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ARTICLE

Using liberal–legal tools for illiberal gains: the European Court of Human Rights and legal mobilisation by conservative right-wing actors

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Abstract

The role of social movements and civil society actors in rights advancement has been frequently emphasised. The assumption is that legal mobilisation by civil society actors works towards the extension of rights and the emancipation and advancement of justice for distinctive (minority) groups in society. While traditionally, socio-legal attention on social movement and civil society actions around rights promotion was particularly prominent in the US, for some time now the European context has also been approached from such a socio-legal lens. However, a one-sided, liberal–progressive understanding of social mobilisation around rights has, importantly, been put to the test by recent manifestations of societal actors. Conservative actors tend to (1) promote a restrictive interpretation or a radical reinterpretation of existing rights (e.g. abortion, free speech), (2) limit the diffusion of new rights (e.g. the rights to euthanasia or legalizing surrogate maternity) and/or (3) call for the interruption of the further extensions of rights (e.g. with regard to same-sex marriage, LGBTIQ issues). The analysis of legal mobilisation by such conservative right-wing actors indicates that mobilisational repertoires are strikingly similar to those of liberal actors. This article will discuss the notions of civil society and legal mobilisation and call for a rethinking of these concepts, in part because of the increasing manifestation of societal actors that are in contrast to the traditional liberal paradigm. The article will subsequently engage in a detailed study of one such actor – the Polish legal think tank Ordo Iuris (OI) – with regard to its third-party or *amicus curiae* interventions at the European Court of Human Rights (ECtHR), stressing the difference of orientation of such interventions from those of liberal actors and also indicating dimensions of ambivalence and similarity in their approaches.

Keywords: civil society; conservatism; ECHR; lawfare; legal mobilisation; populism

1. Introduction

The role of rights advancement by social movements and civil society actors has been frequently stressed (Boutcher and McCammon 2018; Cichowski 2007, 2016; van der Pas 2024). While traditionally, socio-legal and political science attention to social movement and civil society action around rights promotion was particularly prominent in the US, for some time now the European context has also been approached from such a lens (see Conant et al 2018). The 1990s were clearly pivotal for the increased engagement of social actors with European judicial institutions, in particular the ECtHR, not least because of enhanced access to this court. It is not a coincidence

that the 1990s also saw the idea of civil society as a democratising force reach its zenith in the wake of the collapse of Communist regimes.[1]

The assumption often expressed is that legal mobilisation by civil society actors works towards the extension of rights and the emancipation and advancement of justice for, for instance, distinctive (minority) groups in society. In an equation of 'critical lawyering' and *amicus curiae* with pro-liberal and pro-democratic legal action, Susanne Baer, for instance, argues:

'The starting question is thus: are you a friend of a court, an *amicus,* or an *amica curiae*? If not, I call on you to better become one. This is because in times of populist politics, when autocratic populism gains momentum, and when mainstream parties are driven by and towards populism to counter such success, the importance of law in our societies is scarily obvious. Law is needed when democracy is at risk. This is why there is an urgent need for friends of courts, *amici* and *amicae curiae*' (Baer 2019, 141).

The argument in this article is that this rather one-sided, optimistic liberal–progressive understanding of social mobilisation around rights is importantly put to the test by recent manifestations of societal actors. Conservative actors tend to (1) promote a restrictive interpretation or a radical reinterpretation of existing rights (e.g. abortion, free speech), (2) limit the diffusion of new rights (e.g. euthanasia or legalising surrogate maternity), and/or (3) call for the interruption of the further extensions of rights (e.g. with regard to same-sex marriage, LGBTIQ issues What is crucial to analyse is to what extent the legal mobilisation or 'lawfare' by conservative, right-wing actors involves legal mobilisation repertoires that are similar to those of liberally oriented actors and to what extent their approaches differ.

The increased activity of conservative movements and actors in relation to courts (in this paper, I will focus on third-party interventions at the ECtHR) points to the increased usage of of legal instruments and rights claims by conservative, faith-based actors. This international conservative action at international courts will be the main focus here. It should, however, be recognised that such conservative forms of legal mobilisation – which attempt to have an impact on the European human rights regime – may be very well connected to the domestic engagement of these very same actors with authoritarian practices and authoritarian governments. In fact, faith-based actors may be active domestically in contributing to the reduction of civic space, the limitation of activities of human rights organizations, forms of SLAPP (strategic litigation against public participation) and the restriction of human rights (such as the right to abortion or the right to free speech).[2] The focus here will be on international, rather than domestic, legal mobilisation. Whether and how conservative legal mobilisation is related to authoritarian tendencies is a matter of great importance, but it cannot be further pursued here.

This article will discuss the emergence of societal, mobilising actors that are in contrast to the traditional liberal paradigm. First, I will discuss the difficulty of defining civil society in purely liberal, progressive terms. By highlighting the increased prominence of non-liberal, and in many cases conservative, religious movements, I call for the need to rethink the notion of civil society. This is even more important when manifestations of 'uncivil society' are brought in relation to conservative forms of legal mobilisation, or what has been defined as 'lawfare' (Gloppen 2018; Handmaker and Taekema 2023; see also the Introduction to this Special Issue). This is of particular significance, as the liberal–legal understanding of human rights, litigation and third-party legal intervention has been predominantly understood as a phenomenon that pushes towards the realisation of a liberal agenda. In the reality of civil society, it is, however, clear that

[1]It is intriguing to observe, although this line of thought cannot be pursued further here, that the emergence of civil rights dissidence in East–Central Europe roughly coincided with the noticeable strengthening of human rights in Western Europe, both in societal as well as in institutional terms – that is, in the Council of Europe and the European Union (Eckel and Moyn 2014).

[2]The organisation discussed below, the Polish think tank Ordo Iuris, has engaged in all of these actions in Poland. For the argument that illiberal civil society supports and strengthens the emergence of authoritarian state and co-constitutes illiberal regimes, see, for the case of Turkey, Atalay 2022; and for the case of Hungary, see Greskovits 2020.

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other alternatives, or 'counter-movements', are increasingly playing a significant role, too, often utilizing the same legal instruments. Finally, I will engage in a brief analysis of one non-liberal societal actor – the Polish legal think tank Ordo Iuris. The focus will be on the legal actions of this non-liberal, religious-conservative actor with regard to third-party interventions at the ECtHR in the form of *amicus curiae* briefs.

