



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 13 judgments on Tuesday 1 October 2013 and 15 on Thursday 3 October 2013.

*Press releases and texts of the judgments will be available at **10 a.m.** (local time) on the Court's Internet site (www.echr.coe.int)*

Tuesday 1 October 2013

[Cholakov v. Bulgaria \(application no. 20147/06\)](#)

The applicant, Stefan Cholakov, is a Bulgarian and Swedish national who was born in 1944 and lives in Växjö (Sweden) and Vratsa (Bulgaria). He was convicted of minor hooliganism in Bulgaria in November 2007 and sentenced to ten days' detention after he had chained himself to a metal column – while campaigning in support of one of the candidates for mayor of Vratsa – and shouted via a loudspeaker that the officials currently in power in the town were corrupt. The district court which convicted him found in particular that he had made indecent statements in a public place. Mr Cholakov complains that his conviction violated his rights under Article 10 (freedom of expression) of the European Convention on Human Rights.

[Gonța v. Romania \(no. 38494/04\)](#)

The applicant, Gheorghe Gonța, is a Moldovan national who was born in 1953 and lives in Bucharest. Arrested on suspicion of drug trafficking on 30 May 2003, he was initially acquitted on 4 October 2005 but eventually convicted and sentenced to seven years' imprisonment on 4 December 2008. Relying on Article 5 § 3 (right to liberty and security), he complains that he was held in pre-trial detention for an unreasonably long time and that the Romanian courts failed to provide reasons for the repeated extensions of his pre-trial detention. Relying on Article 6 §§ 1 and 3 (right to a fair trial), he complains in particular that he was denied the assistance of his chosen counsel and that he was not allowed to question and confront a co-accused who had made incriminatory statements against him. He further alleges a violation of Article 6 § 2 (presumption of innocence).

[Cotleț v. Romania \(no. 49549/11\)](#)

The applicant, Silvestru Cotleț, is a Romanian national who was born in 1964 and lives in Gura-Humorului (Romania). Sentenced to six months' imprisonment in a final court judgment in July 2011, he complains about the conditions in Botoșani Prison, where he was detained between 11 July and 9 September 2011 and between 11 November 2011 and 6 January 2012, in particular due to overcrowding, unsatisfactory sanitary conditions and poor quality of food. He relies on Article 3 (prohibition of inhuman or degrading treatment).

[Leontin Pop v. Romania \(no. 1956/06\)](#)

The applicant, Leontin Pop, is a Romanian national who was born in 1954 and lives in Cluj-Napoca (Romania). Arrested on suspicion of drug trafficking on 10 April 2003, he was convicted on 4 October 2005 and, in a final judgment on 14 June 2007, sentenced to eight years' imprisonment. Relying in particular on Article 5 § 3 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), he complains that he was held in pre-trial detention for an

unreasonably long period of time and that the Romanian courts had only given a summary reasoning for their decisions to keep him in pre-trial detention. Relying on Article 6 § 1 (right to a fair trial), he further complains: that the judges who ruled in his case lacked impartiality, as they were the same ones who had decided to keep him in detention for the duration of the trial; and, that the Romanian courts based their decisions on evidence obtained during searches carried out unlawfully and on the statements of one of his co-accused.

[Ticu v. Romania \(no. 24575/10\)](#)

The applicant, Nicolae Ticu, is a Romanian national who was born in 1973 and is currently serving a 20-year sentence in Bacau Prison for participating in armed robbery occasioning the victim's death. In childhood he suffered from an illness which led to considerable delays in his mental and physical development. Relying on Article 3 (prohibition of torture and of inhuman and degrading treatment), Mr Ticu complains about the poor conditions of detention in the various prisons where he has been serving his sentence, and especially about overcrowding and shortcomings in the provision of medical treatment. He criticises in particular the authorities' failure to carry out an effective investigation into attacks against him by various fellow prisoners. Mr Ticu also complains about the outcome of the criminal proceedings against him and the dismissal of his request in 2009 for revision of the judgment convicting him, arguing that his mental disability had not been taken sufficiently into consideration.

