2022 Annual Report

International Human Rights Proceedings

International Law Division
Ministry of Foreign Affairs

Contents

Foreword

Like previous reports, this 2022 annual report contains summaries of all the judgments and decisions handed down in international human rights proceedings in which the Kingdom of the Netherlands was involved. It also contains information that is connected or directly relevant to proceedings, as well as overviews and statistics. This year we have added an introductory section explaining the various international human rights proceedings. We hope that this will lead to an even better understanding of the Kingdom's activities in this field.

The year 2022 was largely overshadowed by the war waged by Russia against Ukraine. This led to the expulsion of Russia from the Council of Europe and to the end (on 16 September 2022) of the jurisdiction of the European Court of Human Rights (ECtHR) with regard to Russia. As a result of its expulsion, Russia ceased to be a party to the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention).

In late January 2022, just before Russia's invasion of Ukraine, the Grand Chamber hearing on the admissibility of the Netherlands' inter-state application against Russia regarding the downing of flight MH17 was held. At the time of writing (April 2023), it is clear that the application has been declared admissible. This is an important step in these unique proceedings, aimed at establishing the truth and achieving justice and accountability.

In 2022 the ECtHR found no violations of the Convention by the Kingdom of the Netherlands. In one case the United Nations Human Rights Committee concluded that a violation of the International Covenant on Civil and Political Rights (ICCPR) had taken place.

One of the highlights of 2022 was a visit to the Netherlands by a delegation from the Council of Europe's Department for the Execution of Judgments of the European Court of Human Rights (ED). The ED advises and assists the Committee of Ministers in its supervision of the implementation of the judgments of the ECtHR. The visit was extremely interesting and useful, not least because of the convivial atmosphere and the stimulating exchange of views, facilitated by the Supreme Court and the Council of State, on the application of the Convention by the Dutch courts.

As in previous years, many people were involved in drawing up this report. Alongside staff and trainees working in the International Law Division of the Ministry of Foreign Affairs and the colleague seconded each year from the Council of State, contributors included colleagues at various ministries who took the lead or were closely involved in preparing the cases, namely those working at the Ministry of Justice and Security; Economic Affairs and Climate Policy; Social Affairs and Employment; Health, Welfare and Sport; and the Interior and Kingdom Relations, as well as the Immigration and Naturalisation Service, the Public Prosecution Service and our colleagues in Curaçao, Aruba and St Maarten.

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

The Hague, April 2023

Human Rights Group
International Law Division
Legal Affairs Department

Representing the Kingdom before the European Court of Human Rights and the UN treaty bodies

The Ministry of Foreign Affairs, in consultation with the ministries involved, represents the Government of the Kingdom of the Netherlands (the Government) in proceedings before the European Court of Human Rights (ECtHR), the European Committee of Social Rights (ECSR) and the various United Nations treaty bodies, including the Human Rights Committee (CCPR), the Committee against Torture (CAT), the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Elimination of Discrimination against Women (CEDAW).

Handling of cases

At present two lawyers (known as 'agents') in the Human Rights Group of the International Law Division of the Legal Affairs Department (DJZ/IR) at the Ministry of Foreign Affairs are authorised to act on behalf of the Government in Strasbourg and Geneva. With the support of a number of lawyers and an administrative assistant in the Human Rights Group, the agents are responsible for coordinating proceedings. The Human Rights Group registers cases, coordinates the flow of documents to and from the ECtHR and the UN treaty bodies and distributes the documents to the relevant ministries. It also coordinates the preparation and formulation of the Government's position before the ECtHR and the UN treaty bodies in the various cases pending, which relate to a broad range of disputes in which the human rights enshrined in the treaties under their supervision have been invoked. The Human Rights Group also provides advice in the field of international human rights treaties.

Proceedings before the European Court of Human Rights (individual applications)

The procedure under which individuals can lodge an application with the ECtHR is described in Article 34 of the European Convention on Human Rights (the Convention). Under this article, any person, non-governmental organisation or group of individuals claiming to be the victim of a violation of the rights set forth in the Convention or one of its Protocols can lodge an application with the ECtHR.

Inter-state cases

Under Article 33 of the Convention, contracting states can refer to the ECtHR any alleged breach of the provisions of the Convention and its Protocols by another contracting state in inter-state proceedings. It is not necessary for the individual victims of alleged human rights violations to be nationals of the applicant state. The procedure is fairly uncommon. At present, 15 cases are pending before the ECtHR. The Netherlands has lodged three inter-state applications. The first was lodged against Greece in 1967 when it was ruled by the military junta; the second was lodged against Turkey in 1982 in connection with the coup that had taken place there; and the most recent has been the inter-state application against Russia in connection with the downing of flight MH17.

Interventions

On the basis of Article 36 of the Convention, it is possible for a contracting state or other parties to submit written comments or take part in hearings in cases where the state concerned is not a party

to the proceedings or the person concerned is not the applicant. The aim of a third-party intervention is to make an extra contribution to assist decision-making by the ECtHR. An intervening party is therefore sometimes known as an *amicus curiae* (friend of the court).

As stated above, an intervening party is not a party to the case and is therefore not directly bound by the final judgment. However, if the intervening party is a contracting state, the judgment may contain elements relevant to that state, since it may have an influence on the state's legal order.

If a Dutch national lodges an application with the ECtHR against a contracting state other than the Netherlands, the Government has the right to intervene. In other cases, the Government can request the ECtHR to grant it leave to intervene. The ECtHR then decides whether to grant the request. In such other cases, the Government regularly requests leave to intervene in order to propose a particular interpretation of the Convention or to promote the development of the law.

Advisory opinions

In addition to judgments and decisions, the ECtHR can give advisory opinions on the interpretation and implementation of the Convention. On the basis of Protocol No. 16 to the Convention, advisory opinions are provided at the request of the highest courts and tribunals of the contracting states and only in the context of a case pending before them. Although the advisory opinions are not binding, they carry great weight in the interpretation of the Convention. When courts in the Kingdom of the Netherlands request an advisory opinion, the Government has the right to submit written comments. When courts in other contracting states request an advisory opinion, the Government can request leave to submit a written contribution. The Netherlands has been a party to the protocol since 2019. No requests for an advisory opinion have yet been submitted by any of the highest courts in the Netherlands, nor has the Government requested leave to intervene in advisory proceedings involving other contracting states.

Committee of Ministers

The Committee van Ministers is the decision-making body of the Council of Europe and is in principle composed of the ministers of foreign affairs of the Council of Europe's member states. Four times a year it meets at Deputy level to supervise the execution by the Convention's contracting states of ECtHR judgments establishing a violation of the Convention and of the terms of friendly settlements. Once a judgment or friendly settlement has become final, the state concerned must submit an action plan within six months. The action plan that follows a judgment sets out the individual and general measures the respondent state intends to take or has taken in response to the violation established by the ECtHR and describes how the judgment has been disseminated.

The Committee of Ministers can subsequently give a decision outlining the measures that are still required and can end supervision once a contracting state has taken sufficient measures. As soon as the Committee of Ministers is satisfied with the execution of the judgment or settlement, it adopts a final resolution in which it indicates that it is ending its supervision in the specific case.

Procedures before the European Committee of Social Rights

Collective complaints

The Additional Protocol (1995) to the European Social Charter (ESC) entitles social partners and non-governmental organisations to lodge collective complaints of alleged violations of the Charter by a contracting state. The complaint is then examined by the European Committee of Social Rights (ECSR). The ECSR decides on the admissibility of the complaint and, if it is declared admissible, examines whether a violation of the ESC has taken place. On the basis of the ECSR's decision, the Committee of Ministers may adopt a resolution containing recommendations to the contracting state on measures to be taken to rectify the violation.

The network of agents representing governments at the ECtHR and the ECSR

The Human Rights Group actively participates in the network of agents representing governments at the ECtHR. Within the network information is exchanged on pending cases and other issues relevant to proceedings before the ECtHR. In addition, the network makes it possible to draw the attention of other contracting states to relevant new cases, in order to facilitate third-party interventions, and creates scope for coordinating action by different contracting states in a single case. The aim is for the agents to meet once a year, mostly at the invitation of the agent of the state that holds the autumn presidency of the Committee of Ministers of the Council of Europe. In addition, the ECtHR in principle holds a meeting of agents twice a year in Strasbourg. These meetings feature discussion of various developments and issues relating to proceedings before the ECtHR. The ECSR holds an annual meeting with the agents of the countries that have recognised the right of collective complaint under the ESC.

Proceedings before the UN treaty bodies

The Netherlands is a party to eight UN human rights instruments: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

All these instruments – in some cases by virtue of an optional protocol – enable individuals to lodge a complaint about human rights violations (known as the individual right of complaint). Individuals can lodge a complaint against the Kingdom with five UN treaty bodies: the UN Human Rights Committee (CCPR), the Committee against Torture (CAT), the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Enforced Disappearances (CED) and the Committee on the Elimination of Discrimination against Women (CEDAW).

These treaty bodies consist of independent experts elected by the General Assembly of the United Nations. Although there are differences among these bodies on account of the human rights instrument they monitor, the procedures they follow with regard to individual complaints are generally the same.

Individual complaints

It is possible to lodge an individual complaint against a government with the five treaty bodies listed above concerning an alleged violation of the relevant human rights instrument. This enables the treaty body concerned to offer protection at individual level. The treaty body establishes what are called 'Views' in which it finds whether or not a violation of the relevant provisions has occurred.

These Views are not officially binding but carry great weight. This means that States parties to the instruments must substantiate any decision not to follow them.

Inter-state cases

Inter-state cases can be lodged with a number of the treaty bodies. In such cases a State party lodges a complaint against another State party regarding alleged violations of the relevant instrument. In general, both States parties must have explicitly accepted the competence of the treaty body in this regard. The procedure is rarely used.

Follow-up

If a treaty body establishes that a violation has taken place, the government in question has 180 days to draft and submit an action plan. In this plan the government sets out the measures to be taken to end the violation and to prevent new violations. On the basis of the plan, the treaty body adopts a follow-up report indicating the extent to which the government has implemented the recommendations that it set out in its Views. A new follow-up report can be adopted at each session of the treaty body until it is satisfied that the government has taken sufficient measures.

Course of individual cases

The handling of individual cases is broadly the same in the various proceedings. After a new case has been communicated to the Kingdom, it is passed on to the Human Rights Group at the Ministry of Foreign Affairs. Depending on the nature of the case, the Human Rights Group will involve the ministry bearing policy responsibility for the alleged human rights violation. Important aspects for consideration are the admissibility and merits of the case. Admissibility is the question of whether the case can be accepted for consideration by the ECtHR or UN treaty body on the basis of various criteria, including whether domestic legal remedies have been exhausted, whether it falls within the scope of the relevant article of the instrument concerned, whether it is sufficiently substantiated, whether it has already been heard by another international body, whether it constitutes an abuse of the procedure and whether the party complaining of a violation has suffered damage or loss as a result of the alleged violation. With regard to the merits, the measure that is the object of the complaint must fall within the scope of the relevant article. In the case of some articles, it is necessary to ascertain if restrictions on the freedom enshrined in the instrument can be justified.

