

International Human Rights Regimes

IREn4004 International Law and Regimes

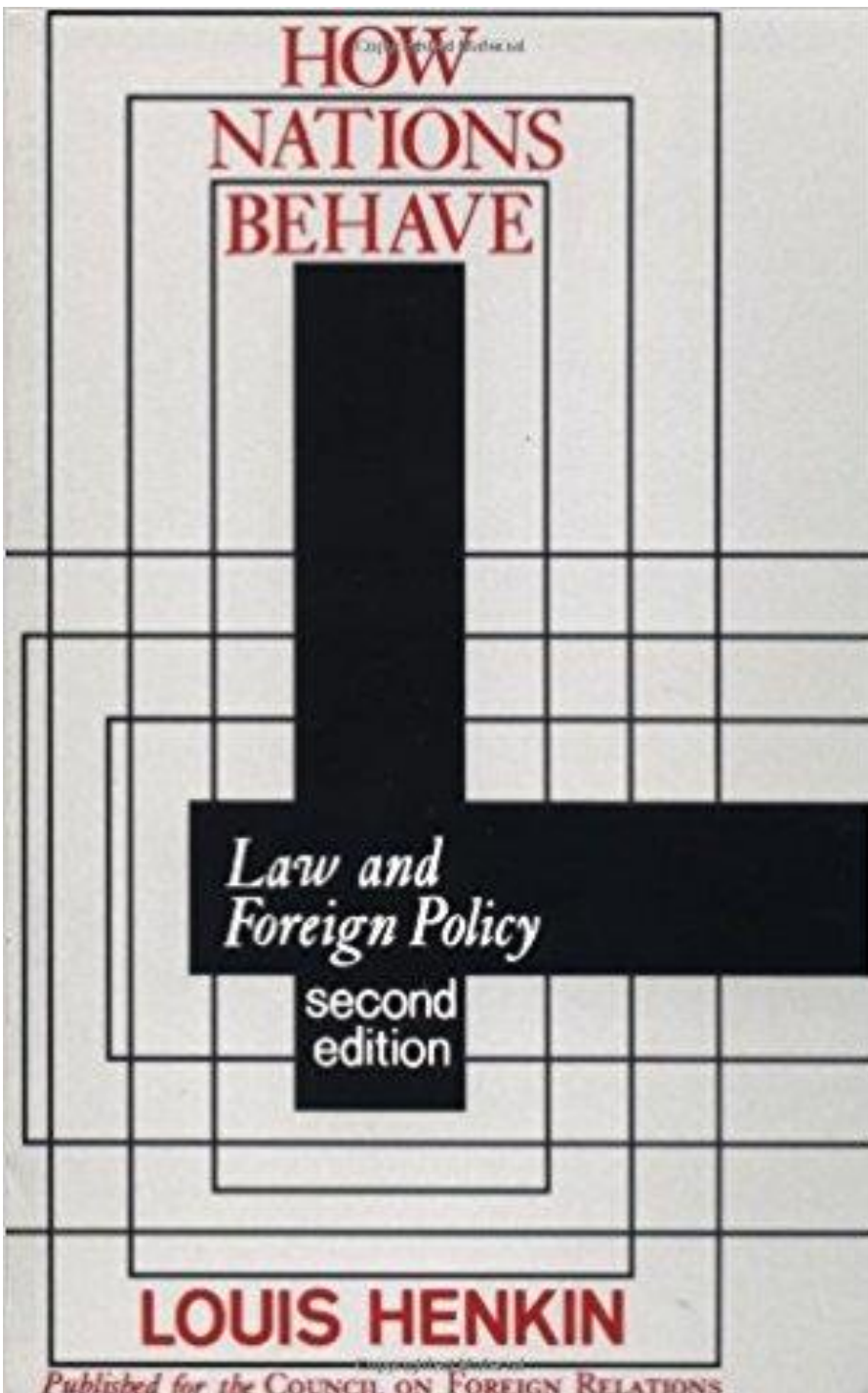
Hubert Smekal

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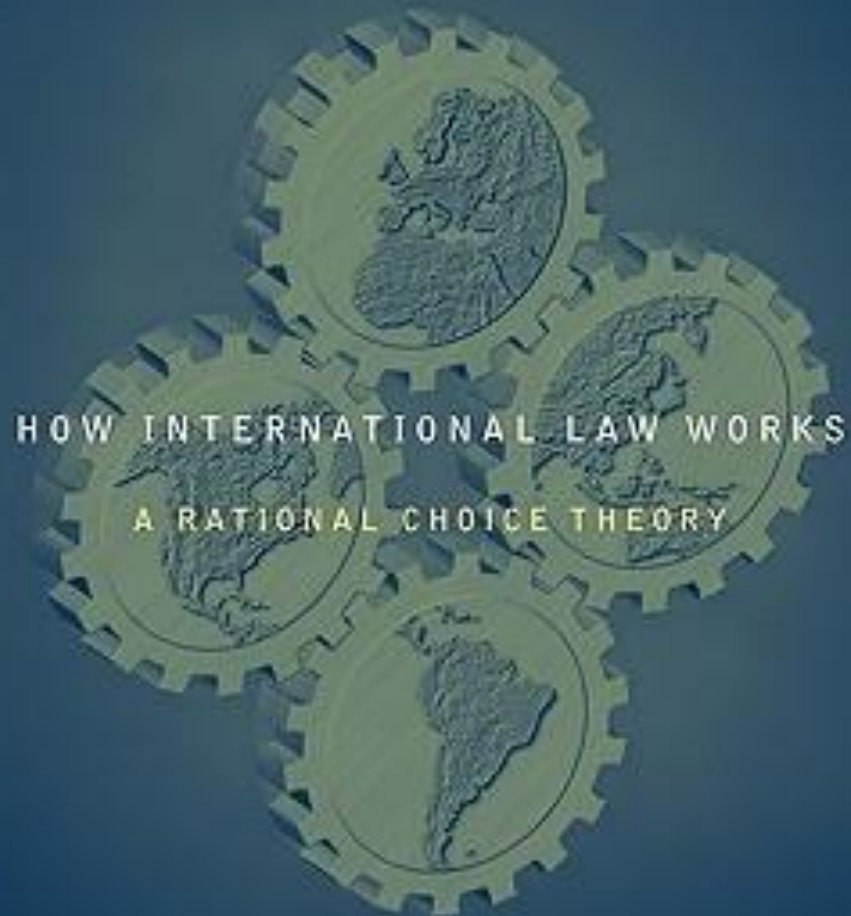
Aims of the seminars

- Intro to HR
- Intro to IHR research
- Understanding uniqueness of IHR treaties
- Knowledge of major IHR regimes
- Discussion:
 - Why do states make IHR commitments?
 - What are the effects of IHR commitments?
- Compliance, effectiveness, implementation
- ECHR system

What are the effects of IHR commitments?



“Almost all nations observe almost all principles of international law and almost all of their obligations almost all the time”



ANDREW T. GUZMAN

3 reasons for compliance with international treaties (3 Rs of compliance)

- Reciprocity
- Reputation
- Retaliation

Why compliance?