[Akşın and Others v. Turkey \(no. 4447/05\)](#)

The applicants, Serhan Aksin, Mehmet Başaran and Bülent Özcan, are Turkish nationals who were born in 1973, 1985 and 1968 respectively and live in Mardin. On 23 November 2003 they were placed in police custody on suspicion of having taken part in an attack against police officers, and were kept there for 24 hours. Relying on Articles 3 (prohibition of torture and of inhuman and degrading treatment) and 13 (right to an effective remedy), the applicants allege that they were subjected to ill-treatment while in custody and that there were no domestic remedies available to them under Turkish law in respect of their complaints. Further relying on Article 6 § 1 (right to a fair hearing), they also complain that they did not have the assistance of a lawyer while in police custody.

[Bil Belgin İnşaat Şti. v. Turkey \(no. 29825/03\)](#)

The applicant, Bil Belgin Insaat Sti, is a limited liability company registered under Turkish law. The case concerns the applicant company's complaint about two plots of land belonging to the applicant company which were expropriated on 8 February 1996 by the Istanbul water and canalisation authorities (ISKI). The land register was amended in consequence and it was noted that the land had been expropriated by the relevant administrative authority. The ISKI did not go ahead with the planned expropriation. The directorate of health at the Istanbul Governor's Office issued the applicant company with a permit to open a "type-2 non-health establishment". The company began the construction work. Relying on Article 1 of Protocol No. 1 (protection of property), the applicant company alleges that a team from ISKI went to the building site to demolish its installations on 3 February 2000. It considered that the applicant's activity was not compatible with the environmental legislation.

[Just Satisfaction](#)

[Fokas v. Turkey \(no. 31206/02\)](#)

The applicants, Ioannis Fokas and Evangelos Fokas, are Greek nationals who were born in 1945 and 1948 respectively and live in Katerini (Greece). The case concerned the applicants' inability as Greek citizens to inherit their sister's immovable property in Turkey on account of their nationality and of the principle of reciprocity between Greece and Turkey.

In its [principal judgment](#) of 29 September 2009 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property). It further held that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it for examination at a later date. The Court will deal with the question of just satisfaction in its judgment of 3 October 2013.

[Hüseyin Kaplan v. Turkey \(no. 24508/09\)](#)

The applicant, Hüseyin Kaplan, is a Turkish national who was born in 1949 and lives in Kirikkale. In May 1981 he purchased a field measuring 2,990 m². Relying on Article 1 of Protocol No. 1 (protection of property), Mr Kaplan alleges that the designation of his land for public use since 1982, without compensation, has considerably restricted the potential use of the land and has infringed his right to peaceful enjoyment of his possessions. In particular, following the adoption of a new urban development plan the land in question was designated as building land and the municipality allocated it for the construction of a technical and professional college. It did not compensate the applicant and did not construct the planned school. In January 2007 the applicant brought proceedings for damages against the authorities, complaining that he had lost the use of his possession and alleging that his right of property had been deprived of its substance for 27 years. On 20 March 2013 the municipality informed the applicant that the disputed land was still allocated for the construction of a technical and professional college.

[Yalçinkaya and Others v. Turkey \(nos. 25764/09, 25773/09, 25786/09, 25793/09, 25804/09, 25811/09, 25815/09, 25928/09, 25936/09, 25944/09, 26233/09, 26242/09, 26245/09, 26249/09, 26252/09, 26254/09, 26719/09, 26726/09 and 27222/09\)](#)

The 19 applicants state that they took part in a petition campaign which involved between 60 and 70 persons. Relying on Article 10 (freedom of expression), the applicants complain about their conviction for having used the word “sayın” – which, they allege, is a term of courtesy – when sending 67 letters on 18 July 2008 to the Halfeti State Prosecutor. Notably, the letters included the following passage “If addressing [someone] using the term “sayın” is an offence, then I too say “sayın” Abdullah Öcalan, I commit this offence and I denounce myself”. The State Prosecutor charged the applicants with praising the leader of a terrorist organisation and called for their conviction. On 3 November 2008 the criminal court found the applicants guilty of the offence of praising a crime and a criminal, and sentenced them, in consequence, to three months’ imprisonment, which was reduced to two months and fifteen days. The court then commuted this sentence to 75 day-fines, or a fine of 1,500 Turkish liras. Further relying on Article 6 (right to a fair trial), they also allege that the proceedings brought against them were unfair. They criticise the fact that the fine imposed was for a sum lower than the threshold allowing an appeal to the Court of Cassation. Finally, they allege that their conviction was political rather than legal in nature.