After it has received the complaint, the Government can submit its observations. The party complaining of a violation (known as applicant, author or complainant, depending on the procedure) can then respond, after which the Government has an opportunity to submit additional observations. A further written response may in some cases be submitted, for example in the event of new developments or in response to specific supplementary questions from the UN treaty body or the ECtHR. On the basis of all these documents the treaty body establishes Views and the ECtHR gives a judgment or decision. If compensation is sought, the Views or judgment/decision will state

whether it should be granted. A hearing may be held in Geneva or Strasbourg. To date, the cases brought against the Netherlands before the UN treaty bodies have never involved a hearing, whereas hearings have occasionally been held in ECtHR proceedings against the Netherlands.

An important difference between proceedings is that the UN treaty bodies offer governments the opportunity to enter an initial defence based solely on admissibility.

In the case of the ECtHR, applications must be lodged within four months of the highest national court handing down its judgment in the case. All applications received by the ECtHR are then assessed by the Filtering Section to determine if they are manifestly inadmissible. Once the application has been communicated to the Netherlands, the case enters the non-contentious phase in which parties may still reach a friendly settlement. The period for submitting observations begins after the non-contentious phase ends. This is usually after 12 weeks.

Knowledge transfer

Alongside the Peace and Security, International Rule of Law and International Environment Groups, as well as the Centre for International Law, the Human Rights Group forms part of the International Law Division of the Legal Affairs Department (DJZ/IR). The Division was set up as a knowledge centre with the purpose of supporting Dutch government policy. Division staff regularly give lectures and courses at other ministries and for operational services. In addition, they provide regular courses on practice at the ECtHR and UN treaty bodies, and lectures on developments in international law, for example to universities, the Academy for Legislation, the Academy for Government Lawyers and district courts.

There are various opportunities to gain experience at the Human Rights Group on a temporary basis. For example, every year a lawyer from the Council of State is seconded to the Group. In addition, students can apply for a work placement at DJZ/IR to familiarise themselves with international human rights proceedings before the ECtHR and the UN treaty bodies. In 2022, a total of seven trainees worked at DJZ/IR.

Council of Europe

European Court of Human Rights

Judgments

L.A.D.L. (58342/15, 4 October 2022)

Retroactive tax assessments and tax fines were imposed on the applicant when the Tax and Customs Administration discovered he had an undeclared bank account in Luxembourg. The applicant refused to provide documents relating to the bank account to the tax authorities until ordered to do so in interim injunction proceedings under threat of penalty payments. The applicant complained before the European Court of Human Rights (the Court) that his right not to incriminate himself (the principle of *nemo tenetur*) – which follows from Article 6, paragraph 1 (right to a fair trial) of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) – had been violated, since documents he had provided on the basis of a court order and under threat of penalty payments had been used in order to impose the fines.

In 2007 the tax authorities had written to the applicant informing him that an investigation of foreign bank accounts had revealed that he held a bank account in Luxembourg which he had not declared in his income tax or wealth tax returns. The authorities asked him to provide information regarding the bank account. When the applicant refused to comply with this request, he received a fine. Under administrative law, the applicant then lodged an objection to that fine, and to the adjusted tax assessment imposed on him. While the objection procedure was being conducted, the State summonsed the applicant to appear before the interim relief judge in civil proceedings. The purpose was to obtain an order compelling the applicant to disclose information about his foreign bank accounts. The judge ordered the applicant to provide the requested information on pain of a penalty payment. The applicant complied with the order and provided the relevant information. In his decision on the objection in the administrative law procedure, the Inspector of Taxes adjusted the tax assessment and reduced the tax fine on the basis of this information. However, in percentage terms the fine remained the same, since intent had been established on the part of the applicant in completing his tax returns. The applicant lodged an application for review of this decision with the District Court. The District Court held that the Inspector of Taxes had used the information in a lawful manner. The applicant then lodged an appeal against this judgment. The Court of Appeal also held that the *nemo tenetur* principle had not been violated since the information provided had an existence independent of the will of the applicant. The applicant lodged an appeal in cassation against this judgment, which the Supreme Court dismissed.

The ECtHR emphasised that Article 6 of the Convention must be interpreted in light of all the circumstances of the particular case. The *nemo tenetur* principle does not in itself protect a defendant from making self-incriminating statements but against evidence being obtained through coercion or oppression. For a situation to fall under the *nemo tenetur* principle as laid down in Article 6 of the Convention, the applicant must have been subjected to some form of coercion or compulsion by the authorities. In addition, that coercion must have been applied for the purpose of obtaining information in the context of criminal proceedings. The *nemo tenetur* principle is therefore primarily concerned with respecting the defendant's right to remain silent. However, it does not extend to the use of material that has an existence independent of the defendant's will. The Court

stated that, in principle, *nemo tenetur* can apply in situations in which a defendant is compelled to provide documents. In developing its case law, however, the Court had made distinctions when applying the principle in financial law matters. For example, the authorities must be sure that the documents requested actually exist. In other words, compelling a defendant to provide specific documents as part of a fishing expedition is a violation of the *nemo tenetur* principle. Nevertheless, the principle does not prohibit the authorities from taking coercive measures in order to obtain financial information, which plausibly exists, for the purpose of drawing up a correct tax assessment. In applying these principles to the present case, the Court noted that the documents in question consisted of (i) two forms completed by the applicant and (ii) bank statements and portfolio summaries.

With regard to the two forms, the Court held that there was no indication that use was made of these forms to establish intent on the part of the applicant in refusing to provide these documents, as required to maintain the tax fines. The use of the forms was therefore not in breach of the *nemo tenetur* principle.

In relation to the use of the bank statements and portfolio summaries, the Court held that *nemo tenetur* did in principle apply. It noted that on the application of the State, the civil court had ordered the applicant to make documents relating to his foreign bank accounts available to the tax authorities. At that time, a tax fine had already been imposed on him for failing to make a correct tax return, which justifies the conclusion that coercion had been applied. Furthermore, the fine fell within the scope of Article 6 of the Convention under its criminal head. As a result, the two prerequisites for the applicability of the *nemo tenetur* principle had been met.

The Court then examined whether the use by the tax authorities of the bank statements and portfolio summaries was in breach of the principle and therefore constituted a violation of the right to a fair trial. The Court noted that the authorities were already aware of the existence of these specific documents. In addition, their application to the civil court for an order compelling the applicant to submit these documents was based on facts already known to the tax authorities regarding the existence of a bank account in Luxembourg. For these reasons, it could not be said that the authorities were engaging in a fishing expedition.

The Court concluded that the use of the documents provided by the applicant did not constitute a violation of the *nemo tenetur* principle arising from Article 6 of the Convention.

Decisions

B.T. (45257/19, 20 January 2022)

The applicant, a British national, lodged a complaint under Article 5, paragraph 1 of the Convention (right to liberty and security) concerning the lawfulness of his continued detention (beyond 90 days after his arrest) in the Netherlands for the purpose of his surrender to the United Kingdom under a European arrest warrant.

The applicant and the Government reached a friendly settlement, after which the Court struck the application out of the list.

T.M. and S.Y.M. (33515/16, 20 January 2022)

The applicants are a couple from Pakistan. The husband has been a Christian since birth and the wife claims to have converted from Islam to Christianity. The applicants complained under Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) on account of the treatment they feared they would be subjected to if they were returned to Pakistan.

On 13 October 2021 the Government informed the Court that the applicants had been granted a temporary asylum residence permit. The Court noted that since the applicants had been granted a residence permit, the risk that they would be expelled and potentially exposed to treatment in breach of Article 3 had been removed for the foreseeable future. It therefore saw no reason to continue its examination of the application. The Court struck the application out of the list of cases.

A.O.J. (22615/21, 24 March 2022)

The applicant, a Sudanese national, complained that his transfer from the Netherlands to Malta under Regulation (EU) No. 604/2013 (the Dublin Regulation) would be in breach of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) because of the conditions in reception and detention facilities in Malta. The Government informed the Court that it would consider the applicant's application for international protection in the Dutch asylum procedure and that he would therefore not be transferred to Malta.

In light of these developments, the applicant informed the Court that he had decided to withdraw his application. The Court struck the case out of the list since the applicant no longer wished to maintain his application.

M.M.G. (32651/21, 24 March 2022)

The applicant, a Somali national, complained under Article 8 of the Convention (right to respect for private and family life) about the Government's decision to withdraw his residence permit and impose a ten-year entry ban on him.

The applicant and the Government reached a friendly settlement, after which the Court struck the application out of the list.

C.A.D.K. (1443/19, 26 April 2022)

The applicant claimed that the obligation to take out basic health insurance (*basispakket*), the enforcement of that obligation through the imposition of an administrative fine and the taking out of insurance on the applicant's behalf were incompatible with Article 8 (right to respect for private and family life) and Article 9 (freedom of thought, conscience and religion) of the Convention and Article 1 of Protocol No. 1 (protection of property) to the Convention. The applicant was opposed to compulsory participation in a system of collective responsibility through the obligation to take out basic health insurance. He preferred to shoulder only the responsibility for his own health, and was in favour of homeopathic treatment. He further complained under Article 6 of the Convention (right to a fair trial) of a lack of impartiality on the part of the courts.

The Court did not pronounce on whether Article 8 was applicable. But in so far as it was applicable, and on the assumption that there had been an interference with the applicant's right to private life under this article, the Court held that to guarantee an affordable healthcare system through

collective solidarity, the Government had legitimate reasons to oblige its citizens to take out health insurance. In view of the broad margin of appreciation the contracting states enjoy with regard to the rules they lay down to achieve a balance between competing public and private interests, the Court concluded that the obligation to take out basic health insurance and the taking out of insurance on the applicant's behalf were not incompatible with Article 8. On these grounds therefore, the Court held that the complaint was manifestly ill-founded and must be rejected.

The Court further held that the applicant's distrust of conventional health care and his associated objections to contributing to the collective healthcare system could not be considered as a conviction or belief falling under the freedom of thought, conscience and religion protected by Article 9 of the Convention. In addition, the applicant did not regard himself as a conscientious objector to health insurance. Consequently, the complaint was incompatible *ratione materiae* with the Convention and must therefore be rejected.

