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and **the Office of the Commissioner for Human Rights**

The selection of the information contained on this Issue and deemed relevant to NHRSs is made under the joint responsibility of the NHRS Unit and the Office of the Commissioner for Human Rights

For any queries, please contact:
markus.jaeger@coe.int, Head of NHRS Unit

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Introduction

This issue is part of the "Regular Selective Information Flow" (RSIF). Its purpose is to keep the National Human Rights Structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the National Human Rights Structures Unit of the DG-HL (NHRS Unit) and the Office of the Commissioner for Human Rights carefully select and try to present in a user-friendly manner. The information is sent to the Contact Persons in the NHRSs who are kindly asked to dispatch it within their offices.

Each issue covers two weeks and is sent by the NHRS Unit to the Contact Persons a fortnight after the end of each observation period. This means that all information contained in any given issue is between two and four weeks old.

Unfortunately, the issues are available in English only for the time being due to the limited means. However, the majority of the documents referred to exists 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 NHRS Unit and the Office of the Commissioner for Human Rights. It is based on what is deemed relevant to the work of the NHRSs. A particular effort is made to render the selection as targeted and short as possible.

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

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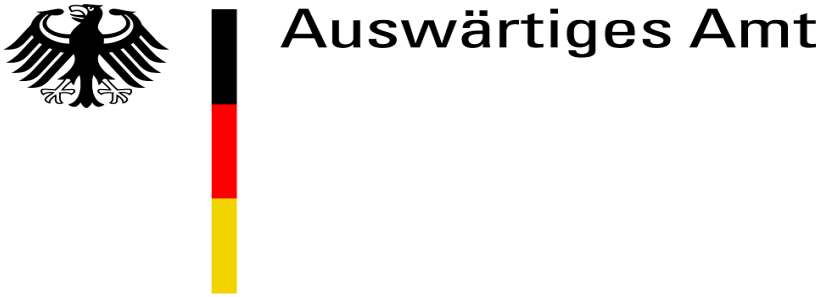

Part I : The activities of the European Court of Human Rights

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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 considered relevant for the work of the NHRSs. 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 NHRS Unit and the Office of the Commissioner for Human Rights, is based on the press releases of the Registry of the Court.

Some judgments are only available in French.

Please note that the Chamber judgments referred to hereunder become final in the circumstances set out in Article 44 § 2 of the Convention: "a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or c) when the panel of the Grand Chamber rejects the request to refer under Article 43".

Note on the Importance Level :

According to the explanation available on the Court's website, the following importance levels are given by the Court:

1 = High importance, Judgments which the Court considers make a significant contribution to the development, clarification or modification of its case-law, either generally or in relation to a particular State.

2 = Medium importance, Judgments which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law.

3 = Low importance, Judgments with little legal interest - those applying existing case-law, friendly settlements and striking out judgments (unless these have any particular point of interest).

Each judgment presented in section 1 and 2 is accompanied by the indication of the importance level.

- **Grand Chamber judgment**

Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (No. 2) (no. 32772/02) (Link to the judgment in French) (Importance 1) – 30 June 2009 – Violation of Article 10 – Federal Court's refusal to reconsider the prohibition on broadcasting a television commercial following the Court's finding of a violation of Article 10 – Positive obligations to execute the Court's judgments in good faith – Reopening of domestic procedures

Verein gegen Tierfabriken Schweiz (VgT) is a Swiss-registered animal-protection association which campaigns in particular against animal experiments and battery farming.

VgT made a television commercial which compared the conditions in which pigs were reared to concentration camps, and added that the animals were pumped full of medicines. Permission to broadcast the commercial was refused by the Commercial Television Company (*AG für das Werbefernsehen* – now Publisuisse SA) and at final instance by the Federal Court, which dismissed an administrative-law appeal by the applicant association on 20 August 1997.

The applicant association lodged an initial application (no. 24699/94) with the Court, which in a judgment of 28 June 2001 held that the Swiss authorities' refusal to broadcast the commercial in question was in breach of freedom of expression. The Court found a violation of Article 10.

On 1 December 2001, on the basis of the Court's judgment, the applicant association applied to the Federal Court for a review of the final domestic judgment prohibiting the commercial from being broadcast. In a judgment of 29 April 2002 the Federal Court dismissed the application, holding among other things that the applicant association had not demonstrated that there was still any purpose in broadcasting the commercial.

