1. The fiftieth year of activity of the European Court of Human Rights was certainly a busy one. As the President of the Court stated at a press conference at the beginning of 2009, the Court had delivered 1,543 judgments in 2008, 3% more than in 2007, and 30,163 decisions, an increase of 11%. The President however also explained that this considerable activity had not reduced the Court’s backlog, as some 50,000 new applications had been allocated for judicial consideration in 2008, 20% more than in 2007. He also pointed out that 57% of applications had been lodged against just four States (the Russian Federation, Turkey, Romania, and Ukraine), with the remaining 43% complaining about the other 43 Member States.

The question of “adapting the Strasbourg machinery to the needs of the 21st century” is particularly taxing, since the refusal of the Russian Duma in December 2006 to ratify Protocol No. 14, a reform instrument which was thought capable of saving the Court from being drowning in the ever-increasing applications. Non-ratification by Russia prevented the Protocol from entering into force. The Council of Europe is now preparing Protocol No. 14 bis, as an interim solution pending the Russian ratification.

Protocol No. 14 bis is to be an additional protocol which will not require ratification by all the States Parties to the Convention. It will enable single-judge formations to deal with plainly inadmissible applications (presently handled by committees of three judges) and extend the competence of three-judge committees to handle clearly well-founded and repetitive cases deriving from structural or systemic defects (presently handled by Chambers of the Court, composed of seven judges). Protocol No. 14 bis would cease to exist once Protocol No. 14 to the Convention enters into force.

In the meantime, the President recalled that comprehensive implementation of Convention standards at the domestic level remains crucial. But the subsidiarity principle presupposes trust in the relevant domestic system and authorities. Do all Council of Europe States enjoy this trust? If they do not, and as long as they do not, the Strasbourg Court represents the only effective chance, as imperfect as it may be, to expose problems to the international public eye and to enforce European standards. So much is at stake, and should clearly be borne in mind both when the Court is criticised and when proposals for reform are made.

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2. The case of *Saadi v. Italy* (Application No. 37201/06, Grand Chamber, Judgment of 28 February 2008) concerned the applicant’s prospected deportation from Italy to Tunisia. Mr. Saadi is a Tunisian citizen, previously convicted *in absentia* by the Tunisian military justice for membership of a terrorist organization. In Italy, Mr. Saadi was granted a residence permit in 2001, but was arrested in 2002 on suspicion of international terrorism. In 2005, he was sentenced to four and a half years’ imprisonment by an Italian assize court for criminal conspiracy (the charge of international terrorism was reclassified), forgery and receiving stolen goods. The appeal lodged by him against this judgment was still pending at the time of the Court’s examination of the application.

In Tunisia, the applicant was sentenced in his absence in 2005 to 20 years’ imprisonment for membership of a terrorist organization acting abroad in peacetime and for incitement to terrorism.

In August 2006, Mr. Saadi was released from prison in Italy, having served his sentence. The Italian Minister of the Interior ordered his deportation to Tunisia under the legislation on combating international terrorism. The Minister found that it was apparent that the applicant had played an active role in an organization providing logistic and financial support to fundamentalist Islamic cells in Italy. His conduct was therefore disturbing public order and threatening national security. He was taken to a temporary holding center in Milan. The deportation order was ratified by the Milan justice of the peace. The applicant’s request for political asylum was rejected on the basis of national security. Under Rule 39 of the Rules of Court (interim measures), on 5 October 2006, the Court asked the Italian Government to stay his expulsion until further notice.

A second deportation order was issued on 6 October 2006. The applicant appealed against it but the proceedings were still pending at the time of the examination of the application by the Court. In May 2007, the Italian Embassy in Tunis requested diplomatic assurances to the Tunisian Government that, if deported to Tunisia, the applicant would not be subject to torture or denied justice. On 4 and 10 July, the Tunisian Government sent two *notes verbales* stating the rights of prisoners, including the right to a fair trial, were protected by the Tunisian legislation.

The applicant complained before the Strasbourg Court that, if carried out, his deportation to Tunisia would violate Article 3 of the European Convention on Human Rights (ECHR).

Before the Court, both Italy and the United Kingdom (a third party intervener) argued that the “real risk” (of being subject to treatment contrary to Article 3 ECHR if removed to another State) standard was not appropriate in the prevailing climate of an international terrorist threat. The Court stated that it could not underestimate the danger of terrorism and the considerable difficulties States were facing in pro-

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