

A house of Stories: 75 years of protecting human rights through the European convention on human rights

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Abstract

The annual SIM Peter Baehr lecture celebrates the founding of the Netherlands Institute of Human Rights (SIM) in 1981 and commemorates the late Peter Baehr, one of SIM's former directors and an eminent human rights scholar. The 2025 lecture was delivered by Jolien Schukking, Judge at the European Court of Human Rights held on 14 November 2025. The lecture was preceded by a symposium to mark the 75th anniversary of the ECHR, hosted by SIM, and organised in collaboration with the College voor de Rechten van de Mens, the Montaigne Centre for Rule of Law and Administration of Justice, and the Netherlands Network for Human Rights Research.

Keywords

ECHR, armed conflict, domestic violence, new technologies, climate change, democracy

I. INTRODUCTION

Distinguished guests, dear friends, this year marks the 75th anniversary of the European Convention on Human Rights. It is a moment to pause and reflect on what the impact of this Convention has been over the past decades in Europe and beyond.

Born from the ashes of the Second World War, whose atrocities and human suffering had left deep scars on the continent, the Convention was created to ensure the protection of human rights and freedoms. Its founding fathers, who had established the Council of Europe in 1949, had the profound belief that lasting peace and stability in Europe required the presence of justice by observing fundamental rights, democracy, and the Rule of Law. The Convention was, in essence, a

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collective commitment that never again would the dignity of human beings be sacrificed to the interests or unchecked powers of a State.

The adoption of the Convention on 4 November 1950 in Rome was also Europe's way of securing key rights enshrined in the Universal Declaration of Human Rights, adopted two years earlier. Crucially, the Convention was not just a declaration but the first legally binding instrument for the enforcement of human rights. The High Contracting Parties, in accordance with the principle of subsidiarity, bound themselves to bear the primary responsibility for securing to everyone within their jurisdiction the rights and freedoms defined in the Convention.¹ However, to ensure that the State's obligations were not merely symbolic but concrete and enforceable, the Convention established, for the first time ever, an international oversight mechanism based on the right of individual applications.

This mechanism allows individuals to hold States accountable before an international tribunal. After pursuing their cases through their national courts, they can bring their complaints before the European Court of Human Rights, whose judgments are binding. This was a groundbreaking concept at the time. It contributed to recognition of individuals as subjects of international law, marking a significant shift from the traditional principle that placed a State's treatment of its own citizens beyond international scrutiny or liability. The Convention has also embedded itself into national legal systems becoming 'a constitutional instrument of European public order',² a glue which binds us together around our shared values despite our many differences.

The life and work of Peter Baehr embody the very convictions on which the Convention was built. As a scholar, human rights activist, and director of the Netherlands Institute of Human Rights (SIM), he believed in the universality of human rights and their capacity to guide foreign policy towards justice and peace. He was also one of the intellectual fathers of the political party Democrats 66 (D66) that a few weeks ago won the Dutch general elections. Delivering this lecture, that bears his name is, for me, a genuine honour and a way to pay tribute to one of the pioneers of human rights thought and advocacy in my country of origin, the Netherlands.

The intertwining of international relations and law is also the thread running through my own professional life. An internship at the UN Headquarters in New York when I was 19 inspired me to study law. At Leiden University, I met Professor H.G. Schermers, who not only encouraged me to reflect on international law topics alongside my Dutch law studies, but also invited me to work with him in Strasbourg where at the time he was the Dutch member of the former European Commission on Human Rights. Here I learned about the application of the Convention in practice. That experience, combined with the inspiration from the work of my distant ancestor Walther Schücking, Professor of public international law and the first German judge at the Permanent Court of International Justice in The Hague,³ have guided me in my work for the Ministry of Foreign Affairs, as a solicitor and as a judge.