With regard to Article 1 of Protocol No. 1 to the Convention, the Court considered whether the obligation to pay health insurance premiums under the Health Insurance Act amounted to an interference with the applicant's right to peaceful enjoyment of his possessions. The Court noted that since the obligation to take out basic health insurance had a legal basis in domestic law and pursued a legitimate aim for the purposes of Article 8 of the Convention, there was no reason to find that the interference in the applicant's property rights did not serve a legitimate aim. The Court reiterated that in the implementation of social and economic policies the State enjoyed a broad margin of appreciation when it came to balancing the general interests of the community and the protection of the individual's fundamental rights. According to the Court, the options of taking out supplementary health insurance to cover homeopathic medicine and applying for an income-related contribution towards the cost of health insurance meant that the interference was proportionate to the legitimate aim pursued. The Court concluded that the complaint was manifestly ill-founded and must be declared inadmissible.

With regard to the complaint under Article 6 of the Convention, the Court held that the documents accompanying the application did not disclose any appearance of a violation of this article and rejected this complaint.

V.A. and others v. Italy and the Netherlands (48062/19, 5 May 2022)

The applicants are Nigerian nationals who applied for asylum in the Netherlands. They complained that their transfer from the Netherlands to Italy under Regulation (EU) No. 604/2013 (the Dublin Regulation) would be in breach of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) because during their asylum process in Italy they would have a lack of access to rights as beneficiaries of international protection.

In the course of the proceedings, the Government informed the Court that the applicants had refused to take the COVID-19 test required by the Italian authorities and would consequently not be allowed entry to Italy, and that the deadline for transfer under the Dublin Regulation had expired. Their application for international protection would therefore be processed under the Dutch asylum procedure. As a result, the applicants' transfer to Italy was no longer at issue.

The Court noted that since the applicants' asylum application would be examined in the Netherlands, the risk that they would be transferred to Italy and exposed to treatment in breach of Article 3 had been removed for the foreseeable future. With regard to the claim for just satisfaction,

the Court reiterated that Article 41 of the Convention allows it to award just satisfaction only if a violation of the Convention or one of its Protocols has been established. Since this was not the case, the Court concluded that the matter had been resolved for the reasons given above. The application was struck out of the list of cases.

J.N.J.F. (10797/18, 19 May 2022)

The applicant complained under Article 5, paragraph 3 of the Convention (right to liberty and security) concerning the reasoning of The Hague Court of Appeal when ordering the extension of his pre-trial detention.

The applicant and the Government reached a friendly settlement, after which the Court struck the application out of the list.

O.T.D. (49837/20, 19 May 2022)

The applicant, a Guinean national and single mother living in the Netherlands, complained that her minor daughter would be subjected to female genital mutilation (FGM) in Guinea and that their removal to Guinea would therefore be in breach of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment).

The Government informed the Court that the applicant had submitted a new application for international protection, which would be processed in the Netherlands. Since the risk that the applicant and her daughter would be removed to Guinea and potentially exposed to treatment in breach of Article 3 of the Convention had been removed for the foreseeable future, the Court held that the matter had been resolved and struck the application out of the list of cases.

A.A.Z. and others (53128/20, 2 June 2022)

The applicants are a mother and her two daughters, the latter being Jordanian nationals. The applicants complained under Article 2 (right to life) and Article 3 (prohibition of torture or inhuman or degrading treatment or punishment) of the Convention that they would find themselves in a situation of serious material deprivation if they were returned to Greece, where they had been granted international protection before they applied for asylum in the Netherlands. In addition, they complained under Article 13 of the Convention that they had no effective domestic remedy.

In the course of the proceedings the Government informed the Court that the applicants had lodged an asylum application in Iceland and that the Icelandic authorities had decided to examine their application. Since the transfer of the applicants to Greece was no longer at issue, the Government asked the Court to strike the application out of the list. The Court noted that the risk that the applicants would find themselves in a situation in breach of Articles 2 and 3 of the Convention in Greece as a result of their transfer to that country by the Netherlands had been removed, at least for the time being. Furthermore, the Court held that the complaint under Article 13, in conjunction with Articles 2 and 3 of the Convention, was inextricably connected to the removal of the applicants from the Netherlands. For these reasons, the Court considered that further examination of the application was no longer justified and decided to strike the application out of the list. The Court took into account its competence to restore the case to its list should the circumstances change, as

well as the possibility for the applicants to lodge an application against Iceland if they believe that Iceland has breached their rights under the Convention.

L.C.S. (27014/20, 16 June 2022)

The applicant, a Romanian national who had been detained in the Netherlands, complained under Article 5, paragraph 3 of the Convention (right to liberty and security) concerning the reasoning of Rotterdam District Court when dismissing his request for the lifting or suspension of his extended pre-trial detention.

The applicant and the Government reached a friendly settlement, after which the Court struck the application out of the list.

S.G. (27091/21, 8 September 2022)

The applicant, a Liberian national, complained under Article 3 (prohibition of torture or inhuman or degrading treatment or punishment) and Article 8 (right to respect for private and family life) of the Convention, concerning his expulsion to Liberia without a proper examination of the availability and accessibility of medical treatment in that country.

After the application had been communicated to the Government, it informed the Court that the Dutch authorities would reconsider the availability and accessibility of medical treatment in Liberia for the applicant. The applicant then informed the Court that he wished to withdraw his application. The Court found that there were no special circumstances regarding respect for human rights as defined in the Convention and its Protocols that would require the continued examination of the application. It therefore struck the application out of the list.

M.U.T.A.F. (48013/21, 8 September 2022)

The applicant, a Sudanese national, complained under Article 8 of the Convention (right to respect for private and family life) about the consequences for his private life in the Netherlands resulting from the decision to revoke his residence permit.

After the Government had been given notice of the application, it informed the Court that the State Secretary for Justice and Security had decided to withdraw the aforementioned decision and that the applicant's lawful residence in the Netherlands would be restored with retroactive effect. The Court observed that once an applicant under threat of expulsion has been granted a residence permit and no longer risks being expelled, it considers the matter resolved. The Court therefore struck the application out of the list.

S.A. (46534/14, 18 October 2022)

Invoking Article 5, paragraph 1 (right to liberty and security) and Article 13 (right to an effective remedy) of the Convention, the applicant complained that his placement in immigration detention from 5 March 2013 to 17 January 2014 was not justified since there was no realistic prospect of expulsion. He further alleged that the available remedy of recourse to the District Court was ineffective.

The Government had ordered the applicant's placement in immigration detention with a view to his expulsion. In review proceedings The Hague District Court upheld this decision. The same court dismissed a second application for review from the applicant contesting the continuation of his detention. The applicant did not appeal to the Administrative Jurisdiction Division of the Council of State against these judgments.

The Court noted that the applicant could have lodged an appeal against the judgments of The Hague District Court with the Administrative Jurisdiction Division. Furthermore, it held that this was an effective legal remedy, since the Administrative Jurisdiction Division could have ordered the applicant's release and awarded him compensation if his detention was found to be unlawful. The applicant did not dispute the fact that this legal remedy was not used. Nor did he dispute the effectiveness of the Administrative Jurisdiction Division's review process or explain why he had failed to make use of this remedy. The Court therefore saw no reason to exempt the applicant from the admissibility requirement to exhaust domestic remedies and declared the application inadmissible on this basis.

R.R.C. (21464/15, 15 November 2022)

In 2001 the applicant was convicted in Curaçao of murder and sentenced to life imprisonment. He complained under Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) that his life sentence was both *de jure* and *de facto* irreducible, since he was not enabled to make progress towards rehabilitation and had no prospect of release. He also complained under Article 13 of the Convention (right to an effective remedy) that he had no effective remedy under domestic law.

The Court received a unilateral declaration from the Government in which it indicated its willingness to resolve the matter. In view of this declaration, the extensive case law on this subject and the fact that the Curaçao authorities were working on a policy framework for the review of life sentences, the Court saw no reason to continue its examination of the application. In addition, a comparable case was currently under the supervision of the Committee of Ministers, which is better placed to monitor the measures that need to be taken. The Court struck the application out of the list, but reminded the parties that it could be restored to the list if necessary.

A.H.L. (2445/17, 15 November 2022)

In 1984 the applicant was convicted in St Maarten of unlawful restraint, rape and murder and sentenced to life imprisonment. He complained under Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) that his life sentence was both *de jure*

and *de facto* irreducible, since he was not enabled to make progress towards rehabilitation and had no prospect of release.

The Court received a unilateral declaration from the Government in which it indicated its intention to resolve the matter. In view of this declaration and the fact that the St Maarten authorities were working on a policy framework for the review of life sentences, the Court saw no reason to continue its examination of the application. In addition, a comparable case was currently under the supervision of the Committee of Ministers, which is better placed to monitor the measures that need to be taken. The Court struck the application out of the list, but reminded the parties that it could be restored to the list if necessary.

By decision of the Joint Court of Justice of Aruba, Curacao and St Maarten and of Bonaire, St Eustatius and Saba, the applicant was released on parole in 2022. He was then expelled to Anguilla and is banned from returning to St Maarten.

S.O. (60074/21, 24 November 2022)

The applicant, a Kyrgyz national, complained that the refusal to allow her to reside with her husband in the Netherlands constituted a violation of Article 8 of the Convention (right to respect for private and family life).

The Government informed the Court that the applicant had lodged a new application for international protection, to which the Government would automatically apply Article 8 of the Convention. In view of the new asylum application and the information from the Government, the Court saw no reason to continue its examination of the application. It therefore struck the case out of the list.

Interventions

J.G. v. Poland (43572/18, 15 March 2022)

The applicant complained under Article 6, paragraph 1 of the Convention (right to a fair trial) that he had been denied access to a court in order to contest the premature termination of his term of office of Poland's National Council of the Judiciary. In addition, he complained under Article 13 of the Convention (right to an effective remedy) that he had no access to any judicial or other proceedings to contest the premature termination.

The applicant was a judge sitting on the Supreme Administrative Court in Poland. In January 2016 he had been elected for a four-year term of office as a member of the National Council of the Judiciary (NCJ), a constitutional body tasked with safeguarding the independence of the courts and judiciary. His term of office at the NCJ was terminated prematurely in 2018, after new legislation in the context of a large-scale reform of the judicial system entered into force. The new legislation transferred the power to elect the judicial members of the NCJ to the *Sejm* (Lower House of Parliament). When in 2018 the Lower House elected fifteen new judicial members of the NCJ, the applicant's term of office was immediately terminated.

The Netherlands lodged a third-party intervention in this case. In its intervention, it referred to the large-scale judicial reforms in Poland and the importance of independent and impartial courts established by law to safeguard the rule of law.

