A.W.Q. and D.H.	25077/06	12 January 2016 (*)
Garib	43494/09	23 February 2016 (*)
Gillissen	39966/09	15 March 2016 (*)
M.R.A. and others	46856/07	12 January 2016 (*)
Murray	10511/10	26 April 2016 (*)
Őzçelik	69810/12	28 June 2016 (*)
R.B.A.B. and others	7211/06	7 June 2016 (*)
S.D.M. and others	8161/07	12 January 2016 (*)
S.S.	39575/06	12 January 2016 (*)

Decisions

Name	App. no.	Date
A. and B.	10827/12	5 July 2016 (*)
A.F.	61060/11	21 June 2016 (*)
A.K.C.	36953/09	30 August 2016 (*)
Abdullahi Ahmed	40858/10	10 March 2016
Aiaz	17085/11	21 June 2016
Akdag	49437/14	18 October 2016 (*)
Ali Hassan	23710/10	10 November 2016
Alsaiti	1347/16	8 September 2016
Bah	30635/15	23 June 2016
Barbara van Beukering and Het Parool B.V.	27323/14	20 September 2016 (*)
Bala	52826/15	21 April 2016
Bokote Botoya	64754/16	8 December 2016
C.M.M.	46970/07	14 June 2016 (*)
Cabral	37617/10	28 June 2016 (*)
Calderon Silva	4784/15	31 May 2016 (*)
Castelijns	7599/15	17 May 2016 (*)
Djinisov	29741/10	9 February 2016 (*)
E.S.	28214/10	21 June 2016
Eisa	58099/15	4 February 2016 (*)
F.A.	39670/11	9 February 2016 (*)
Farah Ilmi	13943/10	8 December 2016
Fareh	46653/15	26 May 2016
Firay Gerechiher Geremedhin	45558/09	23 August 2016 (*)
G.	44270/10	21 June 2016
H.U.N.	63857/09	21 June 2016
Hunde	17931/16	5 July 2016 (*)
J.G.	70602/14	5 July 2016 (*)
Jalal	32373/11	21 June 2016
Lacroix	47367/09	17 May 2016 (*)
M.A.A.	59207/10	21 June 2016
M.H.A.	61402/15	5 July 2016 (*)
M.M.R.	64047/10	24 May 2016 (*)
M.N.	26904/16	8 September 2016

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

Mahamed Sambuto	3303/11	19 January 2016 (*)
Mehida Mustafić-Mujić and others	49037/15	30 August 2016 (*)
Mohamed Hassan	7186/14	21 April 2016
Nodrat	20732/10	21 June 2016
Omid	34151/11	10 November 2016
S.F.	8159/11	21 June 2016
S.H.S.	12037/10	21 June 2016
S.M.H.	5868/13	17 May 2016 (*)
S.R. (II)	46727/10	21 June 2016
Smetsers	7603/15	17 May 2016 (*)
T.M. and Y.A.	209/16	5 July 2016 (*)
T.S.	11001/15	22 November 2016
Telegraaf Media Nld. Landelijke Media B.V. and J.G. van der Graaf	33847/11	30 August 2016 (*)
U.A.H.M.	49929/11	30 August 2016 (*)
Van Velzen	21496/10	17 May 2016 (*)
Vrinds	10662/15	2 February 2016 (*)
Weldemariam and others	24872/15	26 May 2016 (*)