2. Civil and uncivil society

The critical, socio-legal analysis of the diversified role of civil society in the context of rights claim making and legal mobilisation is of great importance, as it acknowledges the multiple, conflictive and in some ways dialectical roles of civil society actors while highlighting the fragility and contested nature of civil society as such. In this, a socio-legal approach importantly enriches the prevalent, rather legalistic, approach with regard to human rights protection, civil society mobilization and court action. Although recent literature on civil society's defence of the rule of law is most valuable (see, e.g., Grabowska-Moroz and Śniadach 2021), the predominant understanding of civil society entails the risk of reproducing an inherent, normative bias of the civil society debate; that is, that civil society provides in itself a positive contribution to democracy.[3] In other words, the argument is that the more there is civil society action and resistance, the better (liberal) democracy and emancipation are served.

In stressing this normative position, the civil society debate frequently tends to overlook crucial dimensions, not least the fact that civil society equally includes, and will always include, actors that are not dedicated to the liberal understanding of the rule of law.[4] A socio-legal position ought to analyse civil society in its entirety, fragility, and complexity, giving due attention to intense conflict within civil society. This reveals a conundrum of the broader sociological as well as the more specific socio-legal positions, which consists of the fact that civil society cannot be reduced to societal forces that uphold liberal understandings of the rule of law. As Klaus Eder has argued, civil society does not necessarily engage in civilising actions. Rather, there is always the possibility of the 'perversion of civil society fostering uncivil social relations' (Eder 2014, 556). In fact, recent scholarly literature is increasingly pointing out that illiberal forces are increasingly active in defending an illiberal, conservative and populist approach to the rule of law (Bohle et al 2024; Greskovits 2020).

The recent analysis of civil society in sociological studies of populism and illiberalism, with regard to a focus on civil society and on the role of social movements, is pertinent. For instance, in *Populism and Civil Society. The Challenge to Constitutional Democracy* (2021), Andrew Arato and Jean Cohen discuss the societal manifestations of populism in both spontaneous and organised forms. Arato and Cohen pay substantial attention to civil society and populist mobilization. As they recall, much literature on populism focuses on political parties but much less so on social movements and 'uncivil society' (Arato and Cohen 2021, 54). Sociology is trying to 'answer precisely the question of the origin, functions, and tensions of civil society supports for populist

[3]As is widely acknowledged, civil society as a concept is essentially contested. That said, its re-emergence in the 1990s was strongly influenced by a positive, liberal–democratic reading of the concept. For instance, in their highly important and influential work *Civil Society and Political Theory*, Arato and Cohen argue that 'civil society itself has emerged as a new kind of utopia, one we call "selflimiting," a utopia that includes a range of complementary forms of democracy and a complex set of civil, social, and political rights that must be compatible with the modern differentiation of society' (1992,: xii). In direct relation to the discussion here – legal mobilization and European human rights – Cichowski, in a study of transnational legal mobilisation by civil society actors relative to the European Union, argued that 'constitutionalism in the EU remains vibrant; and individuals, civil society and the ECJ are at the core of this positive trajectory' (Cichowski 2007, 2).

[4]While it is obviously true that democracy cannot be reduced to only liberal democracy, the current context of the European rule of law crisis, which includes forms of domestic 'backsliding', indicates a significant and widespread concern on behalf of EU institutions as well as the ECtHR with challenges to the liberal–legal democratic system, which is grounded in a liberal understanding of the rule of law and of human rights (see, amongst others, Pech and Scheppele 2017).

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actors, by moving from the party-political to the societal level where social movements are the primary collective actors and where even mobilization generating or complementing the activities of parties takes place' (Arato and Cohen 2021, 46). There are several important dimensions to this: populist movements have affinities for the new social movements that developed at the end of the twentieth century. Mobilisation is based on the politics of resentment and tends to focus on the underprivileged, the marginalised and the disenfranchised, with the caveat that (right-wing) populists generally tend to relate these qualities to a victimised people (the marginalized people versus the establishment and/or external enemies such as migrants). Ultimately, such mobilisation and claims of victimisation are based on references to shared common values, even if populists and illiberal actors enhance polarization. As Arato and Cohen pertinently observe: '"uncivil society" expresses "claims of unfairness, discrimination, partiality, exclusion, unequal treatment, corruption, and the lack of voice, levelled at the "establishment" ... in the name of (newly) marginalized groups. [Such claims] indicate the continued existence of common cultural values and principles of justice – fairness, impartiality of law and public governance, inclusion, equality before the law, moral integrity of public officials, equal opportunity and voice, and social solidarity across differences' (Arato and Cohen 2021, 48).

While populists or illiberal political forces in power tend to attack civil society in its liberal, pluralist guise, they equally promote alternative forms of illiberal social organisations and networks, often in a top-down fashion. One core dimension of the populist phenomenon hence includes the dialectic between social movements and counter-movements in civil society (Alexander 2021; Meyer 2022). Jeffrey Alexander approaches populism as a 'naturally occurring dimension of everyday democracy' and says that 'populism is a continuum stretching from the political left to the right, fatal to democracy only on the extremes' (Alexander 2021, 1). Significantly, Alexander's theory of the civil sphere is an attempt to develop a sociology of democracy, which consists of an effort to comprehend contemporary democratic societies as fragile systems in which forces may work to undermine democracy. Populist forces have a clear interest in such sociology of democracy as potential 'dark political and cultural forces that menace democracies around the world today' (2021, 1). The emphasis is on the democratic political community and the civil sphere as a dialectical, dynamic sphere in which different forces put forward different claims.

Hence, civil society is not understood as an unambiguously, democratically oriented community of social forces but rather as a sphere in which different groups interact on the basis of the same democratic codes to put forward claims of solidarity and emancipation. This means that the civil sphere contains ongoing competition over the question of how democracy is to be realised in practice. In his seminal *The Civil Sphere* (Alexander 2006), Alexander outlined what he sees as the binary logic of institutions in democracy, guided by the rule of law, equality, inclusiveness, impersonal and contractual relations and the importance of formal positions in 'civil' understandings, whereas the 'anticivil' understanding emphasises arbitrary, leader-based rule; an emphasis on political power rather than on the rule of laws; hierarchical relations; exclusionary understandings of in- and out-groups; and an emphasis on loyalty and personal bonds (Alexander 2006, 59). According to Alexander, the struggle between liberal/civil versus populist/uncivil forces in the civil sphere may be best understood on the basis of these binaries. In fact, populism tends to contribute to polarisation, and in its most radical – 'uncivil'– forms, it may undermine the civil sphere altogether.