Logic of appropriateness x Logic of consequences

Constructivism x Rational choice

3

*Rationalism v. Constructivism:
A Skeptical View*

JAMES FEARON AND ALEXANDER WENDT

RATIONAL CHOICE THEORY AND
INSTITUTIONAL ANALYSIS:
TOWARD COMPLEMENTARITY

ELINOR OSTROM
Indiana University

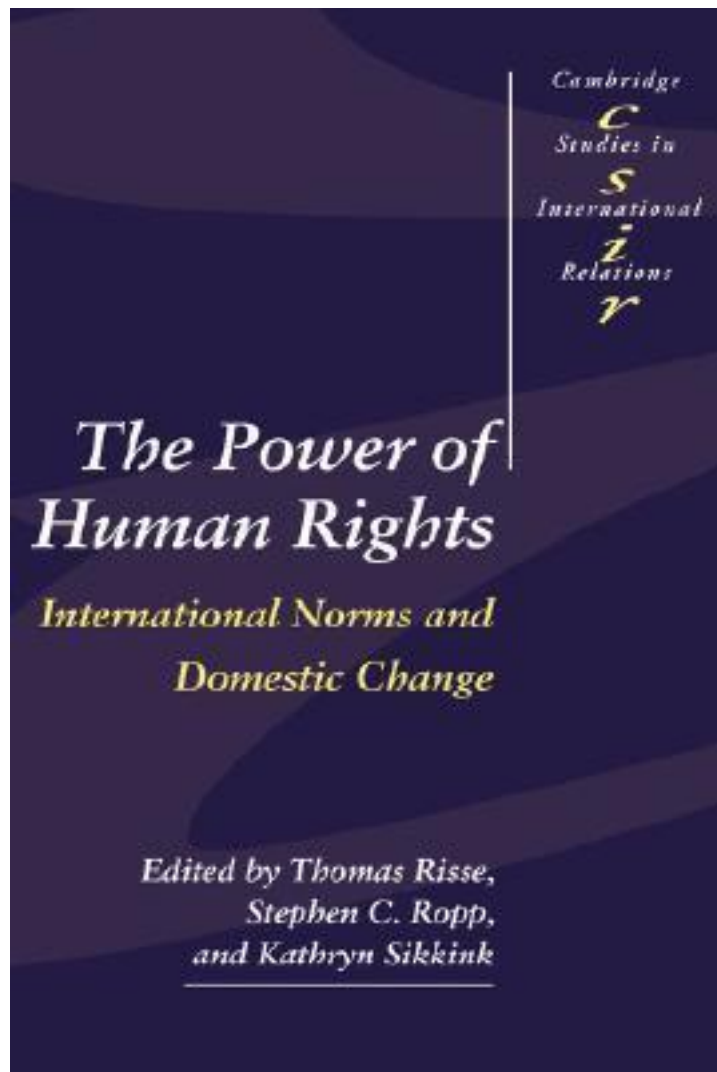
- The Cement of Society: A Study of Social Order.** By Jon Elster. New York: Cambridge University Press, 1989. 311p. \$44.50 cloth, \$15.95 paper.
- Solomonic Judgements: Studies in the Limitations of Rationality.** By Jon Elster. New York: Cambridge University Press, 1989. 232p. \$12.95 paper.
- Political Choice and Social Structure: An Analysis of Actors, Interests, and Rationality.** By Barry Hindess. Brookfield, VT: Edward Elgar, 1989. 216p. \$42.95.
- The Common Good: Citizenship, Morality, and Self-Interest.** By Bill Jordan. Oxford: Basil Blackwell, 1989. 190p. \$49.95 cloth, \$16.95 paper.
- Rediscovering Institutions: The Organizational Basis of Politics.** By James G. March and Johan P. Olsen. New York: Free Press. 227p. \$24.95.
- Nested Games: Rational Choice in Comparative Politics.** By George Tsebelis. Berkeley: University of California Press, 1989. 274p. \$28.00.

SEEING DOUBLE

Human Rights Impact through Qualitative and Quantitative Eyes

By EMILIE M. HAFNER-BURTON and JAMES RON*

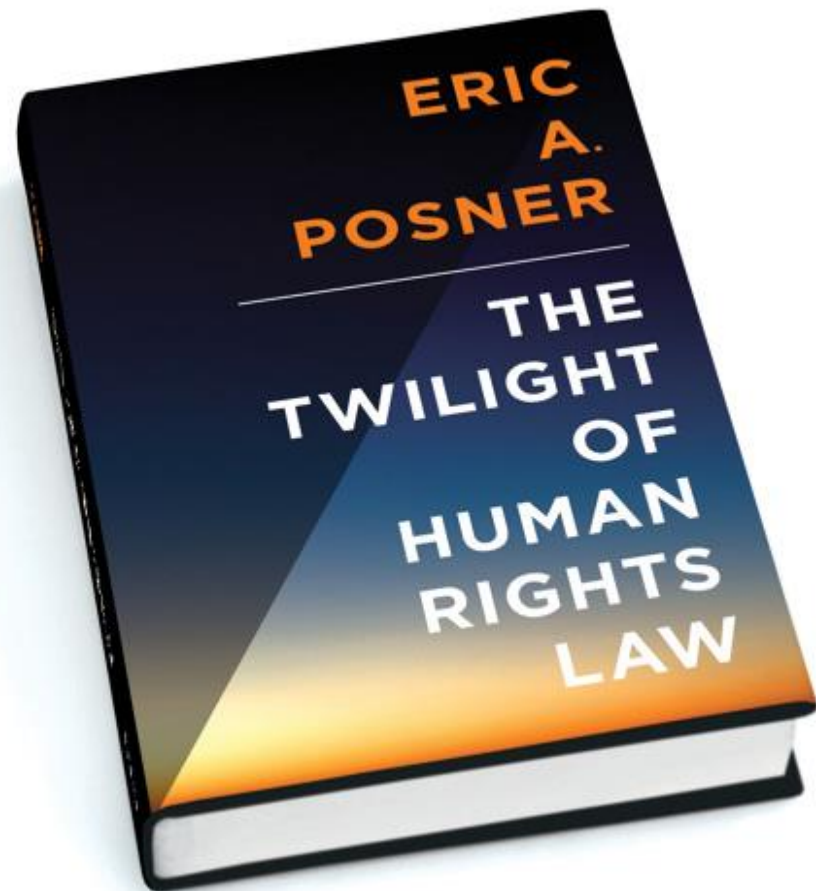
- M. Rodwan Abouharb and David Cingranelli. 2007. *Human Rights and Structural Adjustment*. Cambridge: Cambridge University Press, 290 pp.
- Clifford Bob. 2005. *The Marketing of Rebellion: Insurgents, Media, and International Activism*. New York: Cambridge University Press, 237 pp.
- Sonia Cardenas. 2007. *Conflict and Compliance: State Responses to International Human Rights Pressure*. Philadelphia: University of Pennsylvania Press, 188 pp.
- Shareen Hertel. 2007. *Unexpected Power: Conflict and Change among Transnational Activists*. Ithaca, N.Y.: Cornell University Press, 159 pp.
- Stephen Hopgood. 2006. *Keepers of the Flame: Understanding Amnesty International*. Ithaca, N.Y.: Cornell University Press, 249 pp.
- Todd Landman. 2005. *Protecting Human Rights: A Comparative Study*. Washington, D.C.: Georgetown University Press, 231 pp.
- Sally Engle Merry. 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: University of Chicago Press, 269 pp.
- Darius Rejali. 2007. *Torture and Democracy*. Princeton: Princeton University Press, 849 pp.



