

The European Human Rights System and its influence

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**Law and Politics of
Transnational Justice:
The Past, Present and
Future of International
Criminal Justice**

**University of Zagreb
International Spring Course
Dubrovnik
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I. Introduction



❖ ICTY
❖ ICTR } *ad hoc* criminal Tribunals of the UN

❖ Sierra Leone
❖ Cambodia
❖ East Timor } regional mixed international Tribunals

❖ ICC

❖ ICJ

❖ ECHR / IACHR / AfCHPR

II. Development



European Convention on Human Rights

—> international treaty, opened for signature 1950, entered in force 1953

- ❖ Fair trial (Art. 6 ECHR)
- ❖ No punishment without law (Art. 7 ECHR)
- ❖ Right to respect for private and family life (Art. 8 ECHR)
- ❖ Freedom of thought, conscience and religion (Art. 9 ECHR)
- ❖ Freedom of expression (Art. 10 ECHR)
- ❖ Freedom of assembly and association (Art. 11 ECHR)
- ❖ Right to marry (Art. 12 ECHR)
- ❖ Right to an effective remedy (Art. 13 ECHR)
- ❖ Prohibition of discrimination (Art. 14 ECHR)

II. Development



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14 Additional Protocols

- ❖ Protection of property
- ❖ Right to education
- ❖ Right to free elections
- ❖ Prohibition of imprisonment for debt
- ❖ Freedom of movement
- ❖ Prohibition of expulsion of nationals
- ❖ Prohibition of collective expulsion of aliens
- ❖ Abolition of the death penalty
- ❖ Right of appeal in criminal matters
- ❖ Compensation for wrongful conviction
- ❖ Right not to be tried or punished twice
- ❖ Equality between spouses
- ❖ General prohibition of discrimination

II. Development



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- ❖ **European Commission of Human Rights**
——> set up in 1954
- ❖ **European Court of Human Rights**
——> set up in 1959
- ❖ **Committee of Ministers of the Council of Europe**

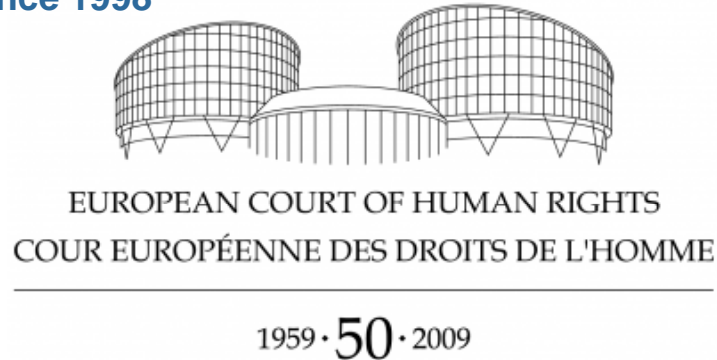
II. Development



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❖ European Court of Human Rights

→ full time court since 1998



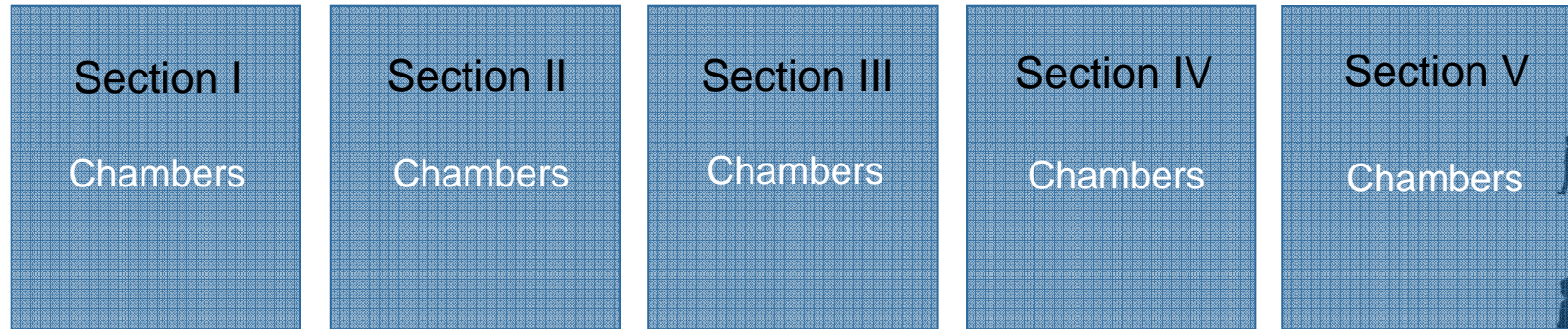
❖ Committee of Ministers of the Council of Europe