Alexander further introduces the useful distinction between 'frontlash movements' (Alexander 2019), which endorse an extension of rights and the enlargement of civil capacities, and 'backlash movements', which react to such petitions and call for a preservation of existing relations and structures, or even a return to a status quo *ex ante*. In fact, the civil sphere is an 'arena of potentially endless, and not necessarily pretty, contentions' (Kivisto and Sciortino 2021, 298). The dialectic between frontlash and backlash movements is an intrinsic part of democracy but may turn anti-democratic when denying the core principles on which the civil sphere is based. Such

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principles include notions of solidarity, inclusion, rights and belonging. The thrust of the argument is, hence, that it is not the populist rhetoric itself that puts democracy at risk but rather a radicalised form that is 'employed to constrain the autonomy of the civil sphere institutions that sustain democratic life' (Alexander 2021, 3).

While Arato, Cohen and Alexander have built on a normative, more optimistic approach to civil society in the past, stressing, for instance, forms of (communicative) rationality, their recent work increasingly engages with the more complex and conflict-ridden dimension of civil society. As Meyer has recently argued, civil society needs to be rethought as a concept. Civil society as an inherently fragile institution, as well as the processes that lead to increased incivility, need to be carefully assessed (Meyer 2022, 19–20). As Meyer argues:

> 'We can appreciate [the] ambivalences more thoroughly if we explore the possibility that these changes are not mere aberrations from the default of civil society, to be repaired by smarter social policy. Rather we might see civil society as *inherently fragile*, *vulnerable*, and corruptible institution that easily morphs into its opposite. Such a dialectical view is aware of democratic civility's association-strengthening effects as well as its community eroding and *dis*sociative potential, its power to energize ... as well as to erode civility. This view may ultimately be more realistic than views that are either on[e]-sidedly optimistic or one-sidedly pessimistic' (Meyer 2022, 20; italics in original).

3. Law and liberalism

The discussions in sociology and social theory regarding civil society and, not least, its predicament in times of populism indicate the need for a rethinking or reconceptualisation of the notion of civil society and of related notions such as social engagement and activism. The ideal–typical view of civil society as a sphere of civil interaction, free from economic or political constraints, is always in tension with the real-life functioning of civil society, which is full of struggle, conflict and attempts at limiting the freedom of others. In relation to law, human rights as well as legal mobilisation and conflicts over those rights, it is important to link the discussion on civil society with socio-legal debates on legal strategies and actions of social movements and nongovernmental actors.

If the civil society debate has often understood civil society as a *conditio sine qua non* for the well-functioning of liberal democracy and has, in this regard, presupposed a certain liberal orientation to civil society (in terms of claims towards the extension of rights, the diminishment of discrimination and the reduction of marginalisation), we see similar presuppositions in debates on legal mobilisation. Engaging in legal mobilisation, inter alia in the form of rights claims and litigation, is understood to be a progressive, pro-liberal force (see e.g. De Búrca 2022). In fact, if one studies legal mobilisation up close, lawyers and legal actors of various kinds appear as often closely connected to ideas of political liberalism. As Scheppele argues, 'people trained in law' are often seen as 'in the vanguard of political liberalism' and as advocating the 'realization of basic civil liberties and access to justice' (Scheppele 2019, 361). As Scheppele rightly notes, however, the law may equally be used for illiberal purposes. In her view, the law is a 'neutral tool that gains its content in the hands of its users' (Scheppele 2019, 362).

In studying legal mobilisation (both liberal and other types, including illiberal), orientations need to be taken into account. As discussed in the introduction to this special issue, such forms of legal mobilisation in fact include right-wing forms (Kocemba and Stambulski 2024). One distinction that we can make is between the substance of claims and the procedures or tools of actions of legal mobilisation. On the basis of the former (rights claims, orientations towards law and rights), a frequently used distinction is among liberal, progressive and conservative or even

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illiberal agendas (Cliquennois 2023). As discussed in Teles' work on the American conservative legal movement, part of the interaction between liberal and conservative, illiberal mobilization is that of of direct competition (Teles 2008). This includes competition over the interpretation of rights (one clear mark of distinction is between orientations based on individual rights and orientations that prioritize societal, collective dimensions), as well as over the mobilisation and organisation of forces around specific ideological positions.

In a related way, in her extensive work on third-party interventions at the ECtHR, Bürli argues that such interventions are either a call for *restraint* or have an *activist* orientation. She distinguishes between faith-based interveners and activist, liberal interveners. The former particularly consists of conservative, often religious, actors, whereas the latter is evident in liberal, progressive actors. Restraint *amicus curiae* interventions are calling for 'caution in the interpretation of the Convention in deference to national authorities' and tend to 'promote the interests of the state over those of the individual'. Restraint interventions tend to favour the status quo (Bürli 2018, 33). Activist interventions, on the other hand, tend to stress the need for the 'development, advancement, and evolutive interpretation of the Convention' and support mostly individual applicants rather than states. Admittedly, Bürli is cautious in noting that 'some interventions cannot be classified as activist or restraint' and that there are shortcomings in using the dichotomy (Bürli 2018, 37, 38). She mentions that this is a case when two rights directly collide. I will argue below (Section 5) that a grey zone in which restraint or activism is not easily detectable may be of importance (not least in indicating that liberal versus conservative may be, at times, a problematic distinction). I will also argue that the activist dimension may be equally present in claims by conservative third parties.

Turning from ideological and substantive analytical dimensions to the procedures or legal tools used by the third-party interveners, a distinction between liberal and illiberal approaches is equally difficult to point out – or, at least, that a precise difference may be needed for reconsideration and reformulation. The focus here will be on *amicus curiae* interventions, which are, in fact, used by both more liberal and more conservative actors in attempts to influence the judicial process. These actors tend to do so in the name of a public interest that is beyond the specific case at stake. *Amicus curiae* interventions at the ECtHR have been on the increase, but little systematic research on them is available (however, see Bürli 2018; Van den Eynde 2013, 2017). *Amicus curiae* interventions consist of communications to a court made by third parties that are not directly involved in specific cases and do not have a legal interest in the case. Their intention is to provide additional information that is relevant to a case in a more neutral sense, but there is also, clearly, a more partial, ideological dimension in which *amicus curiae* briefs are made to state specific positions in the name of the public interest and with the intention of affecting the final judgment. As Bürli argues, it is not least the ECtHR's quasi-constitutional function that makes it an interesting arena for civil society actors in their mobilisation efforts (Bürli 2018, 21). Rather, she argues that *amicus curiae* interventions have two functions: one is to allow people to co-determine law, and the second, by allowing third parties to intervene, is to make the legal process more legitimate (Bürli 2018, 21).