The end of my nine-year mandate as Judge at the European Court of Human Rights, elected in respect of the Kingdom of the Netherlands, is approaching. I am serving the Court as Section Vice-President, entrusted also with organisational tasks, and as Duty Judge, deciding on requests

1. See preamble and Article 1 of the European Convention on Human Rights.

2. See, for example, *Loizidou v Turkey* App no 15318/89 (ECHR [GC], 23 March 1995), §§ 75 and 93; *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v Ireland* App no 45036/98 (ECHR [GC], 30 June 2005), § 156; *N.D. and N.T. v Spain* App nos 8675/15 and 8697/15 (ECHR [GC], 13 February 2020), § 110.

3. 'Walther Schücking' (*Wikipedia*) <https://en.wikipedia.org/wiki/Walther_Sch%C3%BCcking> accessed 13 November 2025.

for interim measures.⁴ Judicial dialogue with national counterparts, and dialogue with politicians, academics, civil society, and the public at large, is also an important component of this function. Over the years, I have dealt with numerous cases on a wide variety of topics against most of the contracting States in all judicial formations. I have seen how every case, no matter how technical, entails a human story.

Courts are often called *Palais de Justice* – palaces of justice – but in fact they are houses of stories. Stories of people. Stories that began long before we as judges, became involved, and that will continue after our decisions. Yet, I always keep in mind that the few lines we add to that story matter.

It is through these very stories that the European Convention lives and evolves. Today, I will open a few windows of this “House of Stories”. And share with you some recent case-law developments related to the themes ‘armed conflict’, ‘domestic and gender-based violence’, ‘new technological and climate change’ and ‘democracy, free elections and the Rule of Law’.

2. THE ROLE OF THE COURT IN TIMES OF ARMED CONFLICT

Ladies, and gentlemen, the reality is that armed conflict remains a tragic and persistent element of human history. The drafters of the Convention were, of course, aware of this. Article 15 of the Convention therefore provides that human rights also apply in times of war.

States may only derogate from their obligations under the Convention to the extent strictly required, and no derogation is possible from the so-called “absolute rights”⁵ The Court itself has repeatedly affirmed, in line with the case-law of the International Court of Justice,⁶ that,

4. Rule 39 § 1 and 2 of the Rules of Court read:

1. The Court may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of its own motion, indicate to the parties any interim measure which it considers should be adopted. Such measures, applicable in cases of imminent risk of irreparable harm to a Convention right, which, on account of its nature, would not be susceptible to reparation, restoration or adequate compensation, may be adopted where necessary in the interests of the parties or the proper conduct of the proceedings.
2. The Court’s power to decide on requests for interim measures shall be exercised by duty judges appointed pursuant to paragraph 5 of this Rule or, where appropriate, the President of the Section, the Chamber, the President of the Grand Chamber, the Grand Chamber or the President of the Court.

5. Article 15 of the Convention reads:

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

6. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* (Merits) [2005] ICJ Rep 2005, p. 168.

even in situations of international armed conflict, the safeguards under the Convention continued to apply.⁷ The Court's judgments in cases involving armed conflicts have reaffirmed that States must conduct military operations in a manner that respects human dignity and minimises harm to civilians.⁸ In so doing, the Court does not seek to replace international humanitarian law, but to reinforce and complement it.⁹

The case that remains etched in my memory forever and is inseparably linked to my term at the Strasbourg Court is the one in which the Court ruled on the inter-state complaints lodged by *Ukraine and the Netherlands v Russia*.¹⁰

The complaint lodged by the Netherlands concerned the shooting down of flight MH17. Ukraine's complaints concerned a pattern of systematic human rights violations, including the abduction of children. This is one of the largest cases ever heard by the Court – it concerned four interstate applications – and can certainly be described as historic. This is not only because the Court further developed its case law on jurisdiction during armed conflict and further examined the relationship between States' obligations under the laws of war and human rights treaties, but also because the judgment documents the many incidents that took place in eastern Ukraine between May 2014 and September 2022. Working on this case was not just a matter of answering complex legal questions; it truly felt like "recording history".

The human stories behind this case are heartbreaking.