The Polish government argued that the lack of access to a court was not a consequence of the reform of the judiciary, since the members of the NCJ had never been able (even before the reforms) to challenge the termination of their term of office.

The Court found a violation of Article 6, paragraph 1 of the Convention. It observed that the Polish government had submitted no arguments justifying the absence of judicial review of the premature termination of the applicant's term of office.

The Court emphasised that as a result of the large-scale reforms in Poland, the judiciary had been exposed to interference by the executive and legislative powers and had therefore been substantially weakened.

With regard to the complaint under Article 13 of the Convention, the Court held that it was not necessary to examine it separately as it was essentially the same as that under Article 6 of the Convention.

H.F. and M.F. v. France (24384/19, 14 September 2022)

The applicants are the parents of L. and M., French nationals, who left France to travel with their partners to the territory in Syria then controlled by Islamic State (IS). The applicants complained that France's refusal to repatriate their daughters and minor grandchildren was a violation of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment). In addition, the applicants argued that this refusal violated the right of their family members, under Article 3, paragraph 2 of Protocol No. 4 to the Convention, to enter the territory of the state of which they are nationals.

The applicants had repeatedly asked the French authorities to repatriate their daughters and grandchildren from the camps for former IS fighters in north-eastern Syria. The French authorities refused to consider these requests and no formal decision was given. In addition, several French courts considered themselves incompetent to adjudicate on the complaints of the applicants and declared that they had no jurisdiction over acts of State.

The Netherlands lodged a third-party intervention concerning a number of issues that go beyond the case in question, such as the question of whether France had jurisdiction.

The Court held that the family members in question did not fall under the jurisdiction of France within the meaning of Article 1 of the Convention and could not therefore rely on Article 3 of the Convention. This is not the case when it comes to the complaint under Article 3, paragraph 2 of Protocol No. 4 to the Convention. The Court concluded that the two daughters and the grandchildren had no general right to repatriation under Article 3, paragraph 2 of Protocol No. 4. However, the protection offered by this article may, in exceptional circumstances, entail positive extraterritorial obligations for a contracting state. These exceptional circumstances can arise, for example, if extraterritorial factors directly threaten the life and physical well-being of an individual, particularly those of a child in a situation of extreme vulnerability. In meeting these positive obligations the contracting state must ensure that there are sufficient procedural safeguards ensuring the avoidance of any arbitrary decisions in the response to a request for repatriation. The Court concluded that the examination of the requests for repatriation by the French authorities was not surrounded by sufficient procedural safeguards against arbitrary decisions because there was no formal decision which could have been submitted for review by an independent body. Consequently, there had been a violation of Article 3, paragraph 2 of Protocol No. 4 to the Convention.

European Committee of Social Rights

In 2022 no new complaints were lodged with the European Committee of Social Rights under the collective complaints procedure of the European Social Charter.

Supervision of European Committee of Social Rights decisions[1]

In December 2022 the Government submitted a regular report on compliance with the decisions of the European Committee of Social Rights. The Government expects to receive the Committee's conclusions on this report in the first half of 2024.

[1] Under Article 9 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, the Committee of Ministers adopts a resolution or recommendation on the basis of a report by the ECSR.

Committee of Ministers

End of supervision

In 2022 the Committee of Ministers determined that supervision of a number of cases had ended. These are: *B.T.* (45257/19, 20 January 2022), *M.M.G.* (32651/21, 24 March 2022), *J.N.J.F.* (10797/18, 19 May 2022), *L.C.S.* (27014/20, 16 June 2022), *H.J.C.K.* (23192/15, 19 October 2022), *I.O.* (69810/12, 19 October 2022), *A.J.H.* (30749/12, 16 November 2022), *X.* (72631/17, 14 December 2022), *F.G.Z.* (69491/16, 14 December 2022) and *F.E.H.* (73329/16, 14 December 2022).

Supervision of ECtHR judgments [2]

J.C.M. (10511/10, 26 April 2016)

In this case the Court ruled that the life sentence imposed in Curaçao and Aruba on the applicant, who suffered from mental illness, was *de jure* and *de facto* irreducible since no form of treatment was available to him. This constituted a violation of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment). In 2014 the applicant was granted a pardon and in 2016 his costs and expenses were reimbursed. In 2017 and 2019 the Committee of Ministers was informed of general measures taken or envisaged by Curaçao and Aruba to execute the judgment. On 2 March 2021 the Government reported on progress with regard to these measures.

Within the Kingdom of the Netherlands, cooperation in the Judicial Four-Party Consultation (JVO) continues with the aim of achieving forensic care for detainees suffering from serious mental illness. A national forensic care coordinator will be appointed in each of the four countries. In addition, a dedicated detention task force will draw up proposals for alternatives to detention and preparing ex-detainees for their return to the community. Prison governors in all four countries work together to gather knowledge about rehabilitation in general and forensic care in particular. Curaçao is preparing legislation with regard to care in custodial clinics, as well as the status of persons subject to a TBS (hospital) order and designating the location where such care can be provided. Adoption of the legislation is dependent on decisions taken within the JVO regarding forensic care and TBS orders. As part of the periodic review of life imprisonment, guidelines are being developed to provide insight into the way on which such sentences are carried out and how the rehabilitation process works in the case of prisoners serving life sentences.

Aruba has already introduced TBS orders and taken measures to provide mental health services for prisoners. It has also presented a plan to the JVO for a dedicated forensic psychiatric wing in the Aruban Correctional Facility, setting out the requirements regarding staffing, renovating the present psychiatric wing and the necessary structural changes to the building. Curaçao has indicated that it wishes to learn from Aruban expertise and experience in this field.

[2] Measures taken by the Government to execute Court judgments in the reporting year which have previously been reported on and 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. See Annexe I for an overview of all cases under supervision and those where supervision was ended in the reporting year.

V.K. (2205/16, 19 January 2021)

In this case the Court ruled that there had been a violation of Article 6 of the Convention (right to a fair trial) because the domestic courts refused to allow the applicant to cross-examine seven witnesses for the prosecution in criminal proceedings for fraud that were conducted between 2013 and 2015. On 19 October 2021 the Government informed the Committee of Ministers of the measures it had taken to execute the judgment. The sum awarded to the applicant for costs and expenses by the Court had been paid. Furthermore, the applicant had made use of the option under article 457, paragraph 1 (b) of the Code of Criminal Procedure to lodge an application for a retrial with the Supreme Court. On 14 December 2021 the Supreme Court granted the application for a retrial and referred the case to 's-Hertogenbosch Court of Appeal. The Court of Appeal heard the case on 5 October 2022 and decided to examine the seven witnesses for the prosecution.

With regard to general measures, the Government noted that national legislation was not incompatible with the Convention. The Court's judgment had been brought to the attention of the Council for the Judiciary, the Supreme Court and the Public Prosecution Service. Within the Public Prosecution Service, public prosecutors with special responsibility for training and quality had issued guidelines explaining the Court's judgment in this case and providing advice on its application in practice. On 20 April 2021 the Supreme Court handed down a new general ruling based on the Court's judgment, giving a detailed interpretation of the rights involved in examining witnesses, in particular the right to cross-examine witnesses for the prosecution. (ECLI:NL:HR:2021:576).

M.M. (10982/15, 9 February 2021), F.G.Z. (69491/16, 9 February 2021) and F.E.H. (73329/16, 9 February 2021)

In these three cases the Court held that there had been a violation of Article 5 of the Convention (right to liberty and security) since insufficient reasons had been provided for the decisions of the domestic courts regarding the extension of the applicants' pre-trial detention (violation of Article 5, paragraph 3 of the Convention). In addition, the case of F.E.H. concerned a violation of the applicant's right to have the lawfulness of his pre-trial detention speedily decided by a court (violation of Article 5, paragraph 4 of the Convention). On 18 March 2022 and then again on 25 November 2022, the Government submitted a report on the progress made in the execution of these judgments. The amounts awarded to M.M. and F.E.H. by the Court for non-pecuniary damage had been paid in 2021. Applicant F.G.Z. had not applied to the Court for just satisfaction. With regard to general measures, the Government concluded that the violations did not stem from legislation.

More generally, the Government noted that the substantiation of decisions regarding pre-trial detention and its extension had been the subject of debate in the Netherlands for some time, both within and beyond the judiciary. The Netherlands Institute for Human Rights, for example, conducted a study early in 2017 of how the courts substantiate decisions on pre-trial detention. It showed that the courts often gave insufficient written reasons to underpin such decisions.

In recent years improvements have been implemented, including the introduction of professional standards developed by the courts. These stipulate that decisions on pre-trial detention must be fully substantiated. In the past courts had made use of a standard form with tick boxes indicating the applicable grounds from the Code of Criminal Procedure and containing standard text blocks. These standard forms have been replaced by orders which leave space for the court to give its own

reasoning underpinning the decision on pre-trial detention. In 2016 all Dutch district courts began implementing the professional standards referred to above.

Partly in the light of the improvements introduced, and the fact that the cases at issue are five to six years old, the National Committee on Criminal Law Matters (LOVS) sent a questionnaire to the district courts and courts of appeal to obtain a picture of how the new system is working in relation to pre-trial detention decisions. As yet no report has been drawn up on their responses, but the national picture that emerged was that in recent years more attention has been devoted to the substantiation of pre-trial detention decisions and that the standard form with tick boxes seems no longer to be in use.

On 9 November 2021 the Supreme Court gave judgment in a case involving a complaint concerning decisions on pre-trial detention taken by a court of appeal (ECLI:NL:GHSHE:2021:91). In this judgment the Supreme Court held that decisions on pre-trial detention must always give reasons specifically based on the case at hand.

In the literature it has been noted that there appears to have been a cautiously positive development in this area following this Supreme Court judgment and the three ECtHR judgments.

The Court's judgments in the three cases have been brought to the attention of the Council for the Judiciary, the Supreme Court and the Public Prosecution Service.

In the course of 2022 the Committee of Ministers was informed of measures taken to execute the judgments. Supervision of compliance with the Court's judgments in the cases of F.G.Z. (69491/16) and F.E.H. (73329/16) was ended on 14 December 2022. In the case of M.M. (10982/15) supervision continues.

F.C. (29593/17, 9 October 2018)

The Court ruled that the conditions of the applicant's detention in St Maarten were in breach of Article 3 of the Convention (prohibition of torture or inhuman or degrading treatment or punishment) because he had been held in the detention facility for over eight months, while the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had found the conditions in the facility to be so poor that no-one should be held there for more than 10 days.