In strictly legal and procedural terms, by using *amicus curiae* interventions, liberal and non-liberal actors operate in a similar manner and have similar objectives: rights may be considered an international 'master frame', a frame within which the various actors operate but also a frame within which positions shift in relation to specific rights and objectives. Human rights as the core narrative or international 'master frame' forms the basis for the political projects of various actors, some of which pursue broadly liberal goals, while others counter the former's liberal claims and invoke human rights for different purposes. Rights are 'shields' in the protective sense that is predominantly the way in which rights are framed and are also 'weapons' that are used by different actors for different strategic purposes. Bob importantly stresses that rights are 'Janus-faced' and

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'used not only for defensive ends but just as much for aggressive purposes' (Bob 2019, 3). In ideological and moral terms, the positions of liberal and non-liberal actors are often in strong contrast, but on a more abstract level, one might, following Bob's argument on human rights as weapons, identify similar thrusts in the two sides' argumentation (Bob 2019).

Human rights and claims on their basis are hence part of an ongoing societal and political conflict, and competition over rights may involve emancipatory but equally oppressive claims on its basis (Bob 2019, 14). Bob helpfully reminds us that both liberal movements/activists and counter-movements may promote a universalistic and depoliticized understanding of rights. The latter engage in the denial of the liberal hegemony of human rights interpretation (in terms of its neutrality, universality, naturalness and absolutism) and provide rival interpretations of rights, depicting conservative forces as victims of liberal human rights regimes and repudiating authoritative statements of liberal organizations (Bob 2019, 15). In fact, both liberal and illiberal actors make universal claims regarding rights (e.g. the right to life versus the right to bodily autonomy). In other words, as stressed by Bob regarding human rights, legal strategies on both sides entail the use of both 'swords' and 'shields' in an ongoing civil society struggle over the meaning and institutionalisation of specific rights (Bob 2019).

4. (Un-)Civil society and lawfare

Here, our specific focus is on how civil society actors relate to a core domain of liberal democracy – that is, the domain of human rights, forms of legal mobilisation and litigation and, more generally, the role of courts. More particularly, the focus is on the European Court of Human Rights (ECtHR), the most prominent human rights institution in Europe. In the context of the ECtHR, third-party interventions and litigation have been an object of discussion for some time, with much attention paid to various "frontlash"–types of actors, such as women's, migrants, and environmental movements. In recent times, increasing attention has also been paid to the emergence of religious advocacy groups and conservative actors addressing the ECtHR (Cliquennois, 2023; Pastor, 2021). Increasingly, in fact, scholars are analysing civil society actors that do not correspond to a progressive narrative of civil society and that operate in contrast to more established understandings of rights litigation and civil society activism. However, the discussion of legal mobilisation remains somewhat confined to specific legal dimensions and is not always related to the broader and highly prolific debate on populism and right-wing religious conservatism in the political sphere. In this realm, the socio-legal attention given to non-liberal rights' litigators – such as anti-abortion movements – could be more connected to the fact that such actors frequently have close relations to more visible political actors in the form of right-wing, conservative and populist parties (see Curanović 2021; Pastor 2021). The latter also means that the claims made by seemingly marginal or niche actors are, in reality, often claims that represent broader societal and political forces and interests. The dialectic of frontlash and backlash movements hence recognises the distinctive civil society forces that are competing for influence in the legal sphere of human rights adjudication, but this struggle is, at the same time, part of a larger struggle regarding the workings and institutionalisation of democracy. One could say that the civil society struggle involves the conquest of the political centre in the name of specific modern ideological and even fundamentalist positions (see Eisenstadt 1999).

The law and its discursive representation involve a complex plurality of higher principles; such principles are frequently understood as involving universalism (as ultimate moral goods) and the natural/apolitical nature of human rights (human rights as neutral and as intrinsically justice-promoting). However, human rights can equally be understood as including references to specific contexts and as deeply embedded in domestic struggles over the content and interpretation of

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human rights.[5] In fact, law and legal arrangements can be justified by referring to principles of civility but also by referring to specific value communities, to market arrangements, to forms of standard-setting or to common sense.[6]

The plurality of justification that can be forward facing for law and human rights means that the contemporary struggle cannot be approached in purely binary terms. In other words, the dialectic cannot be reduced to emancipatory/frontlash and conservative/backlash positions or to liberalism versus illiberalism. A more complex combination of different principles needs to be analysed in actual political and legal discourses and practices. If we take, for instance, the struggle over the right to abortion, we see that this struggle involves the counterpositioning of the right to abortion versus the right to life as well as to the right to health of the mother versus the right to life of the unborn foetus. In fact, as also stressed by Gloppen, the distinction between civil and uncivil society or frontlash and backlash movements is a difficult and problematic one. As Gloppen claims in the context of the struggle over abortion:

> 'To find adequate and neutral terms to describe the opposing sides is a challenge. "Progressive" and "conservative" are frequently used, and are terms with which the respective groups often self-identify, yet the terminology are sometimes seen as ideologically biased (left leaning). In some contexts, the terms may also seem contradictory, where those seeking to restrict sexual and reproductive rights ("conservatives") are in fact aiming for radical change; while those defending existing sexual and reproductive rights against attack ("progressives"), are status-quo oriented. The terms "Pro"- and "Anti" sexual and reproductive rights (SRR) avoid some of these problems, and are used here. Still, it is not always clear what is the "pro" (rights expanding or "progressive") side, for example on criminalization of sex work and surrogacy. And on selective abortions abortion rights activists often stand against those defending the rights of people with disabilities. In abortion debates, human rights arguments are used by actors on both sides, with "progressives" focussing on the rights of women, with conservatives focusing on the rights of the child-to-be' (Gloppen 2018, 3, fn5).

Hence, the complexity and multi-faceted nature of civil society and legal mobilisational practices needs to be recognized, as, for instance, elaborated in Bob's approach to human rights claims (Bob 2019). In a similar fashion, some authors propose the usage of the concept of 'lawfare' for describing and analysing legalized struggles over the interpretation of human rights (Gloppen 2018, 2021). Both legal mobilisation and lawfare point towards the bottom-up engagement of societal forces with legal instruments. The concept of lawfare seems to particularly, aptly convey how the specific battle over the interpretation of rights is part of a broader societal struggle. Lawfare can further be broken down into a range of activities that civil society actors engage in, such as interventions in the public sphere, advocacy and lobbying, as well as third-party interventions and litigation (see Gloppen 2021).

In the context of lawfare, human rights are part of an ongoing societal and political conflict, and competition over rights involves emancipatory but equally conservative or oppressive claims on its basis (Bob 2019, 14). Various actors involved in lawfare put forward claims that they deem incontestable because of their 'natural, universalistic, and depoliticised nature'. In this, Bob helpfully reminds us that both liberal movements/activists and conservative and religious counter-movements may promote such universalistic and depoliticised understandings of rights.