A Ukrainian woman had been abducted in May 2014 and deprived of her liberty for five days by armed groups of the "Donetsk People's Republic" for assisting the Ukrainian armed forces. She reported that she had been blindfolded and beaten on the head and legs every two hours and had been subjected to a mock execution twice: once she was shot with a blank cartridge, another time shots had been fired above her head while she stood against the wall. She also reported an attempted rape by a group of men.¹¹ Her story was part of a wider pattern. There is extensive

7. See, for example, *Hassan v the United Kingdom* App no 29750/09 (ECHR [GC], 16 September 2014), § 104; *Georgia v Russia (II)* App no 38263/08 (ECHR [GC], 21 January 2021) § 93; *Ukraine v Russia (re Crimea)* App nos 20958/14 and 38334/18 (ECHR [GC] 25 June 2024), § 913.

8. See, for example, *Isayeva and Others v Russia* App nos 57947/00 and 2 others (ECHR 24 February 2005), § 183, where the Court held that Article 2 of the Convention required that military operations were planned and conducted in such a way as to avoid or minimise, to the greatest extent possible, harm to civilians. See, also, *Benzer and Others v Turkey*, App no 23502/06 (ECHR 12 November 2013), § 184, where the Court held that that an indiscriminate aerial bombardment of civilians and their villages cannot be acceptable in a democratic society, and cannot be reconcilable with any of the grounds regulating the use of force which are set out in Article 2 § 2 of the Convention or, indeed, with the customary rules of international humanitarian law or any of the international treaties regulating the use of force in armed conflicts.

9. See, for example, *Varnava and Others v Turkey* App nos 16064/90 and 8 others (ECHR [GC] 18 September 2009), § 185, where the Court held that Article 2 of the Convention had to be interpreted in so far as possible in light of the general principles of international law, including the rules of international humanitarian law which play an indispensable and universally accepted role in mitigating the savagery and inhumanity of armed conflict.

10. *Ukraine and the Netherlands v Russia* App nos 8019/16, 43800/14, 28525/20 and 11055/22 (ECHR [GC] 30 November 2022) decision on the admissibility; *Ukraine and the Netherlands v Russia* App nos 8019/16, 43800/14, 28525/20 and 11055/22 (ECHR [GC] 9 July 2025) judgment on the merits; ECHR Press release, 'The Court holds Russia accountable for widespread and flagrant abuses of human rights arising from the conflict in Ukraine since 2014, in breach of the European Convention on Human Rights' (9 July 2025) 173(2025) <[https://hudoc.echr.coe.int/fre-press#%22itemid%22:\[%22003-8279845-11657965%22\]](https://hudoc.echr.coe.int/fre-press#%22itemid%22:[%22003-8279845-11657965%22])> accessed 13 November 2025; ECHR Press Unit 'Q&A – Ukraine and the Netherlands v. Russia' (9 July 2025) <<https://www.echr.coe.int/documents/d/echr/press-q-a-ukraine-netherlands-russia-eng>> accessed 13 November 2025.

11. *Ukraine and the Netherlands v Russia* App nos 8019/16, 43800/14, 28525/20 and 11055/22 (ECHR [GC], 9 July 2025), para 779.

evidence of widespread abduction, torture, and systemic use of sexual violence by separatists and Russian troops against civilians.¹²

Flight MH17 that took off on 17 July 2014 from Amsterdam in the direction of Kuala Lumpur, was shot down while flying over the east of Ukraine. All people on board died. The passengers were nationals of 17 countries. Of the 298 victims, 80 were children and 196 were Dutch nationals. An Australian woman lost her three young children and her parents at that very moment. Hundreds of children lost their classmates.

During the hearings before the Strasbourg Court, the relatives described that it had been extremely difficult that no remains had been returned which could be properly buried, but only small fragments of exploded bodies, which in some cases had been identified through DNA techniques only after months or years as belonging to their beloved ones. The families of two victims had never been able to bury them, as those victims have so far not been identified. They further described that their mental suffering was being aggravated because so many years after the incident no one had yet acknowledged any responsibility for the downing of the aircraft.

In its ruling on the merits, the Court underlined that the nature and scale of the violence in Ukraine and the ominous statements from Russia concerning Ukraine's right to exist had threatened peace in Europe. Based on the evidence provided by the parties, it concluded that the Russian Federation was responsible for widespread human rights violations against Ukrainian citizens, including summary executions, torture, notably rape as a weapon of war, and abduction and arbitrary detention. It also held Russia accountable for a breach of the right to life of those on board of flight MH17, and for the serious suffering inflicted on the relatives of the victims of the plane crash.