III. Current problems



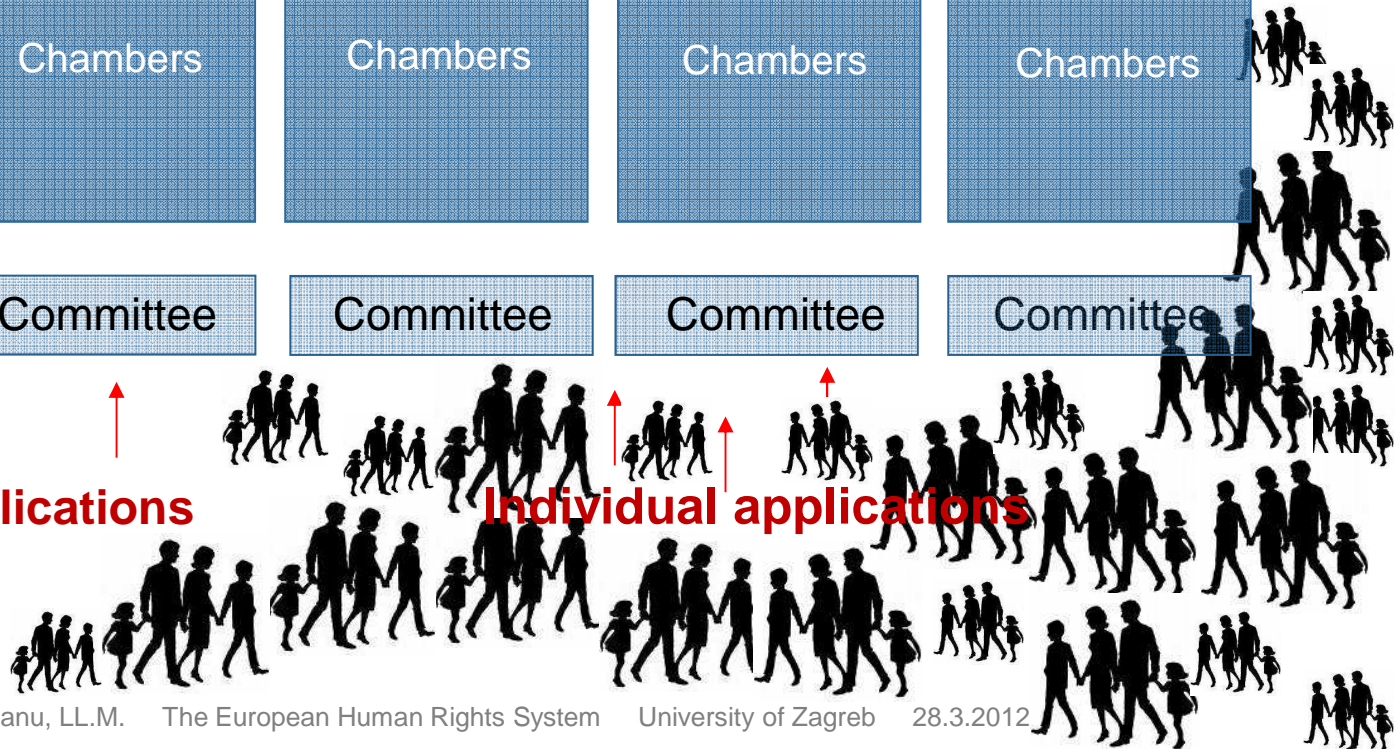
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Grand Chamber