[5]One politicised example of the latter is the resistance in the UK to external interference into domestic human rights issues, with the Conservative Party denouncing 'mission creep' of the ECtHR in an attempt to 'restore common sense and put Britain first' (Conservative Party 2014, 5). More generally, the embedded/contextualised understanding of human rights is a core dimension in sociological approaches to human rights.

[6]I have analysed conservative actors' legal claims from a pluralistic perspective elsewhere, stressing how such claims involve both strong particularistic and also universalist dimensions (Blokker 2024).

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While Bob focuses in particular on the strategic actions undertaken by a range of actors, my purpose here is to stress and analyse the substance of the rights claims made by conservative movements and organizations. While human rights form the master frame, I will analyse how human rights are framed by such conservative forces in what Bob calls 'rhetorical parries' (Bob 2019, 15). My interest is hence in analysing the discursive claims that conservative actors make when identifying their alternative claims to human rights. In this manner, it will become clear that the liberal/universalist rights strategy is being countered by a set of conservative, illiberal universalist claims. The relationship between conservative, uncivil society forces and human rights should be understood as a dialectic and as part of an intense, ongoing conflict on the nature of rights and the prioritisation of specific rights.

In sum, what so far seems to be missing from the literature on civil society and legal mobilization (see Cliquennois 2023) – and what problematises the account of civil society as a positive democratic actor – is a full comprehension of the relevance and nature of uncivil or illiberal civil society forces. The latter, increasingly discussed in their own right, use the tools of the public civic sphere but do so in a manner that undermines or erodes the open, inclusive and pluralistic nature of the public sphere. In fact, in various cases, 'uncivil society' equally mobilises on the domestic as well as the transnational levels in promoting a conservative, illiberal project. This illustrates the ambiguity of civil society and its paradoxical nature in producing forces that may undermine the fundamentals of civil society as such (Alexander 2021; Eder 2014). The latter can indeed be identified as 'backlash movements', as Alexander argues (2019), in that they move against the progressive, liberal agenda that has become hegemonic in Europe since the late 1960s.

5. Lawfare in practice

The final part of this article will analyse one dimension of this ambiguity – that is, the case of conservative civil society mobilisation at the ECtHR.[7] This analysis uses liberal–legal instruments, such as strategic litigation and *amicus curiae* briefs, for non-liberal purposes. Such conservative legal action by faith-based movements at the ECtHR is on the rise. Pastor notes how, since the end of the 1990s, possibilities for third-party interventions have increased, even if the latter do not have true *locus standi* (Pastor 2021). Bürli (2018) has noted that claims related to faith-based organizations, even if still a minority, have become more prominent at the ECtHR, a trend that resembles the American conservative trend since the 1980s.

Here, I will focus on a conservative 'backlash' Polish movement, that of the nongovernmental, organized civil society foundation or think tank Ordo Iuris (OI) (Blokker 2023; Curanović 2021; Datta 2018; Erk 2022; Kocemba 2023). OI is of significance as a so-called repeat player at the ECtHR. OI' interventions at the ECtHR have not yet been analysed in a systematic manner, and the case of OI will figure here as an example of 'uncivil society' usage of liberal–legal tools at the European level. While OI was a prominent player in supporting the conservative right government of Law and Justice in 2015–2022, it now operates in a post-backlash domestic context.

Faith-based, conservative actors like OI are still in the minority in terms of *amicus curiae* briefs submitted to the ECtHR, as the larger part of such briefs are submitted by liberal organizations (Bürli 2018, 21).[8] Nonetheless, as noted, conservative interventions have been increasing notably (Pastor 2021). OI is an interesting and significant case because, as a civil society actor, its actions are not confined to the Polish context but rather are defined by a consistent international set of activities (Curanović 2021). In fact, it is well-embedded in international networks of the Global Right. In this way, OI stands out as a European domestic actor, whereas the majority of

[7]For an extensive discussion of the legal mobilisation of conservative right-wing actors at the ECtHR, see Cliquennois et al (2024) in this Special Issue.

[8]In one passage, Bürli mentions twenty-six interventions (fn85, 2018: 33); in another, she mentions 50 out of the 518 interventions (10%) (fn106, 2018: 35).

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conservative claims are made by conservative organizations with US roots: for example, the European Center for Law and Justice and the Alliance Defending Freedom (Pastor 2021).[9] OI endorses a specific politico-religious programme. Its divergent actions are in line with its mission to promote a specific view of the good life beyond the borders of Poland. The latter is further emphasised by its drafting of a 'Convention on the Rights of the Family' (Curanović 2021; Erk 2022) and the publication of a report on 'Why do we need sovereignty?' in the light of the European Parliament's call for Treaty change in 2024. As a foundation, OI became increasingly linked with the conservative, right-wing Law and Justice (PiS) government (2015–2023), but OI emerged independently in 2013. It is linked to the Latin American fundamentalist network Tradition, Family, Property (TFP), and it has helped to expand this network in Eastern–Central Europe. OI is perceived to bes a 'politically very powerful Catholic player' (Hennig 2023, 87), while according to another observer, OI is an 'extremist religious organisation' (Datta 2018, 1). In Bürli's terms, OI is a 'repeat player' in relation to its activities at the ECtHR as well as at other European and international institutions (recently, a New York, UN-related office was opened).

OI can be seen as part of the Global Conservative Right, which seeks to influence politics by means of lobbying, consultancy, engaging in other political activities but most importantly, through engaging in forms of what may be called 'lawfare from below' – that is, 'the strategic use of rights, law and litigation by actors of different breeds to advance contested political and social goals' (Gloppen 2018). OI's actions have had a significant effect in various political and legal domains, such as promoting anti-abortion legislation, advising Polish authorities to leave the Istanbul Convention on violence against women and contributing to legislation with the aim to criminalise sex education.

There are roughly four main areas in which OI is active in terms of interventions at the ECtHR: (1) Right to family parental authority; (2) Sexual/gender identity; (3) Reproductive practices; and (4) Freedom of expression.[10] These areas can be seen as informing deep ideological contestation (Bürli 2018). These areas could also be seen as 'fields of tensions', which indicate a division between liberal civil society actors on the one hand and conservative–religious actors on the other hand. In Table 1, I distinguish between liberal and illiberal or conservative positions.

A general view of liberal human rights interventions regards these interventions as promoting individuals' rights versus upholding state authorities' requirements and displays an activist approach (as indicated by Bürli, 2018), with the general intent of expanding the reach of the European Convention based on a universalistic reading of human rights.