Cases being processed by the Government as at 31 December 2016

Name	App. no.	Article ECHR
A.A.	66848/10	arts. 3 and 8
A.G. and M.M.	43092/16	art. 3
A.R.	26268/09	arts. 3 and 8
A.R.	63104/11	arts. 3, 8 and 13
Abdulfatah	55830/10	arts. 3 and 8
Ahdour	45140/10	arts. 8 and 14
Ahmed Sheekh	80450/13	art. 8
Alblbesi and Abuzuhri	40907/16	arts. 3 and 8
Azizi	73877/10	arts. 3, 8, 9 and 10
Ballegeer	70043/16	art. 5
Baydar	55385/14	art. 6
Breijer	41596/13	art. 6
Cabdi Qadir Mucalim	5888/10	art. 3
Cabral	37617/10	art. 6
Cerci	25392/14	art. 8
Cüzdan	6315/08	art. 8
E.K.	72586/11	art. 3
G.G.S.	53296/09	arts. 3, 8 and 13
G.R.S.	77691/11	arts. 3 and 8
Haddaouchi	4965/10	art. 2 of Prot. 4
Hannan and Kirakosyan	70286/14	arts. 3 and 5
Hokkeling	30749/12	art. 6
Ismail	67295/10	art. 8
J.W.	16177/14	art. 3
Justice	64724/10	art. 3
Keskin	2205/16	art. 6
L.	68613/13	arts. 3 and 8
M.	2156/10	art. 6
M.B.	63890/16	art. 3
M.M.	15993/09	art. 3
Maassen	10982/15	art. 5
Marreel	20496/16	arts. 3 and 5
Mamadshahkhan	48294/10	arts. 3 and 13
Ndjabu Ngabu and others	39321/14	art. 3
P.N.	10944/13	arts. 3, 8 and 13
Popalzay	43538/11	arts. 3, 8 and 13
Pormes	25402/14	art. 8
S.A.	49773/15	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
Soleimankheel and others	41509/12	arts. 3, 8 and 13
Storimans v. Russian Fed.	26302/10	arts. 2 and 13
T.E.	43462/16	arts. 3, 4 and 8
Temam Yesan	63176/16	art. 3
Van de Kolk	23192/15	art. 6
Van Engel	600/14	art. 8
Yeshtla	37115/11	art. 8
Z.L.	33314/09	arts. 3 and 6
Z.N.	71676/14	arts. 3 and 13

Committee of Ministers

ECHR cases under supervision on 31 December 2016

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 B.V. and others (TMN)	39315/06	22 November 2012
K.	11804/09	27 November 2012
Jaloud	47708/08	20 November 2014
Vrinds	10662/15	2 February 2016
Djinisov	29741/10	9 February 2016
Gillissen	39966/09	15 March 2016
Murray	10511/10	26 April 2016
Castelijns	7599/15	17 May 2016
Lacroix	47367/09	17 May 2016
Smetsers	7603/15	17 May 2016
Calderon Silva	4784/15	31 May 2016
Őzçelik	69810/12	28 June 2016
Telegraaf Media Nederland Landelijke Media B.V. and J.G. van der Graaf	33847/11	30 August 2016
El Allati	45892/13	6 December 2016
Gambier	27787/15	6 December 2016

Annexe II

United Nations

General

In 2016 the UN treaty bodies:

- informed the Government of 10 new communications;
- established Views in 4 cases, no violation being found.

Human Rights Committee

Views

Name	Comm. no.	Date
G.E.	2299/2013	3 November 2016
Rabbae, A.B.S. and N.A.	2124/2011	18 November 2016

Cases being processed by the Government as at 31 December 2016

Name	Comm. no.	Article ICCPR
A.B. Alula	2823/2016	art. 7
Abdihakin Diriye-Nuur	2894/2016	art. 7
Abdoellaeva	2498/2014	arts. 23, 24 and 26
Abo Al-Qas Al-Jaberi	2634/2015	art. 14
Denny Zhao	2918/2016	art. 24
J.O. Zabayo and E.E.I. Zabayo	2796/2016	arts. 1, 2, 7, 9 and 24
M.K.H.	2803/2016	arts. 1, 2, 6, 7, 9, 13 and 27
Martha S. Piqué-Babel and others	2673/2015	arts. 23, 24 and 26
Maryam and Jamshed Hasemi	2489/2014	arts. 23, 24 and 26
Mehmet Sen	2739/2016	art. 15
Osman Turay	2782/2016	arts. 2, 13, 17, 23 and 24
Nathalien Kurt	2326/2014	art. 14, paragraph 4 and art. 17
S.Y.	2392/2014	art. 2, paragraph 3 and art. 14, paragraph 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
F.M.	89/2015	7 November 2016

Committee against Torture

Views

Name	Comm. no.	Date
P.A.	611/2014	2 May 2016

Cases being processed by the Government as at 31 December 2016

Name	Comm. no.	Article CAT
Hermine Azatyan and Gegham Hajrapetyan	719/2015	art. 3
Hesam Hariri	781/2016	art. 3
Harutyun Israyeliyan	685/2015	art. 3
Jean Claude Iyamuremye	771/2016	art. 3
Nisanthan Kandasamy	623/2014	art. 3
Isatu Kanu and Mariatu Tiny Kamara	760/2016	art. 3
Jean Baptiste Mugimba	768/2016	art. 3
Rasathiran Paramalingam	696/2015	art. 3
Mayantie Jasmina Soumahoro	757/2016	art. 3
Ragulan Thurairajah	692/2015	art. 3