Social mechanisms facilitating compliance:
Capacity building, persuasion, incentives, coercion

**ERIC
A.
POSNER**

**THE
TWILIGHT
OF
HUMAN
RIGHTS
LAW**



Mobilizing *for* Human Rights

INTERNATIONAL LAW IN
DOMESTIC POLITICS



Beth A. Simmons

3 ways how IL promotes change in domestic politics:

- Agenda setting
- Legitimacy of IL as source of law
- Mobilization of civil society

Compliance / effectiveness / implementation

Problems of International Adjudication and Compliance with International Law: Some Simple Solutions

Author(s): Leo Gross

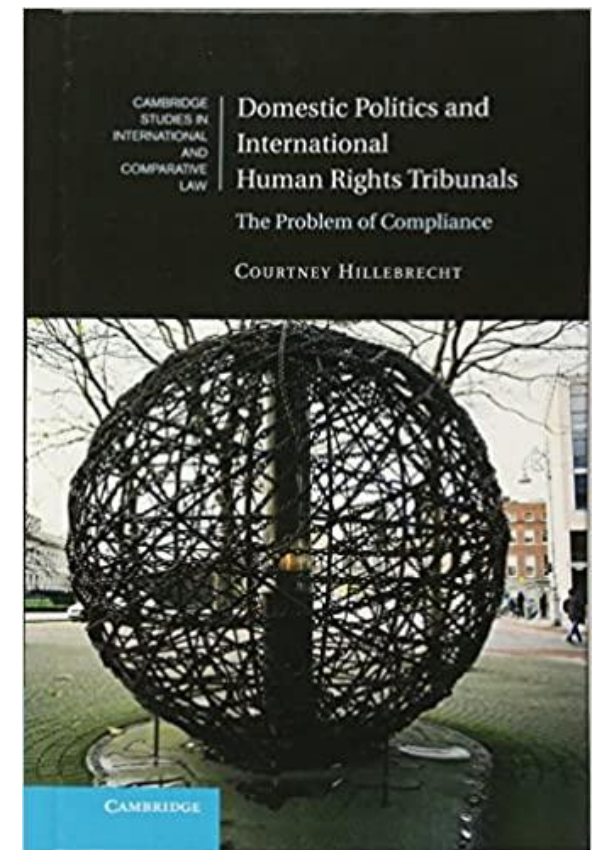
Source: *The American Journal of International Law*, Vol. 59, No. 1 (Jan., 1965), pp. 48-59

The American Society of International Law at its 1964 Annual Meeting approached the problem in a wider perspective by exploring a variety of ways and means for “Causing Compliance with International Law.” Professor Richard Falk, in opening the debate, stressed the limited rôle of international adjudication and, as to the future, was of the opinion that “the rôle of courts will remain marginal as long as the nation state continues to be the pre-eminent center of power and loyalty in world politics.”³ In discussing the rôle of experts in providing authoritative

Solution: less law, less violation of law, more compliance (Leo Gross, s. 52)

What influences compliance with IHR decisions?

- Issuing body (courts x committee)
- State characteristics:
 - **Quality of institutions**
 - Relation to IL
 - Democracy
 - Size
 - EU membership



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The power of human rights tribunals: Compliance with the European Court of Human Rights and domestic policy change

[Courtney Hillebrecht](#)

Council of Europe



„Pan-European“
47 states

Council of Europe



- Terminology (not confuse with EU bodies!)
- UK (IG x SN)
- 1949
- What does it do?

Eur Convention on HR (ECHR, 1950)



THE most effective IHR regime

Eur Court of HR (ECtHR 1959)

Protocol 11 (1/11/1998)



How to get to the ECtHR?

- Who
- When
- Where
- Which rights?

