



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



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**Regular Selective Information Flow  
from  
the Office of the Commissioner  
to  
the Contact Persons of the NHRs**

**Issue n°2  
covering the period from 15 to 28 September 2008**

*The selection of the information contained on this Issue and deemed relevant to NHRs is made under the responsibility of the NHRs Unit and the Legal Advice Unit of the Office of the Commissioner.*

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## **Introduction**

This issue is part of the "Regular Selective Information Flow" (RSIF) which Commissioner Hammarberg promised to establish at a round table with the heads of the national human rights structures (NHRs) in April 2007 in Athens. The purpose of the RSIF is to keep the national structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the Commissioner's Office carefully selects and tries to present to in a user-friendly manner. The information is sent to the Contact Persons in the NHRs who are kindly asked to dispatch it within their offices.

Each issue will cover two weeks and will be sent out by the Commissioner's Office a fortnight after the end of each observation period. This means that all information contained in the issues will be between two and four weeks old.

Unfortunately, the issues will be available in English only for the time being due to the limited means of the Commissioner's Office. However, the majority of the documents referred to exist in English and French and can be consulted on the web sites that are indicated in the issues.

The selection of the information included in the issues is made by the Commissioner's Office under its responsibility. It is based on what the NHRs and the Legal Advice Units believe could be relevant to the work of the NHRs. A particular effort is made to render the selection as targeted and short as possible.

Readers are expressly encouraged to give the Commissioner's Office any feed-back that may allow for the improvement of the format and the contents of this tool.

## Part I : The activities of the European Court of Human Rights

### A. Judgments

The judgments presented under this heading are the ones for which a separate press release is issued by the Registry of the Court as well as other judgments which the Office of the Commissioner considers relevant for the work of the NHRs. They correspond also to the themes addressed in the Peer-to-Peer Workshops. The judgments are thematically grouped. The information, except for the comments drafted by the Office of the Commissioner, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

#### 1. Judgments deemed of particular interest to NHRs

**[Takhayeva and Others v. Russia](#) (no. 23286/04), 18 September 2008 - Violations of Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) and 13 (right to an effective remedy)**

The European Court of Human Rights delivered on 18 September its 10 000<sup>th</sup> judgment, *Takhayeva and Others v. Russia* (no. 23286/04). The Court found violations of Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) and 13 (right to an effective remedy) of the European Convention on Human Rights concerning the applicants' complaint that their relative disappeared after being abducted from their village in Chechnya by Russian servicemen.

**[Mezhidov v. Russia](#) (no. 67326/01), 25 September 2008 – Deaths of the applicant's parents, brother and sisters - Violation of Article 2 (right to life and failure to carry out an adequate and effective investigation – Violation of Article 13 (right to an effective remedy) - Failure to comply with Article 38 § 1 (a) (obligation to furnish necessary facilities for the examination of the case)**

The case concerned Mr Mezhidov's allegation that his parents, brother and sisters were killed when the village where they were living at the time, Znamenskoye, was shelled by Russian artillery during a counter terrorist operation launched by the Russian Government in Chechnya.

In failing to submit a complete copy of the investigation file opened into the killing of the applicant's family, the Russian Government had failed to meet their obligations under Article 38 § 1 (a) (obligation to furnish necessary facilities for the examination of the case). Concerning the killing of the applicant's family, the Court therefore concluded that the applicant's family had died as a result of the shelling of Znamenskoye by Russian artillery. Noting that the authorities had not justified the use of lethal force by their agents, the Court held that there had been a violation of Article 2 with respect to the applicant's family.

Concerning the inadequacy of the investigation, the effectiveness of the investigation had been undermined at a very early stage by the authorities' failure to take necessary and urgent measures. Given that the investigation had been repeatedly stayed and reopened and that the applicant had not been duly informed of any progress, the Court considered that the applicant could not have effectively challenged the actions or omissions of the investigating authorities before a court. Bearing in mind the inferences that could be drawn from the Government's reticence to submit evidence, the Court concluded that the authorities had failed to carry out a thorough and effective investigation into the deaths of the applicant's immediate family, in further violation of Article 2. Furthermore, the State had failed in its obligations, in violation of Article 13 in conjunction with Article 2.

**[Atalay v. Turkey](#) (no. 1249/03), [Dur v. Turkey](#) (no. 34027/03) and [Türkan v. Turkey](#) (no. 33086/04), 18 September 2008 – Ill-treatment – Violation of Article 3**

All three cases concerned, in particular, the applicants' allegations that they were ill-treated by the police.

In the case of **Atalay** there had been a clear disproportion between the gravity of the offence in question and the punishment imposed. Indeed, the sentence had even been reduced on the ground that the applicant had provoked the police officers. The Court reiterated the absolute nature of the prohibition of torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct. Furthermore, the criminal proceedings against the other two officers had been suspended. The Court found that the Turkish criminal-law system, as applied in the applicant's case, had proven to be far from rigorous and had had no dissuasive effect. Nor had it provided adequate redress for the ill-treatment to which the applicant had been subjected. The Court therefore concluded that there had been a violation of Article 3.

In the case of **Dur**, the Court considered that the Turkish Government had failed to provide credible arguments to demonstrate that the use of force against the applicant had been indispensable and concluded that Turkey was responsible for the applicant's injuries, in violation of Article 3.

Similarly, in the case of **Türkan**, bearing in mind the Turkish authorities' obligation to account for injuries caused to persons within their custody, and in the absence of any convincing explanation concerning the origin of the physical trauma noted in the applicant's four medical reports, the Court considered that the Government had failed to provide a plausible explanation as to how the applicant's injuries had occurred. It therefore concluded that those injuries had been the result of treatment for which the Turkish Government was responsible, in violation of Article 3.

Furthermore in the cases **Dur** and **Türkan**, the Court found that the investigations into the applicants' allegations of ill-treatment had not been adequate, in further violation of Article 3.

**[Lexa v. Slovakia](#) (no. 54334/00), 23 September 2008 - Pre-trial detention following the quashing of a decision granting amnesty - Violation of Article 5 § 1**

Between 1995 and 1998 Mr Lexa (the applicant) was the Director of the Slovakian intelligence service (*Slovenská informačná služba*). From April to July 1999 he was detained on remand on suspicion of having been involved in 1995 in the abduction of M. Kováč, the son of the then President of the Slovak Republic. The criminal proceedings against him were ultimately discontinued in June 2001. The case concerned the applicant's complaint about his pre-trial detention following the quashing of a decision in September 1998 which had granted him amnesty. He relied on Article 5 § 1 (right to liberty and security).

The Court reiterated the exhaustive character of the list of exceptions set out in Article 5 para 1 the key purpose of which is to prevent arbitrary or unjustified deprivations of liberty (paras 118 and 119). It recalled that it has previously held that it would be irrational to interpret legislation granting an amnesty as permitting detention on remand in respect of persons against whom all criminal proceedings must be stopped by virtue of such legislation (para 121). The Court noted that Slovakian law had no provisions which allowed for a presidential decision on amnesty to be quashed and that the applicant's detention could not therefore be regarded as "in accordance with a procedure prescribed by law". Nor had the quashing of unconditional measures of clemency been generally accepted by the law, practice and prevailing legal opinion in other Contracting States (see in this respect paras 88-95). The Court therefore held unanimously that there had been a violation of Article 5 §1.

**[Kandler and Others v. France](#) (no. 18659/05), 18 September 2008 – Violation of Article 6 § 1 (fairness) – Lack of effective judicial scrutiny – Searches and seizures of documents by tax authorities**

The case concerned searches and seizures of documents by the tax authorities on the basis of suspicions that the applicants were involved in tax fraud. The applicants complained that they had

had no effective remedy to challenge the legality of the searches and seizures carried out at their homes.

The Court stated that it had already examined in a previous case (**Ravon v. France**, application no. 18497/03) the various judicial remedies available under domestic law and had concluded that they did not satisfy the requirements of the Convention. Consequently, it held, unanimously, that there had been a violation of Article 6 § 1 (right of access to a court) on account of the lack of effective judicial scrutiny.

**Emine Arac v. Turkey (no. 9907/02), 23 September 2008 – The right of access to an institution of higher education is a “civil right” in the sense of Article 6 § 1 – Violation of Article 6 § 1**

The applicant applied for enrolment at the Theology Faculty of the University of Marmara. The university authorities refused to accept her on the ground that she had not supplied an identity photograph showing her unveiled face, as required by the regulations then in force. Relying on Article 6 § 1 (right to a fair trial), she complained that the proceedings in the Supreme Administrative Court had not been fair.

The Court considered that the applicant’s right of access to an institution of higher education was a civil right and that Article 6 was therefore applicable in the case (for an overview of the case law and the criteria applied in the present case, see paras 14-26). It noted that it had previously considered complaints identical to the one raised by the applicant in other cases in which it had found violations of Article 6 § 1 (*Göç v. Turkey* of 11 July 2002, *Meral v. Turkey* of 27 November 2007). It accordingly held unanimously that there had been a violation of Article 6 § 1 because the applicant’s right to adversarial proceedings before the Supreme Administrative Court had been infringed.

**Ahtinen v. Finland (application no. 48907/99), 23 September 2008 – No violation of Article 6 § 1 – The continuation of a priest’s service is not a “civil right” in the sense of Article 6 § 1**

The applicant, a parish priest with the Evangelical Lutheran Church, complained that in November 1998 he was transferred to another parish 100 km away without his consent and without being heard properly on the real reasons for his transfer.

The Court noted that under Finnish law the Evangelical Lutheran Church had the right to run its own affairs and, in particular, was independent to decide on such matters as the appointment of its priests, including how long and where they were to carry out their pastoral activity. Having agreed to serve as a parish priest with the Lutheran Church, the applicant had undertaken to abide by those rules. The Court also reiterated that it had already found in a previous case that the judicial determination of issues such as the continuation of a priest’s service would be contrary to the principles of autonomy and independence guaranteed by, among other things, the European Union Charter of Fundamental Rights and Freedoms. The Court concluded that there was no basis either in domestic law or in the Court’s case-law to hold that the applicant had a “right” within the meaning of Article 6 § 1 and therefore held unanimously that there had been no violation of that Article.