Repetitive cases

The following cases raise issues which have already been submitted to the Court.

Stošić v. Serbia (no. 64931/10)

This case concerns the non-enforcement of final judgments in the applicant’s favour against a State-owned company. He relies on Article 6 § 1 (right to a fair hearing within a reasonable time / access to court) and Article 1 of Protocol No. 1 (protection of property).

Şükran Boz v. Turkey (no. 7906/05)

The case concerns a candidate in a competition for entry to a civil-service post who had her appointment cancelled after it was noted that there had been an irregularity in the composition of the competition panel. Relying on Article 6 § 1 (right to a fair hearing), she notably alleges a lack of adversarial process and equality of arms in the related administrative proceedings she brought on account of the failure to communicate the conclusions of the public prosecutor at the Supreme Administrative Court.

Length-of-proceedings cases

In the following case, the applicant complains, in particular, about the excessive length of non-criminal proceedings and alleges an infringement of her right to private and family life, protected by Article 8.

Matusik v. Poland (no. 3826/10)

Thursday 3 October 2013

Tahirova v. Azerbaijan (no. 47137/07)

The applicant, Surayya Musa gizi Tahirova, is an Azerbaijani national who was born in 1953 and lives in Sumgayit (Azerbaijan). The case concerns Ms Tahirova's allegation that she was beaten by riot police on 26 November 2005 when demonstrators protesting about irregularities in the recently held parliamentary elections were forcibly dispersed from Galaba Square in Baku. She was taken to hospital where she was diagnosed with blunt trauma and released the next day. Photographs of Ms Tahirova lying unconscious on the ground and surrounded by the police were published in various newspapers and other news outlets. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), she alleges that the force used against her by the police was unjustified and excessive and that the authorities' ensuing investigation into her allegations was ineffective. She also alleges a violation of Article 11 (freedom of assembly and association), arguing that there was no need for the police's violent interference in what was a peaceful demonstration.

Zrilić v. Croatia (no. 46726/11)

The applicant, Slavica Zrilić, is a Croatian national who was born in 1958 and lives in Vinkovci (Croatia). The case concerns Ms Zrilić's complaint about the national courts' decision to order the partition by judicial sale of the house she owned jointly with her former husband following their divorce in May 2005. The house was sold to her former husband and, given a share in the sale, she was ordered to vacate the house in September 2012. Relying on Article 8 (right to respect for private and family life and the home) and Article 1 of Protocol No. 1 (protection of property), she argues in particular that she had built the house with her former husband and lived there for a number of years, even after the divorce, and contests the courts' refusal to order the house to be divided into two flats. She also contests the value of her share, which was not sufficient for her to buy another suitable flat.

Žáková v. the Czech Republic (no. 2000/09)

The applicant, Sylvie Žáková, is a Czech national who was born in 1938 and lives in Landshut, Germany. She emigrated in 1968 from the then Czechoslovakia and in the 1970s all her property there – consisting of two plots of land in the cadastral areas of Kožichovice and Třebíč - was seized by the communist regime. In 1991 the decisions on the seizure were declared null and void and Ms Žáková started renting the land to a municipality. Relying on Article 1 of Protocol No. 1 (protection of property), she complains that in 1997 the Land Register entered the municipality as the sole owner of the property and, as a result, she effectively lost the ownership to the land. According to

Ms Žáková, she was registered as the sole owner of the land without interruption from 1960 until 1997. The Government maintains that she lost ownership of the land in a decision of 1971 which found her guilty of the offence of fleeing Czechoslovakia and that, after that, she was registered as owner only as a result of a mistake.