The Committee of Ministers of the Council of Europe had not been informed that the Federal Court had dismissed the application for a review, and thus concluded its examination of the applicant association's initial application (no. 24699/94) by adopting a final resolution in July 2003. However, the resolution noted the possibility of applying to the Federal Court to reopen the proceedings.

In July 2002 the applicant association lodged its application with the Court in the present case, concerning the Federal Court's refusal of its application to reopen the proceedings and the continued prohibition on broadcasting its television commercial.

The applicant association alleged that the continued prohibition on broadcasting the television commercial, after the Court had found a breach of its freedom of expression on 28 June 2001, constituted a fresh violation of Article 10 of the Convention.

As a third party, the Czech Government submitted that a mere failure to remedy the original violation of the Convention as such could never constitute a fresh violation.

Admissibility of the application

The Swiss Government argued that the application was inadmissible, firstly because the applicant association had not exhausted domestic remedies as required by Article 35 § 1 of the Convention, and secondly because it concerned a subject – execution of the Court's judgments – which, by virtue of Article 46, fell within the exclusive jurisdiction of the Committee of Ministers of the Council of Europe.

As regards the first issue, the Court, confirming the findings of the Chamber judgment, held that domestic remedies had indeed been exhausted since in its judgment of 29 April 2002 dismissing the applicant association's application to reopen the proceedings, the Federal Court had ruled, albeit briefly, on the merits of the case.

As regards the second issue, the Court reiterated that its findings of a violation were essentially declaratory and that, by Article 46 of the Convention, the member States undertook to abide by the final judgments of the Court in any case to which they were parties, execution being supervised by the Committee of Ministers (§61). The Committee of Ministers' role in that sphere did not mean, however, that measures taken by a respondent State to remedy a violation found by the Court could not raise a new issue and thus form the subject of a new application.

In the present case the Federal Court's judgment of 29 April 2002 refusing the applicant association's application to reopen the proceedings had been based on new grounds and therefore constituted new information of which the Committee of Ministers had not been informed and which would escape all scrutiny under the Convention if the Court were unable to examine it.

In § 65 of the judgment the Court observed, "*[...] in particular that in dismissing the application to reopen the proceedings, the Federal Court mainly relied on new grounds, namely that because of the time that had elapsed, the applicant association had lost all interest in having the commercial broadcast. By comparison, one of the main arguments put forward by the domestic authorities in refusing permission to broadcast the commercial in the first set of proceedings brought by the applicant association related to the prohibition of political advertising. Accordingly, in the opinion of the Federal Court itself, the general context had evolved to such an extent that it was legitimate to wonder whether the applicant association still had an interest in broadcasting the commercial. That is sufficient to warrant the conclusion that the refusals received after the Court's judgment of 28 June 2001 constitute relevant new information capable of giving rise to a fresh violation of Article 10.*"

Accordingly, the Government's preliminary objection on that account was likewise dismissed.

Merits

The Court reiterated that freedom of expression was one of the preconditions for a functioning democracy and that genuine, effective exercise of this freedom did not depend merely on the State's duty not to interfere but could also require positive measures. In the present case, in view of the importance in the Convention system of effective execution of the Court's judgments, Switzerland had been under an obligation to execute the 2001 judgment in good faith, abiding by both its conclusions and its spirit.

"As regards the requirements of Article 46, it should first be noted that a respondent State found to have breached the Convention or its Protocols is under an obligation to abide by the Court's decisions in any case to which it is a party. In other words, a total or partial failure to execute a judgment of the

Court can engage the State Party's international responsibility. The State Party in question will be under an obligation not just to pay those concerned the sums awarded by way of just satisfaction, but

also to take individual and/or, if appropriate, general measures in its domestic legal order to put an end to the violation found by the Court and to redress the effects, the aim being to put the applicant, as far as possible, in the position he would have been in had the requirements of the Convention not been disregarded (§ 85)".

In that connection the reopening of domestic proceedings had admittedly been a significant means of ensuring the execution of the judgment but could certainly not be seen as an end in itself.