Number of applications allocated to a judicial formation³

Chart 1 Applications allocated to a judicial formation per year

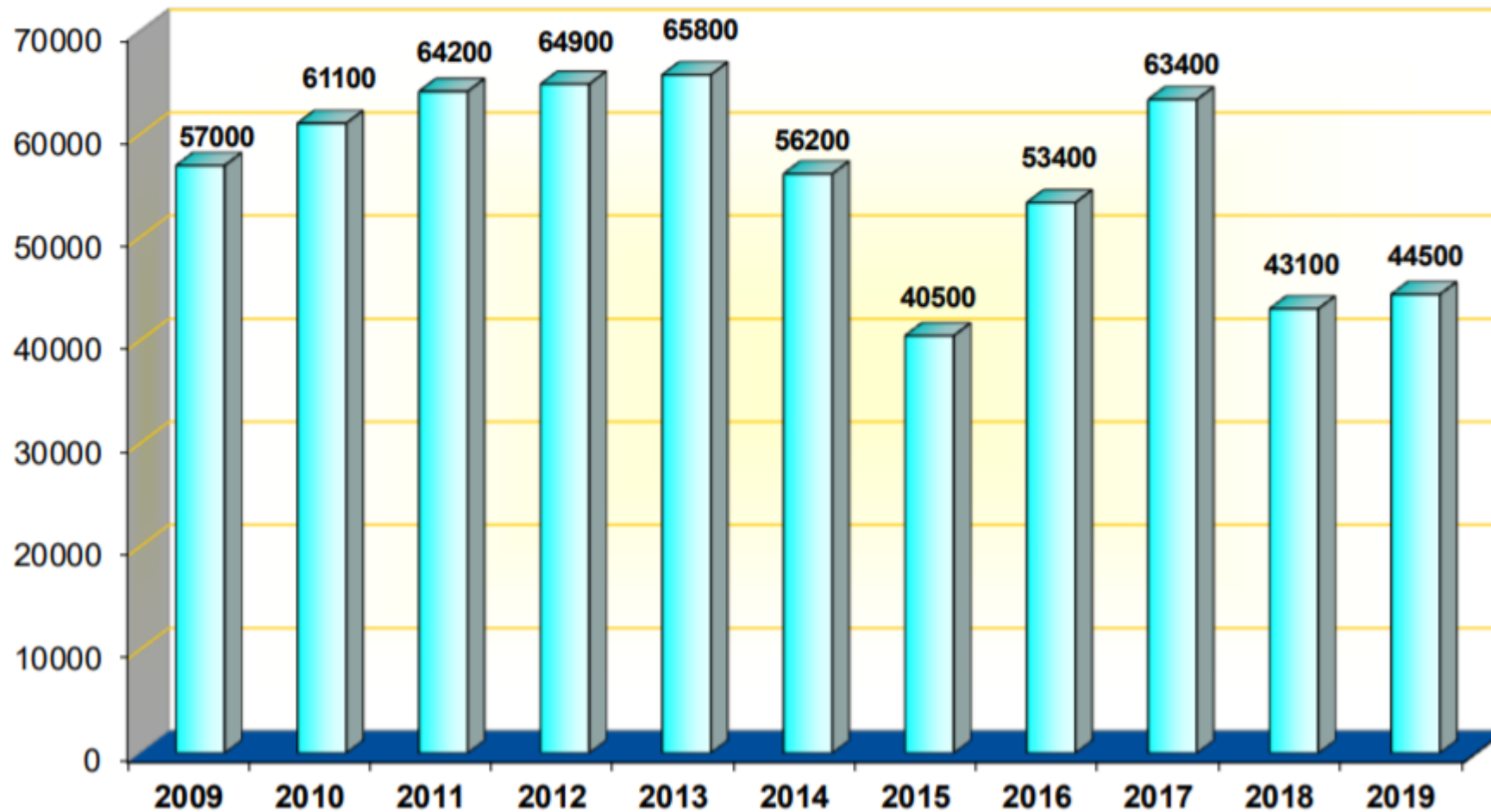