↑ ↑ ↑
Inter-State applications

↑ ↑ ↑
Individual applications



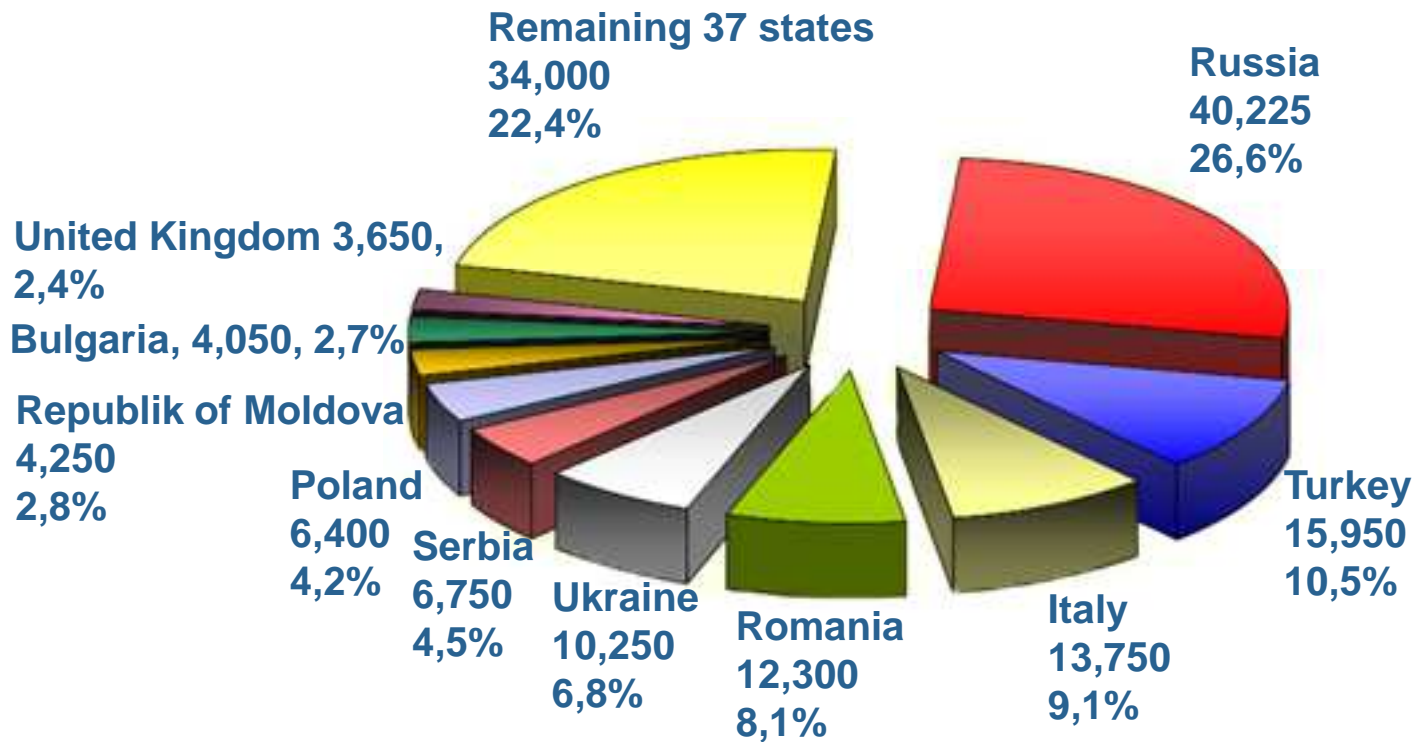
III. Current problems



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- ❖ 2011 → 64,500 new applications with the Court
- ❖ 2011 → Court managed to handle 52,188 applications
- ❖ 2011 → 151,600 allocated applications pending before the Court