"With regard in particular to the reopening of proceedings, the Court clearly does not have jurisdiction to order such measures. However, where an individual has been convicted following proceedings that have entailed breaches of the requirements of Article 6 of the Convention, the Court may indicate that a retrial or the reopening of the case, if requested, represents in principle an appropriate way of redressing the violation. This is in keeping with the guidelines of the Committee of Ministers, which in Recommendation R (2000) 2 called on the States Parties to the Convention to introduce mechanisms for re-examining the case and reopening the proceedings at domestic level, finding that such measures represented "the most efficient, if not the only, means of achieving restitutio in integrum" .

In the instant case the Chamber considered that the reopening of proceedings at domestic level could constitute an important aspect of the execution of the Court's judgments. The Grand Chamber shares that view. However, the reopening procedure must also afford the authorities of the respondent State the opportunity to abide by the conclusions and the spirit of the Court judgment being executed, while complying with the procedural safeguards in the Convention. This applies all the more where, as in the instant case, the Committee of Ministers merely notes the existence of a reopening procedure without awaiting its outcome. In other words, the reopening of proceedings that have infringed the Convention is not an end in itself; it is simply a means – albeit a key means – that may be used for a particular purpose, namely the full and proper execution of the Court's judgments. Seeing that this is the sole criterion for assessing compliance with Article 46 § 1 and applies equally to all Contracting States, no discrimination can result between those which have introduced a reopening procedure in their legal system and others (§§ 89-90)."

In the absence of any new grounds that could justify continuing the prohibition from the standpoint of Article 10, the Swiss authorities had been under an obligation to authorise the broadcasting of the commercial, without taking the place of the applicant association in judging whether the debate in question was still a matter of public interest.

"The Court notes, lastly, that the Contracting States are under a duty to organise their judicial systems in such a way that their courts can meet the requirements of the Convention. This principle also applies to the execution of the Court's judgments. Accordingly, it is equally immaterial in this context to argue, as the Government did, that the Federal Court could not in any event have ordered that the commercial be broadcast following the Court's judgment. The same is true of the argument that the applicant association should have instituted civil proceedings (§ 97)."

The Court therefore held by eleven votes to six that there had been a fresh violation of Article 10.

Judge Malinverni, joined by Judges Bîrsan, Myjer and Berro-Lefèvre, expressed a dissenting opinion. Judges Sajó and Power also submitted dissenting opinions. The opinions are annexed to the judgment.

- **Conditions of detention**

Viorel Burzo v. Romania (no. 75109/01) (Importance 2) – 30 June 2009 – Violation of Article 3 – Conditions of detention in Cluj and Jilava – Violation of Article 5 § 3 – Failure to bring the applicant promptly before a judicial authority – Violation of Article 8 – Wiretapping of the applicant's office and automatic ban on the applicant's parental rights after criminal charges

On 20 January 2001 the applicant, who was President of the Criminal Division of the Cluj-Napoca Court of Appeal, was arrested on suspicion of trading in influence. The order for his detention stated that in July 2000 the applicant had received money from a certain G.M. while the latter's husband was in detention, with the aim of persuading the judges of the Cluj Court of Appeal to be lenient.

Mr Burzo was taken into custody at the detention facility at Cluj police headquarters. He spent a total of 11 days there in an unheated basement cell measuring 5.75 sq. m, with two other detainees. Mr Burzo alleged that he was allowed to go to the toilet only twice a day.

A series of articles on Mr Burzo's arrest appeared in the national and local press in 2001. They gave a summary of the alleged offences, in some cases presenting Mr Burzo's guilt as established, and in some cases claiming to have received confirmation of his guilt from an official source.

Among the evidence in the file on the investigation was a recording of a conversation between G.M.'s husband and Mr Burzo, obtained through the wiretapping of the applicant's office by the Romanian Intelligence Service.

On 21 February 2001 the applicant was transferred to Bucharest-Jilava Prison, where he was held until 14 August 2002 in a cell of 14 sq. m with natural light, together with nine other detainees.

On 11 July 2001, after examining the evidence, the Supreme Court of Justice sentenced Mr Burzo to four years' imprisonment for trading in influence, and barred him from exercising his parental rights in respect of his daughter during that time. The Supreme Court dismissed an appeal by the applicant. On 14 August 2002 he was transferred from Jilava Prison to Bistrița Prison in a prison van. Mr Burzo claimed that he had to stand up throughout the 23-hour journey and did not receive any food or medical treatment. Mr Burzo continued serving his sentence in Bistrița Prison until 25 July 2003, when a court ordered his release on licence.

