

Table of contents

Note to readers.....	6
I. The Structure of Article 8	7
A. The scope of Article 8	7
B. Should the case be assessed from the perspective of a negative or positive obligation?	8
C. In the case of a negative obligation, was the interference conducted in “accordance with the law”?.....	9
D. Does the interference further a legitimate aim?.....	10
E. Is the interference necessary in a democratic society?.....	10
F. Relation between Article 8 and other provisions of the Convention and its Protocols.....	11
1. Private and family life	11
a. Article 2 (right to life) and Article 3 (prohibition of torture)	11
b. Article 6 (right to a fair trial)	12
c. Article 9 (freedom of thought, conscience and religion).....	13
d. Article 10 (freedom of expression).....	13
e. Article 14 (prohibition of discrimination)	13
2. Home and correspondence	14
a. Article 2 (right to life).....	14
b. Article 10 (freedom of expression).....	14
c. Article 14 (prohibition of discrimination)	14
d. Article 34 (individual applications)	14
e. Article 1 of Protocol No. 1 (protection of property).....	15
f. Article 2 § 1 of Protocol No. 4 (freedom of movement)	15
II. Private life.....	16
A. Sphere of private life and lack of definition	16
1. Physical, psychological or moral integrity.....	16
a. Victims of violence	17
b. Reproductive rights	18
c. Forced medical treatment	19
d. Mental illness.....	20
e. Health care and treatment	20
f. End of life issues	21
g. Disability issues.....	21
h. Issues concerning burial	22
i. Environmental issues	23
j. Sexual orientation and sexual life.....	24
k. Professional or business activities	24
2. Privacy	25
a. Right to one’s image and photographs; the publishing of photos, images, and Articles.....	25
b. Protection of individual reputation; defamation	26
c. Collection and storage of personal data	28
d. Confidentiality, use, and disclosure of personal information	29
e. Right to access personal information	29
f. Information about one’s health	30

g. File or data gathering by security services or other organs of the State.....	30
h. Police surveillance	32
i. Stop and search police powers	33
j. Privacy during detention.....	33
3. Identity and autonomy	33
a. Right to personal development and autonomy.....	33
b. Right to discover one's origins.....	33
c. Religious and philosophical convictions.....	34
d. Desired appearance.....	34
e. Right to a name/identity documents.....	34
f. Gender identity.....	35
g. Right to ethnic identity	35
h. Statelessness and the right to citizenship.....	36
i. Marital and parental status	37
III. Family life.....	38
A. Definition of family life and the meaning of family	38
B. Procedural obligation.....	38
C. Margin of appreciation in relation to family life.....	38
D. Sphere of application of family life.....	39
1. Couples.....	39
a. Marriages not according to custom, <i>de facto</i> cohabitation	39
b. Same sex couples.....	39
2. Parents	40
a. Medically assisted procreation/right to become genetic parents.....	40
3. Children.....	41
a. Mutual enjoyment	41
b. Ties between natural mother and children	41
c. Ties between natural father and children	42
d. Parental allowances, custody/access, and contact rights	43
e. International child abduction	44
f. Adoption	44
g. Foster families.....	45
h. Parental authority and State care.....	46
4. Other family relationships	47
a. As between siblings, grandparents.....	47
b. Prisoner's right to contact	48
5. Immigration and expulsion	48
a. Children in detention centres	49
b. Family reunification	49
c. Deportation and expulsion decisions.....	49
6. Material interests.....	50
IV. Home	52
A. General points	52
1. Scope of the notion of "home"	52
2. Examples of "interference"	53
3. Margin of appreciation	53
B. Housing	54
1. Property owners	55

2. Tenants	55
3. Tenants' partners/unauthorised occupancy	56
4. Minorities and vulnerable persons	56
5. Home visits, searches and seizures.....	57
C. Commercial premises	59
D. Law firms.....	60
E. Journalists' homes.....	61
F. Home environment	61
1. General approach	61
2. Noise disturbance, problems with neighbours and other nuisances	63
3. Pollutant and potentially dangerous activities	64
V. Correspondence	65
A. General points	65
1. Scope of the concept of "correspondence"	65
2. Positive obligations.....	66
3. General approach	66
B. Prisoners' correspondence	67
1. General principles.....	67
2. Where interference with prisoners' correspondence may be necessary.....	69
3. Written correspondence.....	70
4. Telephone conversations.....	70
5. Correspondence between prisoners and their lawyer	71
6. Correspondence with the Court	72
7. Correspondence with journalists	73
8. Correspondence between a prisoner and a doctor.....	74
9. Correspondence with close relatives or other individuals	74
10. Correspondence between a prisoner and other addressees	75
C. Lawyers' correspondence	75
D. Surveillance of telecommunications in a criminal context.....	77
E. Correspondence of private individuals, professionals and companies	78
F. Special secret surveillance of citizens/organisations	79
List of cited cases	84