

## LINCOLN'S INN VISIT TO STRASBOURG, 7-9 JULY 2010

The European Convention on Human Rights and the European Court of Human Rights are over sixty years old, but their importance in shaping UK law and human rights in this country has never been greater.

Since the Convention entered into force in 1953 and the Court was set up in 1959 more than 12,000 judgments have been delivered. To put this in context, however, more than 90% of these occurred between 1998 and 2009, reflecting the growing awareness of the Court and Convention. The Convention has also profoundly shaped UK law, particularly since the Human Rights Act 1998, but also through its own judgments, with effects felt in fields as diverse as immigration, crime, care for the elderly and the environment.

The Court continues to evolve the scope of human rights, sometimes quite ambitiously, and few barristers practising in the UK jurisdiction can afford to remain ignorant of the Court and the Convention. For this reason, the trip was particularly valuable for us all.

The trip took place from 7 to 9 June. The small group of thirteen, all members of the Inn, came from a variety of backgrounds and stages in the pupillage process – from those who had completed the final exams of the BVC, through to practising solicitors from other jurisdictions making the change to the bar. Also accompanying us on the trip were benchers and barristers His Honour David Hodge QC, David Dabbs, Anthony Dinkin QC and Matthew Hellens, along with the Deputy Under Treasurer, Jo Robinson.

We arrived in Strasbourg on Monday evening and took dinner in Caveau Gurtlerhoft, opposite the deep-red sandstone cathedral, where we sampled *Flammenküche*, crème brûlée and Riesling in the vaulted cellar. There was, however, to be more to the weekend than dining, and work began in earnest early the following morning at the European Court of Human Rights. The striking steel and glass building is composed of the two spherical courts with a central staircase spiralling through the floors. The hearing we attended, *Atanasiu & Poenaru v Romania* and *Solon v Romania*, involved two pilot cases relating to the delay in restitution of property which had been nationalised by the then communist government in the 1950s, and on which the outcome of many thousands more cases hung. Both cases raise questions under Article 6(1) (right to a fair hearing within a reasonable time) and Article 1 of Protocol No. 1 (protection of property). The case proceeded in French, with simultaneous translations via headphones, as the Romanian government appearing to struggle to justify why there had been such a delay in restoring to the claimants the property which was rightfully theirs under Romanian law.

We then received a presentation of the Court's activities given by an English-speaking lawyer at the Court's Registry. This was a practical insight into how to bring a human rights claim in the Court and the implication of the new Protocol No. 14. We also learnt how the Court weeds out those cases considered 'manifestly unfounded' – ranging from the incoherent (written on post-it notes) to the ridiculous (alien abduction) – from those that are profoundly urgent and serious (genuine allegations of torture and disappearances).

After lunch we moved on to the Palais de l'Europe. The heavy concrete and copper glass exterior hides the unexpected elegance of the main Debating Chamber of the Parliamentary Assembly. After a tour of the building we moved on to a refreshingly candid discussion on how realpolitik interacts with the ideals of the organisation and the role of the Council in the European and global political landscape.

That evening the group was treated to a drinks party offered by Sir Nicolas Bratza, President of the Fourth Section and United Kingdom Judge at the ECHR. This gave us the rare opportunity to meet with some of the eminent judges not only in the UK but in the world and to learn a little more about their perspective on the role of the Court and its future. That evening we ate by the canal in the picturesque Petite France, with much to discuss from the day.

On Saturday morning we returned to the Court to watch a live broadcast in the press room of the hearing of *Al-Skeini et al v UK* and *Al Jedda v UK*. These very high profile cases concerned the killing and detention of Iraqi civilians by the UK armed forces in Southern Iraq and raised highly significant issues of extra-territorial jurisdiction under Article 1 (obligation to respect human rights). The advocacy and legal argument was of an unparalleled calibre, prompting one of the group to observe, 'While the first barrister puts his case, you're sure they must find in his favour, but then the other side speaks and you're suddenly convinced by them instead.'

But our time in Strasbourg had already run out. The judgment was reserved, and we had a flight to catch. So, after a little sightseeing around the old town, it was back to Paris and then London, all of us very much the wiser after getting close enough to see the cogs which drive some of the most powerful institutions in Europe.

*Elspeth Wrigley*