In contrast, conservative religious interventions stress the importance of a particularist value community, defend state authorities (Pastor 2021), display restraint in interventions and attempt to limit the impact of the Convention. As I have argued above, however, the clear-cut binary distinction does not necessarily reflect the complex and variegated situation on the ground. The grey zone indicates – as is also acknowledged by Bürli – an area in which a clear distinction cannot easily be made and in which positions are more ambivalent. In addition, the binary distinction does not apply in that conservative actors also engage in approaches that may be defined as activist and universalistic in their intent.

Below, various OI interventions will be discussed in terms of specific human rights positions (in relation to the four areas) as well as contrasted with the positions of other third-party actors. It will become clear that the use of *amicus curiae* briefs by OI is not merely about interventions that seek to provide more comprehensive information to the Court in order to allow judgments to be more

[9]For a discussion of right-wing legal mobilization in the US and its relation to the European conservative right, see Southworth (2024) in this Special Issue.

[10]Pastor, while discussing the interventions of religious NGOs as third parties at the ECtHR, identifies five similar areas: (1) religious factors; (2 family and private life (abortion, procreation technologies, gender identity and same-sex couples); (3) autonomy of religious groups and individual religious freedom; (4) freedom of expression; and (5) religion-based refugee claims (Pastor 2021, 1344).

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Table 1. Liberal and illiberal civil society interventions

Liberal Civil Society	Grey Zone	Illiberal Civil Society
Individual rights		Priority collective
Defending applicant		Defending state
Activism		Restraint
Expanding reach Convention		Limiting reach Convention
Universalism		Particularism

Source: Author's investigations.

informed. Rather, OI's *amicus curiae* briefs are part of an obviously political project in which, as Clifford Bob argues, rights are used as weapons. Indeed, these rights take the form of 'weapons of political conflict' (Bob 2019, 13) in which the *amicus curiae* interventions turn into vehicles of ideological positions on rights.

In the discussion of some of the third-party interventions (for an overview of all these cases and interventions, see Annex I), it will become clear that restraint is an evident orientation in some of OI's *amicus curiae* briefs but not in all of them. This means that in some cases, it is difficult to clearly label the orientation of an intervention (i.e. the 'grey zone'). In other cases, following Burli's as well as Bob's approaches, it may be argued that OI engages in some form of activism and endorses a type of universalism or, perhaps more accurately, a 'particularist universalism'. Michael Walzer identifies two types of universalism: the first type emphasises 'one law, one justice, on a correct understanding of the good life'; the second type, a reiterative or particularist form, emphasises that 'liberation is a particular experience, repeated for each oppressed people' (Walzer 1989, 513). I suggest that the notion of particularist universalism is relevant for conservative religious claims but understand it in a slightly different manner than Walzer does. Particularist universalism in such claims goes beyond singular societies by stressing that distinctive societies (with a conservative religious majority) interpret values differently. This observation - that conservative societies have particular experiences - may be the basis for the argument for restraint and the claim that states need to decide for themselves on conflictive issues such as abortion. The argument is particularist because it stresses the priority of a specific community's interpretation over a general, universal interpretation of human rights, but it is also universalist because it stresses a common position and experience across national conservative religious communities. Admittedly, the particularist universalism position may flow into a more straightforward universalist position when the argument is made that the conservative religious interpretations of rights ought to prevail everywhere.

5.1 Restraint

Restraint is evident amongst others in cases regarding parental authority in relation to 'rainbow families', such as in *X v. Poland* (judgment of 16 September 2021, 20741/10). In the third-party interventions in this case, ILGA – the umbrella organization of lesbian, gay, bisexual, and transgender associations – argued against the discrimination of rainbow families and LGBTIQ persons. ILGA emphasises the problem of discrimination of individuals on the basis of sexual orientation and stresses the right of children to equal access without discrimination based on sexual orientation. In contrast, OI stressed that parental authority should be exercised in order to ensure the child's best interests as well as the best interests of society as a whole. It stressed the role of national (Polish) courts and defended the Polish authorities and the Polish law on the matter. It thus contextualised individual rights (the child's rights as well as the parents' rights to parental authority) in relation to 'the best interest of the whole society'.

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In a case on surrogacy and stepchild adoption, *KK and others v. Denmark* (judgment of 6 December 2022, 25212/21), OI provided an overview of surrogacy agreements regarding European and international law and the practice in other countries. OI took a restraining position by arguing that 'if the Convention did not guarantee a "right to surrogacy", it must be assumed that it did not guarantee "a right to recognise the effects of surrogacy" either', hence endorsing a restrictive interpretation of the Convention.

In a case on euthanasia, *Mortier v. Belgium* (judgment of 4 October 2022, 78017/17), OI claimed that two distinct issues with regard to Article 2 of the Convention were of concern. First, it questioned the conformity of legalising euthanasia with the Convention or its 'conventionality', emphasising the obligation of states to protect human life. Second, OI raised a concern regarding the safeguards that are to be provided by national authorities to protect individuals, claiming that not all individuals can be deemed to have the capacity to give consent for euthanasia. OI argued that the exceptions to Article 2 need to be applied strictly and that states cannot be exempted from the obligation to protect human life. It also argued against a broad interpretation of Article 2 and stressed the role of states in defining the criteria for evaluating the capacity of individuals to give consent for medical treatment. In addition, OI stressed the common good and the collective dimensions of decisions of euthanasia: 'The legality of the intentional killing of patients (even at their own request) is incompatible with the right of everyone to life, regardless of their state of health. . . . [T]he decision to take one's own life is not a strictly private matter, because the death of a loved one has a huge impact on the patient's family members. The family should at least have a guaranteed right to say goodbye to a loved one'.[11]

Also, in other interventions, OI articulates forms of restraint in interpreting the Convention. In *D.B. and others v. Switzerland* (judgment 22 November 2022, 58817/15 58252/15), a case on surrogacy and parenthood, OI stresses the lack of consensus among Member States on the legality of surrogacy and stresses the need for a wide margin of discretion for states. In *Association Accept and Others v. Romania* (judgment 1 June 2021, 19237/16), a case of discrimination in relation to sexual orientation, OI called for caution in interpreting acts of ill-treatment in cases of state custody that violate Article 3 of the Convention as requiring a criminal response and stressed that the burden of proof lies with applicants. In *Buhuceanu and others v. Romania* (judgment of 23 May 2023, 20081/19 and others), a case on private and family life and same-sex couples, OI stressed a relative margin of appreciation of states with regard to the legal recognition of same-sex unions. OI further stressed that data show that people in Eastern Europe are less tolerant towards homosexuality and same-sex unions, thus stressing the significance of societal context.