This judgment could certainly not erase the pain of victims and the relatives of those who did not survive, but hopefully, it did give recognition to what had happened.

Alongside the inter-State armed conflict proceedings, individuals have turned to the Court because of such conflicts. Over 10,000 'armed conflict related' individual applications are currently pending. From people seeking accountability, recognition, and truth.

3. VIOLENCE BEHIND CLOSED DOORS – PROTECTING THE INVISIBLE

I will now turn to the second theme: domestic and gender-based violence.

The Convention does not expressly mention this topic. However, through its characterisation of the Convention as 'a living instrument to be interpreted in the light of present-day conditions',¹³ the Court was able to apply it to situations that were unforeseeable at the time it was adopted, or in conformity with changing societal insights in the contracting States, including issues related to new technologies, climate change, and domestic and gender-based violence.

In its 2009 landmark judgment in *Opuz v Türkiye*,¹⁴ the Court had already ruled that domestic violence is a structural social problem – and therefore affects society as a whole and should not be dismissed as a "family matter" – against which authorities must take active measures which are practical and effective. The story of Nahide Opuz and her mother is one of fear and endurance.

12. *ibid* paras 1072-1083.

13. *Tyrer v the United Kingdom* App no 5856/72 (ECHR, 25 April 1978), § 31; and, more recently, in relation to Article 4 and human trafficking, *S.M. v Croatia* App no 60561/14 (ECHR [GC], 25 June 2021), § 292.

14. *Opuz v Turkey* App no 33401/02 (ECHR 9 June 2009).

For years, they suffered brutal violence at the hands of Nahide's husband. The authorities knew of the threats, the assaults, and the danger, yet failed to act, which ultimately led to a tragic outcome of Nahide's mother being shot dead. This case paved the way for the adoption of the Council of Europe's Convention on Preventing and Combating Violence against Women, the so-called "Istanbul Convention".

From that moment onwards, a succession of cases has seen the Court approach the issue from the angle of several different substantive provisions of the Convention – the right to life (Article 2), the prohibition of inhuman and degrading treatment (Article 3), the right to protection of one's physical and psychological integrity as part of the right to respect for private life (Article 8), and the prohibition of discrimination, framed in *Opuz* as the right of domestic violence victims to the equal protection of the law (Article 14).

Violence today is increasingly taking on new forms in the digital sphere. In its 2020 ruling in *Buturugă v Romania*,¹⁵ the Court for the first time explicitly recognised that online harassment and cyberbullying can form part of domestic violence. In this case, Gina-Aurelia not only alleged that she had suffered repeated physical violence from her former husband, but also that he had accessed her electronic accounts, including her Facebook account, and had made copies of her private conversations, documents, and photographs. The Court found a violation of Articles 3 and 8 because the authorities had failed to address the criminal investigation as one which raised the specific problem of marital violence and because no examination was conducted into the complaint alleging a breach of the secrecy of correspondence, which, in the Court's view, was closely linked to the complaint of violence.

In 2021, the Grand Chamber's judgment in *Kurt v Austria* marked another step forward in both the perception of, and required response to, domestic violence from the standpoint of the Convention.¹⁶ A pattern of escalating violence, directed first at Senay, culminated in a murder-suicide, with her 8-year-old child fatally injured at school by his father. The result of the *Kurt*-case is the adaptation of the (qualified) positive obligation that the Court has derived from Article 2 of the Convention for States to take adequate operational measures to protect an individual from a real and immediate risk to their life.

These are very difficult cases because the violence builds up and manifests itself in the private sphere and the legal burden placed on States cannot be such that it becomes unworkable.¹⁷ In these types of horizontal situations, the State's responsibility is engaged where it has failed to implement reasonable measures – to be assessed in relation to the circumstances of the case – that might realistically have changed the course of events or mitigated the damage caused.¹⁸

Over the past years, the case-law of the Court on this subject has expanded.¹⁹ The message, in essence, is that the systems in the contracting States must be designed in such a way that they can timely and adequately respond to situations of serious (threats of) domestic or gender-based

15. *Buturugă v Romania* App no 56867/15 (ECHR 11 February 2020).