Since 2019 the Committee of Ministers has been regularly informed of measures taken to execute the Court's judgment. These include steps to improve provision in the detention facility of Philipsburg Police Station where the applicant was held, taking into account the recommendations of the CPT. In addition, the Government referred to the policy of the Public Prosecutor's Office, which is that detainees should not be held there for longer than 10 days. However, it also referred to the dilemmas faced by the Public Prosecutor's Office because of the limited detention capacity in St Maarten. Furthermore, the Government described cooperation within the Kingdom on improving the overall detention system in St Maarten (2018 Action Plan), including the construction of a new multifunctional detention centre, for which €30 million had been made available, €20 million of which was earmarked for the construction of a new prison. To this end, an agreement was concluded with the United Nations Office for Project Services (UNOPS) with the following elements:

i. transitional facilities for the urgent accommodation of all detainees;

ii. a long-term detention infrastructure;
iii. improved capacity in terms of the operation and management of prisons.

In addition, as part of the country package for St Maarten the Government has earmarked a one-off sum of €10 million spread over five years (2022 - 2026) to introduce broader improvements in the detention system. Technical and financial assistance has also been provided to St Maarten in the form of a programme team (comprising a programme manager, assistant programme manager, HR adviser and recently a trainer from the Training Institute of the Custodial Institutions Agency) and grants to fund structural improvement measures and training for prison staff.

The measures were discussed on 9 June 2022 during a meeting of the Committee of Ministers. The Minister of Justice of St Maarten stated that St Maarten was determined to execute the Court's judgment and wanted to go much further by raising the standards in the entire detention system as well as promoting the use of adequate alternatives to detention. In December 2022 the Government reported once again on progress made in the implementation of the above measures.

United Nations

Human Rights Committee

Views

W.S.J. (3077/2017, 8 August 2022)

The author resides on Saba and claimed that the State party had violated his rights under article 2, paragraph 1 (prohibition of discrimination) and article 26 (right to equality before the law) of the International Covenant on Civil and Political Rights (the Covenant) by granting pensioners in the Caribbean part of the Netherlands a substantially lower old age pension than that granted to pensioners living in the European part of the Netherlands. The author argued that he was in a comparable position to that of pensioners in the European part of the Netherlands and that he had therefore been treated unequally on the basis of his place of residence and ethnicity, without the State party providing any justification for this.

The author asked the State party to award him a pension under the General Pension Insurance Act BES (AOV BES) equivalent to that paid to pensioners in the European part of the Netherlands. This request was denied on the basis of article 1, paragraph 2 of the Charter for the Kingdom of the Netherlands. The author lodged an application for review with the Court of First Instance of Bonaire, St Eustatius and Saba, which was dismissed. The Court of First Instance held that the State party had not introduced benefits on Saba that were equivalent to those paid in the European Netherlands because of the socioeconomic and legislative differences with the Caribbean part of the Netherlands. The author lodged an appeal against this decision with the Joint Court of Justice of Aruba, Curaçao, St Maarten and of Bonaire, St Eustatius and Saba, which upheld the decision of the Court of First Instance on the basis that the difference in treatment was objectively justified.

In the context of admissibility, the Human Rights Committee (the Committee) stated that it could not examine the complaint under article 2, paragraph 1 of the Covenant since this article can only be invoked in conjunction with other articles of the Covenant. Since this had not been done here, the complaint under article 2, paragraph 1 of the Covenant was not sufficiently substantiated as to justify further examination.

The Committee then examined the merits of the complaint under article 26 of the Covenant and emphasised that the right to social security is not protected by the Covenant. However, if domestic law provides for a system of social security, it could indeed entail a violation of the Covenant of article 26 of the Covenant if the relevant legislation allows for unequal treatment. The Committee emphasised that differentiations in treatment did not by definition amount to discrimination within the meaning of article 26, as such differentiations could be justified. Furthermore, any determination of discrimination requires a comparison with persons who are ‘similarly situated’. To decide whether this is the case requires an assessment of the facts, which is a matter for the domestic courts.

The Committee held that it could not be said that the author was similarly situated to pensioners in the European part of the Netherlands. In so far as there was a difference in the present case between the treatment received by pensioners in the European and the Caribbean parts of the Netherlands, it was based not on personal characteristics such as ethnicity but on place of residence.

This permits the legislator to take account of regional differences. For this reason, the amount of pension awarded may be dependent on regional differences.

The constitutional status of the author's place of residence was not sufficient to argue that the author was similarly situated to pensioners in the European part of the Netherlands. In addition, the difference in treatment had been objectively and reasonably justified. The Committee took the view that there had been no violation of article 26 of the Covenant.

D.J. (3256/2018, 2 September 2022)

The author claimed that the State party had violated his rights under article 14, paragraph 5 (right to have conviction and sentence reviewed by a higher tribunal) of the International Covenant on Civil and Political Rights (the Covenant). Under this article, anyone convicted of a criminal offence has the right to have their conviction and sentence reviewed by a higher tribunal according to the law. The author complained that he was denied the opportunity to have his conviction for murder reviewed by a higher court in accordance with article 14, paragraph 5 of the Covenant because there is no judicial body in the Dutch legal system that can review the facts of a case again after a person has been convicted for the first time by a court of appeal.

The author was convicted by the Court of Appeal of *inter alia* the joint perpetration of two murders after having been acquitted at first instance by the District Court of the joint perpetration of one of the murders ('the second murder'). He lodged an appeal in cassation with the Supreme Court, which dismissed his appeal in cassation with regard to the murder of which he had been acquitted by the District Court by means of summary reasoning, applying section 81, subsection 1 of the Judiciary (Organisation) Act.

The Committee recalled that while States parties are free to determine the modalities of appeal in criminal cases, they are obliged under article 14, paragraph 5 of the Covenant to ensure that a higher tribunal can review substantively the conviction and sentence. A review that is limited to the formal or legal aspects of the conviction without any consideration whatsoever of the facts is not sufficient. According to the Committee's case law, article 14, paragraph 5 of the Covenant does not require a full retrial or a hearing, as long as the tribunal carrying out the review can look at the factual dimensions of the case. Furthermore, article 14, paragraph 5 of the Covenant is also applicable if the higher tribunal increases the sentence.

In this case the Committee noted that the Supreme Court's judgment dismissing the author's appeal in cassation did not contain any reference to or assessment of the facts or the evidence on which the Court of Appeal had based its conviction of the author. In this light, the Committee held that the Supreme Court had not provided adequate details regarding its consideration of the lawfulness and sufficiency of the facts and evidence, nor had it given sufficient account of the reasons underlying its reassessment of the case. The Committee concluded that the Supreme Court did not properly assess the sufficiency of the facts and the incriminating evidence that supported the author's conviction on appeal for the second murder, since – bearing in mind the nature of cassation proceedings and the absence of any reasoning to the contrary – the main reasons for the dismissal of the author's appeal in cassation were legal considerations, not a review of the facts, as the Committee's case law requires. In these specific circumstances, therefore, the Committee found that it had not been established that the Supreme Court had sufficiently reviewed the facts and evidence. The Committee concluded that there had been a violation of article 14, paragraph 5 of the Covenant.

The Committee stated that in accordance with article 2, paragraph 3 (a) of the Covenant, the State party was obliged, *inter alia*: (a) to have the author's conviction for the second murder reviewed by higher tribunal and (b) to provide the author with adequate compensation.

R.E.I. (3015/2017, 4 November 2022)

The author claimed that his rights under article 15, paragraph 1 of the Covenant (prohibition on retroactive application of the criminal law) had been violated since a heavier penalty was imposed on him under legislation that was not yet in force when he was initially sentenced. He further claimed that his rights under article 26 of the Covenant (right to equality before the law) had been violated as the retroactive effect of the new legislation was applied to only 10% of persons convicted at the time the legislation entered into force and the only reason for the difference in treatment was financial advantage for the State party. The author further complained that his rights under article 14, paragraph 5 of the Covenant (right to have conviction and sentence reviewed by a higher tribunal) had been violated as the decision to refuse him release on parole was not subject to appeal.

The author was arrested in 2003 and sentenced to 18 years in prison in 2004. At the time he was sentenced, the Dutch Criminal Code provided for early release (without conditions). On 1 July 2008 the release on parole system came into effect, with a transition period of five years. During leave from prison in 2015, the author was again arrested on suspicion of committing a criminal offence and was convicted later that year. His request for release on parole was subsequently refused.

The Committee noted that the author had not exhausted domestic remedies with regard to his claims under article 15, paragraph 1 of the Covenant. In addition, it concluded that the claim under article 14, paragraph 5 of the Covenant did not fall under the scope of this article and should be declared inadmissible, since the legislation implementing the system amounted to neither a conviction nor a sentence. It follows from previous judgments of the ECtHR that legislation concerning early release does not form part of a sentence or criminal conviction. For this reason, the refusal to grant the author release on parole could not be seen as a new conviction for the same offence. Nor did the new system mean an increase in the original sentence, since the length of the sentence was unchanged and serious misbehaviour would also have led to a refusal of early release under the old system.

Finally, the Committee concluded that the author had not demonstrated that he was a victim in the context of article 26 of the Covenant since his claim regarding unequal treatment was insufficiently substantiated. It therefore declared this part of the communication inadmissible.

Decisions

I.A.H. (3725/2020, 25 March 2021)

The author claimed that a his rights under article 9, paragraph 1 of the Covenant (right to liberty and security of the person) had been violated since there was no legal basis for his placement in immigration detention. In addition, he complained that the lack of compensation for his detention was incompatible with article 9, paragraph 5 of the Covenant.

The author had spent various periods in immigration detention between 2003 and 2010, even though, as was subsequently established, he was a Dutch national throughout that period. The

author and the State party reached an amicable settlement, and the Committee decided to discontinue its consideration of the communication.

Closing of follow-up procedure

In 2022 the Committee decided to close the follow-up procedure in the case of *X.H.L* (1564/2007, 22 July 2011).

Implementation of earlier Views

D.Z. (2918/2016, 19 October 2020)

In its Views in this case the Committee concluded that the rights of the author under article 24, paragraph 3 (rights of the child) of the Covenant had been violated as he had been unable to exercise his right as a minor to acquire a nationality. Since he had also had no access to an effective remedy, the Committee found that there had been a violation of article 24, paragraph 3, in conjunction with article 2, paragraph 3 (right to an effective remedy) of the Covenant.

The Committee asked the State party to review its decision on the author's request to be registered as stateless in the register of Births, Deaths, Marriages and Registered Partnerships as well as its decision on his request that it recognise him as a Dutch national. To avoid such violations in the future, the Committee concluded that the State party was required to bring its legislation and procedures into line with article 24 of the Covenant.