The applicant complained in particular that the conditions in which he had been detained in Cluj and Jilava and transferred to Bistrița had been poor, that he had not been brought promptly before a judge after his arrest, that he had not been presumed innocent, that his telephone conversations had been intercepted as a result of the wiretapping of his office, and that he had been barred from exercising his parental rights because of his criminal conviction.

Article 3

Regarding the conditions of the applicant's detention, the Court noted that his allegations were consistent with the situation described by the CPT following visits to Romanian prisons.

In both Cluj and Jilava the applicant had had a very restricted amount of living space. The Court noted the serious breaches of the normal hygiene and privacy requirements in Cluj, in particular the improvised sanitary facilities. In Jilava Mr Burzo had been confined to his cell most of the time, with limited access to showers and with a water supply that the Government had been unable to prove was fit to drink.

The Court thus unanimously found a violation of Article 3 on account of the conditions of the applicant's detention.

Article 5 § 3

The overall length of the applicant's detention before being brought before a judicial authority had been 19 days, and the Government had not provided any justification for such a delay.

The applicant had therefore not been brought "promptly" before a judge or other officer authorised by law to exercise judicial power, in breach of Article 5 § 3.

Article 8

The question of telephone tapping

It was not disputed that the interference by the public authorities with Mr Burzo's right to respect for his private life had a basis in law. However, the legal provisions in question, in the context of the interception of telephone conversations in Romania at the relevant time, disclosed shortcomings that were incompatible with the minimum degree of protection to which citizens were entitled in a democratic society, in breach of Article 8 (see in particular §§ 126-127).

The question of parental rights

The Court reiterated that the automatic ban on exercising parental rights, as in place at the relevant time, did not pursue the overriding legitimate aim of protecting the child's interests. Moreover, the Court welcomed the subsequent amendment of the Romanian Criminal Code on this point.

In addition, in the present case the offence of trading in influence of which Mr Burzo had been convicted was wholly unconnected to matters concerning parental responsibility. The Court therefore found a violation of Article 8.

Article 6 §§ 1 and 3

The Court considered that neither the use in evidence of the disputed recording nor the failure to examine prosecution witnesses had denied Mr Burzo a fair trial. It therefore dismissed these complaints.

Article 6 § 2

The authorities were legitimately entitled to inform the public about criminal investigations in progress, but they had to do so with the circumspection necessary to respect the presumption of innocence.

The present case had been of interest to the newspapers and the public in that Mr Burzo had occupied one of the highest positions in the Romanian judicial system. In such circumstances, it was inevitable in a democratic society that harsh comments would sometimes be made by the press.

Mr Burzo had simply mentioned the titles of the newspapers to which his complaints related, without giving details of the statements by the prosecution that had allegedly infringed his right to be presumed innocent. Furthermore, only two of the newspapers had published statements by the authorities, and their context had not been specified. It was therefore not established that the statements had concerned the applicant's guilt; they might instead have reflected the prosecution's desire to maintain that there was sufficient evidence to warrant the institution of criminal proceedings. The Court observed that the authorities could not be held responsible for the way in which the prosecution's position was presented by the press.

The Court further noted, firstly, that several months had elapsed between the articles in question and Mr Burzo's conviction and, secondly, that the courts hearing his case had been composed entirely of professional judges, who were less likely than a jury to be influenced by the press.

The Court therefore held that there had been no violation of Article 6 § 2.

Bakhmutskiy v. Russia (no. 36932/02) (Importance 2) – 25 June 2009 – Violation of Article 3 – Conditions of detention – Violation of Article 5 §§ 1, 3 and 4 – Unlawfulness and length of detention – Discontinuation of the examination of the applicant's appeal against an extension order – Violation of Article 6 § 1 – Excessive length of the proceedings – Two violations of Article 13 – Lack of an effective remedy regarding the conditions of detention and the length of criminal proceedings

The applicant is currently serving a 13-year prison sentence in a correctional colony in the Rostov Region for, among other offences, fraud, kidnapping, extortion, theft and burglary.