16. *Kurt v Austria* App no 62903/15 (ECHR [GC], 15 June 2021).

17. This difficulty is reflected in the fact that, while the Grand Chamber was unanimous on the legal principles applicable, it split on their application to the facts of this case.

18. *Talpis v Italy* App no 41237/14 (ECHR, 2 March 2017), § 121.

19. See, amongst others, *J.L. v Italy* App no 5671/16 (ECHR 27 May 2021); *Volodina v Russia (No 2)* App no 40419/19 (ECHR, 14 September 2021); *Landi v Italy* App no 10929/19 (ECHR, 7 April 2022); *J.I. v Croatia* App no 35898/16 (ECHR, 8 September 2022); *A.E. v Bulgaria* App no 53891/20 (ECHR, 23 May 2023); *Khachatryan v Armenia*, App no 11829/16 (ECHR, 12 December 2024); *Scuderoni v Italy* App no 6045/24 (ECHR, 23 September 2025).

violence. The issue remains pressing and demands the highest attention, including in the Netherlands.²⁰ The impact of digital technology and artificial intelligence on gender inequalities will, moreover, be a future challenge.²¹

This makes a perfect bridge to the next topic: the impact on ‘private life’ by new technologies and climate change. Article 8 has become a lens through which the Court addresses many of the defining issues of our time.

4. NEW TECHNOLOGY AND CLIMATE CHANGE – RESPECT FOR PRIVATE LIFE

4.1. TECHNOLOGY, SURVEILLANCE, AND DIGITAL RIGHTS

The story of Nikolay Glukhin begins with a man travelling on the Moscow underground carrying a life-size cardboard figure of a well-known political activist who had been arrested, with a banner that said: ‘I am facing up to five years ... for peaceful protest’.

What seemed like an ordinary act of expression became an extraordinary case of surveillance. In the years prior this case, the Russian authorities tested a new system of CCTV cameras equipped with a live facial recognition technology. According to the mayor of Moscow, by September 2020 all the 175,000 CCTV cameras in the city were equipped with live facial recognition technology.²² Days after the peaceful solo-protest, it was through one of those cameras that Nikolay was identified by the authorities and subsequently arrested. The facial recognition system had traced his movements across the city. He was convicted for failure to notify the authorities of his solo demonstration. The video recordings from the cameras were used in evidence against him.

In addition to evaluating this case from the perspective of the applicant’s freedom of expression, the Court, in its 2023 ruling,²³ examined how the use of these technologies affected his right to private life. Here, the Court stressed that when implementing facial recognition technology, which it described as an ‘highly intrusive’ tool,²⁴ it is essential that States have detailed rules governing the scope and application of this technology, as well as strong safeguards against the risk of abuse and arbitrariness.

As we move forward in the Digital Age and Artificial Intelligence becomes increasingly capable of predicting and profiling individuals, new forms of inequality may quietly emerge. When

20. See the recent thematic evaluation report of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), ‘Building trust by delivering support, protection and justice’ (21 October 2025) <<https://rm.coe.int/first-thematic-evaluation-report-on-the-netherlands/488028f8df>> accessed 13 November 2025.

21. See United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), ‘Technology-facilitated violence against women: Taking stock of evidence and data collection’ (March 2023) <www.unwomen.org/en/digital-library/publications/2023/04/technology-facilitated-violence-against-women-taking-stock-of-evidence-and-data-collection> accessed 13 November 2025; Council of Europe, ‘Study on the impact of artificial intelligence systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination’.. (August 2023) <<https://rm.coe.int/prems-112923-gbr-2530-etude-sur-l-impact-de-ai-web-a5-1-2788-3289-7544/1680ac7936>> accessed 13 November 2025.

22. *Glukhin v Russia* App no 11519/20 (EHRM, 4 July 2023), para 5.