[Douet v. France \(no. 16705/10\)](#)

The applicant, Gilbert Douet, is a French national who was born in 1951 and lives in Nonette (France). In August 2005, when driving at night on a country road, Mr Douet made a sudden about-turn on seeing a police car, which then gave chase. The case concerns his complaint that he was subjected to violence when stopped and arrested. The Clermont-Ferrand *tribunal de grande instance* imposed a suspended sentence of 4 months' imprisonment, suspended his driving licence for 5 months and fined him three hundred euros for having offered violent resistance to the two gendarmes, knowingly failed to obey an order to stop, driven under the influence of alcohol and having failed to stop his vehicle at a stop sign. He appealed and was acquitted of forceful resistance. In turn, the applicant lodged a complaint concerning the violence to which he was allegedly subjected during his arrest. His complaint was set aside as requiring no further action. Relying on Article 3 (prohibition of inhuman and degrading treatment), the applicant complains about the injuries inflicted by the gendarmes. He considers that the use of force against him was neither necessary nor proportionate.

[Vosgien v. France \(no. 12430/11\)](#)

The applicant, Nicolas Vosgien, is a French national who was born in 1986 and who was detained in Nice Prison when his application was lodged with the Court. On 15 September 2006 he was arrested and placed in police detention with other persons on suspicion of kidnapping, detention and false imprisonment. On 19 September 2006 he was placed in pre-trial detention. That detention was extended on several occasions. The applicant alleges that his pre-trial detention exceeded the reasonable time provided for in Article 5 § 3 (right to liberty and security).

[Giavi v. Greece \(no. 25816/09\)](#)

The applicant, Aggeliki Giavi, is a Greek national who was born in 1931 and lives in Glyka Nera. The case concerns unpaid wage supplements and allowances. In June 1997 Ms Giavi, then a cleaner at the West Attica General Hospital, brought proceedings against the hospital to claim 80,449.75 euros, which corresponded to wage supplements and allowances which had allegedly not been paid, and the interest due on that sum. The court dismissed her action on the ground that the wages scheme for public hospital employees did not apply to the applicant's contractual position, which had been changed. Ms Giavi lodged an appeal and the court of appeal partly quashed the judgment and awarded the applicant some of the amount she had claimed. On 10 September 2001 she lodged an appeal on points of law. Relying on Article 1 of Protocol No. 1 (protection of property) taken together with Article 14 (prohibition of discrimination), Ms Giavi complains that setting shorter time-limits for claims by employees of public entities as compared to those applicable to State or private employees has deprived her of some of the unpaid wage supplements and allowances, without this being justified by a public-interest aim.

[I.B. v. Greece \(no. 552/10\)](#)

The applicant, I.B., is a Greek national who was born in 1980 and lives in Athens. The case concerns the applicant's dismissal from work on account of his HIV (human immunodeficiency virus) status. He worked from 2001 in a jewellery company. He resigned in order to perform his military service, and was then reemployed by the same company on completion of that obligation. He told three of his colleagues about his fear of having contracted HIV. This was subsequently confirmed by a test. Information about the applicant's health spread throughout the company, which employed 70 people. The staff began to complain and to demand his dismissal. A doctor attempted to reassure

the employees, but without success. The applicant was dismissed. He found another job in a private company a short time later. Relying on Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination), the applicant alleges that his right to a private life was breached in that the Court of Cassation held that his dismissal, based on the fact that he was HIV-positive, had been lawful. He alleges that his dismissal was discriminatory, as was the argument accepted by the Court of Cassation, namely that the dismissal had been justified by the need to preserve a harmonious working environment in the company.

[Iljazi v. "The former Yugoslav Republic of Macedonia" \(no. 56539/08\)](#)

The applicant, Mensur Iljazi, is a Macedonian national who was born in 1962 and lives in Skopje. The case concerns his conviction for drug trafficking. In May 2007, customs officers found a consignment of heroin in his truck. Mr Iljazi maintained that he did not load the goods himself, he did not witness the goods being loaded and he was not aware of their contents. At trial he attempted to obtain two statements from witnesses present at the loading, which he claimed corroborated his account of events. His request to obtain these documents was denied by the court, which also made no attempt to make the witnesses attend. In July 2007, he was convicted of drug trafficking, and sentenced to five years and three months' imprisonment, the judgment being eventually upheld by the Supreme Court in April 2008. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses), he complains of the national courts' refusal to admit the statements of and to ensure the attendance of the witnesses in his defence.