The Court found that, during his pre-trial detention in Rostov-on-Don, the applicant had been obliged to live, sleep and use the toilet in the same cell – with less than 1 sq m^2 of personal space – as so many other inmates for almost six years had itself been sufficient to cause distress or hardship of an intensity which exceeded the unavoidable level of suffering inherent in detention (see *Benediktov v. Russia* of 10 May 2007*)*, and to arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him, in violation of Article 3.

The Court further held that there had been a violation of Article 13 on account of the lack of an effective remedy for him to complain about those conditions of his detention. It also held that there had been: a violation of Article 5 § 1 on account of the applicant's detention from 12 February to 1 July 2002; no violation of this article on account of his detention from 1 July 2002 to 17 May 2004; a violation of Article 5 § 3 on account of the excessive length of Mr Bakhmutskiy's detention, the accumulated periods amounting to almost four years; and a violation of Article 5 § 4 regarding the discontinuation of the examination of his appeal against an extension order made in February 2004. Lastly, the Court held that there had been a violation of Article 6 § 1 and Article 13 in respect of the excessive length – just over six years and ten months – of the proceedings.

Vafiadis v. Greece (no. 24981/07) (Importance 2) – 2 July 2009 – Violation of Article 3 – Conditions of detention – Violation of Article 5 § 3 – Length of detention

At the relevant time the applicant was following a course of treatment for his drug addiction. He complained about the conditions of his pre-trial detention following his arrest for selling drugs to a minor. Under Article 5, he also complained about the unlawfulness of his pre-trial detention. The Court concluded unanimously that there had been a violation of Article 3 and Article 5 § 3, on account of the conditions of the applicant's pre-trial detention in the premises of the Salonika police headquarters and the length – about 11 months – of that detention.

Artimenco v. Romania (no. 12535/04) (Importance 3) – 30 June 2009 – Violation of Article 3 – Conditions of detention

In 2003 the applicant was sentenced to two years and ten months' imprisonment for trading in influence. She complained of the conditions in which she had been held in the arrest house of the general inspectorate of the police in Bucharest, in the police station of Galaţi and in the penitentiary centre of Rahova and Târgşorul Nou during her pre-trial detention and imprisonment, the unlawfulness of her pre-trial detention and the unfairness of the proceedings against her, and alleged that there had been a breach of her right to respect for private and family life, in that her husband was not authorised to visit her in prison. Referring in particular to the reports of the CPT, the Court concluded that the conditions in which the applicant had been detained in particular the overcrowding in her cell, and the conditions in which she had been transported, without food, to attend hearings to which she had been summoned by the courts examining the criminal case against her, amounted to degrading treatment. It concluded unanimously that there had been a violation of Article 3 and declared the remainder of the application inadmissible.

Kochetkov v. Estonia (no. 41653/05) (Importance 3) – 2 July 2009 - Violation of Article 3 – Conditions of detention – Violation of Article 13 – Restrictive interpretation of domestic law concerning compensation for the non-pecuniary damage caused by the applicant's degrading treatment during detention

The applicant is currently serving a prison sentence in Viru Prison in Jõhvi. Mr Kochetkov complained about the conditions of his detention in Narva Arrest House while awaiting his trial and the fact that the domestic authorities failed to provide adequate compensation for the deterioration of his health and mental suffering during that period of his detention. The Court held that there had been a violation of Article 3 as it found that the conditions of his detention, in particular the overcrowding, inadequate ventilation, impoverished regime and poor hygiene, had caused Mr Kochetkov significant distress and hardship irrespective of the relatively short time he had spent in the arrest house. The Court also held that there had been a violation of Article 13 on account of the restrictive interpretation of the relevant law followed by the domestic courts in this case.

- **Police misconduct and effective investigation**

Beganović v. Croatia (no. 46423/06) (Importance 1) – 25 June 2009 – Violation of Article 3 – Ill-treatment – Failure of State authorities to fulfil their positive obligations in ensuring that the prosecuting authorities and the courts satisfied the requirement of effectiveness of the criminal-law mechanism regarding violence against minors – No violation of Article 14 – Attack racially motivated – Lack of evidence

On 9 December 1999 a request that minor-offences proceedings be instituted against the applicant was lodged with the Zaprešić Minor Offences Court, following an allegation that on 8 December 1999 the applicant of Roma origin (then aged twenty-two) and two other individuals had physically attacked three minors.