**Seliverstov v. Russia (no. 19692/02), 25 September 2008 – Violation of Article 6 §§ 1 and 3 (a) and (b) – Recharacterisation of the applicant’s offence**

In April 2001, the applicant was found guilty of bribe-taking and sentenced to three years and six months’ imprisonment. The case concerned, in particular, the applicant’s complaint that on appeal the domestic courts subsequently recharacterised his acts as attempted large-scale fraud and failed to inform him in advance of the new charge.

The Court held unanimously that there had been a violation of Article 6 §§ 1 and 3 (a) and (b) on account of the recharacterisation of the applicant’s offence by the appeal court, as his right to be informed in detail of the nature of the accusation against him and his right to have adequate time for the preparation of his defence had been infringed.

**Korbely v. Hungary (no. 9174/02), 19 September 2008 – Common Article 3 of the Geneva Conventions and principle of legality – Violation of Article 7**

The Court (Grand Chamber) found by eleven votes to six that common Article 3 of the Geneva Conventions could not reasonably have formed a basis for a conviction for crimes against humanity in the applicant's case in the light of the relevant international-law standards at the time (1956). The Court concluded that there had been a violation of Article 7 and did not consider it necessary to examine the applicant's complaint that the proceedings in his case had been unfair (Article 6). As very important international law issues are addressed, we invite you to read the judgment as well as the joint dissenting opinion of judges Judges Lorenzen, Tulkens, Zagrebelsky, Fura-Sandström and Popović and the dissenting opinion of Judge Loucaides. You may wish also to refer to another judgment on a related issue: *Kononov v. Latvia* (Application n° 36376/04) of 24 July 2008.

**K.T. v. Norway (no. 26664/03), 25 September 2008 – Investigations carried out by child welfare services - Non violation of Articles 8 and 6 § 1**

The applicant is a Norwegian national lives in Stavanger (Norway). Since his former wife moved to Finland in 2001, the applicant has had care of their two boys, born in 1994 and 1996 respectively. The case concerned the applicant's complaint about the child welfare services carrying out a second investigation into his ability to take care of his sons despite a previous investigation showing that his former wife's allegations were groundless.

The Court concluded unanimously that there had been no violation of Article 8, as the second investigation, including the manner of its implementation, had been necessary for the purposes of Article 8 § 2:

"[T] he Court is of the view that the national authorities were entitled to consider that initiating a second investigation into the children's situation while under the applicant's care was supported by relevant and sufficient reasons. Indeed, the correctness of their assessment in this regard was confirmed by the findings set out in the second investigation report. In any event, a general duty such as that suggested by the applicant, for the child welfare authorities to thoroughly investigate the validity of a report of concern before opening an investigation could hardly be derived from Article 8 of the Convention. If it were to be a prerequisite that all such reports, even those that appear credible on their face, should be verified in advance, it would risk delaying such investigations, deflecting attention and resources away from the real problems and reducing their effectiveness and hampering efforts in instances where it was paramount to establish urgently and without delay whether a child was living under conditions that may harm his or her health or development. In this connection, the Court cannot but note the emphasis placed on effectiveness in Article 19 of the UN Convention on the Rights of the Child" (paras 66-67).

Furthermore, the Court found that that the child welfare services had not failed to strike a proper balance between the applicant's interest in maintaining the confidentiality of certain personal data and the best interests of the children: "As to the modalities of the second investigation, the Court observes that the applicant, led by his lawyer, refused to cooperate with the child welfare services in this respect. It cannot be said that by obtaining information from the general practitioner of the applicant and his sons, the sons' respective school and kindergarten and the police, the child welfare services failed to strike a proper balance between the applicant's interest in maintaining the confidentiality of certain personal data and the best interests of the children. The disclosure of information to the child welfare authorities was of limited nature, was subject to a duty on their part to maintain the confidentiality of the information and was notified to the applicant; it was thus accompanied by effective and adequate safeguards against abuse (see *M.S. v. Sweden*, cited above, pp. 1449-50, §§ 42-44; *Anne-Marie Andersson v. Sweden* (dec.) no. 220022/92, 22 May 1995). Their choice of means clearly fell within their margin of appreciation, regard being had to such factors as the nature and seriousness of the interests at stake and the gravity of the interference (see *Z v. Finland*, judgment of 25 February 1997, *Reports of Judgments and Decisions* 1997-I, p. 348, § 99), and did not render the interference disproportionate to the legitimate aims pursued." (para 69).

The applicant also complained that the Norwegian courts had subsequently refused to examine the merits of his case, in breach of Article 6 § 1 (right of access to a court) and Article 13 (right to an effective remedy). The Court concluded by six votes to one that there had been no violation of Article 6 § 1, noting in particular that, whereas the lower courts had dismissed the applicant's case



summarily without a review of the merits, the Supreme Court had reviewed the merits of the case. The Court further held unanimously that it was not necessary to examine the case under Article 13.

**Cuc Pascu v. Romania (no. 36157/02), 16 September 2008 – No violation of Article 10 – Interference with freedom of expression necessary in a democratic society**

The applicant, journalist by profession, was convicted in February 2002 for insults and defamation after publishing an article in which he accused the Dean of the Faculty of Medicine of Oradea University, also a Member of Parliament, of fraud and plagiarism, describing him among other things as a “crook” and a “little law-breaking doctor”.

The Court found that the applicant had not succeeded in proving the veracity of his statements before the Romanian courts, despite the opportunity for him to do so during the domestic proceedings. Given the lack of factual basis and his position as a journalist, the applicant should have demonstrated the greatest rigour and exercised particular caution before publishing the offending article. He had not even verified the content of the article before its publication, even though the information came from a third party. Moreover, as regards the insulting remarks used by the applicant, the Court found that he could not be regarded as having had recourse to “a degree of exaggeration” or “provocation” that was permitted by journalistic freedom. The Court, taking the view that the reasons given in support of the applicant’s conviction had been sufficient and relevant, found that the interference with his freedom of expression had been “necessary in a democratic society”. Accordingly, it held unanimously that there had been no violation of Article 10.

**Chalabi v. France (application no. 35916/04), 18 September 2008 – Violation of Article 10 - Disproportionate interference with freedom of expression**

The case concerned the applicant’s conviction for defamation following the publication of an article about the director of the Grand Mosque of Lyon. In its article the applicant criticised the conduct of Mr. Kabtane, the director of the Grand Mosque of Lyon, in particular his administrative and financial management of the mosque and his religious practice and knowledge.

The French Court of Appeal declared the applicant and publication director liable for the damage sustained by Mr. Kabtane and ordered them jointly and severally to pay him EUR 1,500 in damages plus EUR 1,000 in expenses, *Lyon Mag’*, for its part, being liable under the civil law for the financial penalties imposed. The applicant unsuccessfully appealed on points of law.

Unlike the Lyons Court of Appeal, the Court held that the many documents produced showed that at the time of the article in question the comments in question had not been entirely without factual basis. Furthermore, Mr Kabtane had been under investigation for misappropriation and fraud and the judicial proceedings had still been under way at the relevant time. Even if, having regard to the presumption of innocence, a person under investigation could not be deemed guilty, the factual basis to the present case had not been inexistent. With regard to the comments themselves, the Court did not discern any “manifestly insulting” terms such as to justify restricting the author’s freedom of expression and considered that the language used by the applicant could not be regarded as excessive.

In conclusion, the Court held that Mr Chalabi’s conviction amounted to a disproportionate interference with his freedom of expression and, in breach of Article 10, could not be regarded as “necessary in a democratic society”.

**Tehleanu v. Romania (no. 1578/03), 16 September 2008 and Žăinescu v. Romania (n° 26832/03), 23 September 2008 – Discrimination in severance pay free of tax – Violation of Article 1 of Protocol No. 1 and violation of Article 1 of Protocol No. 1 in conjunction with Article 14**

In the first case, the applicant was a fire-fighter and on that basis had military status. He alleged that income tax had been unlawfully charged on the severance pay he had received on retirement and complained of discrimination in view of the fact that other servicemen in the same situation had received severance pay free of tax. In the second case, the applicant formerly served in the border police and in that capacity was considered a member of the armed forces. He alleged that income tax

had been illegally deducted from the allowance he received on retirement and complained of discrimination in that other members of the armed forces in his situation had received a tax-free allowance.

In both judgments and in light of its judgment *Driha v. Romania* of 21 February 2008 (final), the Court found that the interference complained of had been manifestly illegal under Romanian law and consequently incompatible with the applicant's right to peaceful enjoyment of his possessions. It further noted that, unlike the applicant, other members of the armed forces transferred to the reserve had received the allowance in question without paying tax on it and could see no justification for such discrimination. It held unanimously that there had been violations of Article 1 of Protocol No. 1 both taken separately and in conjunction with Article 14.

**2. All the other judgments issued in the period under observation except for repetitive cases (cf. below under 3) and length of proceedings cases (cf. below under 4)**

You will find in the column "Key Words" of the table below a short description of the topics dealt with in the judgment. For a more complete information, please refer to the following link:

- press release by the Registrar concerning the Chamber judgments issued on 16<sup>th</sup> September 2008: [here](#).
- press release by the Registrar concerning the Chamber judgments issued on 18<sup>th</sup> September 2008: [here](#).
- press release by the Registrar concerning the Chamber judgments issued on 23<sup>rd</sup> September 2008: [here](#).
- press release by the Registrar concerning the Chamber judgments issued on 25<sup>th</sup> September 2008: [here](#).