The State party reported for the first time in 2021 on its implementation of these Views. The author responded to the report in late 2021. On 27 January 2022 the State party submitted an additional response to the author's statement. At a meeting on 21 March 2022 the Committee discussed the measures the Netherlands had taken to implement the Views. On 26 August 2022 the Committee informed the State party that it considered the individual measures, compensation and general measures to be insufficient, which meant that the follow-up procedure could not be closed. In 2023 the State party reported once again on follow-up, referring to several developments relating to individual measures and to general measures.

S.Y. (2392/2014, 17 July 2018)

In its Views the Committee concluded that a violation had taken place of article 14, paragraph 5 (right to have conviction and sentence reviewed by a higher tribunal) and of article 2, paragraph 3 (right to an effective remedy) in conjunction with article 14, paragraph 5 of the Covenant. The Committee noted that convicted persons must have access to a duly reasoned, written judgment of the trial court and sufficient information to enable them to effectively exercise their right to appeal. The Committee held none of this was available to the author. It further held that Arnhem Court of Appeal was wrong in deciding not to hear her appeal.

After its first response in 2019, on 13 July 2022 the State party submitted a different response to these Views, drawing the Committee's attention to the following developments. The draft version of new Code of Criminal Procedure had been completed and published on the central government website. The explanatory memorandum to the new legislation discussed the abolition of the system

of leave to appeal, referring to relevant case law of the Committee and the ECtHR. The further legislative process was now under way and the Council of State issued its advisory opinion on 7 April 2022. The next step was to put the new Code before the House of Representatives. Preparations for the implementation of the new Code had also been initiated, including draft legislation regulating implementation which would include transitional arrangements and amendments to other legislation. An independent external committee had been set up to ensure that implementation was conducted with due care. The new Code of Criminal Procedure was one of the priorities in the 2022-2025 Coalition Agreement.

J.O.Z. and E.E.I.Z. (2796/2016, 13 October 2021)

In its Views the Committee concluded that the removal of the author and her daughter to Nigeria would constitute a violation of article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment) read alone and in conjunction with article 24 (rights of the child) of the Covenant. The Committee held that the State party had not properly assessed the risk of female genital mutilation (FGM) that the author's daughter would face on her return to Nigeria. FGM amounts to treatment prohibited by article 7 of the Covenant and the Dutch Immigration and Naturalisation Service (IND) gave insufficient reasons for not finding the author's alleged marriage credible, while this conclusion would have a significant impact on the real and personal risk faced by the author's daughter if returned to Nigeria. This is because in Nigeria the father has the power to decide if his daughter is to undergo FGM, independent of the mother's opinion. In addition, despite being prohibited, FGM is common in Nigeria and perpetrators are rarely prosecuted. Finally, there was no flight alternative or alternative place of residence, partly because there was nowhere in Nigeria where her daughter would be safe from the risk of FGM and partly because the author would not be able to survive on her own on account of her mental health problems and having no social network.

On 21 July 2022 the State party responded to these Views, stating that the author and her daughter had been granted international protection on account of the risk of FGM if they were removed to Nigeria. They had been granted temporary asylum until 27 June 2024. In addition, the State party drew the Committee's attention to measures relating to the country-specific asylum policy concerning Nigerian women fleeing from gender-based violence. The measures had been introduced in light of recent developments in the security situation in Nigeria which became apparent during the course of the proceedings. In the State party's view, the underlying issue of the protection of Nigerian women against the risk of FGM under Dutch immigration law had thus been resolved.

Committee against Torture

Views

F.K.M. (954/2019, 21 July 2022)

The complainant, a national of the Democratic Republic of the Congo (DRC), claimed that his removal to DRC would violate his rights under article 3 (non-refoulement obligation) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) because he would be exposed to the risk of torture there. He further argued that his removal to DRC would also constitute a violation of article 3 on account of his medical problems.

The complainant claimed to have been ill-treated, tortured and threatened with death in DRC, and had sought protection in the Netherlands. His asylum application was denied on the grounds that his reasons for seeking asylum were found to be lacking in credibility. This decision was upheld in review and appeal proceedings. The complainant then lodged a second asylum application which included a medical and psychological assessment from the Institute for Human Rights and Medical Assessment (iMMO). The State party denied this second asylum application. The decision was again upheld in review and appeal proceedings.

The Committee against Torture (the Committee) concluded that the part of the communication relating to medical problems was inadmissible due to non-exhaustion of domestic remedies, since an appeal could still be lodged with the Administrative Jurisdiction Division of the Council of State against the District Court's decision on this part of his application.

With regard to the risk that the complainant could be tortured by the DRC authorities, the Committee concluded that even if the inconsistencies in his statements regarding his past experiences in DRC were disregarded and those statements accepted as true, the complainant had failed to provide any information credibly indicating that the DRC authorities would still have any interest in him.

The Committee held that, even in light of the current human rights situation in DRC, the complainant had not provided sufficient evidence to enable it to conclude that his removal to DRC would expose him to a real, personal and foreseeable risk of torture within the meaning of article 3 of the CAT. In its view, his removal to DRC would not therefore constitute a violation of article 3 of the CAT.

Decisions

M.K.B. (1008/2020, 9 September 2022)

The complainant claimed that her removal to Guinea would violate her rights under article 3 (non-refoulement obligation) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) because she faced a real risk of being subjected to female genital mutilation (FGM). After the State party granted her a residence permit on the basis of new documentation, the complainant informed the Committee that she wished to withdraw her communication. The Committee therefore decide to end its examination of the case.

Other developments

Council of Europe[3]

ECHR system: efforts to secure continuing effectiveness

From 2010 to 2020 the focus of the Interlaken process was on reform of the ECHR system. The evaluation of the process concluded that although a complete overhaul of the system was not necessary, the Council of Europe as a whole needed to make further efforts to ensure that the system remains effective. Working groups falling under the Steering Committee for Human Rights (CDDH) have been exploring the necessary measures and in 2022 a number of steps in the direction of reform were taken.

First, the drafting group working on how to handle more effectively cases relating to inter-state disputes as well as individual applications arising from such disputes (DH-SYSC-IV) presented its report. This report, with recommendations that include the timely and complete submission of documents to the ECtHR, efficiency in inter-state cases and the setting up of a special Conflicts Unit, was adopted by the CDDH in late November 2022.

Likewise in 2022, a drafting group concerned with issues relating to judges of the ECtHR (DH-SYSC-JC) started work. The group has been asked to submit a report by the end of 2024 evaluating the effectiveness of the system for selecting and electing ECtHR judges and proposing ways of providing additional safeguards to preserve their independence and impartiality. The group will evaluate the changes made in recent years to the selection and election procedure and consider such subjects as the length of the judges' mandate, the position of judges after their mandate has expired and the use of ad-hoc judges.

The drafting group on human rights in situations of crisis (CDDH-SCR) was created in response to the COVID-19 pandemic, although its mandate relates to crises in general. These include public health crises, natural disasters or threats to national security. The group has been asked to produce three documents: a report on contracting states' practice in relation to derogations from the ECHR in situations of crisis (Article 15), a toolkit for a human rights impact assessment of measures taken by the State in situations of crisis and a non-binding legal instrument on the effective protection of human rights in situations of crisis, based on lessons learned from the COVID-19 pandemic. The aim is to support the contracting states, helping them ensure their responses to future crises are compliant with human rights.

At the meeting held in December 2022, the CDDH decided to replace the term *droits de l'homme* with *droits humains* when referring to human rights outside the context of the ECHR.

Protocol No. 16 to the ECHR

Protocol No. 16 entered into force for the Netherlands on 1 June 2019. The protocol allows the highest courts and tribunals of the contracting states to request the ECtHR to give an advisory opinion on questions of principle relating to the interpretation or application of the rights and

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

freedoms defined in the ECHR or its protocols. In 2022 the ECtHR accepted a request for an advisory opinion from the Supreme Court of Finland. The request concerned the procedural rights of a biological parent in adoption proceedings in the context of Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life) of the ECHR. By the end of 2022 the ECtHR had given a total of five advisory opinions. In 2022 three advisory opinions were issued: one relating to Article 3 of Protocol No. 1 (right to free elections) in response to a request from the Lithuanian Supreme Administrative Court, one relating to Article 7 of the ECHR (no punishment without law) in response to a request from the Armenian Court of Cassation, and one relating to Article 14 (prohibition of discrimination) of the ECHR and Article 1 of Protocol No. 1 to the ECHR (protection of property) in response to a request from the French *Conseil d'État*. These advisory opinions concern, respectively, legislation on impeachment, the statute of limitations in respect of torture, and differences in treatment in national legislation on hunting. To date, none of the Netherlands' highest courts have submitted a request to the ECtHR for an advisory opinion.

In 2022, in response to an undertaking given to the House of Representatives in 2017 by the then Minister of Security and Justice, the Research and Documentation Centre (WODC) of the Ministry of Justice and Security commissioned the University of Utrecht to evaluate the effects of Protocol No. 16. The evaluation will be delivered in 2023.

Accession of the EU to the ECHR

The negotiations on the accession of the EU to the ECHR, which resumed in 2020 after a break of over seven years, continued in 2022. In its Opinion 2/13 of 18 December 2014, the Court of Justice of the European Union (CJEU) held that the outcome of negotiations reached in 2013 was not compatible with EU law. While taking into account the concerns of the CJEU, the EU continues to work towards accession on terms that will not undermine the effective system of human rights protection developed under the ECHR. In this process, the aim is to find sound legal solutions to the CJEU's concerns that are politically feasible for all parties (the member states of both the EU and the Council of Europe). In 2022 four negotiating rounds took place in hybrid form (remotely and in-person). Negotiations will continue in 2023. The aim is to have a negotiation agreement ready before the Council of Europe Summit in May 2023.

Supervision of execution

In 2019 the ECtHR ruled that the detention of Mehmet Osman Kavala served no legitimate aim but pursued an ulterior purpose, namely to silence him, and that he should therefore be immediately released. Since this did not take place, the Committee of Ministers started infringement proceedings. On 11 July 2022 the ECtHR gave judgment in the infringement proceedings under Article 46, paragraph 4 of the ECHR in the case of *Kavala v. Türkiye* (Grand Chamber, case no. 28749/18). In its judgment the ECtHR ruled that Türkiye had failed to fulfil its obligation to abide by its judgment. This is only the second time in the history of the ECtHR that infringement proceedings have been instituted. The first time was in 2019, in the case of *Ilgar Mammadov v. Azerbaijan* (Grand Chamber, case no. 15172/13).

On 19 and 20 October 2022 the Netherlands received a delegation from the Department for the Execution of Judgments of the European Court of Human Rights (ED), part of the Council of Europe

secretariat that advises and assists the Committee of Ministers in its supervision of the execution of ECtHR judgments. During the two-day visit there was time for discussions between the ED and officials from the Ministry of Foreign Affairs, the Ministry of the Interior and Kingdom Relations, the Ministry of Justice and Security and representatives of the Ministry of Justice of St Maarten. The delegation also visited the Supreme Court and the Council of State. The visit helped to further strengthen the close cooperative ties among all parties concerned.