23. *ibid.*

24. *ibid* paras 88-90.

algorithms learn from biased data, they risk reproducing discrimination, raising concerns not only under Article 8 but also under Article 14 of the Convention.²⁵

Across Europe, regulation for artificial intelligence is taking shape. This includes the Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law and the EU's AI Act. Both instruments seek to enshrine safeguards to ensure that the use of AI remains consistent with fundamental rights. No case on this specific topic has yet arrived at the Strasbourg Court, but this appears just to be a matter of time. There will without any doubt be "a story" in the future.

The real challenge will be to ensure that technology serves people, not the other way around. That means insisting on openness about how decisions are made, keeping humans meaningfully involved, and giving everyone the right to question outcomes that have serious impact on their lives.

4.2. CLIMATE CHANGE

The next story that I will share with you is not that of a single person, but rather the one of a collective voice. It is the story of Verein KlimaSeniorinnen Schweiz, an association established to promote and implement effective climate protection on behalf of its members, who were more than 2,000 older women living in Switzerland. The complaint, in essence, was that the Swiss authorities failed to mitigate the effects of climate change which had adverse effects on their lives and health.

The Grand Chamber of Court, in its ruling of 2024,²⁶ firstly emphasised that the threshold for establishing victim status in climate change cases is especially high, the Convention not admitting general public-interest (*actio popularis*) complaints. Such a high standard of proof is almost impossible to meet for individuals.²⁷ The Court, however, continued by saying that the special feature of climate change rendered it appropriate to recognise the possibility for associations, subject to certain conditions,²⁸ to have standing before the Court as representatives of the individuals whose rights are or will allegedly be affected. It found that Verein KlimaSeniorinnen fulfilled these conditions.²⁹

25. 'AI & discrimination' (*Council of Europe*) <www.coe.int/en/web/inclusion-and-antidiscrimination/ai-and-discrimination> accessed 13 November 2025; Rowena Rodrigues, 'Legal and human rights issues of AI: Gaps, challenges and vulnerabilities' (2020) 4 *Journal of Responsible Technology*.

26. *Verein KlimaSeniorinnen Schweiz and Others v Switzerland* App no 53600/20 (ECHR [GC], 9 April 2024).

27. The applications lodged by four members of the association were declared inadmissible due to lack of victim status, as their situations were not sufficiently distinct from those of the wider public.

28. Paragraph 502 of the judgment reads as follows: '[...] In order to be recognised as having *locus standi* to lodge an application under Article 34 of the Convention on account of the alleged failure of a Contracting State to take adequate measures to protect individuals against the adverse effects of climate change on human lives and health, the association in question must be: (a) lawfully established in the jurisdiction concerned or have standing to act there; (b) able to demonstrate that it pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members or other affected individuals within the jurisdiction concerned, whether limited to or including collective action for the protection of those rights against the threats arising from climate change; and (c) able to demonstrate that it can be regarded as genuinely qualified and representative to act on behalf of members or other affected individuals within the jurisdiction who are subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention. [...]

29. On the same day, the Grand Chamber of the Court declared the applications in the cases *Agostinho and others v Portugal and 32 Other States* (App no 39371/20) and *Carême v France* (App no 7189/21) inadmissible. In the first case, six Portuguese youths asked the Court to require 33 governments to intensify their efforts against global warming. For

The Court further recognised that protection against the serious effects of climate change falls within the scope of Article 8.³⁰ It added that when States have committed themselves internationally to specific agreements, for example to reduce emissions to a certain level in a certain year, it is incumbent upon them to ensure that these targets are achieved by putting in place a regulatory framework as a basis for mitigation measures. As regards the complaint against Switzerland, the Court found that there had been critical gaps in the process of putting in place that regulatory framework and therefore that Switzerland had exceeded its discretion ('margin of appreciation') and thus failed to comply with its duties in this respect.