We kindly invite you to click on the corresponding link to access to the full judgment of the Court for more details. Some judgments are only available in French.

| <u>State</u> | <u>Date</u>  | <u>Case Title</u>                 | <u>Conclusion</u>  | <u>Key Words by the Office of the Commissioner</u>   | <u>Link to the case</u> |
|--------------|--------------|-----------------------------------|--|--|-------------------------|
| Austria      | 18 Sept 2008 | Müller (no. 28034/04)             | Violation of Article 6 § 1 (length)                              | Excessive length of administrative and criminal proceedings for breach of safety regulations                                   | <a href="#">Link</a>    |
| Greece       | 25 Sept 2008 | Paraponiaris (no. 42132/06)       | Violation of Article 6 §§ 1, 2 and 3 (c)                         | Fair trial and the rights of the defence<br>Non public hearing<br>Presumption of innocence                                     | <a href="#">Link</a>    |
| Greece       | 18 Sept 2008 | Vlachos (no. 20643/06)            | Violation of Article 6 § 1 (length)                              | Excessive length of criminal proceedings for producing counterfeit bank notes and participating in an organised criminal group | <a href="#">Link</a>    |
| Poland       | 23 Sept 2008 | Kachel (no. 22930/05)             | Violation of Article 5 § 3                                       | Excessive length of pre-trial detention  | <a href="#">Link</a>    |
| Poland       | 16 Sept 2008 | Naus (no. 7224/04)                | Violation of Article 5 § 3 ; Violation of Article 6 § 1 (length) | Excessive length of pre-trial detention and of criminal proceedings  | <a href="#">Link</a>    |
| Romania      | 23 Sept 2008 | Dumitrescu (No. 2) (no. 29517/02) | Violation of Article 1 of Protocol No. 1                         | Applicant unable to dispose of apartments transferred into her possession and collect rent for the properties                  | <a href="#">Link</a>    |

|                   |                    |   |  |  |                      |
|-------------------|--------------------|---|--|--|----------------------|
| Romania           | 16<br>Sept<br>2008 | Lamarche<br>(no.<br>21472/03)                                   | No violation of<br>Article 6 § 1<br>(fairness)   | Status of civil party in criminal<br>proceedings   | <a href="#">Link</a> |
| Russia            | 25<br>sept<br>2008 | Akhmadova<br>and<br>Akhmadov<br>(no.<br>20755/04)               | Violations of Article<br>2 (life and<br>investigation)<br>Violation of Article 3<br>(treatment in respect<br>of the applicants)<br>Violation of Article 5<br>(in respect of the<br>applicant's son)<br>Violation of Article<br>13 in conjunction<br>with Article 2 | Applicants' eldest son<br>disappearance after being<br>abducted by Russian<br>servicemen during a security<br>operation.<br>Failure to carry out an<br>investigation                                       | <a href="#">Link</a> |
| Russia            | 25<br>sept<br>2008 | Polufakin and<br>Chernyshev<br>(no.<br>30997/02)                | Violation of Article 3<br>(treatment)<br>No violation of<br>Article 6 § 1<br>(fairness)<br>Three violations of<br>Article 6 § 3 (d) with<br>Article 6 § 1  | Conditions of detention<br>Lack of an individual sleeping<br>place<br>Lack of adequate medical<br>treatment<br>Right to a fair trial and right to<br>obtain attendance and<br>examination of witnesses     | <a href="#">Link</a> |
| Serbia            | 23<br>Sept<br>2008 | Vrenčev (no.<br>2361/05)  | No violation of<br>Article 5 § 1 (c)<br>Violation of Article 5<br>§§ 3, 4 and 5  | Lawfulness of the detention<br>Pre-trial review procedure  | <a href="#">Link</a> |
| Slovakia          | 23<br>Sept<br>2008 | Rosival and<br>Others (no.<br>17684/02)                         | Friendly settlement  | Unfairness of proceedings with<br>regard to their claim for<br>restitution of 1,500 hectares of<br>forest land.<br>Retroactive legislative<br>interference   | <a href="#">Link</a> |
| Turkey            | 23<br>Sept<br>2008 | Aktan (no.<br>20863/02)   | No violation of<br>Article 6 § 1<br>Violation of Article<br>10   | Critics of the pressure exerted<br>on journalists working for the<br>Kurdish press   | <a href="#">Link</a> |
| Turkey            | 23<br>Sept<br>2008 | Ekici and<br>Others (no.<br>28877/03)                           | Violation of Article 6<br>§ 1 (fairness)<br>Violation of Article 1<br>of Protocol No. 1  | Non-enforcement of a final<br>judgment by a domestic court<br>awarding compensation to the<br>applicants following their claims<br>for outstanding salaries,<br>dismissal indemnities and<br>severance pay | <a href="#">Link</a> |
| Turkey            | 23<br>Sept<br>2008 | Habip Çiftçi<br>(no.<br>28485/03)                               | Violation of Article 5<br>§§ 3 and 4<br>Violation of Article 6<br>§ 1 (length)   | Excessive length of the<br>detention on remand<br>Lack of a remedy to challenge<br>the lawfulness of that detention<br>Excessive length of the criminal<br>proceedings                                     | <a href="#">Link</a> |
| Turkey            | 23<br>Sept<br>2008 | Müdet<br>Kömürcü (no.<br>2623/04)                               | Violation of Article 5<br>§ 3  | Length of pre-trial detention  | <a href="#">Link</a> |
| United<br>Kingdom | 23<br>Sept<br>2008 | Grayson and<br>Barnham<br>(nos.<br>19955/05<br>and<br>15085/06) | No violation of<br>Article 6 § 1<br>No violation of<br>Article 1 of Protocol<br>No. 1  | Confiscation Proceedings<br>Burden of proof  | <a href="#">Link</a> |

### 3. Repetitive cases

The judgments listed below are based on a classification which figures in the Registry's press release: "In which the Court has reached the same findings as in similar cases raising the same issues under the Convention".

The role of the NHRs may be of particular importance in this respect: they could check whether the circumstances which led to the said repetitive cases have changed or whether the necessary execution measures have been adopted.

| <u>State</u> | <u>Date</u>  | <u>Case Title</u>   | <u>Conclusion</u>   | <u>Key Words by the Office of the Commissioner</u>  | <u>Link to the case</u>                          |
|--------------|--------------|---|---|---|--|
| Moldova      | 23 Sept 2008 | Prepeliță (no. 2914/02)   | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1          | Domestic authorities' failure to enforce final judgments  | <a href="#">Link</a>                             |
| Portugal     | 23 Sept 2008 | Sociedade Agrícola da Herdade das Várzeas, Lda and 22 other cases (nos. 17199/05, and others) | Violation of Article 1 of Protocol No. 1  | "Agrarian Reform" cases. Absence of fair compensation and delay in calculating and paying the final amount. | <a href="#">Link</a>                             |
| Romania      | 23 Sept 2008 | Amurăriței (no. 4351/02)  | Violation of Article 6 § 1 (fairness)<br>Violation of Article 1 of Protocol No. 1 | Romanian authorities' failure to enforce final judgments  | <a href="#">Link</a>                             |
| Romania      | 16 Sept 2008 | Maria Peter and Others (no. 54369/00)   | Application of just satisfaction (Article 41)                                     | Just satisfaction following violations of Article 6 § 1 and of Article 1 of Protocol No. 1                  | <a href="#">Link</a>                             |
| Romania      | 16 Sept 2008 | Petruțian Ioanovici (no. 30307/02)  | Violation of Article 1 of Protocol No. 1  | Action for recovery of possession   | <a href="#">Link</a>                             |
| Romania      | 23 Sept 2008 | Samoilă and Others (no. 14073/03)   | Violation of Article 6 § 1 (fairness)<br>Violation of Article 1 of Protocol No. 1 | Domestic authorities' failure to enforce final judgments  | <a href="#">Link</a>                             |
| Romania      | 23 Sept 2008 | Tripon (No. 1) (no. 36942/03) and Tripon (No. 2) (no. 4828/04)                                | Violation of Article 6 § 1 (fairness)<br>Violation of Article 1 of Protocol No. 1 | Quashing of a final and enforceable decision  | <a href="#">Link 1</a><br><a href="#">Link 2</a> |
| Romania      | 23 Sept 2008 | Urbanovici (no. 24466/03)   | Violation of Article 6 § 1 (fairness)<br>Violation of Article 1 of Protocol No. 1 | Quashing of a final and enforceable decision  | <a href="#">Link</a>                             |
| Russia       | 25 Sept 2008 | Antonova (no. 25749/05)   | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1            | Failure to enforce final judgments  | <a href="#">Link</a>                             |
| Russia       | 18 Sept 2008 | Bakharev and Others (no. 32786/04)  | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1          | Failure to enforce final judgments  | <a href="#">Link</a>                             |
| Russia       | 18 Sept 2008 | Denisova (no. 34431/04)   | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1          | Failure to enforce final judgments in the applicants' favour in good time or at all                         | <a href="#">Link</a>                             |

|         |              |  |   |  |                      |
|---------|--------------|--|---|--|----------------------|
| Russia  | 18 Sept 2008 | Dokolin (no. 28488/04)                         | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1                          | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 18 Sept 2008 | Fokin (no. 75893/01)                           | Violation of Article 6 § 1 (fairness)   | Failure to notify the applicant of an appeal hearing | <a href="#">Link</a> |
| Russia  | 18 Sept 2008 | Glukhova and Bragina (no. 28785/04)            | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1                          | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 18 Sept 2008 | Kholodenko (no. 33617/04)                      | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1                          | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 25 Sept 2008 | Krestyaninovy (no. 27049/05)                   | No violation of Article 6 § 1<br>No violation of Article 1 of Protocol No. 1                      | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 25 Sept 2008 | Levin (no. 35893/04)                           | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1                            | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 18 Sept 2008 | Lyatskaya (no. 33548/04)                       | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1                          | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Russia  | 25 Sept 2008 | Shafranov (no. 24766/04)                       | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1                            | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Turkey  | 23 Sept 2008 | Eyüp Kaya (no. 17582/04)                       | Violation of Article 6 § 1 (fairness)   | Refusal to grant legal aid                           | <a href="#">Link</a> |
| Turkey  | 23 Sept 2008 | İrkin (no. 30200/02)                           | Violation of Article 6 § 1 (fairness)   | Military judge as member of the court                | <a href="#">Link</a> |
| Ukraine | 18 Sept 2008 | Karpenko and Markov (nos. 1351/06 and 2433/06) | Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1                          | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Ukraine | 25 Sept 2008 | Kripak (no. 6164/05)                           | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1                            | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Ukraine | 25 Sept 2008 | Lisovol (no. 22343/04)                         | Violation of Article 6 § 1<br>Violation of Article 13   | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Ukraine | 25 Sept 2008 | Tishchenko (no. 33892/04)                      | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1<br>Violation of Article 13 | Failure to enforce final judgments                   | <a href="#">Link</a> |
| Ukraine | 25 Sept 2008 | Ustimova (no. 24335/03)                        | Violation of Article 6 § 1<br>Violation of Article 1 of Protocol No. 1                            | Failure to enforce final judgments                   | <a href="#">Link</a> |

#### 4. Length of proceedings cases

The judgments listed below are based on a classification which figures in the Registry's press release.