European Social Charter (ESC)/Collective complaints procedure

Following decisions taken by the Committee of Ministers on 11 December 2019 and reform proposals made by the Secretary General on 22 April 2021, discussions continue on measures to strengthen the ESC complaints system. These include ways to improve the procedural aspects of the collective complaints system and bring about more efficient supervision of follow-up to decisions taken by the European Committee of Social Rights (ECSR) and the Committee of Ministers in that context.

The ECSR has already introduced measures to improve the processing of collective complaints. For example, the admissibility conditions are being applied more strictly and efforts are being made to improve the accessibility of information on these criteria and the legal standards applied by the ECSR. This is expected to improve predictability with regard to the assessment of the admissibility of complaints. In addition, the ECSR is being more consistent in its application of the adversarial principle, which is now explicitly enshrined in the rules of procedure regarding admissibility and immediate measures to avoid irreparable injury or harm to the persons concerned.

With regard to the regular obligation on states to report on compliance with the ESC, the proposals explore how the administrative burden of reporting can be alleviated for states that have accepted the additional monitoring instrument of the collective complaints procedure. Furthermore, the Committee of Ministers might take on a greater supervisory role in cases where the ECSR has concluded that the contracting state has not met its obligations under the ESC, or has not met them sufficiently.

The call from a number of ECSR members to add new rights to the ESC – for example, in relation to the environment – has failed up to now to attract broad support. In the Government's view, the emphasis should rather be placed on improving compliance with existing rights and on expanding the number of parties to the ESC that have accepted the collective complaints procedure.

Annexes:

Overviews and statistics

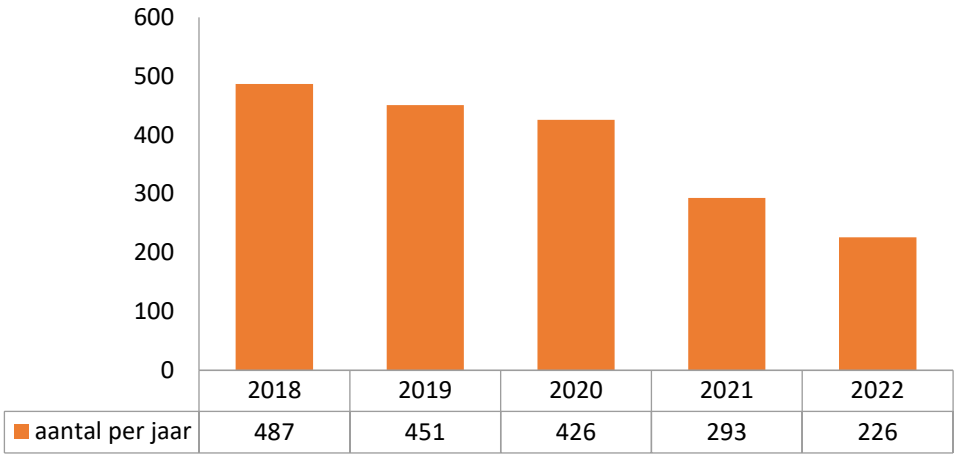
Annexe I

Council of Europe

European Court of Human Rights[4]

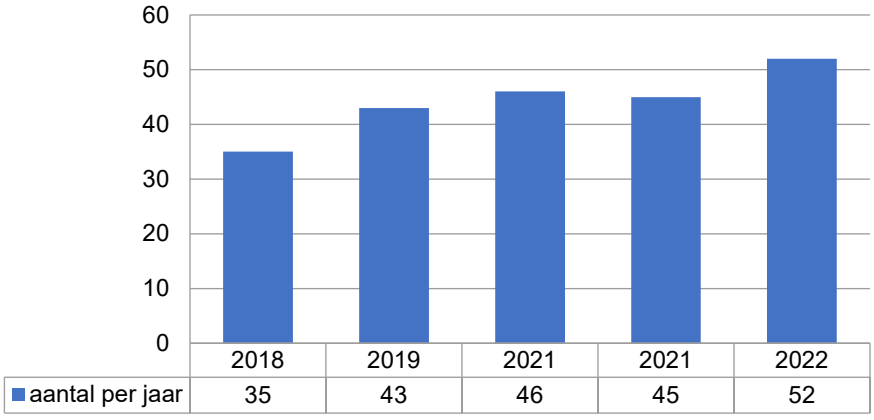
Statistics[5]

Cases pending against the Kingdom of the Netherlands



[Annual total]

Cases being processed by the Kingdom of the Netherlands

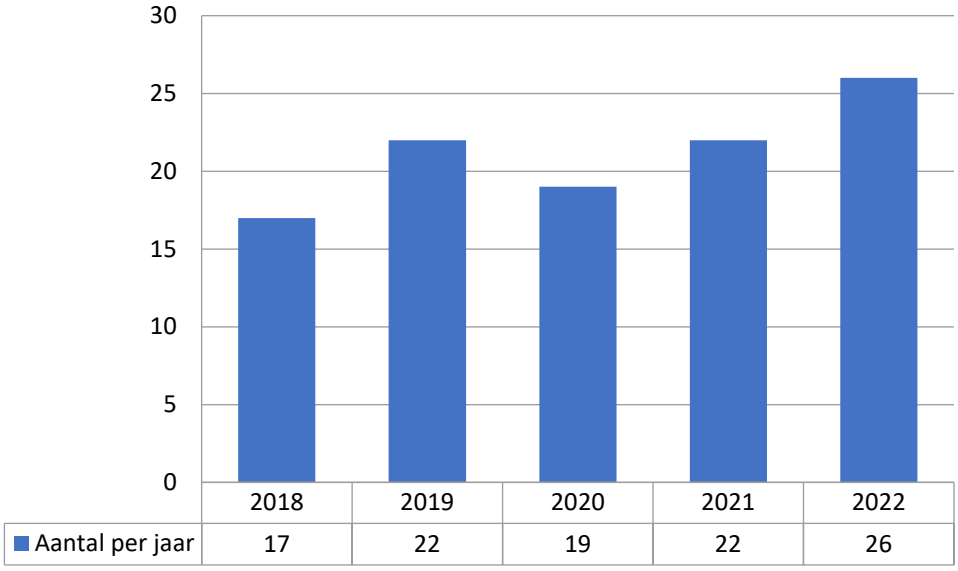


[Annual total]

[4] Statistics for all the member states of the Council of Europe are contained in *Analysis of Statistics 2022,* published by the Court Registry: https://www.echr.coe.int/ Pages/home.aspx?p=reports&c.

[5] Figures refer to cases against the Kingdom of the Netherlands.

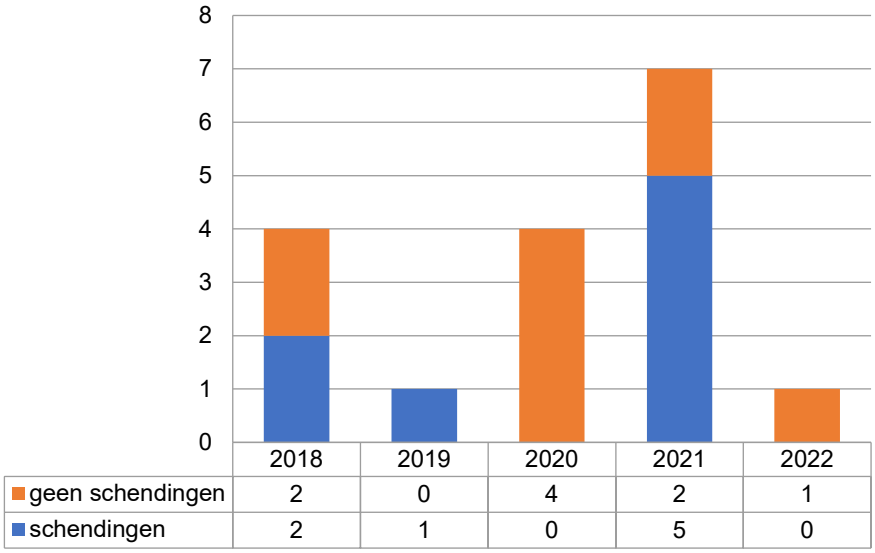
New cases communicated to the Kingdom of the Netherlands



	2018	2019	2020	2021	2022
Aantal per jaar	17	22	19	22	26

[Annual total]

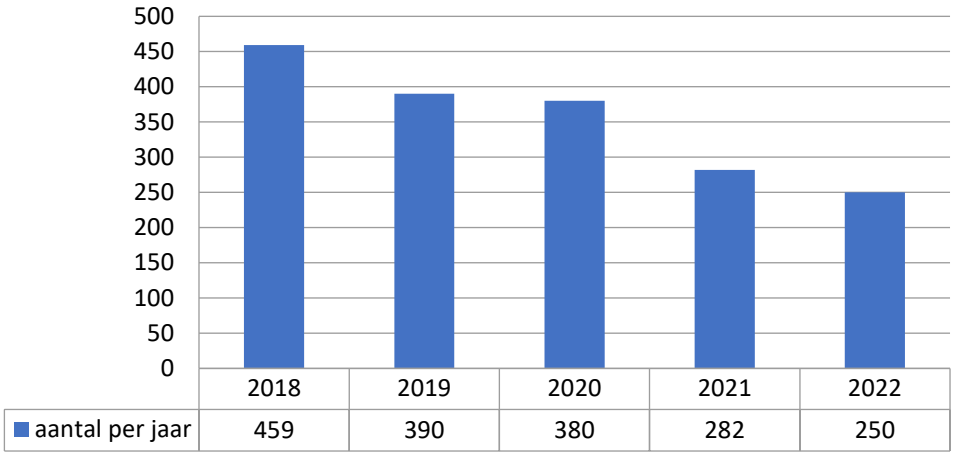
Judgments



	2018	2019	2020	2021	2022
geen schendingen	2	0	4	2	1
schendingen	2	1	0	5	0

[No violation
Violation]