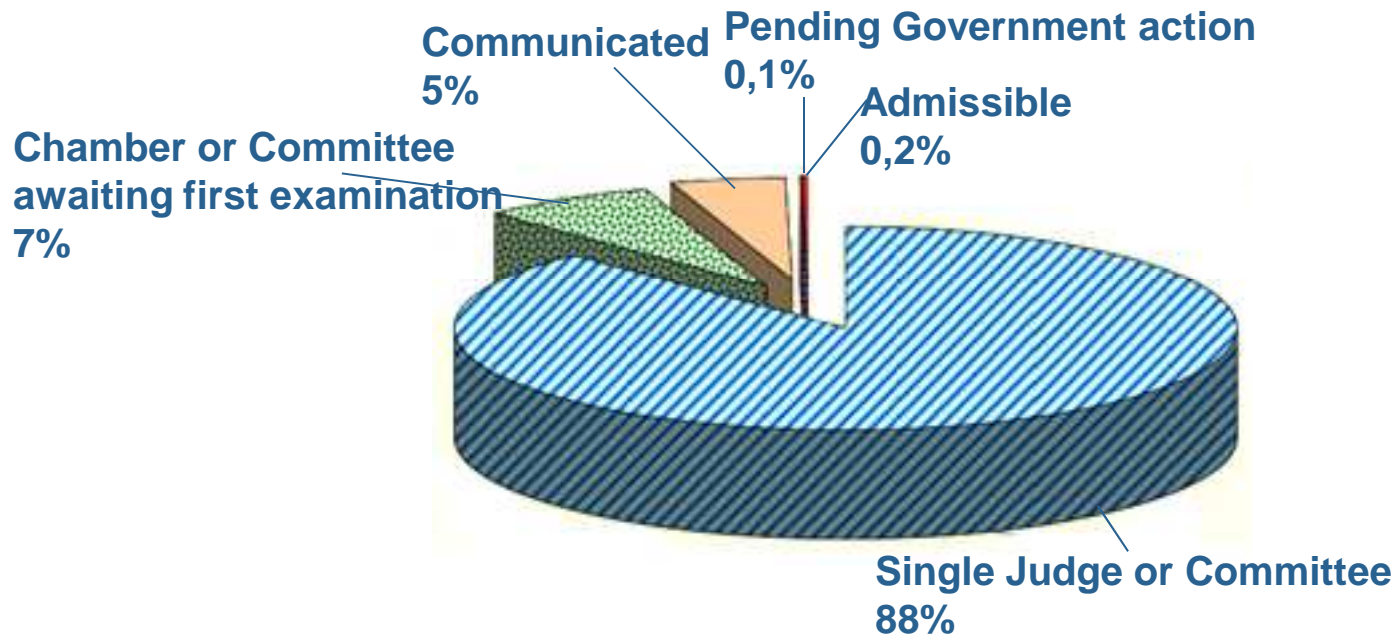
III. Current problems



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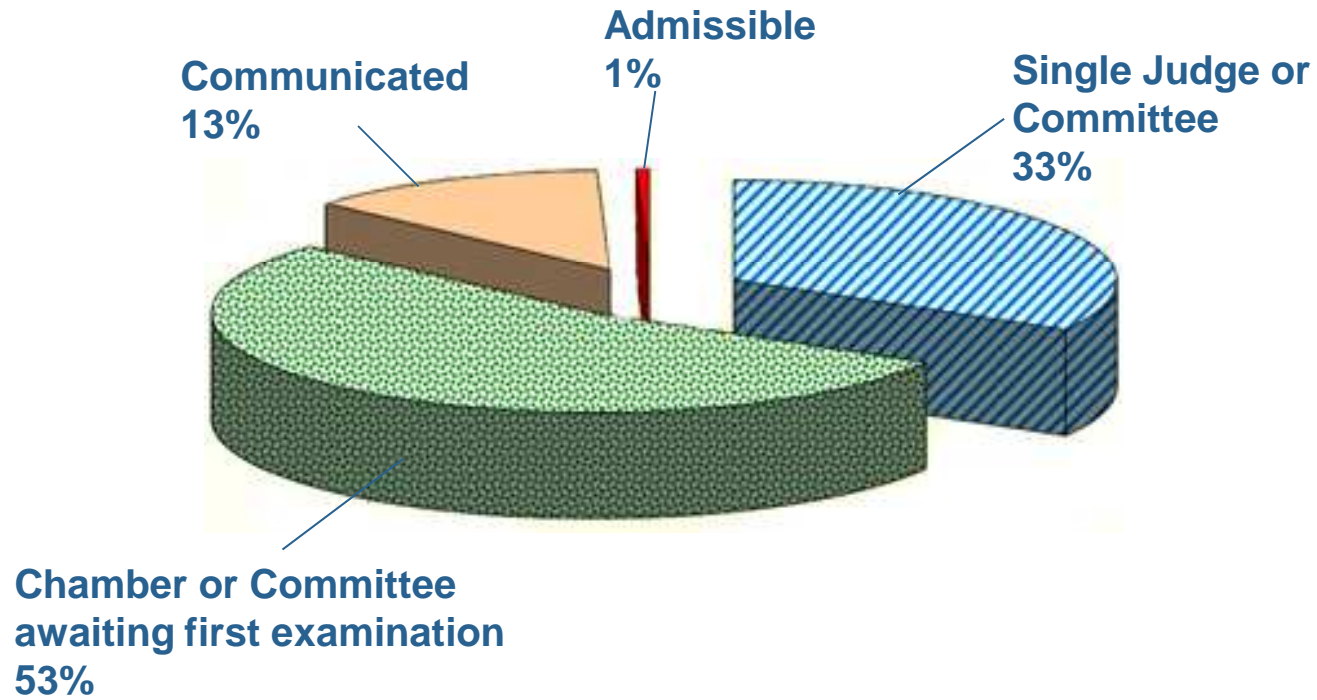
Russia: total applications 40,225