The role of the NHRS may be of particular relevance in that respect as well, as these judgments often reveal systemic defects.

| <u>State</u>                                | <u>Date</u>  | <u>Case Title</u>                     | <u>Conclusion</u>  | <u>Key Words by the Office of the Commissioner</u> | <u>Link to the judgment</u> |
|---|--------------|---------------------------------------|--|--|-----------------------------|
| Italy                                       | 23 Sept 2008 | Ambrosino (no. 32745/02)              | Violation of Article 6 § 1<br>No violation of Article 13 | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |
| Italy                                       | 18 Sept 2008 | Laudanna (no. 4289/03)                | Violation of Article 6 § 1                               | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |
| Poland                                      | 16 Sept 2008 | Figiel N <sup>o</sup> 2 (no. 38206/0) | Violation of Article 6 § 1                               | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |
| Romania                                     | 16 Sept 2008 | Bercaru (no. 8870/02)                 | Violation of Article 6 § 1                               | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |
| Romania                                     | 16 Sept 2008 | Păunoiu (no. 32700/04)                | Violation of Article 6 § 1                               | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |
| "the former Yugoslav Republic of Macedonia" | 25 Sept 2008 | Savov and Others v. (no. 12582/03)    | Violation of Article 6 § 1 (length)                      | Excessive length of non-criminal proceedings       | <a href="#">Link</a>        |

#### B. The decisions on admissibility / inadmissibility / striking out of the list including due to friendly settlements

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 1 to 8 September 2008.**

They are aimed at providing the NHRSs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

| <u>State</u> | <u>Date</u>  | <u>Case Title</u>                            | <u>Allegation</u>   | <u>Decision</u>                         | <u>Key Words by the Office of the Commissioner</u> |
|--------------|--------------|--|---|---|--|
| Bulgaria     | 2 Sept. 2008 | 65417/01<br>PETKOV<br><a href="#">(link)</a> | Violation of Article 6 § 1, 13 and 1 of Prot. 1                               | Partly adjourned<br>Partly inadmissible |  |
| Croatia      | 2 Sept. 2008 | 37849/05<br>DABIC<br><a href="#">(link)</a>  | Violation of Articles 8, 13, 14, 1 of Protocol No. 1 and 1 of Protocol No. 12 | Struck out of the list                  | Friendly settlement reached                        |

|                |              |   |  |  |  |
|----------------|--------------|---|--|--|--|
| <i>Denmark</i> | 2 Sept. 2008 | 880/07 LUNDQUIST( <a href="#">link</a> )                              | Violation of Article 6   | Partly adjourned<br>Partly inadmissible              |  |
| <i>Estonia</i> | 2 Sept. 2008 | 15301/04 TAMM ( <a href="#">link</a> )                                | Violation of Article 8, 6 §§ 1 and 3 (b), (c), 13 and 17                 | Inadmissible   | Non-exhaustion of domestic remedies and manifestly ill-founded |
| <i>Italy</i>   | 2 Sept. 2008 | 541/08 and 625/08 EISENFELD DUKER and FLATOW ( <a href="#">link</a> ) | Violation of Articles 6 § 1 and 1 of Prot. 1                             | Inadmissible   | Manifestly ill-founded   |
| <i>Italy</i>   | 2 Sept. 2008 | 18995/06 PILATO ( <a href="#">link</a> )                              | Violation of Articles 5 §§ 1 and 4, 6 § 1 and 13                         | Struck out of the list                               | ABSENCE OF INTENTION TO PURSUE PETITION                        |
| <i>Latvia</i>  | 2 Sept. 2008 | 6904/02 BORISOVS ( <a href="#">link</a> )                             | Violation of Articles 5 § 2, 5 § 3, 6 § 1 and 6 § 3                      | Partly struck out of the list<br>Partly inadmissible |  |
| <i>Moldova</i> | 2 Sept. 2008 | 38666/05 BUIMISTRU ( <a href="#">link</a> )                           | Violation of Articles 6 § 1 and 1 of Prot. 1                             | Struck out of the list                               | Friendly settlement reached                                    |
| <i>Moldova</i> | 2 Sept. 2008 | 3108/02 NENAȘEVA and Others ( <a href="#">link</a> )                  | Violation of Article 6, 13 and 1 of Prot. 1                              | Inadmissible   | Complaint submitted out of time                                |
| <i>Poland</i>  | 2 Sept. 2008 | 19797/02 BROSZCZAK OWSKA ET RUPNICCY ( <a href="#">link</a> )         | Violation of Article 6 § 1 and 1 of Prot. 1                              | Partly struck out of the list<br>Partly inadmissible |  |
| <i>Poland</i>  | 2 Sept. 2008 | 17625/05 CHODYNICKI ( <a href="#">link</a> )                          | Violation of Article 6 § 1   | Inadmissible   | Manifestly ill-founded   |
| <i>Poland</i>  | 2 Sept. 2008 | 21905/06 CZEMARNIK-NOGA ( <a href="#">link</a> )                      | Violation of Article 6 § 1   | Struck out of the list                               | Friendly settlement reached                                    |
| <i>Poland</i>  | 2 Sept. 2008 | 17170/06 WOZNIAK ( <a href="#">link</a> )                             | Violation of Article 5 § 3   | Struck out of the list                               |  |
| <i>Romania</i> | 2 Sept. 2008 | 3067/02 IORDĂNESCU ( <a href="#">Link</a> )                           | Violation of Article 6 and 1 of Protocol n°1                             | Struck out of the list                               | Friendly settlement reached                                    |
| <i>Romania</i> | 2 Sept. 2008 | 21428/03 RUDEANU ( <a href="#">link</a> )                             | Violation of Article 6, 13, 17 and 1 of Protocol 1                       | Struck out of the list                               | Friendly settlement reached                                    |
| <i>Russia</i>  | 2 Sept. 2008 | 34944/03 GRIGORYAN ( <a href="#">link</a> )                           | Violation of Article 6 and 1 of Protocol n°1                             | Struck out of the list                               | Applicant apparently lost interest in pursuing his application |
| <i>Russia</i>  | 2 Sept. 2008 | 34659/03 POSTNIKOV ( <a href="#">link</a> )                           | Violation of Articles 3, 5, 8 and 1 of Protocol 1                        | Struck out of the list                               | Applicant apparently lost interest in pursuing his application |
| <i>Sweden</i>  | 2 Sept. 2008 | 8594/04 A.A. ( <a href="#">link</a> )                                 | Violation of Articles 2 and 3  | Inadmissible   | Manifestly ill-founded   |
| <i>Sweden</i>  | 2 Sept. 2008 | 29216/05 LANDÉN ( <a href="#">link</a> )                              | Violation of Article 6 § 1   | Inadmissible   | Manifestly ill-founded   |
| <i>Ukraine</i> | 2 Sept. 2008 | 42484/02 LEBEDEV ( <a href="#">link</a> )                             | Violation of Articles 1, 3, 5, 6 §§ 1, 2, 3(b) and (d), 7, 12, 13 and 14 | Inadmissible   | Manifestly ill-founded   |



|                           |              |  |   |  |   |
|---------------------------|--------------|--|---|--|---|
| <i>Ukraine</i>            | 2 Sept. 2008 | 34518/04<br>ZAKHAROV<br><a href="#">(link)</a>                                       | Violation of Article 10, 6 § 1 and 13   | Inadmissible   | Non-exhaustion of domestic remedies   |
| <i>United Kingdom</i>     | 2 Sept. 2008 | 27968/02<br>CARR<br><a href="#">(link)</a>   | Violation of article 14 taken in conjunction with both article 8 and 1 of Protocol No. 1 (discrimination on ground of sex in the British social security legislation) | Inadmissible   | Manifestly ill-founded  |
| <i>United Kingdom</i>     | 2 Sept. 2008 | 78049/01<br>DONNELLY<br><a href="#">(link)</a>                                       | Idem as in Carr's case (see above)  | Partly struck out of the list<br>Partly inadmissible | Non-entitlement to a Widow's Payment and/or Widowed Mother's Allowance. The remainder of the application is manifestly ill-founded. |
| <i>The Czech Republic</i> | 2 Sept. 2008 | 45566/04<br>UHER<br><a href="#">(link)</a>   | Violation of Articles 6 and 13  | Inadmissible   | Manifestly ill-founded  |
| <i>Turkey</i>             | 2 Sept. 2008 | 6781/04<br>ALADAĞ<br><a href="#">(link)</a>  | Violation of Articles 3, 5 §1, 6 § 1 and 13   | Partly adjourned<br>Partly inadmissible              |   |
| <i>Turkey</i>             | 2 Sept. 2008 | 3823/03<br>BAL<br><a href="#">(link)</a>   | Violation of Article 6 § 1, 13 and 1 of Prot. 1   | Struck out of the list                               | Applicant apparently lost interest in pursuing his application  |
| <i>Turkey</i>             | 2 Sept. 2008 | 536/03<br>BEKDEMIR<br><a href="#">(link)</a>   | Violation of Articles 9 and 10  | Struck out of the list                               | Applicant apparently lost interest in pursuing his application  |
| <i>Turkey</i>             | 2 Sept. 2008 | 6497/04<br>KIRATLI<br><a href="#">(link)</a>   | Violation of Article 6 §§ 1, 2 and 3 d  | Inadmissible   | Manifestly ill-founded  |
| <i>Turkey</i>             | 2 Sept. 2008 | 41613/05<br>MAVITAN<br><a href="#">(link)</a>  | Violation of Article 6 § 1, 13 and 1 of Prot. 1   | Partly adjourned<br>Partly inadmissible              |   |
| <i>Turkey</i>             | 2 Sept. 2008 | 41421/05<br>TUR-KO<br>TURIZM<br>YATIRIM VE<br>TICARET A.S.<br><a href="#">(link)</a> | Violation of Article 6 § 1, 13 and 1 of Prot. 1   | Inadmissible   | Non-exhaustion of domestic remedies   |

### C. The communicated cases

The European Court of Human Rights publishes on a weekly basis a list of the communicated cases on its Website. These are cases concerning individual applications which are pending before the Court. They are communicated by the Court to the respondent State's Government with a statement of facts, the applicant's complaints and the questions put by the Court to the Government concerned. The decision to communicate a case lies with one of the Court's Chamber which is in charge of the case.

Below you will find the case which was published on the Court's Website on 15 September and 22 September 2008. They were communicated between 25 August and 5 September 2008. There is in general a gap of three weeks between the date of the communication and the date of the publication of the batch on the Website.