5.2 Grey zone

A more ambiguous stance is taken in *Rabczewska v. Poland* (judgment of 15 September 2022, 8257/13), a case on freedom of expression. The applicant, a popular singer known as Doda, has alluded to the Bible in an interview as the 'writings of someone wasted from drinking wine and smoking some weed' (*Rabczewska v. Poland*, 2). Here, OI emphasised that Article 10 of the Convention includes duties and obligations and that there is the 'obligation to avoid expressions that were gratuitously offensive to others, infringing their rights and not contributing to public debate' (*Rabczewska v. Poland*, 17). It moreover found that 'it was not possible to discern throughout Europe a uniform conception of the significance of religion in society' and thus stressed that states have a wide margin of possibilities regarding interfering. It further noted that 'in Poland . . . [t]he vast majority of Poles believes in God, and some 60% believed that the Bible was the "word of God"' (*Rabczewska v. Poland*, 17–18).

[11]See https://en.ordoiuris.pl/life-protection/european-court-human-rights-64-year-old-woman-euthanasia-due-depression-allowed. OI's emphasis on the impact on and role of the family is approvingly referred to in the dissenting opinion of Judge Elósegui.

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In the judgment, the intervention by OI is preceded by the *amicus* of Article 19, an international human rights organization, which argued that the protection of the feelings of believers through criminal law should not occur in cases in which no incitement to discrimination or violence is evident. Article 19 indicated a link with blasphemy, stressing that the criminalisation of religious insult may be disproportionate and that penalisation should be pursued only in cases of clear disturbance of public order or incitement to violence (*Rabczewska v. Poland*, 17).

5.3 Activism

In *Rabczewska v. Poland*, OI behaved as a representative not only of the Polish Christian community but also of the ecumenical community as such. It sought to defend the right to freedom of expression in relation to what it perceived as key battles for the Christian community, such as the right to life and a radical anti-abortion position, while calling for the protection of this community in the face of critical expressions and ridicule, not least by pointing to the rights of local religious communities. There is here an allusion to rights as a shield or defence by, for instance, alluding to particularism and domestic self-rule (as expressed by the principle of 'margin of appreciation'), deviating from universalistic norms and denying their universalist relevance. However, there is also an indication of rights as a weapon, endorsing a form of particularist universalism. This particularist universalism stance stressed that the more religious a society is, the more its domestic laws should protect religious communities from offensive statements and also safeguard their own freedom of expression. As the judgment relates: 'Ordo Iuris noted that statistics showed that Poland was one of the most religious countries in Europe. The vast majority of Poles believed in God, and some 60% believed that the Bible was the "word of God"'. The more religious the society was, the more pressing the need could be to establish some form of liability for gratuitously offensive statements that insulted other people's feelings (*Rabczewska v. Poland*, 18).

This latter position becomes more evident in another case on freedom of expression, *Annen v. Germany* (judgment of 20 September 2018, 70693/11). This is a case involving an anti-abortion activist who, on his anti-abortion website, identified abortion as a 'modern democratic offence' and said that the 'Babycaust can be compared to the Holocaust' and that 'abortion is murder' (*Annen v. Germany* 2010, 3). OI in its *amicus* intervention argued in favour of the right to freedom of expression that protects 'ideas that insult, shock or disrupt' (*Annen v. Germany* 2010, 9). OI argued that the ECtHR might follow the Polish courts, which allegedly allow for comparisons between abortion and genocide to be accepted in the case of anti-abortion campaigns (*Annen v. Germany*, 9). OI's position is preceded by the intervention of another conservative religious organization, the Alliance Defending Freedom International. ADF International claimed that because abortion invokes 'moral and ethical questions of public interest', limitations on specific statements regarding abortion in the public sphere should occur only in 'extraordinary circumstances' (*Annen v. Germany*, 9). If in *Rabczewska v. Poland*, OI claimed that Polish authorities have the right to protect the religious community for particularist, contextual reasons, in *Annen v. Germany* it called the same Polish authorities to understand the right to freedom of expression as guaranteed in Article 10 of the Convention in a broad, expansive manner. Hence, it displays a certain activism in calling for a generous, relatively unrestricted application of Article 10.

A form of activism is even more upfront in *Cupial v. Poland* (judgment of 9 March 2023, 67414/11), a case regarding the alleged breach of the right to a fair trial (in relation to the assessment of evidence by the Polish court) and the limits to the interference of states in private life regarding religious convictions. The case regards the criminal conviction of the applicant for psychological abuse of his children, subjecting them to allegedly excessive religious practices (*Cupial v. Poland*, 1). OI emphasised the fact that the Polish Constitution and the Polish Family and Custody Code protect the right to raise children according to the parents' beliefs. It might, however, be advisable to read OI's intervention together with the one preceding it by the Alliance

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Defending Freedom International (ADF). OI has been collaborating with ADF since its creation.[12] The latter stressed the need for a clear application of the Convention's Article 9 in relation to parents' rights as well as Article 8 of the Convention in relation to interference with family life. In fact, this argumentation indicates an activist rather than a restraining approach. Even if OI does not make this point explicitly, its own intervention is complementing AFD's, which is another faith-based third party.

In fact, in the case *A.L. and other v. Norway* (judgment of 20 January 2021, 45889/18), on family life and contact rights, OI intervened, arguing that 'under Art. 8 of the Convention, the parents who have been temporarily deprived of their child due to insufficient upbringing skills, are entitled to the "right to a second chance"'. This was the situation of the applicants in this case, who most likely committed minor negligence in taking care of their daughter, but for seven years, they had shown determination in seeking to regain her, fighting for her before offices and courts. However, they were not given a second chance – that is, the opportunity to prove that they had become better caregivers than they were before'.[13] Here, OI took an activist stance in endorsing a generous interpretation of Article 8 and suggesting how to interpret and better apply Article 8 in relation to parents' rights against the Norwegian state.

In sum, in general, conservative-religious third parties tend to take an approach of restraint towards human rights interpretation in the context of the ECHR, arguing against transgression. In fact, Bürli 2018 identifies restraint interventions purely with faith-based actors and churches (2018, 33). In the case of OI, an important representative of faith-based third parties, not least due to its extensive connections with European faith-based organizations as well as its consistent international action, restraint is an important objective. However, as I have indicated above, in relation to cases in the 'grey zone' and distinctive forms of activism, Ordo Iuris also engages in a more activist endorsement of a specific politico-religious programme. Its interventions are clearly in line with its mission to promote a specific view of the good life, also beyond the borders of Poland.