This case stands as a milestone for the evolving understanding of human rights in the Age of Climate Change.³¹

5. DEMOCRACY, FREE ELECTIONS, AND THE RULE OF LAW

Dear guests, the European leaders who signed the Convention 75 years ago expressed that fundamental rights and freedoms are best maintained by 'an effective political democracy'.³²

Democratic systems are based on the principle of separation of powers and seek to constrain the executive by checks and balances provided by the other two branches, the legislature, and the judiciary.³³ Other important features include the right to free elections – which is enshrined in Article 3 of Protocol no. 1 to the Convention – independent media, and respect for the Rule of Law.³⁴

Not only the strength but also the fragility of the democratic system has become increasingly apparent over the past decade. Terms such as 'democratic backsliding' and 'illiberal democracies' refer to a threat that comes from within. At the same time, it is becoming increasingly clear that democracies in the contracting States are being threatened by external forces, such as foreign interference in the election processes and destabilisation by forms of hybrid war. These trends are also visible in the cases that arrive at the Strasbourg Court. Time does not permit me to go into details now. I will just give you two examples.

Let me begin with the story of Jan Grzęda. He is a Polish judge and was elected member of the National Council of the Judiciary. Before his term had ended, however, he was removed from that Council. His removal occurred in the context of judicial reforms in Poland that were introduced by the Law and Justice party (PiS), which came to power after the 2015 elections. Before the

the 32 States, the Court held that climate change, as a transboundary phenomenon, does not in itself establish extra-territorial jurisdiction under Article 1 of the Convention. As for Portugal, the Court held that the applicants failed to exhaust domestic remedies. In the second case, the applicant in his capacity as mayor of Grande-Synthe alleged that France's inadequate climate policies endangered his rights under Articles 2 and 8 of the Convention. However, as he did no longer reside in the municipality and could therefore not show a concrete and personal risk, his application was declared inadmissible for a lack of victim-status.

30. ECHR Press Unit, '75 years of the European Convention on Human rights. Focus On: Climate Change' (October 2025) <<https://ks.echr.coe.int/documents/d/echr-ks/focus-on-climate-change>> accessed 13 November 2025.

31. On 28 October 2025 the Court ruled in *Greenpeace Nordic v Norway* (App no 34068/21) which concerned the procedural aspect of the obligation to effectively protect individuals from the serious adverse effects on their life in the context of petroleum exploration preceding extraction. The Court held that there had been no violation of Article 8, noting in particular that the State had carried out an adequate, timely and comprehensive environmental impact assessment in good faith and based on the best available science.

32. See the Preamble of the Convention.

33. ECHR Press Unit, '75 years of the European Convention on Human rights. Focus On: the Rule of Law', (July 2025) <<https://ks.echr.coe.int/documents/d/echr-ks/focus-on-the-rule-of-law>> accessed 13 November 2025.

34. See Jolien Schukking, 'Protection of Human Rights and the Rule of Law in Europe: A Shared Responsibility' (2018) 36 *Netherlands Quarterly of Human Rights* 152.

Strasbourg Court he complained that, in breach with Article 6, he had been denied access to a court as there was no possibility of challenging the termination of his Council membership.

In its ruling of March 2022,³⁵ the Grand Chamber of the Court found a violation. It noted that judicial reform is a normal part of the good functioning of a State, but that no reform should result in undermining the independence of the judiciary and its governing bodies, which it held had been the case in Poland.³⁶ In that connection it observed that the case of Jan was just one example of this general trend, referring to several of its previous rulings in Polish cases as well as to cases decided by the Court of Justice of the European Union.³⁷

Such attempts to undermine the judiciary, it considered, are a cause for great concern, both for people living in countries who can no longer turn to their judiciary to safeguard their rights, and because the effective functioning of the Convention system, which rests on the shared responsibility between domestic judges and those in Strasbourg.³⁸

I will now turn to the last story of today, one that is still ongoing because a request for referral to the Grand Chamber is pending.

In 2019 and 2020, two UK parliamentary reports raised concerns about Russian-linked actors' involvement in the general election, through means such as disinformation campaigns, cyber-attacks, and online manipulation. Ben Bradshaw, Caroline Lucas and Alyn Smith (newly elected MPs) claimed that the respondent State had breached its positive obligation to investigate hostile State interference in its democratic elections and to put in place an effective legal framework to secure its obligations under Article 3 of Protocol No. 1.