Chart 2 Applications pending before a judicial formation

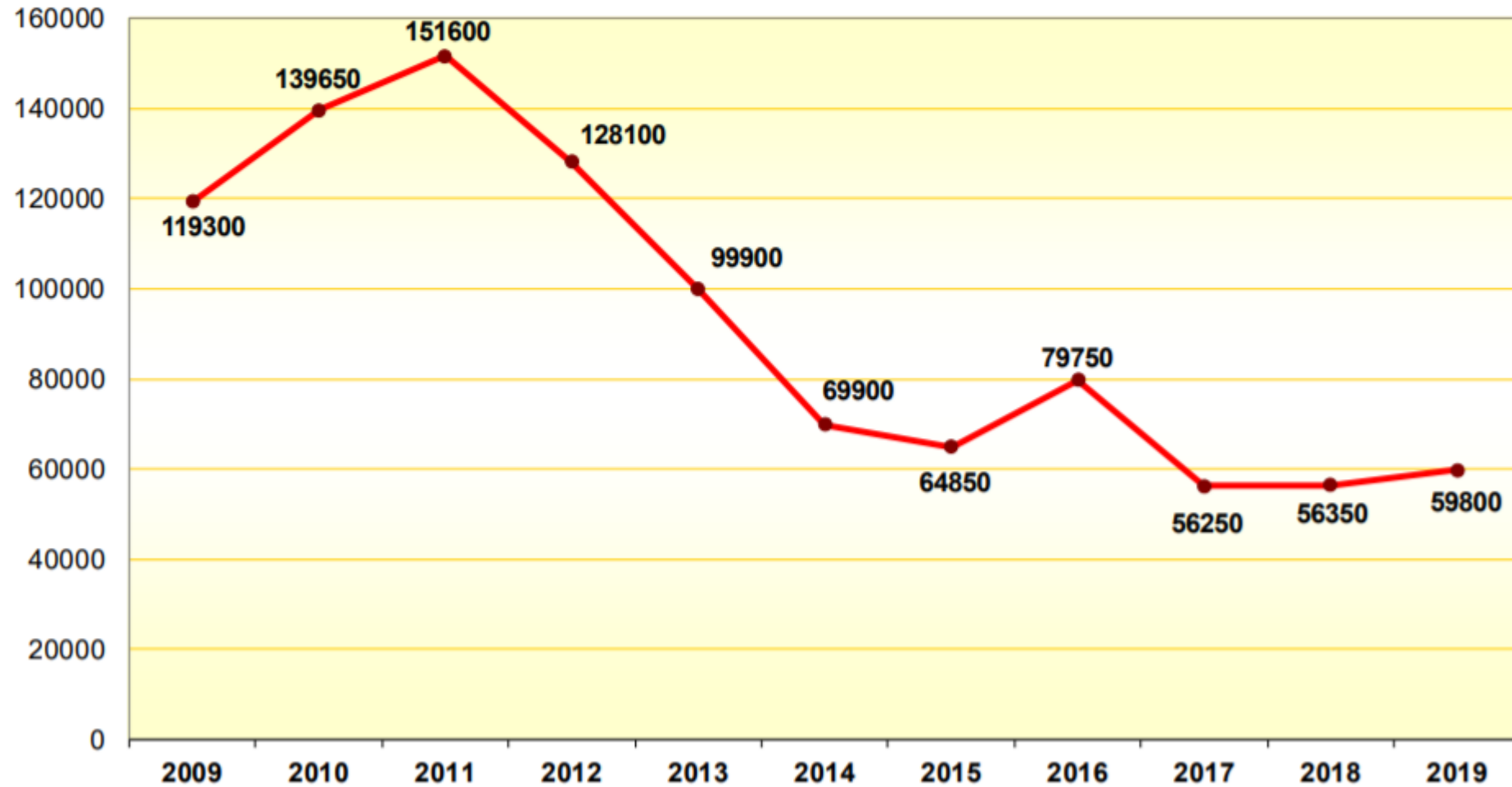


Chart 7 Number of judgments since 2009

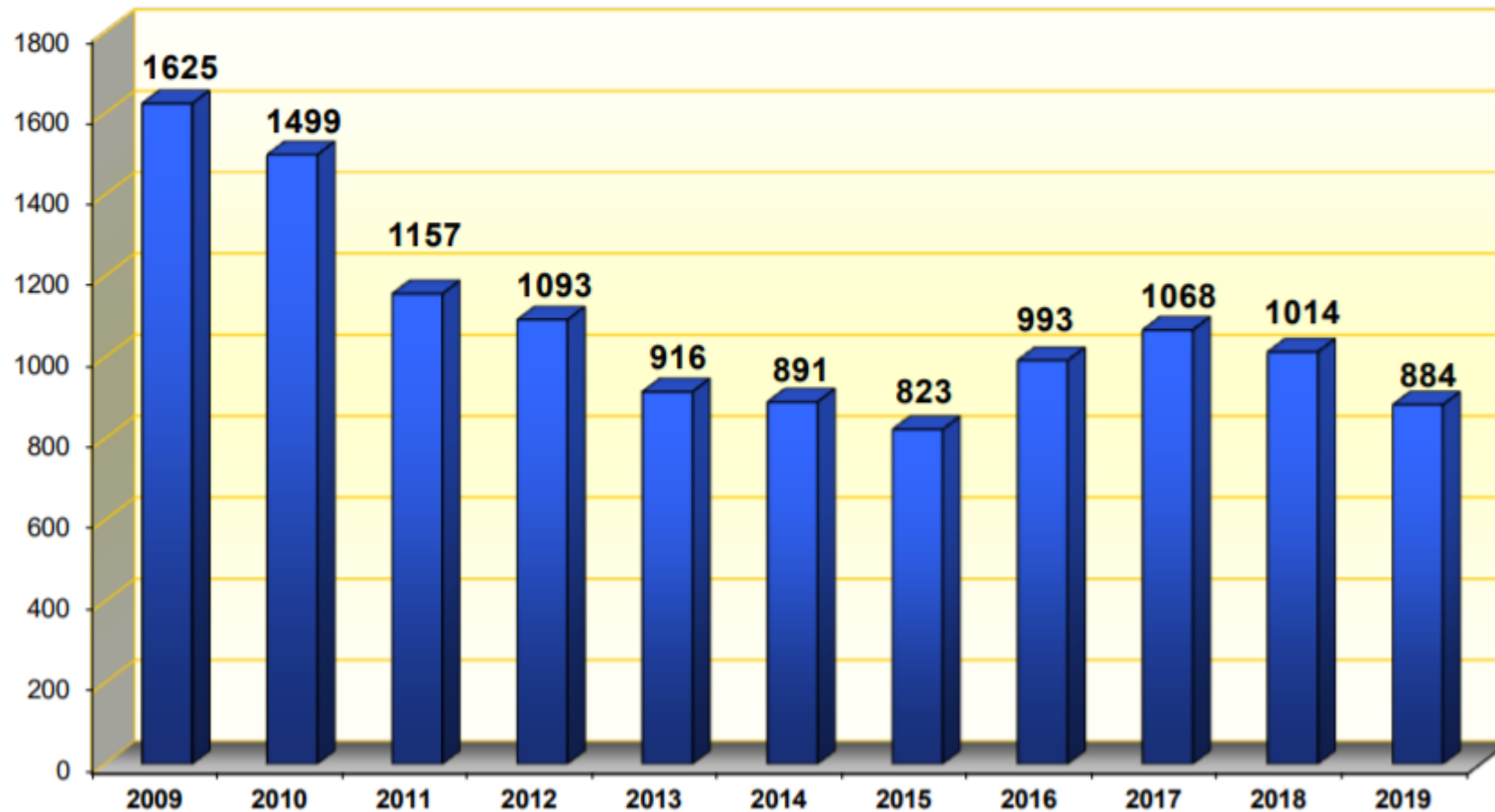