6. Concluding remarks

The implicit or explicit normative dimensions of civil society and legal mobilization are in need of re-assessment, not least due to the evermore visible societal and legal actions of actors and parties that may be labelled conservative, faith-based, or illiberal. The general assumption that the 'forum' of civil society functions as a counterforce to the abuse of power by state authorities or market actors needs to be re-assessed in a critical, realist manner. Civil society does not necessarily produce 'civility'. Moreover, in the case of legal mobilization and rights claims endorsed by civil society actors, a simplified, progressivist narrative of human rights is best abandoned in favour of a more complex and ambivalent or polyvalent understanding of the role of rights in processes of emancipation, democratization, and inclusion.

The brief discussion of one conservative civil society actor, Ordo Iuris, and its application of a specific 'liberal-–legal' tool, that of *amicus curiae* interventions in relation to the European Court of Human Rights, was intended to show that, first, such liberal-legal tools are not necessarily used for liberal-ideological purposes (and it would be very difficult to perceive a democratic way by which to restrict the use of such tools for liberal purposes only). Second, the discussion of some of Ordo Iuris' interventions in substantive terms indicates a prominent orientation towards restraint in claiming the limited reach of the Convention and the prioritization of domestic law and actors. In other cases, however, we also observe other dimensions, that is, that of a more ambivalent

[12]See https://vsquare.org/ordo-iuris-and-a-global-web-of-ultra-conservative-organisations/.

[13]See https://en.ordoiuris.pl/family-and-marriage/parents-whose-child-has-been-taken-away-are-entitled-second-chance-ecthr-side.

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orientation towards rights and the upholding of specific rights in relation to the Convention, as well as more activist positions.

The analytical idea that one can neatly distinguish between pro-liberal, democratic forces and illiberal, anti-democratic ones seems in contrast to the reality of legal mobilization. This ambivalence points to the need for a systematic assessment of the strategies and normative positions in conservative lawfare. Such an analysis helps to frame and scrutinize the counternarratives and alternative universalisms that compete with the dominant liberal paradigm of the post-Second World War era and that seem to have become more prominent in recent years. A critical and multi-faceted approach aids in gauging the dialectical, conflictive, and always fragile nature of civil society and of legal mobilization emerging from it. In this, the great difficulty of preserving and guaranteeing an open civil space for plural expressions of the public good becomes evident, arguably one of the most brittle and, at the same time, crucial components of modern democracy.

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Annex 1: *Amicus curiae* submissions by Ordo Iuris to the European Court of Human Rights

Case	Details	Subject
ȚÎMPĂU v. ROMANIA	70267/17 Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 05/12/2023	Private life; access to justice
WUNDERLICH v. GERMANY	18925/15 Judgment (Merits and Just Satisfaction) Court (Fifth Section) 10/01/2019	Parental authority; right to family life
VALDÍS FJÖLNISDÓTTIR AND OTHERS v. ICELAND	71552/17 | Judgment (Merits and Just Satisfaction) | Court (Third Section) | 18/05/2021	Non-recognition of a parent–child relationship; gestational surrogacy
ANNEN v. GERMANY (No. 5)	70693/11 | Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 20/09/2018	Abortion
MAYMULAKHIN AND MARKIV v. UKRAINE	75135/14 | Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 01/06/2023	Same-sex marriage
E.M. AND OTHERS v. NORWAY	53471/17 | Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 20/01/2022	Parental authority
M.L. v. NORWAY	64639/16 Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 22/12/2020	Respect for family life; parental responsibilities
A.L. AND OTHERS v. NORWAY	45889/18 Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 20/01/2022	Family life; parents' contact rights
R.K. v. HUNGARY	54006/20 | Judgment (Merits and Just Satisfaction) | Court (First Section) | 22/06/2023	Gender identity
RABCZEWSKA v. POLAND	8257/13 | Judgment (Merits and Just Satisfaction) | Court (First Section) | 15/09/2022	Freedom of expression
LIA v. MALTA	8709/20 | Judgment (Merits and Just Satisfaction) | Court (First Section) | 05/05/2022	Private and family life; in vitro fertilisation
CUPIAŁ v. POLAND	67414/11 Judgment (Merits and Just Satisfaction) | Court (First Section) | 09/03/2023	Fair hearing/right to fair trial; religious convictions
AFFAIRE KOILOVA ET BABULKOVA v. BULGARIE	40209/20 | Judgment (Merits and Just Satisfaction) | Court (Third Section) | 05/09/2023	Private and family life; recognition of same-sex couples
DZERKORASHVILI AND OTHERS v. GEORGIA	70572/16 | Judgment (Merits and Just Satisfaction) | Court (Fifth Section) | 02/03/2023	Deprivation of liberty
LINGS v. DENMARK	15136/20 | Judgment (Merits and Just Satisfaction) | Court (Second Section) | 12/04/2022	Freedom of expression; euthanasia

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Case	Details	Subject
A.H. AND OTHERS v. GERMANY	7246/20 | Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 04/04/2023	Parental authority; gender identity
X v. POLAND	20741/10 | Judgment (Merits and Just Satisfaction) | Court (First Section) | 16/09/2021	Family life; parental authority
AFFAIRE MORTIER c. BELGIQUE	78017/17 Judgment (Merits and Just Satisfaction) | Court (Third Section) | 04/10/2022	Euthanasia
O.H. AND G.H. v. GERMANY	53568/18 54741/18 | Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 04/04/2023	Gender identity; private life
A.H. ET AUTRES v. ALLEMAGNE	7246/20 Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 04/04/2023	Gender identity; private life
M.A.M. v. SUISSE	29836/20 | Judgment (Merits and Just Satisfaction) | Court (Third Section) | 26/04/2022	Expulsion; right to life
K.K. AND OTHERS v. DENMARK	25212/21 | | Judgment (Merits and Just Satisfaction) | Court (Second Section) | 06/12/2022	Family life; surrogacy; adoption
G.M. AND OTHERS v. THE REPUBLIC OF MOLDOVA	44394/15 | Judgment (Merits and Just Satisfaction) | Court (Second Section) | 22/11/2022	Abortion
D.B. ET AUTRES v. SUISSE	58817/15 58252/15 | | Judgment (Merits and Just Satisfaction) | Court (Third Section) | 22/11/2022	Surrogacy; family life
ASSOCIATION ACCEPT AND OTHERS v. ROMANIA	19237/16 | | Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 01/06/2021	Discrimination on basis of sexual orientation
BUHUCEANU AND OTHERS v. ROMANIA	20081/19 and others | Judgment (Merits and Just Satisfaction) | Court (Fourth Section) | 23/05/2023	Private and family life; same-sex couples

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