In the connexion with this incident, on 23 April 2000, the applicant got into a fight with a group of seven friends (five minors) over a violent incident in which they had previously been involved. In April and June 2000 the police interviewed the members of the group of friends who submitted that they had agreed to attack the applicant as revenge for him having physically assaulted some of them a few months earlier. The police also interviewed the applicant who gave no indication that any of his assailants had made reference to his Roma origin.

In June 2000 the applicant lodged a criminal complaint with the State Attorney's Office against six identified individuals and one unknown alleging that they had beaten him on 23 April 2000 causing him severe bodily injuries. A medical report was submitted to the police by a hospital in Zagreb, in which the applicant had been examined after the incident, and which described his injuries as grievous.

Acting upon the applicant's complaint against the seven individuals, the police brought a criminal complaint before the State Attorney's Office in respect of the assailants. However, the Attorney's Office decided, in July 2001 and in September 2002 respectively, not to institute criminal proceedings against the assailants as it found the injuries complained of to be of a nature only prosecutable privately by the victim. The applicant then brought private prosecutions against his assailants. His private prosecution against one of them, B.B., was later dismissed by a different State Attorney who

found that there had been a procedural mistake as, according to domestic legislation, B.B. had to be prosecuted by the State after all because of the fact that he was a minor.

Criminal proceedings were ultimately brought against B.B. before a juvenile judge in February 2002 only to be discontinued in December 2005 on the ground that the prosecution had become time-barred. During the hearings held under those court proceedings the applicant did not indicate in any way that any of his assailants had made reference to his Roma origin.

The applicant prosecuted the rest of the assailants privately; those proceedings were ultimately discontinued in May 2006 as the court found that prosecution had become time-barred almost two years earlier.

The applicant argued that the authorities did not protect him from an act of ill-treatment as they had not investigated and prosecuted effectively those responsible. He further alleged that both the attack and the subsequent proceedings showed that he had been discriminated against on account of his Roma origin.

Article 3 (investigation and prosecution)

The Court first noted that the police had promptly conducted interviews with all of the assailants, the applicant and two neutral witnesses, had obtained a medical report and brought a criminal complaint against the assailants. However, while under relevant domestic law the prosecution of minors always had to be pursued by the State, in the present case only the criminal proceedings against B.B. had eventually been undertaken by the competent State Attorney's Office. In this connection the Court noted that four other assailants were also minors at the time of the attack on the applicant. However, the State Attorney's Office failed to undertake a prosecution against them (§ 80).

When the court had finally started criminal proceedings against B.B., almost two years after the incident, a significant period of inactivity had followed until, in 2004, B.B.'s prosecution had become time-barred. In respect of the other assailants, the State Attorney's Office had declared the applicant's criminal complaint inadmissible more than two years after he had brought it and on the ground that it had to be prosecuted privately. While that error had been rectified in respect of B.B., in the case of the other assailants the authorities had not reacted. Despite the private prosecutions brought by the applicant, the prosecution had ultimately become time-barred also in respect of the other assailants.

Thus, the facts of the case had never been established by a competent court of law. Instead, time-barring had occurred as a result of the inactivity of the relevant State authorities. The Court unanimously concluded that the authorities' practices had not protected adequately the applicant from an act of serious violence and, together with the manner in which the criminal-law mechanisms had been implemented in the present case, had been defective, in violation of Article 3.

Having regard to the above the Court found that there was no separate issue to be examined under Article 13.

Article 14 (discrimination)

The Court found no evidence that the attack on the applicant had been racially motivated. The facts of the case had revealed that the applicant and his assailants had actually belonged to the same circle of friends, and there had been no indication that the applicant's race or ethnic origin had played a role in any of the incidents. Therefore, there had been no violation of Article14 read in conjunction with Article 3.