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\* You may find similar inadmissibility decisions concerning the alleged violation of article 14 taken in conjunction with both article 8 and 1 of Protocol No. 1 (discrimination on ground of sex in the British social security legislation) on the website of the European Court of Human Rights: <http://www.echr.coe.int/echr/>. You may also find some relevant information in the following decisions: *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV and *Runkee and White v. the United Kingdom*, no. 42949/98, §§ 40-41, 25 July 2007.



For more information, you may refer to the following lists:  
<http://cmiskp.echr.coe.int/tkp197/view.asp?action=open&documentId=840628&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=open&documentId=841581&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

The list itself contains links to the statement of facts and the questions to the parties.  
This is a tool for NHRSs to be aware of issues involving their countries.

| Country    | Case Title                   | Date of Communication | Application Number | Articles of the ECHR concerned                    |
|------------|------------------------------|-----------------------|--------------------|---|
| Austria    | BACHMAYER                    | 28/08/2008            | 36650/05           | Art. 6 (1)  |
| Austria    | ORTMAIR                      | 28/08/2008            | 38112/06           | Art. 6 (1), 13, Prot. 7 Art. 4                    |
| Austria    | ROBATHIN                     | 05/09/2008            | 30457/06           | Art. 8 (1)  |
| Austria    | VAIDA                        | 28/08/2008            | 24998/04           | Art. 6 (1), 35                                    |
| Austria    | VERLAGSGRUPPE NEWS GMBH      | 05/09/2008            | 43521/06           | Art. 10 (1)                                       |
| Azerbaijan | ALIBEYLI                     | 03/09/2008            | 22444/06           | Art. 6 (1), 13 and Prot. 1 Art. 3                 |
| Azerbaijan | ATAKISHI                     | 03/09/2008            | 18469/06           | Art. 6 (1), 13 and Prot. 1 Art. 3                 |
| Azerbaijan | FATULLAYEV                   | 03/09/2008            | 40984/07           | Art. 3, 5 (1), 6 (1), 6 (2), 7 (1), 10 (1) and 13 |
| Azerbaijan | JAFAROV                      | 03/09/2008            | 17276/07           | Art. 6 (1), 13 and Prot. 1 Art. 1                 |
| Azerbaijan | KARIMOV                      | 03/09/2008            | 12535/06           | Art. 6 (1) and Prot. 1 Art. 3                     |
| Azerbaijan | KERIMOVA                     | 03/09/2008            | 20799/06           | Art. 13, 14 and Prot. 1 Art. 3                    |
| Azerbaijan | MAMMADOV (JALALOGLU) (no. 3) | 03/09/2008            | 4641/06            | Art. 13, 14 and Prot. 1 Art. 3                    |
| Belgium    | DE SCHEPPER                  | 28/08/2008            | 27428/07           | Art. 5 (1), 6 (1), 6 (3) (b), 6 (3) (c)           |
| Belgium    | ULLENS SCHOOTEN REZABEK      | DE and 28/08/2008     | 3989/07            | Art. 6 (1)  |
| Belgium    | ULLENS SCHOOTEN              | DE 28/08/2008         | 38353/07           | Art. 6 (1), 14                                    |
| Bulgaria   | ALITCHKOVA                   | 03/09/2008            | 20255/05           | Art. 5 (1) (e)                                    |
| Bulgaria   | GOLEMANOVA                   | 25/08/2008            | 11369/04           | Art. 8 (1)  |
| Bulgaria   | M.                           | 01/09/2008            | 41416/08           | Art. 2 (1), 3, 5 (1) (f) and 13                   |
| Bulgaria   | PETKOV                       | 02/09/2008            | 65417/01           | Art. 6 (1), 13 and Prot. 1 Art. 1                 |
| Bulgaria   | VASILEV DOYCHEVA             | and 04/09/2008        | 14966/04           | Art. 6 (1) and Prot. 1 Art. 1                     |
| Croatia    | LISICA                       | 03/09/2008            | 20100/06           | Art. 5 (1) and 6 (1)                              |
| Croatia    | MARSANIC                     | 03/09/2008            | 54077/07           | Art. 6 (1)  |
| Croatia    | POPOVIC                      | 03/09/2008            | 23551/07           | Art. 6 (1) and Prot. 1 Art. 1                     |
| Croatia    | VUSIC                        | 03/09/2008            | 48101/07           | Art. 6 (1)  |
| Denmark    | NADARASA                     | 29/08/2008            | 20594/08           | Art. 3  |
| Denmark    | SANTOS HANSEN                | 29/08/2008            | 17949/07           | Art. 1 (1), 14                                    |
| Finland    | LANDGREN                     | 03/09/2008            | 11459/07           | Art. 6 (1)  |
| Finland    | TIMO LANDGREN                | 27/08/2008            | 17889/07           | Art. 6 (1)  |
| France     | BERNARD and others           | 03/09/2008            | 20112/07           | Art. 6 (1)  |
| France     | M.A. D.                      | 04/09/2008            | 50284/07           | Art. 3  |
| France     | RAFFRAY TADDEI               | 27/08/2008            | 36435/07           | Art. 2 (1), 3                                     |
| Germany    | HERMA                        | 27/08/2008            | 54193/07           | Art. 6 (1)  |
| Germany    | KUNKEL                       | 26/08/2008            | 29705/05           | Art. 5 (4)  |
| Germany    | BUIJEN                       | 25/08/2008            | 27804/05           | Art. 5 (1) (a), 6 (1)                             |
| Germany    | SMITH                        | 25/08/2008            | 27801/05           | Art. 5 (1) (a), 6 (1)                             |
| Germany    | TSIKAKIS                     | 25/08/2008            | 1521/06            | Art. 6 (1), 8 (1), 13 and 14                      |

|             |   |            |          |  |
|-------------|---|------------|----------|--|
| Greece      | ANAGNOSTOPOULOS   | 29/08/2008 | 2961/07  | Art. 6 (1)                                       |
| Greece      | PAPATHEOFANOUS  | 29/08/2008 | 28261/07 | Art. 6 (1), 13 and Prot. 1 Art. 1                |
| Greece      | PASSARIS  | 29/08/2008 | 53344/07 | Art. 6 (1) and 13                                |
| Greece      | STAMOULI  | 29/08/2008 | 55862/07 | Art. 6 (1)                                       |
| Italy       | OGARISTI  | 01/09/2008 | 231/07   | Art. 6 (1) and Prot. 1 Art. 1                    |
| Italy       | VITALE  | 01/09/2008 | 32555/06 | Art. 6 (3) (c)                                   |
| Moldova     | BUZILO  | 27/08/2008 | 52643/07 | Art. 3   |
| Poland      | GODLEWSKI   | 01/09/2008 | 21981/08 | Art. 8 (1)                                       |
| Poland      | GRADEK  | 01/09/2008 | 39631/06 | Art. 8 (1)                                       |
| Poland      | JAKOBSKI  | 01/09/2008 | 18429/06 | Art. 9 (1) and 14                                |
| Poland      | JONCZYK   | 01/09/2008 | 19789/08 | Art. 5 (1) (e)                                   |
| Poland      | NOWOCIEN  | 01/09/2008 | 44261/04 | Art. 5 (3) and 6 (1)                             |
| Poland      | PRADZYNSKA - POZDNIAKOW   | 01/09/2008 | 20982/07 | Art. 6 (1), 13 and Prot. 1 Art. 1                |
| Poland      | WALASZEK  | 01/09/2008 | 28102/02 | Art. 2 (1)                                       |
| Poland      | Z.  | 01/09/2008 | 34694/06 | Art. 6 (1), 8 (1), 13 and Prot. 7 Art. 5         |
| Poland      | ZAJADLO   | 28/08/2008 | 26099/07 | Art. 6 (1)                                       |
| Portugal    | ALMEIDA SANTOS  | 28/08/2008 | 50812/06 | Art. 6 (1) and Prot. 1 Art. 1                    |
| Portugal    | ANTUNES   | 27/08/2008 | 12750/07 | Art. 6 (1) and 13                                |
| Portugal    | PEREIRA   | 27/08/2008 | 46595/06 | Art. 6 (1) and 13                                |
| Romania     | AL-AGHA   | 02/09/2008 | 40933/02 | Art. 3, 5 (1) (f), 5 (3), 5 (4), 5 (5) and 6 (1) |
| Romania     | SC GRANITUL SA  | 28/08/2008 | 22022/03 | Art. 6 (1) and Prot. 1 Art. 1                    |
| Russia      | ABUYEVA AND OTHERS  | 04/09/2008 | 27065/05 | Art. 2 (1), 3 and 5 (1)                          |
| Russia      | AVDYUSHKIN  | 04/09/2008 | 10511/04 | Art. 6 (1) and Prot. 1 Art. 1                    |
| Russia      | BARANOV   | 05/09/2008 | 24130/04 | Art. 6 (1)                                       |
| Russia      | BOGDANOV  | 05/09/2008 | 22405/04 | Art. 3 and 5 (3)                                 |
| Russia      | CHERKASOV   | 04/09/2008 | 7039/04  | Art. 3   |
| Russia      | DULUSH AND OTHERS   | 04/09/2008 | 17383/04 | Art. 5 (1), 5 (3), 6 (1) and 13                  |
| Russia      | GELD  | 04/09/2008 | 1900/04  | Art. 3   |
| Russia      | KALACHEVA   | 01/09/2008 | 3451/05  | Art. 6 (1) and 8 (1)                             |
| Russia      | KLEIN   | 04/09/2008 | 24268/08 | Art. 3   |
| Russia      | KOVALEV   | 04/09/2008 | 20326/04 | Art. 5 (3)                                       |
| Russia      | MAGOMADOVA and others   | 03/09/2008 | 3526/04  | Prot. 1 Art. 1                                   |
| Russia      | MILTAYEV and MELTAYEVA  | 05/09/2008 | 8455/06  | Prot. 1 Art. 1                                   |
| Russia      | MOKHOV  | 01/09/2008 | 28245/04 | Art. 6 (1)                                       |
| Russia      | MORDASHOVA  | 05/09/2008 | 9159/04  | Art. 6 (1)                                       |
| Russia      | NAKAYEV   | 04/09/2008 | 29846/05 | Art. 3   |
| Russia      | NIKOLAYEV   | 05/09/2008 | 20357/06 | Art. 6 (1)                                       |
| Russia      | OAO AFANASIY-PIVO, OOO BRAU SERVIS AND EASTERN UNION HOLDING AG | 05/09/2008 | 3315/04  | Art. 6 (1), 13 and Prot. 1 Art. 1                |
| Russia      | SHEPELIN  | 04/09/2008 | 4405/05  | Art. 6 (1) and 7 (1)                             |
| Russia      | SUKHOMLINOV   | 04/09/2008 | 13472/04 | Art. 3 and 6 (1)                                 |
| Russia      | SHUVALOV  | 04/09/2008 | 38047/04 | Art. 3   |
| Russia      | TOVBULATOVA   | 04/09/2008 | 26960/06 | Art. 2 (1) and 5 (1)                             |
| Russia      | VOLKOV  | 01/09/2008 | 41591/04 | Art. 3   |
| Russia      | YEZDAKOV AND GRIGORYEV  | 05/09/2008 | 5721/04  | Art. 6 (1)                                       |
| Slovenia    | ZEVNIK and N.   | 02/09/2008 | 43155/05 | Art. 6 (1) and 8 (1)                             |
| Spain       | FERRE GISBERT   | 28/08/2008 | 39590/05 | Art. 6 (1) and 13                                |
| Sweden      | ABERG   | 29/08/2008 | 15606/07 | Art. 6 (3) (a)                                   |
| Switzerland | RODUIT  | 03/09/2008 | 6586/06  | Art. 6 (1)                                       |
| the Czech   | KREJCIR   | 27/08/2008 | 39298/04 | Art. 5 (1) (c) and 6 (1)                         |