III. Current problems



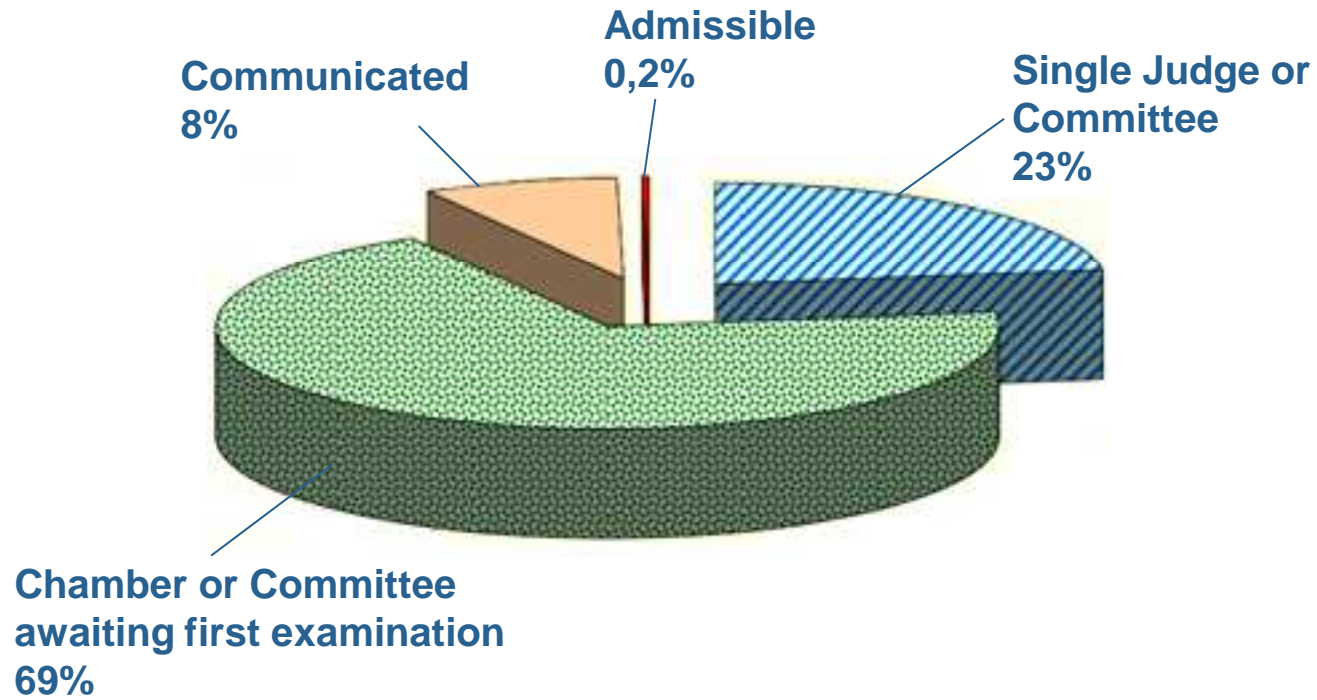
Turkey: total applications 15,950



III. Current problems



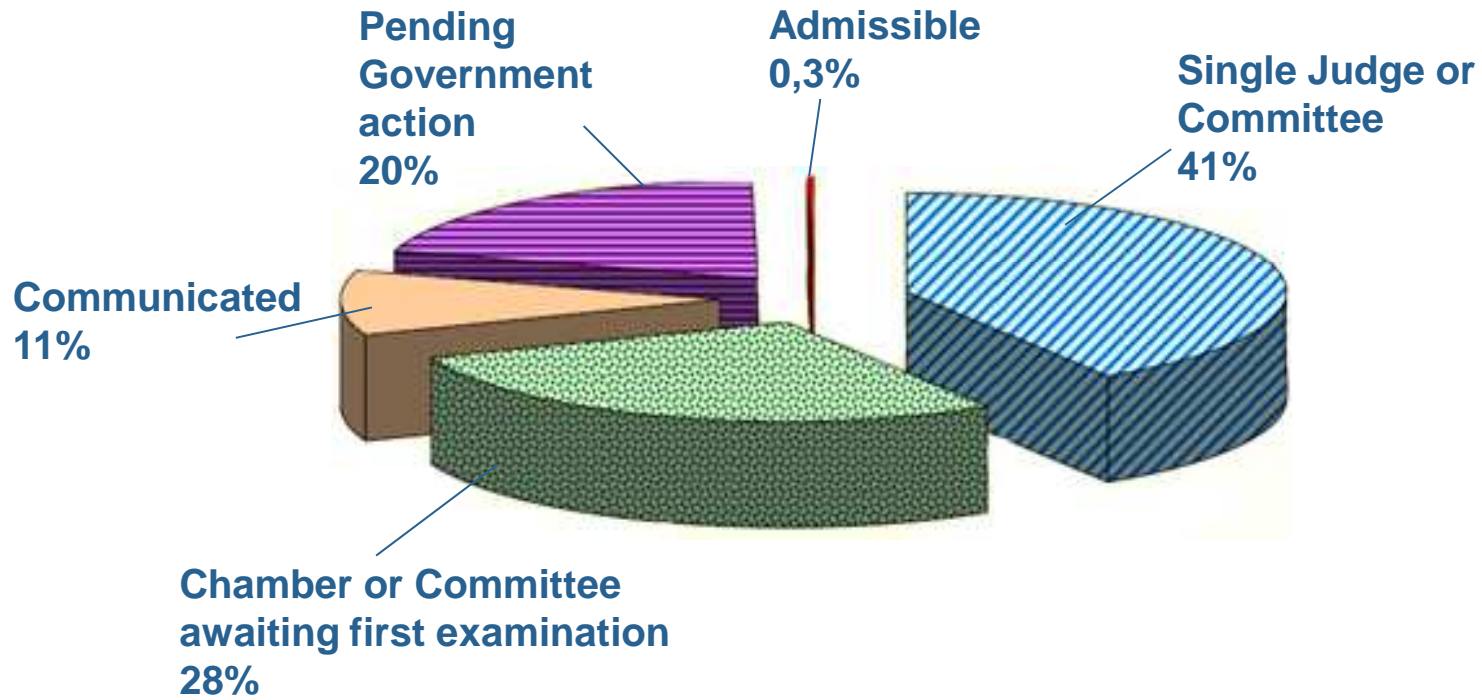
Italy: total applications 13,750



III. Current problems



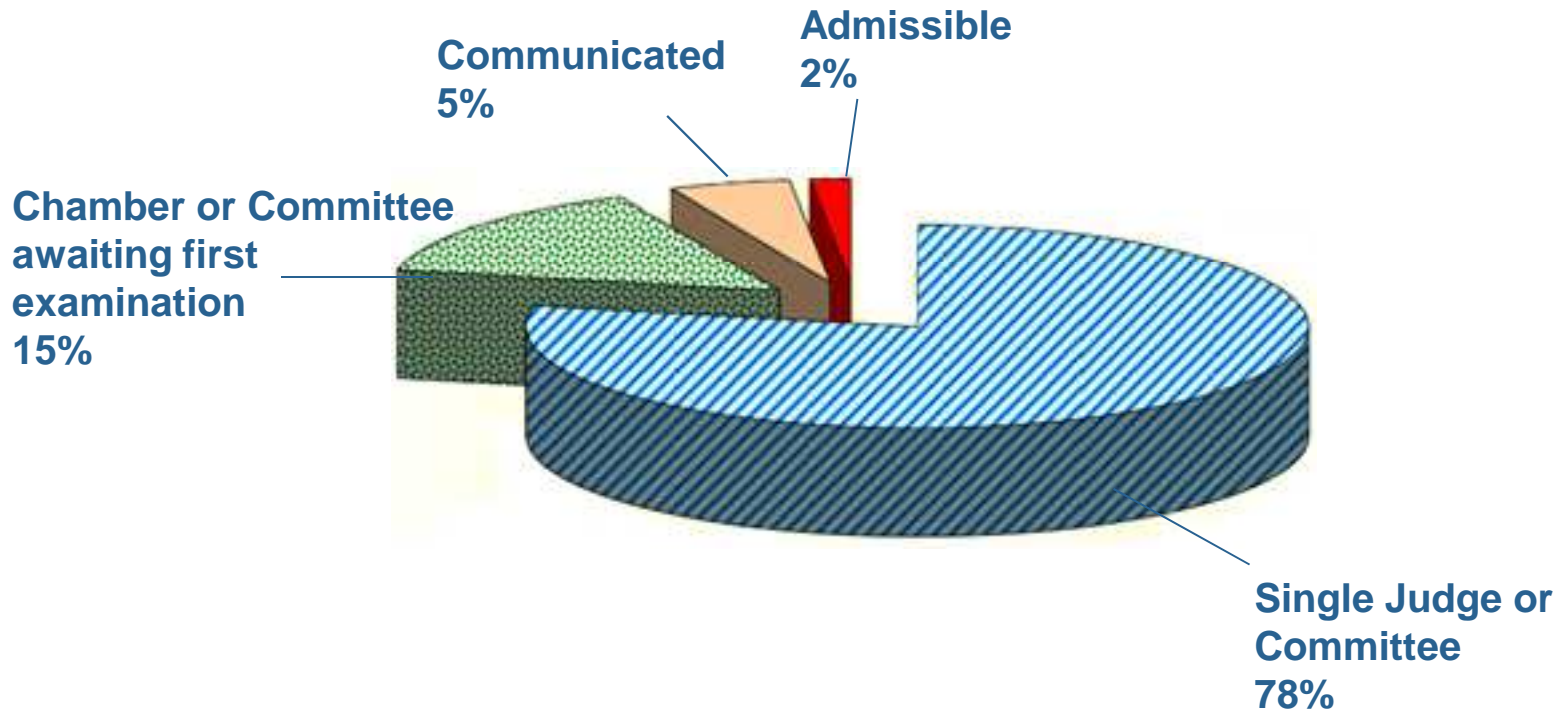
Romania: total applications 12,300



III. Current problems



Croatia: total applications 1,752



IV. Main reforms



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- ❖ **Protocol no. 14**
- ❖ **Lord Woolf Report**
- ❖ **Wise Persons' Report**