[Abdulkhanov and Others v. Russia \(no. 22782/06\)](#)

The applicants in this case are 13 Russian nationals born between 1939 and 1982 who are natives or residents of the village of Aslanbek-Sheripovo, Shatoy district, the Chechen Republic (Russia). The case concerns an air and artillery strike on the applicants' village by the Russian military on 17 February 2000, which killed 18 of the applicants' relatives and wounded three of the applicants and several of their relatives. The applicants complain that their right and the right of their deceased and injured relatives was violated under Article 2 (right to life), both by the lethal attack and by the authorities' failure to conduct an investigation to establish the circumstances of the use of lethal force. Relying on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy), the applicants further complain that the court proceedings in which their civil claims for compensation were rejected – in a decision eventually upheld in December 2005 – were not fair.

[Arapkhanov v. Russia \(no. 2215/05\)](#)

The applicants in this case are ten Russian nationals born between 1933 and 2000 who live in the village of Galashki, Sunzhenskiy District, the Republic of Ingushetia (Russia). They are the wife, cousin, children and mother of Beslan Arapkhanov, who was killed during a search of his house on 20 July 2004 by a group of servicemen of the Russian Federal Security Service (FSB), which according to the Russian Government was conducted in order to find members of illegal armed groups. The second applicant, Beslan Arapkhanov's cousin, was severely beaten and injured by the servicemen. Relying on Article 2 (right to life), the applicants complain of Beslan Arapkhanov's killing and of the authorities' ensuing failure to carry out an effective investigation. Relying on Article 3 (prohibition of inhuman or degrading treatment), the second applicant complains of having been ill-treated by State officials and of the authorities' failure to carry out an effective investigation of the incident. Under the same article, all applicants complain that, as a result of their relative's killing and the lack of a proper investigation, they endured profound mental suffering. They further maintain that the search of their home was in breach of their rights under Article 8 (right to respect for private and family life and the home). Finally, under Article 13 (right to an effective remedy), the applicants complain that they were deprived of effective remedies in respect of their rights under Articles 2, 3 and 8.

[Kasparov and Others v. Russia \(no. 21613/07\)](#)

The applicants, Garri Kasparov, Aleksey Tarasov, Nikolay Kharlamov, Nikolay Kalashnikov, Andrey Toropov, Aleksandr Stelmakh, Yuriy Orel, Vyacheslav Melikhov, and Oksana Chelysheva, are nine Russian nationals who live in Moscow, the Moscow region and Nizhniy Novgorod (Russia), respectively. The case concerns in particular the arrest of eight of the applicants on 14 April 2007 ahead of an anti-government demonstration on that day, which had only been authorised in a limited area. Some of the applicants intended to take part in the authorised demonstration, while the others submitted that they happened to be in the area but had no intention of participating in the demonstration. On the same day, eight of the applicants were convicted of an administrative offence for having breached the regulations on holding demonstrations and were ordered to pay a fine. Their appeals were unsuccessful. The ninth applicant alleges that she was kicked by a police officer while she was on her way to the demonstration, and hurt so badly that she was unable to attend. Eight of the applicants complain of a violation of Article 6 § 1 (right to a fair hearing), alleging in particular that witnesses in their defence were not called. Mr Kasparov also complains that the public was excluded from his hearing, that he was not given sufficient time to prepare his defence and that the charges against him were not specified before the trial. All nine applicants further complain that the authorities' conduct on 14 April 2007 violated their rights under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association).