|                    |                        |            |          |   |
|--------------------|------------------------|------------|----------|---|
| Republic           |                        |            |          |   |
| the Czech Republic | KROPACEK               | 01/09/2008 | 37330/05 | Art. 6 (1), 8 (1) and 14                                |
| the Czech Republic | STEINIGER              | 03/09/2008 | 3673/03  | Art. 6 (1) and 13                                       |
| the Netherlands    | MESIC AND OTHERS       | 02/09/2008 | 23208/05 | Art. 8 (1) and 13                                       |
| the Netherlands    | NDIKUMANA              | 28/08/2008 | 4714/06  | Art. 3 and 14   |
| the United Kingdom | MOHAMAD                | 27/08/2008 | 31653/08 | Art. 3  |
| Turkey             | ABAY                   | 29/08/2008 | 19332/04 | Art. 5 (1) (c) and 6 (1)                                |
| Turkey             | ALADAG                 | 29/08/2008 | 3477/04  | Art. 6 (1) and 6 (3) (b)                                |
| Turkey             | ALADAG                 | 02/09/2008 | 6781/04  | Art. 3, 5 (1), 6 (1) and 13                             |
| Turkey             | BOZOGLU                | 29/08/2008 | 25099/04 | Art. 6 (1), 13 and Prot. 1 Art. 1                       |
| Turkey             | BUYUKDAG               | 29/08/2008 | 22920/04 | Art. 3, 5 (3), 5 (4) and 6 (1)                          |
| Turkey             | CENGIZ                 | 29/08/2008 | 15721/04 | Art. 6 (1), 13 and Prot. 1 Art. 1                       |
| Turkey             | CHARAHILI              | 01/09/2008 | 46605/07 | Art. 2 (1), 3, 5 (1) (f), 6 (1), 6 (3) (e) 8 (1) and 13 |
| Turkey             | EKINCI                 | 29/08/2008 | 218/04   | Art. 6 (1), 6 (2), 6 (3) (b), 6 (3) (d) and 7 (1)       |
| Turkey             | EKSI and OCAK          | 29/08/2008 | 44920/04 | Art. 3, 5 (5) and 10 (1)                                |
| Turkey             | IMREN                  | 29/08/2008 | 6045/04  | Art. 6 (1) and 7 (1)                                    |
| Turkey             | KABUL and Others       | 29/08/2008 | 9362/04  | Art. 5 (3), 6 (3) (b), 8 (1) and 13                     |
| Turkey             | KHALAJABADI and ARAGHI | 29/08/2008 | 22679/08 | Art. 2 (1), 3 and 13                                    |
| Turkey             | MAVITAN                | 02/09/2008 | 41613/05 | Art. 6 (1), 13 and Prot. 1 Art. 1                       |
| Turkey             | MAZACA                 | 29/08/2008 | 25066/04 | Art. 5 (3), 5 (4), 5 (5) and 6 (1)                      |
| Turkey             | SECIK                  | 29/08/2008 | 25515/04 | Art. 6 (1)  |
| Turkey             | ARSLAN and KAMURBAY    | 28/08/2008 | 45428/04 | Art. 2 (1), 3, 5 (1), 6 (1) and 14                      |
| Turkey             | KURUM                  | 28/08/2008 | 56493/07 | Art. 5 (3), 5 (4), 5 (5), and 6 (1)                     |

#### D. Miscellaneous

##### Speech by President Costa during his official visit to Cyprus:

You may read the abovementioned speech using the following link:

[Speech in Nicosia, 16 September 2008](#)

## Part II : The execution of the judgments of the Court

### A. New information

#### 17-18 September 2008: Committee of Ministers to supervise the execution of European Court of Human Rights judgments

The Council of Europe's Committee of Ministers held its third special "human rights" meeting of 2008 from 17 to 18 September. The Committee supervised the adoption of individual measures needed to erase the consequences for applicants of violations established by the Court (including the payment of any just satisfaction awarded) and/or general measures (legislative or other changes) aimed at preventing new similar violations.

Interim Resolutions and the most important decisions became public at the end of the meeting. You may find below the links to the resolutions adopted during the 1035<sup>th</sup> meeting:

- [Interim Resolution CM/ResDH\(2008\)69, Actions of the security forces in Turkey, Progress achieved and outstanding issues](#)
- [Resolution CM/ResDH\(2008\)70, Kounov against Bulgaria](#)
- [Resolution CM/ResDH\(2008\)71, Meftah and others and 25 other cases against France regarding the right to a fair trial before the \*Cour de cassation\*](#)
- [Resolution CM/ResDH\(2008\)72, Csikós against Hungary](#)
- [Resolution CM/ResDH\(2008\)73, Gajcsi against Hungary](#)
- [Resolution CM/ResDH\(2008\)74, Osváth against Hungary](#)
- [Resolution CM/ResDH\(2008\)75, Abbatiello, Federici, Maugeri, Scassera against Italy](#)
- [Resolution CM/ResDH\(2008\)76, Beyeler against Italy](#)
- [Resolution CM/ResDH\(2008\)77, De Almeida Azevedo against Portugal](#)
- [Resolution CM/ResDH\(2008\)78, Buzescu against Romania](#)
- [Resolution CM/ResDH\(2008\)79, Canciovici and others against Romania ; Moşteanu and others against Romania](#)
- [Resolution CM/ResDH\(2008\)80, Pini and Bertani and Manera and Atripaldi against Romania](#)
- [Resolution CM/ResDH\(2008\)81, Prado Bugallo against Spain](#)
- [Resolution CM/ResDH\(2008\)82, Grozdanoski and Mitrevski against "the former Yugoslav Republic of Macedonia"](#)
- [Resolution CM/ResDH\(2008\)83, Sertkaya and 9 other cases against Turkey](#)
- [Resolution CM/ResDH\(2008\)84, T.P. and K.M. against the United Kingdom](#)
- [Resolution CM/ResDH\(2008\)85, 16 cases against France regarding the right to a fair trial before the \*Cour de Cassation\*](#)
- [Resolution CM/ResDH\(2008\)86, Smokovitis and others against Greece](#)
- [Resolution CM/ResDH\(2008\)87, SC Maşinexportimport Industrial Group SA against Romania](#)
- [Resolution CM/ResDH\(2008\)88, Alay and 5 other cases against Turkey](#)
- [Resolution CM/ResDH\(2008\)89, Akıllı and 5 other cases against Turkey](#)
- [Resolution CM/ResDH\(2008\)90, Akkılıç and 5 other cases against Turkey](#)
- [Resolution CM/ResDH\(2008\)91, Cankoçak and 7 other cases against Turkey](#)

- [Resolution CM/ResDH\(2008\)92, Djidrovski and Veselinski against “the former Yugoslav Republic of Macedonia”](#)
- [Resolution CM/ResDH\(2008\)93, Dymacek and Dymackova against the Czech Republic](#)
- [Resolution CM/ResDH\(2008\)94, Değirmenci and others and Keskin against Turkey](#)
- [Resolution CM/ResDH\(2008\)95, Dürdane and Selvihan Aslan against Turkey](#)
- [Resolution CM/ResDH\(2008\)96, in the case of İmrek against Turkey](#)
- [Resolution CM/ResDH\(2008\)97, Karataş and Boğa and 2 other cases against Turkey](#)
- [Resolution CM/ResDH\(2008\)98, Yalın and 2 other cases against Turkey](#)
- [CM/Del/OJ/DH\(2008\)1035genpublicE / 08 October 2008](#)

The annotated agenda (with information on the progress made in the different cases) were made public a fortnight after the meeting. You may find below the relevant links to the annotated agenda for the 1035<sup>th</sup> meeting:

- [CM/Del/OJ/DH\(2008\)1035genpublicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - General questions - Public information version
- [CM/Del/OJ/DH\(2008\)1035section1publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 1 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section2.1publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 2.1 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section2.2publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 2.2 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section4.1publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 4.1 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section4.2publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 4.2 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section4.3publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 4.3 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section5publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 5 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section6.1publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 6.1 - Public information version
- [CM/Del/OJ/DH\(2008\)1035section6.2publicE / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Decisions - Section 6.2 - Public information version
- [CM/Del/OJ/DH\(2008\)1035statpublic / 08 October 2008](#) : 1035th meeting (DH), 17-18 September 2008 - Annotated Agenda - Statistics - Public information version

## **B. General and consolidated information**

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2007 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights: [http://www.coe.int/T/E/Human\\_Rights/execution/](http://www.coe.int/T/E/Human_Rights/execution/)

The [simplified global database](#) with all pending cases for execution control (Excel document containing all the basic information on all the cases currently pending before the Committee of Ministers) can be consulted at the following address :

[http://www.coe.int/t/e/human\\_rights/execution/02\\_Documents/PPIndex.asp#TopOfPage](http://www.coe.int/t/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage)

## Part III : The work of other Council of Europe monitoring mechanisms

### A. European Social Charter (ESC)

The European Committee of Social Rights held its 231th session between 22 and 26 September 2008.