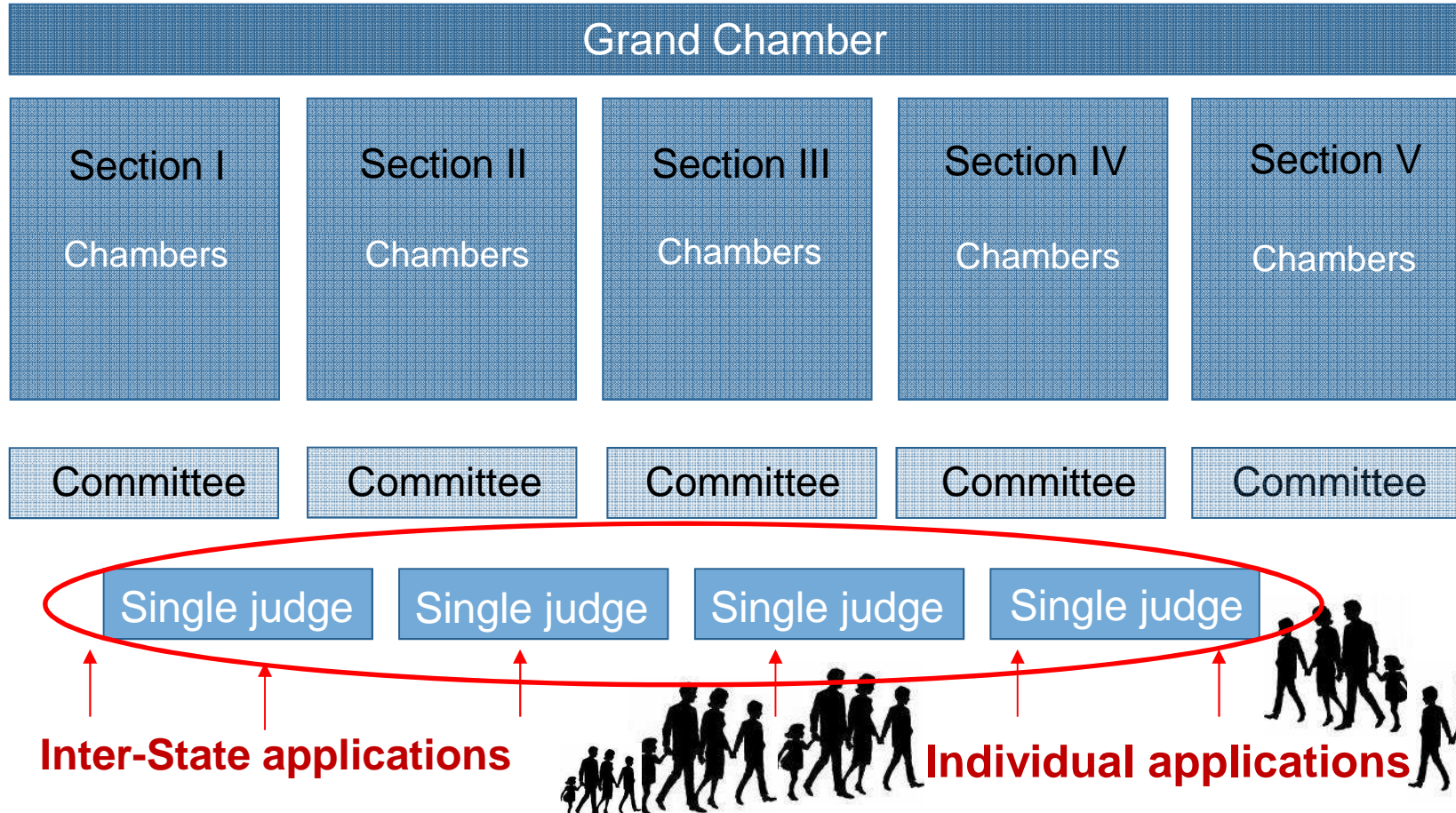
IV. Main reforms



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Protocol no. 14



IV. Main reforms



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COUR EUROPÉENNE DES DROITS DE L'HOMME



Protocol no. 14

- ❖ **new ground of inadmissibility**
—————> **significant disadvantage**

Art. 35 ECHR:

[...]

3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:

(a) [...]