Chart 3 High case-count States

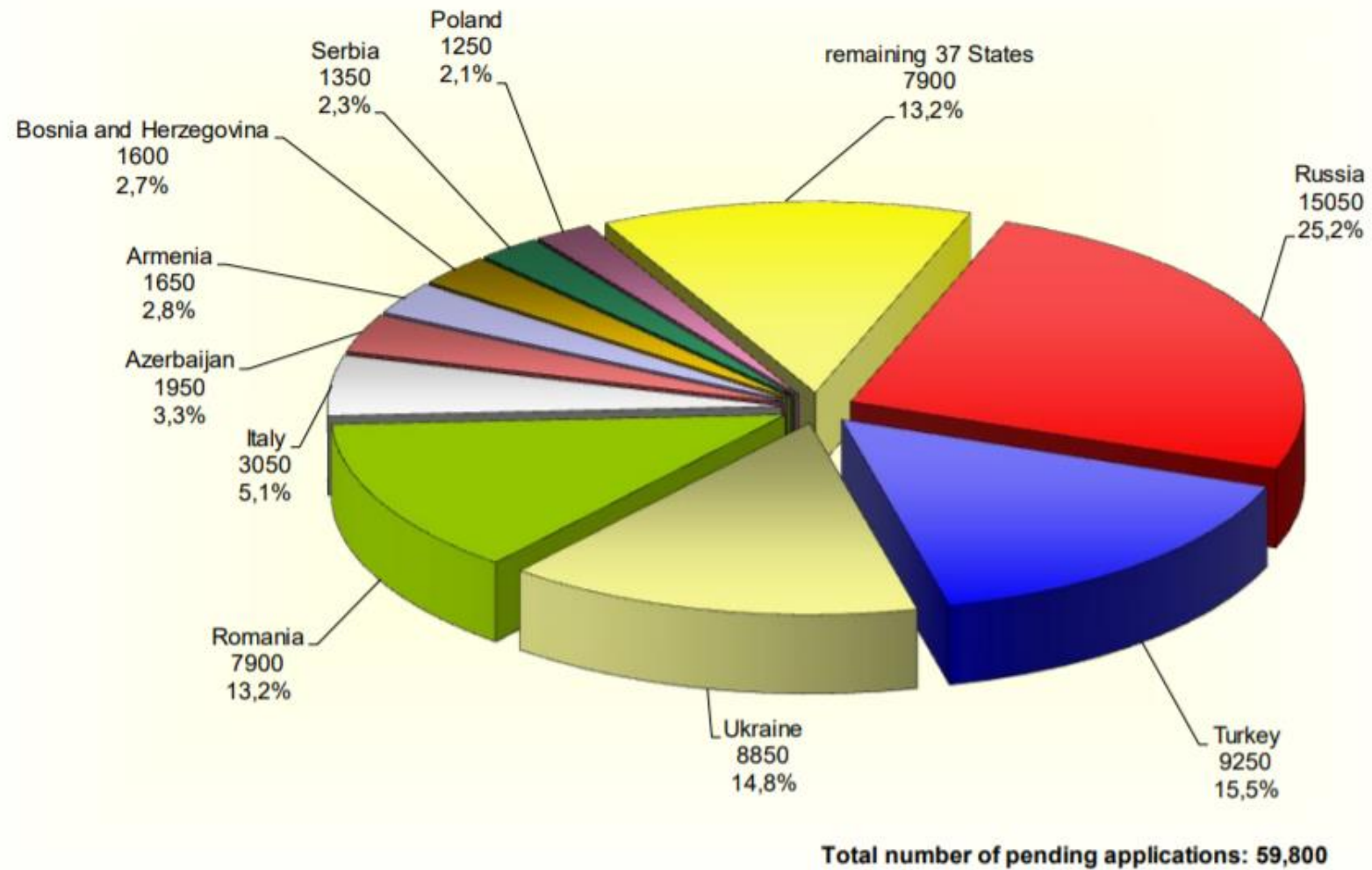
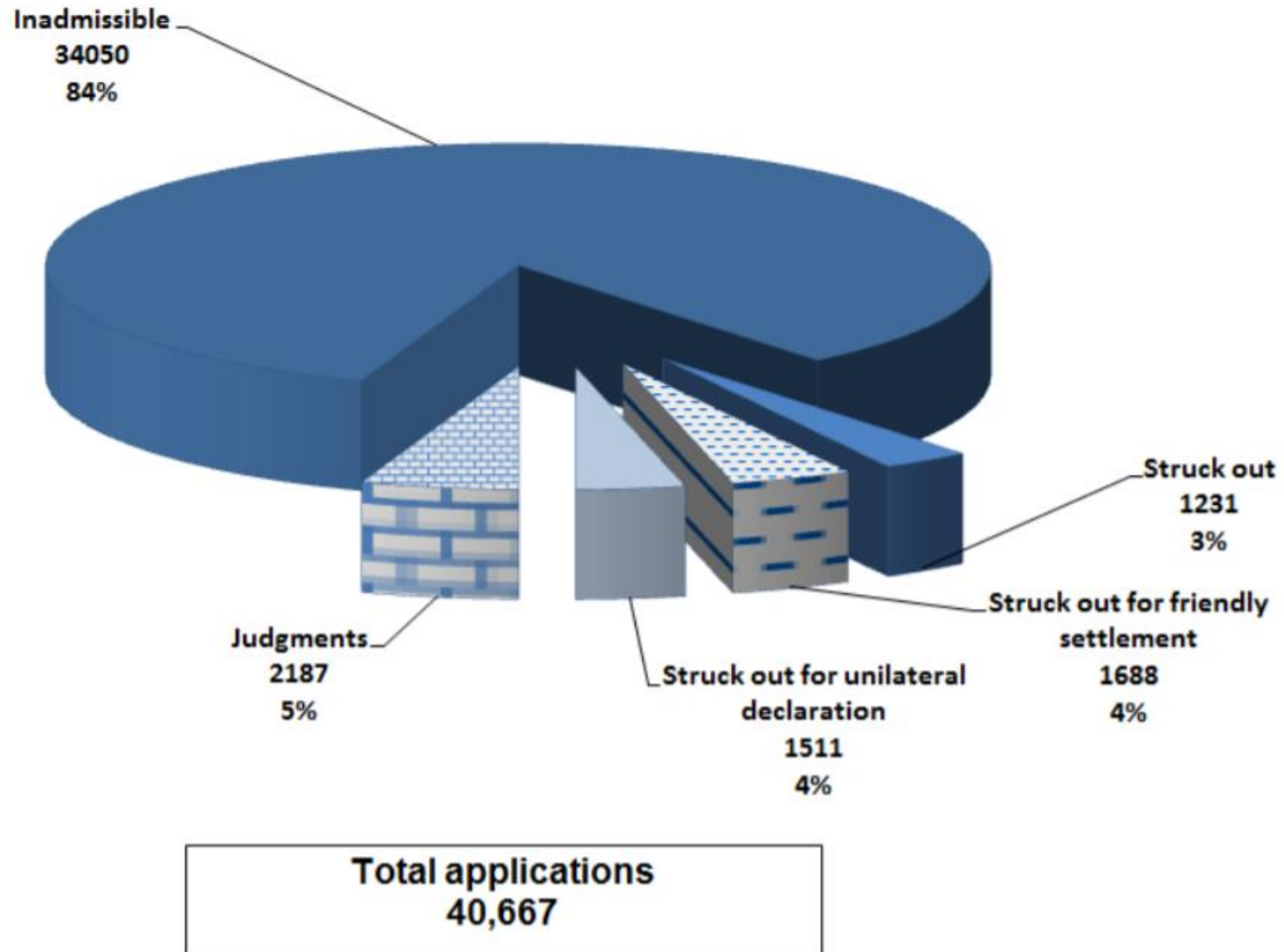
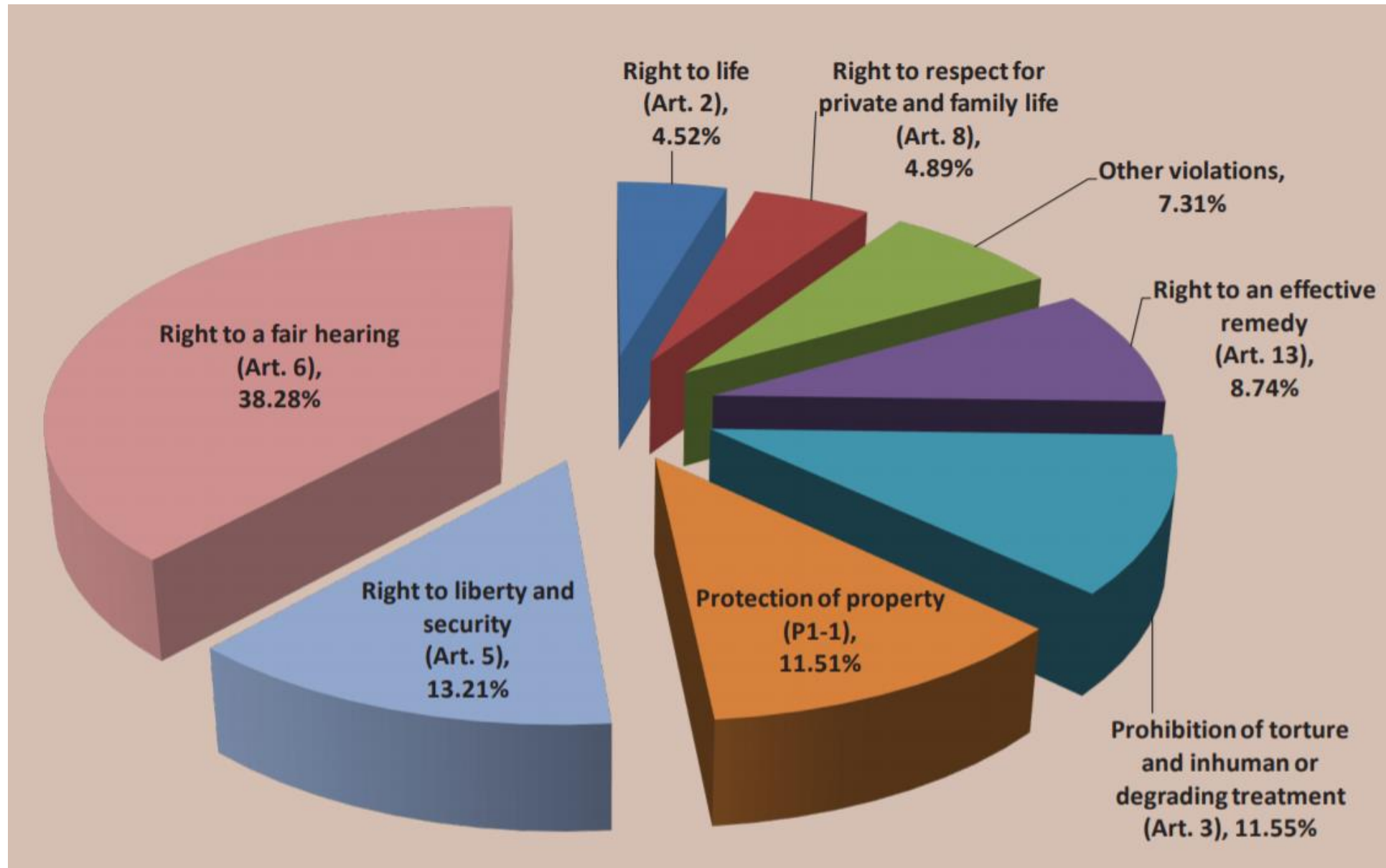
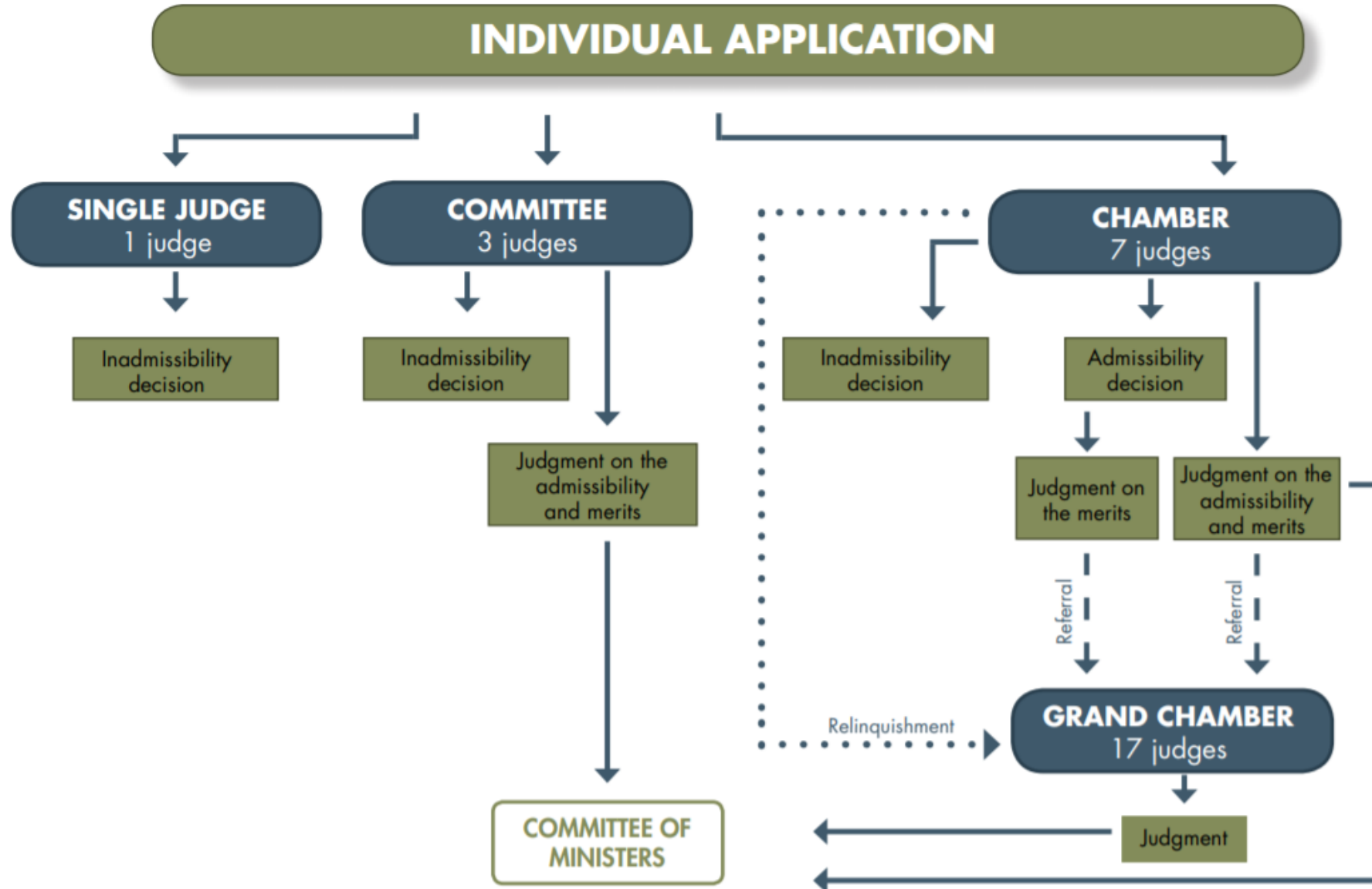