The next Session of the European Committee of Social Rights will be held from 20 to 24 October 2008. You may find relevant information on both sessions using the following link : [http://www.coe.int/t/dghl/monitoring/socialcharter/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp).

#### New collective complaints (23.09.08)

The European Committee of Social Rights declared the following complaints admissible:

- European Roma Rights Centre (ERRC) v. France ([Complaint no. 51/2008](#))
- Confédération française démocratique du travail (CFDT) v. France, no. 50/2008 ([Complaint no. 50/2008](#))
- International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece, no. 49/2008 ([Complaint no. 49/2008](#))
- Defence for Children International v. The Netherlands, no. 47/2008 ([Complaint no. 47/2008](#))

It is now possible as well to consult the case documents for the following complaints on line:

- Centre on Housing Rights and Evictions (COHRE) v. Croatia ([Complaint no. 52/2008](#))
- European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia ([Complaint no. 53/2008](#))

You may visit the following webpage containing **summary presentations of the implementation of the Social Charter in its States parties**:

[http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable_en.asp)

### B. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

#### Finnish response to preliminary observations by Council of Europe anti-torture Committee (CPT) after visit to [Finland](#) in April 2008 (17.09.08)

In preliminary observations made at the end of its visit to Finland in April 2008, the CPT's delegation requested the Finnish authorities to provide the Committee with detailed information about the legislative and organisational steps envisaged to eliminate the practice of holding persons on remand in police establishments, information on steps taken to end the practice of "slopping out" at Helsinki Prison, and a detailed action plan to reduce significantly recourse to seclusion at Vanha Vaasa State Psychiatric Hospital. By letter of 29 August 2008, the Finnish authorities provided their response; it will be taken into account in the context of the preparation of the CPT's report on the 2008 visit to Finland.

The [response](#) is published with the agreement of the Finnish authorities.

#### Council of Europe's anti-torture Committee publishes its 18th General Report (18.09.08)

In its 18th General Report to the Committee of Ministers of the Council of Europe, published today, the CPT provides details on the 20 visits which it has carried out during the last twelve months.

The CPT also makes comments on the draft European Rules for juvenile offenders, which are currently pending before the Committee of Ministers. There is a high degree of consonance between the draft rules and the standards developed by the CPT in relation to juvenile offenders. However, the Committee considers that the particular vulnerability of juveniles during police custody should be addressed in a more concrete manner.

The CPT announces its intention to examine in depth the use of electroshock stun devices in detention-related situations, with a view to developing standards that will help to prevent ill-treatment. Electroshock stun devices, and in particular tasers, are increasingly being used in law enforcement and detention contexts. Originally presented as a non-lethal alternative for situations when lethal force might be employed, there is growing concern that such devices are being resorted to in circumstances that do not warrant their use.

Set up by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in force in 47 countries in Europe, the mandate of the CPT is to examine the treatment of persons deprived of their liberty. The CPT visits various types of places (e.g. prisons and juvenile detention centres, police stations, holding centres for immigration detainees and psychiatric hospitals), to examine how persons deprived of their liberty are treated and, if necessary, to recommend improvements to States.

The General Report is available on the CPT's website: ([HTML version](#), [PDF version](#))

### **Council of Europe anti-torture Committee visits [Montenegro](#) (25.09.08)**

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recently carried out an eight-day visit to Montenegro. The visit, which began on 15 September 2008, was the CPT's first periodic visit to Montenegro as an independent State. The CPT had already visited Montenegro in the past as part of its visit to the State Union of Serbia and Montenegro in 2004. The recent visit was therefore an occasion to assess progress made in the last four years and the extent to which the CPT's recommendations had been implemented.

### **Council of Europe anti-torture Committee publishes report on [Denmark](#) (25.09.08)**

The Danish government has requested the publication of the [report](#) of the Council of Europe's Committee for the Prevention of Torture (CPT) on its visit to Denmark in February 2008. The visit was carried out within the framework of the CPT's programme of periodic visits for 2008; it was the Committee's fourth visit to Denmark.

The CPT's delegation reviewed the measures taken by the Danish authorities to implement the recommendations made by the Committee after previous visits. The delegation examined in detail various issues concerning detention by the police, as well as the detention of asylum-seekers and other foreigners in the Ellebæk Establishment. As regards prisons, particular attention was paid to the treatment of maximum security prisoners. In the Herstedvester Establishment, the delegation focused on the treatment of sexual offenders who were receiving, or had been offered, anti-hormone therapy, as well as on the situation of prisoners from Greenland. In addition, the delegation visited two psychiatric establishments, where it examined in particular the legal safeguards afforded to patients in the context of the use of restraint. The delegation also visited two secure institutions for minors and juveniles.

The Danish government is currently preparing its response to the issues raised by the Committee.

## **C. European Commission against Racism and Intolerance (ECRI)**

### **ECRI's Round Table in the Russian Federation (23.09.08)**

[Russian version \(pdf\)](#)



ECRI's Round Table in the Russian Federation is part of a series of national round tables in the member States of the Council of Europe, which are organised by the European Commission against Racism and Intolerance (ECRI) of the Council of Europe in the framework of its Programme of action on relations with civil society.

The main aim of these round tables is to encourage reflection in the governmental and non-governmental circles concerned, by bringing together the relevant national actors in this field, including government officials, representatives of national human rights institutions, representatives of local and regional authorities, parliamentarians, victims of discrimination, academics, NGOs etc. The objective is to develop together ideas as to how to solve the problems of racism in the country and to ensure the implementation of ECRI's specific recommendations.

#### **D. Framework Convention for the Protection of National Minorities (FCNM)**

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#### **E. Group of States against Corruption (GRECO)**

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#### **F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)**

##### **Mutual evaluation report on Israel public (17.09.08)**

The mutual evaluation report on Israel, as adopted at MONEYVAL's 27th plenary meeting (7-11 July 2008) is now available for consultation.

[Link to report](#)

##### **Mutual evaluation report on San Marino public (22.09.08)**

The mutual evaluation report on San Marino, as adopted at MONEYVAL's 26th plenary meeting (31 March-4 April 2008) is now available for consultation.

[Link to report](#)

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\* No work deemed relevant for the NHRS for the period under observation.



## Part IV : The intergovernmental work

### A. The new signatures and ratifications of the Treaties of the Council of Europe

**Germany** signed on 15 September 2008 the European Convention for the protection of the Audiovisual Heritage ([ETS No. 183](#)), and the Protocol to the European Convention for the protection of the Audiovisual Heritage, on the protection of Television Productions ([ETS No. 184](#)).

**Slovakia** ratified on 16 September 2008 the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism ([CETS No. 198](#)).

**Slovenia** ratified on 17 September 2008 the Council of Europe Framework Convention on the Value of Cultural Heritage for Society ([CETS No. 199](#)).

**Estonia** signed on 17 September 2008 the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)).

**Montenegro** signed on 17 September 2008 without reservation as to ratification the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe ([ETS No. 162](#)).

"**The former Yugoslav Republic of Macedonia**" ratified on 26 September 2008 the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows ([ETS No. 181](#)).

### B. Recommendations and Resolutions adopted by the Committee of Ministers

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### C. Other news of the Committee of Ministers

You may find some relevant information on the decisions adopted during the 1036<sup>th</sup> meeting of the Committee of Ministers (16 September 2008) using the following link:

[CM/Del/Dec\(2008\)1036E / 18 September 2008](#)

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\* No work deemed relevant for the NHRS for the period under observation.

## Part V : The parliamentary work

### A. Reports, Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe

Relevant information on the Parliamentary Assembly of the Council of Europe's Autumn Session (29 September – 3 October) will be provided in the next issue of the Regular Selective Information Flow.

However you may already find relevant information using the following link: <http://assembly.coe.int/default.asp>

### B. News of the Parliamentary Assembly of the Council of Europe

Azerbaijan: statement by PACE pre-election delegation (18.09.08)

A five-member, cross-party pre-election delegation from the Parliamentary Assembly of the Council of Europe (PACE), visiting Azerbaijan ahead of October's Presidential election, has noted improvements that should create conditions for a good election. Those improvements took account of a number of recommendations made by the Council of Europe's Venice Commission, the delegation said. However, not of all of the recommendations were fully addressed.

It nevertheless acknowledged that some key issues, such as equitable representation in electoral commissions or fairness in conducting the campaign, are more a matter of electoral practice than the letter of the law. It is heartened by the assurances it received from top Azerbaijani representatives that their goal is to hold an orderly and well-administered election that complies with European standards.

Concerned about a presumed lack of public interest, the delegation firmly wishes that the electorate will take an increasing interest in the campaign that started yesterday.

Though with seven presidential candidates registered, a plurality of choices and competitiveness are to be expected, the decision by five opposition parties not to participate in the vote is most unfortunate. Even if a political party and its leaders fail to see clear prospects of getting voted into power, or they feel that their democratic rights are being limited or even violated, they should nonetheless participate in the electoral race in the interests of their supporters.

In this connection, the delegation urges all parts of the political spectrum, including those not participating in the election, to act responsibly and to engage in a meaningful dialogue with each other. All political forces, whatever their differences, should go beyond mutual recriminations, addressing instead the issues of substance in a constructive interplay.

The delegation was in Baku from 16 to 18 September 2008 at the invitation of the Speaker of the Parliament of Azerbaijan, to assess the political climate in the run-up to the elections and the state of preparations for the 15 October vote.

It met, among others, the President of Azerbaijan, the Speaker of the Parliament, all the presidential candidates, the leaders of the opposition parties, the Ministers of the Interior and Justice, the Chairman of the Constitutional Court, civil society and media representatives as well as members of the diplomatic corps in Baku. A full 30-member PACE observer delegation will arrive in Azerbaijan in October to observe the actual voting.

## **Both Georgia and Russia could have done more to prevent war, says PACE delegation head (26.09.08)**

Both Georgia and Russia could have done more to prevent the war between them, according to the head of a PACE delegation visiting the two countries ahead of an urgent debate on the consequences of the war next week in Strasbourg.