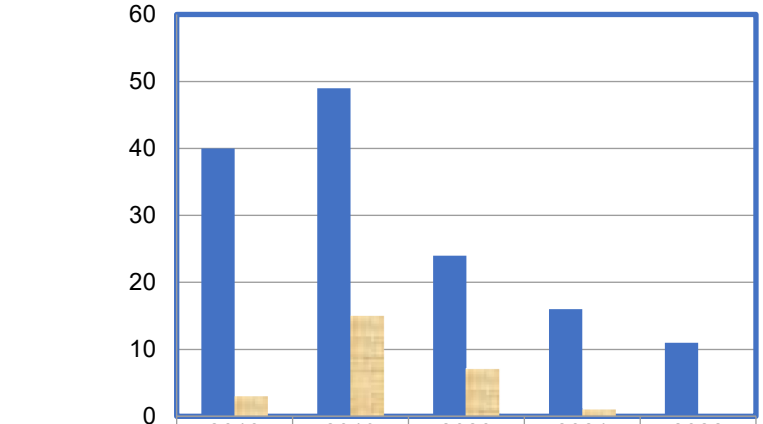
Admissibility decisions and decisions to strike applications out of the list



	2018	2019	2020	2021	2022
aantal per jaar	459	390	380	282	250

[Annual total]

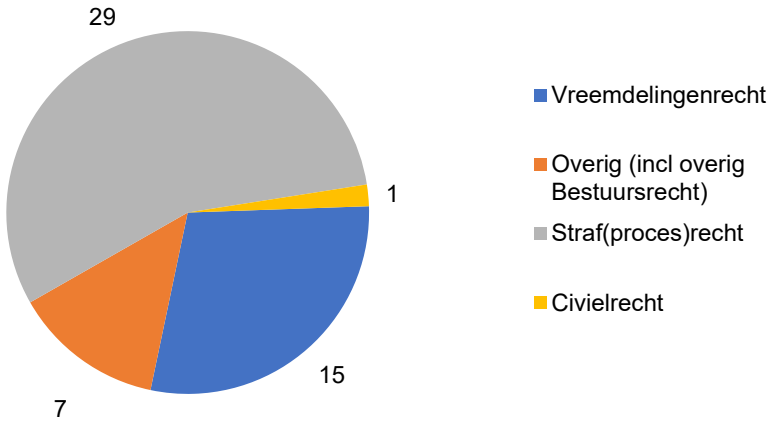
Interim measures under Rule 39



	2018	2019	2020	2021	2022
aangevraagd	40	49	24	16	11
toegewezen	3	15	7	1	0

[Applied for
Granted]

Cases pending, number per category as at 31 December 2022



Immigration law

Other (including other administrative law)

Criminal law and criminal procedural law

Civil law

Judgments and decisions[6]

Judgments

Name	Application number	Date
L.A.D.L.	58342/15	4 October 2022

Decisions

Name	Application number	Date
B.T.	45257/19	20 January 2022
T.M. and S.Y.M.	33515/16	20 January 2022
A.O.J.	22615/21	24 March 2022

[6] The cases listed here are summarised in the section entitled 'Council of Europe'.

M.M.G.	32651/21	24 March 2022
C.A.D.K.	1443/19	26 April 2022
V.A. and others v. Italy and the Netherlands	48062/19	5 May 2022
J.N.J.F.	10797/18	19 May 2022
O.T.D.	49837/20	19 May 2022
A.A.Z. and others	53128/20	2 June 2022
L.C.S.	27014/20	16 June 2022
S.G.	27091/21	8 September 2022
M.U.T.A.F.	48013/21	8 September 2022
S.A.	46534/14	18 October 2022
R.R.C.	21464/15	15 November 2022
A.H.L.	2445/17	15 November 2022
S.O.	60074/21	24 November 2022

Interventions

Name	Application number	Date
J.G. v. Poland	43572/18	15 March 2022
H.F. and M.F. v. France	24384/19	14 September 2022

Cases against the Kingdom of the Netherlands being processed as at 31 December 2022

Name	Application number	Article ECHR
A.A.	31007/20	Art. 3
A.A.M.	64534/19	Art. 8
A.R.	59806/19	Art. 3
A.M.M.	34129/21	Art. 2
A.M.A.	23048/19	Arts. 3, 5 and 6
B.H. B.V	3124/16	Art. 8
B.J.	51027/19	Arts. 3 and 13
B.M.	31220/20	Arts. 6 and 3
B.Y.A.M.	21461/20	Art. 3
C.D.A.	39371/20	Arts. 2, 8 and 14
C.H.P.	58403/17	Arts. 1, 4, 6, 7 and 8
C.J.J.L. and others	56896/17, 56910/17, 56914/17, 56917/17 and 57307/17	Art. 11
C.M.C.	34507/16	Art. 6
C.T.	20209/19	Art. 6
D.D.J.	23106/19	Art. 7
D.S.	55021/19	Art. 3
E.G.E.	52053/18	Arts. 2, 3 and 8
E.M. and S.M.H.	47878/20	Art. 8
F.B.	28157/18	Art. 3
F.J.	57264/18	Arts. 6, 7, 9, 10 and 11 and Art. 2 of Prot. No. 4
F.K.	36141/21	Art. 5
F.L.	57766/19	Art. 8
G.A.H.	15199/20	Art. 3
G.L.H.	22069/19	Art. 6
H.B.	36384/22	Arts. 3 and 8
H.H.	24008/20	Art. 3
I.M. and others	16395/18	Art. 7
J.d.J.G. B.V. and others	2800/16	Art. 8
J.B.	36163/21	Art. 6
J.F.R.	55483/19	Art. 3
J.K.	19365/19	Arts. 6, 10 and 11
J.M.H. and others	73411/17, 70630/17	Art. 3
J.S.	56440/15	Art. 6
K.A.	8757/20	Art. 8
K.B.	30395/20	Arts. 6 and 3
K.D. and others	52334/19	Arts. 2, 3, 6 and 13
M.R.	59814/19	Art. 3
M.A.	4470/21	Art. 8
M.B.	71008/16	Art. 5
M.Ö.	45036/18	Art. 2
M.R.	56209/19	Art. 3
N.S.S.	45644/18	Arts. 6 and 8
P.I. B.V.	3205/16	Art. 8
P.Z.	27231/19	Art. 7

R.H.Z	46836/18	Arts. 3 and 6
S.W.O.C. B.V.	2799/16	Art. 8
S.M.	31212/20	Art. 5
S.S.	61125/19	Art. 6
T.D.	36010/21	Arts. 8 and 13
T.K.	298/15	Art. 2
U.K.	44051/20	Art. 8
W.R.	989/18	Art. 6
Y.F.C. and others	21325/19	Arts. 3, 5 and 13 and Art. 4 of Prot. No. 4
Z.	64772/19	Art. 1 of Prot. No. 1

Cases against other countries in which the Netherlands submitted a third-party intervention; being processed as at 31 December 2022[7]

Name	Application number	Article ECHR
S.A. and others and A. and others v. Russia	25714/16, 56328/18	Arts. 2, 3 and 41
K.J.B. and others v. Russia	22515/14	Arts. 5 and 10
S.V. and others v. Russia	26302/10	Arts. 2 and 3
T. and others and W. and others v. Poland	51751/20, 11000/21	Arts. 6, 8 and 10

Inter-state application lodged by the Kingdom of the Netherlands

Name	Application number	Article ECHR
Ukraine and the Netherlands v. Russia	8019/16, 43800/14 and 28525/20	Arts. 2, 3 and 13

European Committee of Social Rights

Cases being processed as at 31 December 2022

Name	Application number	Article ESC
ETUC, FNV, CNV	201/2021	Art. 6

Cases under supervision as at 31 December 2022

Name	Application number	Date of decision
UWE	134/2016	28 February 2020
FEANTSA	86/2012	2 July 2014

Committee of Ministers

ECtHR cases under supervision as at 31 December 2022

[7] Cases in which the Kingdom has made a third-party intervention or has indicated its intention to do so.

Name	Application number	Date of judgment
J.C.M.	10511/10	26 April 2016
F.C.	29593/17	9 October 2018
V.K.	2205/16	19 January 2021
M.M.	10982/15	9 February 2021

ECtHR cases where supervision ended in 2022

Name	Application number	Date of resolution
B.T.	45257/19	20 January 2022
M.M.G.	32651/21	24 March 2022
J.N.J.F.	10797/18	19 May 2022
L.C.S.	27014/20	16 June 2022
H.J.C.K.	23192/15	19 October 2022
I.O.	69810/12	19 October 2022
A.J.H.	30749/12	16 November 2022
F.G.Z.	69491/16	14 December 2022
F.E.H.	73329/16	14 December 2022
X.	72631/17	14 December 2022

Annexe II

United Nations

General[8]

In 2022 the UN treaty bodies:

- informed the Government of four new communications.

Human Rights Committee

Views

Name	Communication number	Date
D.J.	3256/2018	26 July 2022
W.S.J.	3077/2017	8 August 2022
R.E.I.	3015/2017	4 November 2022

Decisions

Name	Communication number	Date
I.A.H.	3725/2020	25 March 2021[9]
X.H.L.	1564/2007	8 December 2021[10]

Cases being processed as at 31 December 2022

Name	Communication number	Article ICCPR
A.D.N.	2894/2016	art. 7
A.Z.	3868/2021	art. 14
D.K.	3768/2020	arts. 2, 7 and 8
F.K.F.	3907/2021	arts. 2 and 17
G.F.S.	3650/2019	arts. 2, 10, 14, 15, 17, 25 and 26
G.R.M.J.	2958/2017	arts. 2, 14 and 25
G.V.B.	3720/2020	arts. 14 and 17
J.P.M.L. and M.K.	4019/2021	arts. 7, 9, 10, 14, 15 and 17
J.S.	3210/2018	arts. 2, 4, 7, 9 and 10
M.S., B.S. and A.M.	4254/2022	arts. 2, 6 and 7
N.J.S.C.	4015/2021	arts. 2, 6 and 7
R.L.K.	3721/2020	arts. 2, 14 and 17
R.V.D.B.	4268/2022	art. 14
S.E.H.	3236/2018	arts. 12 and 26
S.H. and others	3281/2018	arts. 2, 6, 7, 17, 19, 24 and 26
V.G.	3856/2020	arts. 2, 15 and 26

[8] The Views and Decisions listed here are summarised in the section entitled 'United Nations'.
[9] Adopted before 2022 but communicated to the Government only in 2022.
[10] Adopted before 2022 but communicated to the Government only in 2022.

Committee on the Elimination of Discrimination against Women

In 2022 no Views or Decisions were published.

Cases being processed as at 31 December 2022

Name	Communication number	Article CEDAW
S.V.	162/2020	art. 16
H.O.	178/2022	art. 1
J.C.V.	194/2022	arts. 1, 2, 3, 5, 6 and 12

Committee against Torture

Views

Name	Communication number	Date
M.K.B.	1008/2020	9 September 2022

Decisions

Name	Communication number	Date
F.K.M.	954/2019	21 July 2022

Cases being processed as at 31 December 2022

Name	Communication number	Article CAT
M.K.B.	991/2020	art. 3
V.R.	1103/2021	art. 3