Chart 9 Applications disposed of judicially in 2019





Simplified flow chart of case-processing by the Court



A EUROPE OF RIGHTS

*The Impact of the ECHR on
National Legal Systems*

EDITED BY
HELEN KELLER
AND
ALEC STONE SWEET

OXFORD

THE IMPACT OF THE ECHR ON DEMOCRATIC CHANGE IN CENTRAL AND EASTERN EUROPE JUDICIAL PERSPECTIVES

EDITED BY
IULIA MOTOC AND
INETA ZIEMELE

CAMBRIDGE

International Organization

Article

Metrics

Erratum

Volume 68, Issue 1 January 2014, pp. 77-110

International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe

Laurence R. Helfer and Erik Voeten

Effects of IHR decisions

- *Inter partes*
- *Erga omnes*



It's the economists, stupid

They don't seem to have a clue. Should you? Joe Joseph investigates **Times2**

Politics? It's too cut-throat for me, says George Clooney



George Clooney at the British premiere of his critically acclaimed political thriller *The Ides of March* at the London Film Festival last night with his co-star Evan Rachel Wood. Clooney, who plays a US presidential candidate, said that he had no plans to run for office, adding: "There's a generosity in actors that I don't see in politics"

Britain can ignore Europe on human rights: top judge

Lord Chief Justice bolsters case for reform

Frances Gibb Legal Editor

The country's most senior judge criticised the dominance of the European Court of Human Rights yesterday, saying that British courts are free to ignore its rulings.

Lord Judge, the Lord Chief Justice, said there was an arguable case that judges must take account of decisions in Strasbourg but were not bound by them. His comments to the Lords Constitution Committee, will fuel mounting controversy over the Human

Rights Act and hostility to the influence of the Strasbourg-based court over UK legislation. It will also bolster the case for reform of the Act, which is now the subject of an inquiry set up by David Cameron.

Lord Judge and other leading judges are concerned that some rulings from Europe threaten to undermine the workings of the English justice system. But a split emerged yesterday over whether the Act ties judges' hands. Lord Judge told peers that it was unclear what Parliament had meant

when it enacted the Act and required courts to follow rulings of the European court. But the head of Britain's

'Priceless free press must not be held back'

News, page 5

Supreme Court Lord Phillips of Worth Matravers suggested that the Strasbourg court must be followed. Lord

Phillips, who was at the same evidence session, said: "In the end Strasbourg is going to win. As long as we have the Human Rights Act... and that is designed to give effect to that part of the rule of law which says we must comply with the convention on human rights".

But Lord Judge added: "I would like to suggest that Strasbourg should not always win." It did not need to because of the existence of the European Union and the European Court of Justice. Continued on page 9, col 1

Millions in aid lost to fraud and corruption

Jill Sherman Whitehall Editor

The department responsible for overseas aid is losing millions of pounds of taxpayers' money through fraud and corruption because of poor financial management, an influential committee of MPs has found.

In a highly critical report published today the Public Accounts Committee said that the potential for fraud was now be much higher because Britain is refocusing its overseas aid to war-torn and difficult countries such as Somalia, Burma and Pakistan.

Most of the nine countries where aid is due to be increased by more than 50 per cent are judged to be at high risk of corruption. Others include Nigeria, Pakistan and Ethiopia.

Margaret Hodge, the committee chairman, said that the Department for International Development was one of

35%

Increase in aid budget by 2013

only two ministries with extra funding the Parliament so it was vital that spending was not abused.

Although aid spending is due to increase by 35 per cent by 2013 the department also had to cut its administrative budget by a third, creating a "cocktail" of trouble when combined with the new areas of investment.

"The department is going to be spending more in fragile and conflict-affected countries, and the danger to the taxpayer is that there could be an increase in fraud and corruption," Mrs Hodge said.

Last year the department lost more than £1 million as a result of fraud, double that in 2009-10. A further £5 million of £15 million has been identified since the end of last year, although this is expected to be recovered.

The committee claimed that the totals were "unbelievably low" and unlikely to be an accurate reflection of the level of fraud. It said that fraud had not been found in half the countries where aid was given.