Speaking at a press conference in Tbilisi at the end of the second part of the visit (24-25 September), Luc van den Brande (Belgium, EPP/CD) said that it was important to understand events leading up to the outbreak of war: "This conflict didn't start on 7 August," he pointed out. He therefore repeated his call for an international investigation into the war, and said the parliaments of both countries had indicated their willingness to participate.

As well as meetings with the authorities in Tbilisi, the nine-member, cross-party delegation visited villages in South Ossetia and the so-called buffer-zone, and spoke to residents who had experienced bombing during the war as well as looting in its aftermath. It also met, at their request, with the de facto authorities in Tskhinvali, including Eduard Kokoity.

Mr van den Brande added that a war between two member states was a matter of grave concern, and said that all parties bore their share of responsibility for the widespread human suffering it had caused. He called for a renewed focus on the humanitarian situation, the return of IDPs as soon as possible and appealed for maximum international assistance.

The Assembly's possible urgent debate is due to begin on the morning of Tuesday 30 September and continues, culminating in a vote, on the morning of Thursday 2 October.

[PACE delegation in Moscow](#)  
[Announcement of visit](#)

## **PACE President calls on the Committee on Legal Affairs and Human Rights to keep a close track on the debate on the reintroduction of the death penalty in Latvia (25.09.08)**

"Under no circumstances can the reintroduction of the death penalty ever be on the Council of Europe or European Union agenda again", said the President of the Parliamentary Assembly of the Council of Europe (PACE), Lluís Maria de Puig, today, in reply to the call for an EU debate on the subject by the Chair of the Latvian Parliament's Human Rights Commission.

"Latvia joined the Council of Europe in 1995 and it ratified Protocol No. 6 to the European Convention on Human Rights in 1999, thus formally abolishing the death penalty. To reintroduce the penalty would jeopardise the very membership of the organisation of any state which opted for such a step", warned the President.

"I am concerned about the statements on the death penalty that the Latvian Ministers of Justice and the Interior and the Chair of the Human Rights Commission of the Latvian Parliament are reported to have made recently. Their words run counter to the values that they are supposed to champion in the positions they occupy. No murder or crime, however abhorrent, can justify the death penalty and we expect the representatives of our member states to do their utmost to promote our common values. I will be asking the PACE Committee on Legal Affairs and Human Rights to keep a close track on the situation" concluded Mr de Puig.

[Recommendation 1760 \(2006\)](#): Position of the Parliamentary Assembly as regards the Council of Europe member and observer states which have not abolished the death penalty

### **C. Miscellaneous**

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\* No work deemed relevant for the NHRS for the period under observation.

## **Part VI : The work of the Office of the Commissioner for Human Rights**

### **A. Country work**

#### **Commissioner Hammarberg updates PACE monitoring committee on situation in Armenia (15.09.08)**

The Commissioner briefed the PACE monitoring committee, at its meeting in Paris on 11 September 2008, on developments concerning the inquiry into the events of 1 March 2008 and the people deprived of their liberty in connection with those events. He welcomed progress on the first issue, but remains concerned about the question of detainees - virtually all of them opposition supporters or prominent opposition figures - and the criminal justice process in relation to the 1 March events.

The Commissioner's proposal to set up a group of independent experts, to establish the facts of 1 March, met with a positive response by the relevant actors in Armenia. Consultations on this issue are ongoing. The Commissioner believes that establishing the facts would be one contribution to healing the severe trauma experienced by Armenian people as a consequence of the 1 March events. It is therefore very important that the report of the expert group be made public.

Seven people remain in preliminary detention, trials concerning 14 detainees are in progress, and 39 people have been sentenced to prison terms. Some 41 people have been sentenced to non-custodial measures, i.e. probation or fines, mostly in the context of fast trial proceedings. Prosecution cases against 19 people were based solely on police testimony. The Commissioner observed that the letter by the Head of the Special Investigation Service issued in early March 2008 to some regional prosecutors, requesting them to collect information on participants in opposition rallies, rather than information on specific acts, raises questions about the intent and nature of the investigation. According to the Armenian authorities, all preliminary investigations have been completed.

The Monitoring Committee took note of the information provided by the Commissioner. The issues will be on the agenda of the next meeting of the PACE Monitoring Committee in Strasbourg, during the week of the PACE session (29 September to 3 October 2008).

#### **Netherlands: Commissioner Hammarberg assesses human rights situation (16.09.08)**

Policies affecting migrants, refugees and asylum seekers, integration, children's rights and the fight against discrimination and intolerance are some of the main topics that the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, assessed during his four-day high-level official visit to the Netherlands starting on Sunday 21 September.

Mr Hammarberg's agenda also covered a broader range of human rights issues including the functioning of the police and the judiciary as well as freedom of expression. Accompanied by three members of his Office, Commissioner Hammarberg also visited a shelter for trafficked women, asylum seekers centres, a facility for young offenders and a psychiatric institution.

During the visit, the Commissioner met with members of the Dutch government including the Ministers of Justice, Mr Hirsch Ballin, Interior and Kingdom Relations, Ms Ter Horst, and Housing, Communities and Integration, Ms Vogelaar. He also met with Parliamentarians and representatives of civil society. Furthermore, meetings with the National Ombudsman and the Equal Treatment Commission were also part of the programme.

The visit is in accordance with the Commissioner's mandate to assess the implementation of human rights commitments by all Council of Europe's member States. An assessment report with relevant recommendations will be presented and published in early 2009.

## **United Kingdom: Commissioner Hammarberg releases human rights report on asylum-seekers and immigrants (18.09.08)**

“Improvements must be introduced to strengthen effective respect for the rights of asylum-seekers and immigrants in the United Kingdom” said today Council of Europe Commissioner for Human Rights, Thomas Hammarberg, presenting the first of three memoranda on the country.

Based on visits by the Commissioner to the UK in February and April 2008, the memorandum focuses on major issues relating to asylum and immigration, namely the administrative detention of asylum-seekers, detention of rejected asylum-seekers and immigrants to be deported, the special needs of children, the cases of ethnic Tamils subject to deportation to Sri Lanka and forced return in the context of diplomatic assurances.

While commending the authorities’ efforts to enhance the efficiency of the asylum system, the Commissioner expressed concern about the dangers for human rights that accelerated asylum procedures could have in the complex field of refugee law and protection. “The UK authorities should consider regulating the so-called ‘Detained Fast Track’ by introducing special legislation fully in compliance with the standards laid down by the European Convention on Human Rights”, he said. “This type of detention should in particular be forbidden for vulnerable persons, such as unaccompanied minors, for whom alternative measures should be provided.” Commissioner Hammarberg was seriously concerned about the reduction in legal aid to asylum-seekers and recalled that asylum seekers should be kept in reception centres, not detention or removal premises.

The Commissioner was also worried about the detention conditions of asylum-seekers. He urged the authorities to limit drastically the use of administrative detention of migrants and recommended that a maximum time limit for such detention be introduced into domestic law. Commissioner Hammarberg recommended that initial and on-going education in human rights protection be promoted for all immigration staff, involving also national human rights structures and other competent organizations.

With regard to migrant children, the Commissioner called on the authorities to ratify promptly the Council of Europe anti-trafficking Convention and to further improve the age-assessment procedures and to keep under constant review the welfare services provided by local authorities. “Further efforts are also needed to provide alternative solutions to detention for families and children” he said, encouraging the authorities to withdraw as soon as possible the “immigration reservation” to the UN Convention on the Rights of the Child.

On the cases of ethnic Tamils subject to deportation to Sri Lanka, Commissioner Hammarberg regretted that the authorities failed to resolve these at the national level, thus encumbering the overburdened docket of the European Court of Human Rights in Strasbourg. “It is unfortunate that the Home Office has not accepted certain security-related assessments and guidelines on asylum seekers drawn up by UNHCR. The UK authorities should provide refuge to ethnic Tamils from Sri Lanka, as long as there are real risks for their life in case of forced return.”

Finally, the Commissioner criticised strongly the UK practice of forced returns on the basis of diplomatic assurances, usually sought from countries with long-standing, proven records of torture and ill-treatment. “Freedom from torture and ill-treatment is a fundamental pillar of European societies. It is absolutely crucial that the authorities respect this principle and ensure effective protection of the returnees’ safety and dignity, also by monitoring their reception in the country of origin”.

The [memorandum](#), together with the authorities’ response, is available on the [Commissioner’s website](#).

## **Georgia: Commissioner Hammarberg gauges the implementation of the six human rights and humanitarian principles (25.09.08)**

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, will carry out a follow-up mission to the areas affected by the South Ossetia conflict, from 25 to 28 September.

"The aim of my visit is to assess the implementation of the [six principles](#) for urgent protection of human rights and humanitarian security which I proposed in my [report](#) after the previous visit to the region on 22-29 August" said the Commissioner. "These principles have been endorsed at the international level and accepted by all relevant actors involved in the conflict. It is fundamental that concrete measures are now taken to ensure their effective implementation".

The six human rights and humanitarian principles cover the right to return of the displaced persons; the provision of adequate aid and living conditions for the displaced until their return home; demining efforts in the war affected areas; addressing urgently the law and order vacuum as well as personal insecurity in the 'buffer zone'; humanitarian exchanges of prisoners of war, other detainees and stranded persons as well as ensuring international presence and assistance in the affected areas to address human rights and humanitarian issues.

During the visit the Commissioner will meet with displaced persons and hold talks with Government officials, responsible authorities and Ombudsmen in Tbilisi, Gori, the 'buffer zone' and Tskhinvali. He will report orally to the next session of the Council of Europe Parliamentary Assembly in Strasbourg.

## **B. Thematic work**

**Viewpoint of the Commissioner: "Persons displaced during conflicts have the right to return":**  
[http://www.coe.int/t/commissioner/Viewpoints/080915\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/080915_en.asp)

### **[The Commissioner - CommDH\(2008\)24 / 16 September 2008](#)**

"The child's best interest: a generally applicable principle", lecture given by Ms Emily Logan, Ombudsman for Children, Ireland, & Chairperson of the European Network of Ombudsmen for Children (ENOC), at the 2008 Korczak Lecture, organised by Mr Thomas Hammarberg, Council of Europe Commissioner for Human Rights, Stockholm, 9 September 2008

## **C. Miscellaneous (newsletter, agenda...)**

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\* No work deemed relevant for the NHRS for the period under observation.