In its recent ruling in this case,³⁹ the Court addressed, for the first time, this new and complex phenomenon of systematic large-scale foreign interference in democratic processes. The Court clarified that the scope of the States' obligation under Article 3 of Protocol No. 1 extended beyond the integrity of election results, in the narrow sense, and encompassed the circulation of political opinions and information before elections and, more generally, the equality of opportunity afforded to candidates. Given that disinformation could pose a significant threat to democracy, the Court accepted that, if interference by a hostile State risked curtailing electors' rights to such an extent as to impair their essence and effectiveness, Article 3 of Protocol No. 1 might require the Contracting State to adopt positive measures to protect the integrity of its electoral processes, and to keep those measures under review.

The Court noted that measures taken by the UK Government appeared to address the points raised by the applicants. In any event, any shortcomings could not be regarded as so serious as to have prevented the applicants from benefiting from the elections. The Court therefore concluded that there had been no violation of Article 3 of Protocol No. 1 to the Convention.

35. *Grzęda v Poland* App no. 43572/18 (ECHR, 15 March 2022).

36. *Ibid* para 323.

37. See, amongst others, *Xero Flor w Polsce sp. z o.o. v Poland* App no 4907/18 (ECHR, 7 May 2021); *Broda and Bojara v Poland* App nos 26691/18 and 27367/18 (ECHR, 29 June 2021); *Reczkowicz v Poland* App no 43447/19 (ECHR, 22 July 2021); *Dolińska-Ficek and Ozimek v Poland* App no 49868/19 and 57511/19 (ECHR, 8 November 2021); *Advance Pharma SP. z o.o v Poland* App no 1469/20 (ECHR, 3 February 2022). From the Court of Justice of the European Union see, amongst others, *A.K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, Joined cases C-585/18, C-624/18 and C-625/18, [19 November 2019] EU:C:2019:982.

38. See also *Grzęda v Poland* App no. 43572/18 (ECHR, 15 March 2022), para 324.

39. *Bradshaw and Others. v United Kingdom* App no 15653/22 (ECHR, 22 July 2025).

As disinformation, cyber-attacks, and covert influence operations intensify across Europe,⁴⁰ this will certainly not be the last story on this topic.⁴¹

6. CONCLUSION

The few stories I have shared with you today do by no means capture all the important developments that have marked the Court's work in recent years, nor the challenges that lie ahead. However, they offer us a glimpse of how human rights are intertwined with our daily lives.

We rise in freedom. We are free to choose our partner, to cast our vote. We are free to gather, debate and disagree – without fear. These are all things that sound “normal” to us.

The celebration of 75th anniversary of the Convention is a good moment to reflect on the fact that we must not only cherish these rights and freedoms; we must also ensure that they remain living realities for generations to come.

There is a lot going on in the world. We are living in turbulent times. In countries not so far from here, we see cracks appearing in democracy and the independent judiciary coming under pressure. That is why it is important to remember. You must look to the past to understand the present and be able to face the future.

The European Convention on Human Rights is both a legacy of the past and gives guidance at present, offering hope for the future.

Together we must ensure that the light of justice never dims in Europe's “House of Stories”.

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40. European External Action Service (EEAS), ‘3rd EEAS Report on Foreign Information Manipulation and Interference Threats’ (March 2025) <www.eeas.europa.eu/sites/default/files/documents/2025/EEAS-3nd-ThreatReport-March-2025-05-Digital-HD.pdf> accessed 13 November 2025.

41. On 11 February 2025 the Court declared the complaint lodged by *Călin Georgescu v Romania* (App no 37327/24) inadmissible. The applicant, *inter alia*, complained that the annulment by the Romanian Constitutional Court of the 2024 elections – in which he was a candidate – violated his rights under Article 3 Protocol no. 1. The Court decided that in the light of the constitutional structure of Romania, there was no indication that the powers of the President of Romania were such as to make that office part of the “legislature” within the meaning of this Article, and therefore the application was incompatible *ratione materiae* with the Convention.