"Unfortunately the department has not always kept its eye on the financial continued on page 3, col 1

IN THE NEWS

Dale Farm clearout

Police took full control of the illegal travellers' site at Dale Farm and began clearing protesters. News, pages 6, 7

Bruni gives birth

Carla Bruni gave birth to a daughter, the first baby born to a serving French president. News, page 11



Tax exile crackdown

Entrepreneurs and celebrities are likely to be punished by the taxman after the failure of a legal challenge. News, page 12

Argos sales collapse

A 71 per cent drop in sales at Argos revealed the true extent of the slowdown in consumer spending. Business, page 35

London clubs win

Arenal beat Manchester with a late goal and Chelsea thrashed Genk 5-0 in the Champions League. Sport, page 96

Inside today

Carol Midgley

What I really hate about MPs
Times2



FREE Weight Watchers 'Slimming Made Easy' recipe magazine

PICK UP FROM TESCO AND WICKSMITH OR WE CAN POST YOU THE SET - PAGE 42



UK loses three out of four human rights cases, damning report reveals

EUROPE'S WAR ON BRITISH JUSTICE

UNELECTED Euro judges are making a relentless attack on British laws laid down over centuries by Parliament, a devastating report warns today.
A group of Tory MPs are demanding action by the

EXCLUSIVE
By James Slack
Home Affairs Editor

Prime Minister over figures which show the UK loses three out of every four cases taken to the unaccountable European Court of Human Rights. The explosive research will reshape the row over Europe's

demand for repairs and orders to be given, the visit in prison, and ordered into the States to withdraw from the court's jurisdiction. "The last backbench Tory MPs say there is a need to 'end rule by judges and restore Parliamentary democracy'. Their challenge follows a succession of shocking cases in which terrorists, murderers and sex offenders have been



Samantha Cameron: Stepfather attacks PM over H2O

Why SamCam's stepfather turned on the PM

SEE PAGE SIX

Turn to Page 2

Rise of the no-cleavage CLEAVAGE



PAGES 22-23



STARTING TOMORROW
How to anti-age your memory
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In a triumphant week for British values, Tories unveil plans to give Parliament and judges power to ignore the European Court and its crazy decision making

END OF HUMAN RIGHTS FARCE

BRITAIN will force a showdown with Europe to seize back sovereignty over human rights if the Tories win the election. It will ignore verdicts by European judges it does not agree with under

By James Slack Home Affairs Editor
an explosive Tory plan to renege the primary of the UK courts and Parliament.
If Conservative wins, the UK will cease from the European Court of Human Rights and 'walk away'. The

promise to renounce Parliamentary sovereignty and restore the courts to a quasi-judiciary role is made by Justice Secretary Chris Grayling.
In an article for today's Mail, he reveals a massive constitutional to some extent's Human Rights Act and replace it with a British Bill of Rights.
The legislation - set to be passed in a lightning row with civil liberties groups

and other senior Tory MPs - would be the first time acknowledge that rights must be surrendered to governments.
The result would be a dramatic curbing of the ability of foreign nationals to claim their basic human rights to avoid deportation. In the case of a foreign national who takes a job - such as as a doctor for desperate driving cases - they will not

Turn to Page 6 Daily Mail

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HUMAN RIGHTS MADNESS TO END

Europe's judges to be stopped from meddling in our affairs

By Macer Hall Political Editor


EUROPEAN human rights judges will be stripped of their powers to interfere in Britain under radical Tory plans to be unveiled today.
Justice Secretary Chris Grayling will promise a sweeping overhaul of Britain's relationship with the European Court of Human Rights to end its meddling in our affairs. The Strasbourg



Briton Hannah Witheridge, 23, was battered to death PAGE 9

Two men confess to Thai beach murders
TURN TO PAGE 7

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Routledge Research in Human Rights Law

DOMESTIC JUDICIAL TREATMENT OF EUROPEAN COURT OF HUMAN RIGHTS CASE LAW

BEYOND COMPLIANCE

David Kosař, Jan Petrov, Katarína Šipulová,
Hubert Smekal, Ladislav Vyhnánek,
and Jozef Janovský



Netherlands Quarterly of Human Rights

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DH v Czech Republic Six Years Later: On the Power of an International Human Rights Court to Push Through Systemic Change

Hubert Smekal, Katarína Šipulová*

First Published April 20, 2017; pp. 288–321

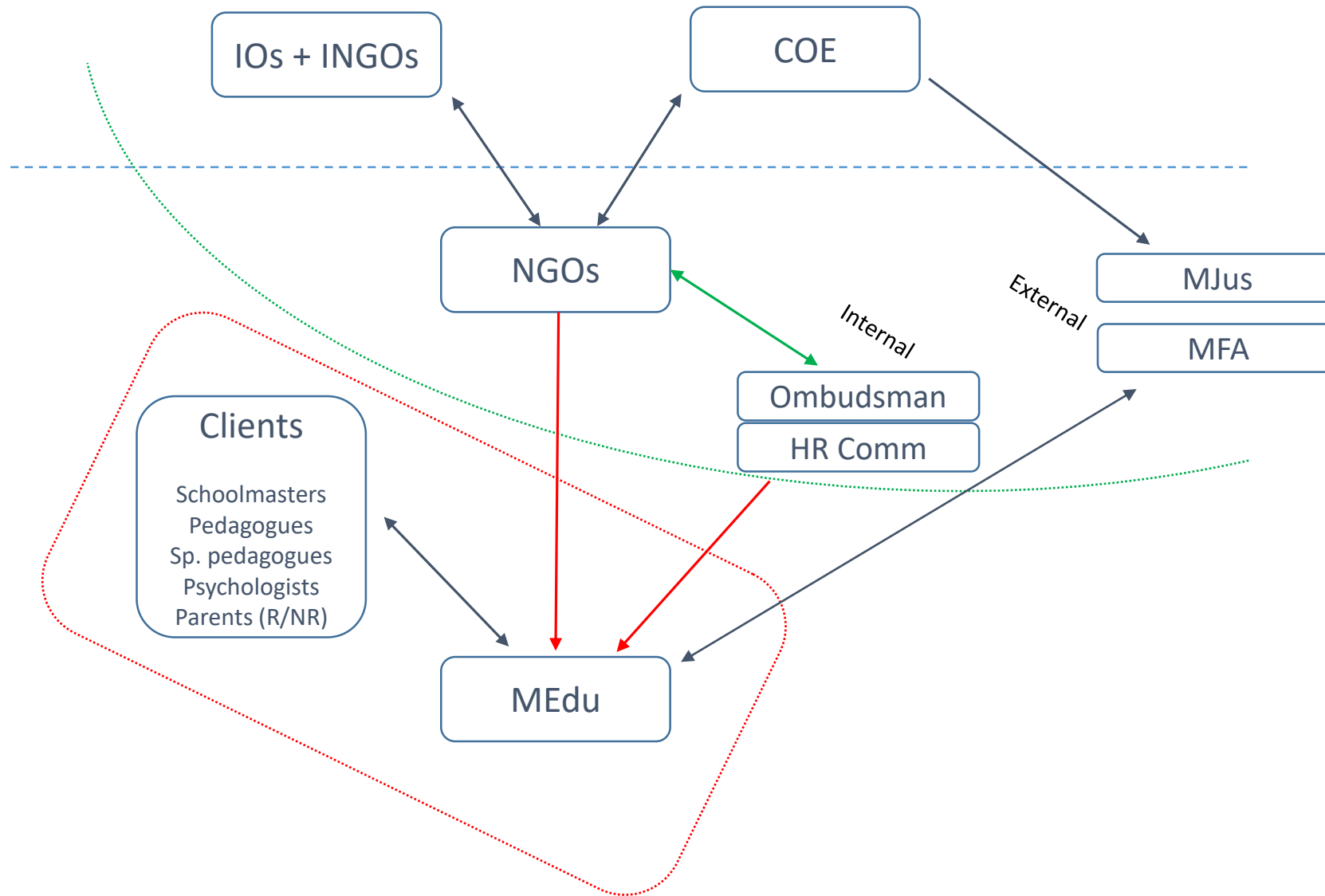
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D.H. and others v Czech Republic (GC 2007)



Ostrava



SQ (MEdU + Clients) > **Change** (Internal + External)