Keser and Kömürcü v. Turkey (no. 5981/03) (Importance 2) – 23 June 2009 - Violations of Article 3 - Ill-treatment during detention – Lack of an effective remedy

The applicants were convicted of membership of terrorist organisations. At the time of the application, in December 2000, the applicants were being held in Kocaeli F-type Prison. They complained that they had been subjected to ill-treatment during and after their transfer to the high-security prison and that the investigations into their complaints had been ineffective. In the light of their consistent statements and all the material before it, the Court considered it established that the applicants had been subjected to a series of acts of violence while in Kocaeli F-type Prison, for which the State was to be held responsible. It therefore held, by six votes to one, that there had been a violation of Article 3 on account of the inhuman and degrading treatment inflicted on the applicants. It further held unanimously that there had been a violation of Article 3 on account of the ineffective nature of the investigation into Mr Keser's allegations of rape, crushing of his testicles and falaka, and the allegations of assault made by both applicants against warders in Kocaeli Prison.

Buzilov v. Moldova (no. 28653/05) (Importance 3) – 23 June 2009 – Violations of Article 3 – Ill-treatment during detention at police station – Lack of an effective investigation

In May 2002 the applicant was arrested in Chişinău on suspicion of racketeering and was taken to the police station. He alleged that police officers had ill-treated him during his detention at Hânceşti Police Station, including by having cold water poured over him while being given electric shocks, and that the authorities had failed to carry out an adequate investigation into the incident. The Court held unanimously that there had been violations of Article 3 concerning the torture of the applicant while in police custody and the failure of the State to effectively investigate into his complaints.

Füsun Erdoğan and Others v. Turkey (no. 16234/04) (Importance 3) - 30 June 2009 – Violations of Article 3 – Torture while in police custody – Lack of an effective investigation

In March 1996 the applicants were arrested and taken into police custody in Istanbul as part of an investigation into the MLKP (Marxist Leninist Communist Party). The applicants alleged that they had been tortured while in police custody and complained that they did not have an effective remedy in respect of their allegations of ill-treatment. They also complained of the excessive length of the proceedings they had brought against the officers responsible for their police custody. The Court concluded unanimously that there had been a violation of Article 3. It also found, with regard to the investigation conducted into the applicants' allegations, that the Turkish authorities could not be considered to have acted with sufficient promptness or reasonable diligence, and accordingly concluded that there had been a further violation of Article 3. It also held that it was not necessary to rule separately on the remainder of the complaints.

- **Right to a fair trial**

Maresti v. Croatia (no. 55759/07) (Importance 2) – 25 June 2009 - Violation of Article 6 § 1 – Lack of access to court – Dismissal of the applicant's request for extraordinary review of a final judgment – Violation of Article 4 of Protocol No. 7 – The two sets of proceedings against the applicant concerned the same offence

In 2005 the applicant was found guilty of particularly offensive behaviour in a public place. He alleged that the court's decisions dismissing his request for extraordinary review of the final judgment against him as time-barred were erroneous and that he was tried and convicted twice for the same offence. The Court found that the judge who decided to refuse the applicant's appeal should have taken into account the date on which the judgment against him had been served on his counsel and not on his mentally ill mother, whose capacity to understand the judgment and pass it on to her son was open to doubt. The Court therefore found that the applicant had not been given access to court in respect of his request for extraordinary review and held unanimously that there had been a violation of Article 6 § 1. The Court further noted that it was obvious that the police had lodged a request for criminal proceedings to be brought against the applicant both before the Pazin Minor-Offences Court and had submitted a report on the same incident with the Pazin State Attorney's Office. That had resulted in the applicant having been prosecuted twice and the domestic authorities did not remedy the situation on appeal. There had therefore been a violation of Article 4 of Protocol No. 7.

Athina Psychiatric Clinic Vrilission Ltd and Lyrakou Clinic SA v. Greece (no. 32838/07) (Importance 3) – 2 July 2009 - Violation of Article 6 § 1 – Authorities' failure to comply with a final decision fixing the charges for hospital treatment in good time

The applicants are two private clinics with their registered offices in Vrilissia and Melissia respectively. The clinic's patients are covered by social security and the fees for treatment there are set by the State on a discretionary basis.

In a series of judgments given between 1988 and 1990 on applications by the applicant clinics, the Supreme Administrative Court set aside decisions fixing the charges for hospital treatment, holding that such decisions should specify that the amounts charged in private psychiatric clinics could not be lower than the clinics' operating costs. According to the applicant clinics, the State did not comply with the judgments.