(b) the applicant has not suffered a *significant disadvantage*, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.

IV. Main reforms



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Lord Woolf Report: recommendations

- ❖ **Redefinition of an application**
- ❖ **Satellite Offices of the Registry**
- ❖ **National Ombudsmen**
- ❖ **Pilot Judgments**
- ❖ **Deputy Registrar for Management**
- ❖ **Central Training Unit for lawyers**
- ❖ **Formal induction programme for new judges and intensive language course**

IV. Main reforms



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Wise Persons' Report: recommendations

- ❖ **Judicial filtering body**
- ❖ **Human Rights training for national judges**
- ❖ **Improvement of domestic remedies**
- ❖ **Pilot judgments**
- ❖ **Friendly settlements and mediation procedures**

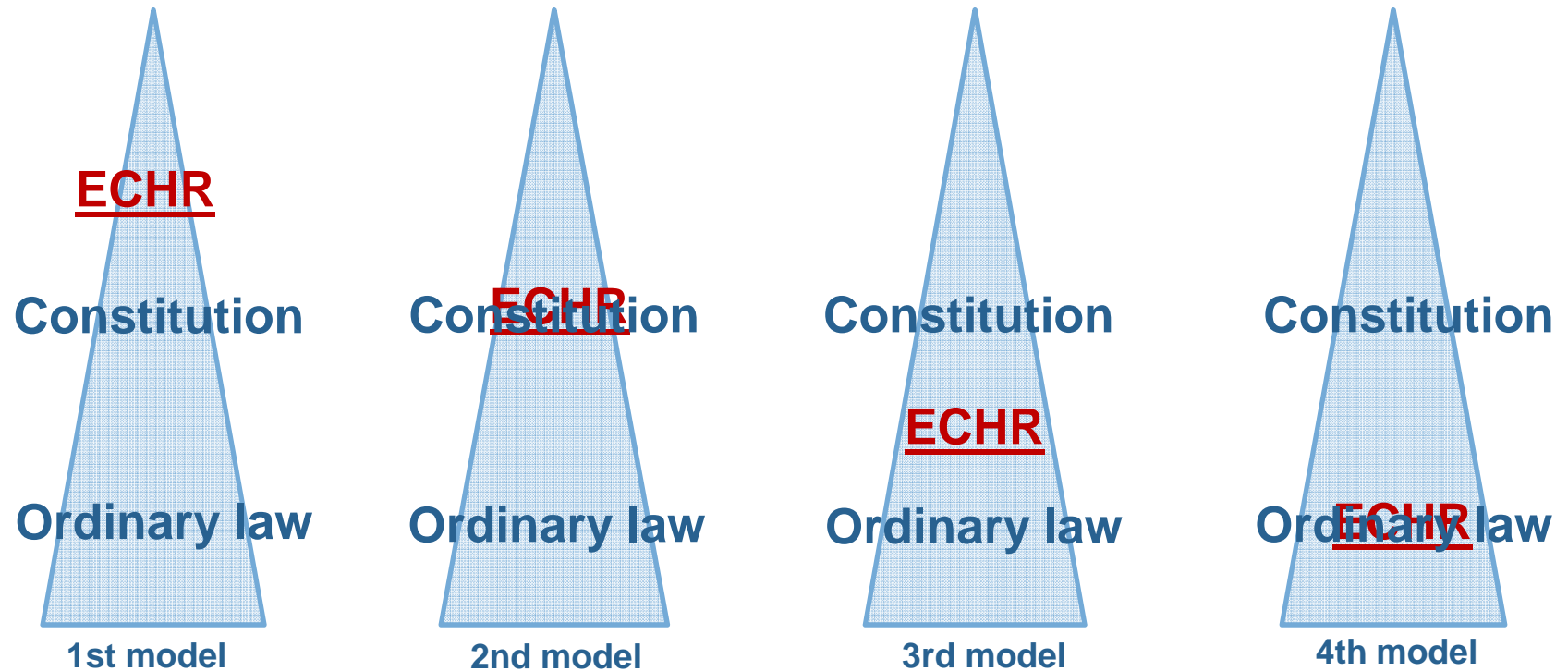
V. Impact on national law



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V. Impact on national law



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- ❖ **National judges have to take into consideration the judgments of the ECHR**
- ❖ **National public authorities have to recognize and give full effect to Convention rights**
- ❖ **Judgments of the ECHR give an impuls to the national legislative authorities**

VI. Concluding remarks



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❖ Fundamental reforms

❖ Number of judges and scientific staff have to be increased significantly



❖ Mandatory human rights attorney

❖ Funds have to be increased significantly

Thank you for your attention!



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