[Nizomkhon Dzhurayev v. Russia \(no. 31890/11\)](#)

The applicant, Nizomkhon Dzhurayev, is a Tajik national who was born in 1967. He is a former elected member of the Sughd Regional Assembly in Tajikistan and was a prominent businessman. According to his submissions, he fled to the United Arab Emirates from Tajikistan in June 2007 after the authorities there had started to interfere with his business and he had survived an assassination attempt. Having arrived in Russia in August 2010, he was arrested and detained in Moscow with a view to extradition to Tajikistan where he was being prosecuted on charges of, in particular, misappropriation, embezzlement and money laundering. His detention pending extradition was extended on several occasions. In May 2011 the European Court of Human Rights indicated (under Rule 39 - interim measures) to the Russian Government that no extradition should take place until further notice. According to the Russian Government, on 29 March 2012 Mr Dzhurayev was released from the remand centre in the Moscow Region and immediately travelled to Tajikistan of his own will in order to surrender to the Tajik authorities who put him in police custody. Originally complaining that Mr Dzhurayev's extradition would put him at risk of ill-treatment in Tajikistan, his representative now also maintains that he was forcibly transferred from Moscow to Tajikistan with the involvement of the Russian authorities. He relies on Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 13 (right to an effective remedy). He also complains that by aiding Mr Dzhurayev's repatriation to Tajikistan despite the interim measures issued by the European Court of Human Rights the Russian authorities breached their obligation under Article 34 (right of individual petition). Finally, Mr Dzhurayev complains of a violation of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) on account of delays in examining his appeals against the decisions to detain him and to extend his detention.

[Zelenev v. Russia \(no. 59913/11\)](#)

The applicants, Yeleneva Zeleneva and Nicolay Zelenev, are Russian nationals who were born in 1976 and 2010 and live in Moscow and Osseyevo. Ms Zeleneva married in February 2010. She had a son, Nicolay (the second applicant), from that marriage. On 14 July 2010 Ms Zeleneva's husband chased her from the family home, keeping the baby, and forbade her to have any contact with the child. On 2 August 2010 Ms Zeleneva brought proceedings for divorce and applied to have her home established as the child's place of residence. On 30 November 2010 the court dissolved the marriage and ordered that the child reside at the mother's home. Three attempts to enforce that judgment were unsuccessful. Relying on Articles 3 (prohibition of torture and inhuman or degrading

treatment), 6 (right to a fair hearing), 8 (right to respect for private and family life) and 13 (right to an effective remedy), the applicants allege that the national authorities failed to implement the judgments ordering that Nicolay Zelenev live at his mother's home.

[Gobec v. Slovenia \(no. 7233/04\)](#)

The applicant, Leon Gobec, is a Slovenian national who was born in 1953 and lives in Maribor (Slovenia). The case concerns the contact arrangements between Mr Gobec and his daughter, who lived with his former wife. In the divorce proceedings in 2002, his former wife was granted full custody of the child and the court did not make a decision regarding contact between Mr Gobec and his daughter, as he and his former wife had come to an agreement. Over the following years the contact between Mr Gobec and his daughter was highly limited, however, as the latter developed an increasingly negative attitude towards him. He unsuccessfully attempted to obtain greater contact through the social centres and eventually lodged a motion before the courts for a contact schedule to be established, which was ultimately rejected in September 2008. Mr Gobec complains of a violation of Article 8 (right to respect for private and family life) in particular on account of the restriction and suspension of his contact rights and the non-enforcement of the contact schedule by the social centres. Relying on Article 6 (right to a fair trial / access to court), he complains of having been denied access to court, as his contact rights had largely been determined by the social centres. Finally, he relies on Article 14 (prohibition of discrimination), complaining that he was discriminated against on the grounds that he and his former wife lived separately.

[Shchokin v. Ukraine \(no. 4299/03\)](#)

The applicant, Mr Yuri Shchokin, is a Ukrainian national who was born in 1940 and lives in Tokmak. Mr Shchokin's son, who was serving a prison sentence in a correctional colony, was beaten and raped by a group of prisoners while under the surveillance of an inspector in a duty office. He died from his injuries on the following day. Mr Shchokin subsequently brought civil proceedings against the prison administration, which he criticised for negligence and for having allowed his son to be tortured. Relying on Articles 2 (right to life), 3 (prohibition of torture and of inhuman and degrading treatment) and 6 (right to a fair hearing), Mr Shchokin complains that his son died as a result of acts of torture and that the perpetrators of those acts have not been identified and judged, and no serious investigation has been conducted into the inspector's role. He also complains that he has been unable to institute proceedings against the prison colony and the Ukrainian State, which failed to provide protection for his son.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.