In a judgment of 11 October 2005 on an application lodged in 2001 by the applicant clinics, the Supreme Administrative Court set aside a decision by the Ministers of Health, Economic Affairs and Labour, holding that the decision had not made provision for a reasonable profit margin to ensure the clinics' survival. According to the applicant clinics, they requested the State on seven occasions to comply with the judgment. On 9 June 2006 the judgment was transmitted to the Central Health Council (KESY) for its opinion. It was published sixteen months later in the Official Gazette, thereby fixing the charges for treatment in private psychiatric clinics. The decision was amended – increasing the charges – and republished in the Official Gazette on 9 March 2007.

On an application by the applicant clinics, the Supreme Administrative Court gave a decision on 11 November 2008, observing that the competent ministers had omitted to take the necessary measures to comply with its judgment and calling on them to do so within three months. It further held that this failure to take action, for three years from the Supreme Administrative Court's judgment and two and a half years from the date on which the KESY had been notified of the judgment, was unjustified.

The parties have not supplied any further information concerning the outcome of other pending applications brought by the applicant clinics.

The applicant clinics complained about the authorities' initial failure to comply with the Supreme Administrative Court's judgment of 11 October 2005 and the insufficient manner in which it was subsequently executed, and alleged that they had not had an effective remedy in respect of that complaint.

As regards the execution of the judgment in question, the Court accepted that the authorities had been under an obligation not merely to pay a sum of money but also to introduce new regulations by means of a process involving the KESY and signature of the relevant instrument by three different ministries. The Court considered that, not all the necessary efforts had been made to ensure the prompt execution of the Supreme Administrative Court's judgment of 11 October 2005. It further observed that the dispute between the applicant clinics and the State concerning the fixing of charges for hospital treatment had predated the judgment in question (see in particular §§ 33- 35 and 38-39).

The Court concluded unanimously that there had been a violation of Article 6 § 1 in that the authorities had refrained for a period that could not be regarded as reasonable from taking the necessary measures to comply with a final judicial decision. The Court considered that it was not necessary to examine the complaint under Article 13.

- **Quality of law**

Liivik v. Estonia (no. 12157/05) (Importance 3) – 25 June 2009 – Violation of Article 7 – Vague criteria used by domestic courts to establish whether the applicant had caused "significant" non-pecuniary damage

Appointed acting Director General of the Estonian Privatisation Agency in October 1999, the applicant was responsible for its everyday management, including entering into privatisation agreements.

In February 1999 the Estonian Parliament decided to privatise the public limited company AS Eesti Raudtee, which owned Estonian Railways (ER) because of a difficult economic situation. An agreement for ER's privatisation was signed in April 2001. As Acting Director of the Privatisation Agency, the applicant signed the agreement.

In August 2001 the State, represented by the applicant, agreed to two additional warranties under that agreement in which it accepted liability for claims against ER of an insolvent company as well as for costs relating to five Russian locomotives.

In September 2001 Mr Liivik was charged under Article 161 of the Criminal Code with abuse of office for acting beyond his authority in assuming financial obligations for the State. In January 2004 he was convicted as charged and sentenced to two years' imprisonment, 18 months of which were suspended.

The domestic courts found that he had caused significant damage: he had jeopardised the State's assets even though the risks had in the end not materialised; and, as a high-ranking state official, his acts had been incompatible with "the general sense of justice" and had damaged the Republic of Estonia's international reputation.

The applicant alleged in particular that the law on the basis of which he was convicted was not clear and comprehensible.

Article 7

The Court found that the interpretation and application of Article 161 of the Criminal Code, the criminal law applicable at the relevant time and the legal basis for the applicant's conviction, had involved the use of such broad notions and vague criteria that the clarity and foreseeability required of a law by the Convention had not been met.

According to the wording of Article 161 to be charged with the offence of abuse of office an individual had to have caused "significant damage". Yet no criteria had been developed for assessing the mere creation of a risk of such damage. Moreover, the applicant had acted under an obligation to privatise ER and had had to balance the risks of proceeding with the privatisation against those of withdrawing from the agreement.

Similarly, the criteria used by the domestic courts to establish that the applicant had caused "significant moral damage" – that he had been a high-ranking state official who had been working in a field attracting great public interest and that his acts had been incompatible with "the general sense of justice" – had been too vague.

"[...] the Court takes note of the fact that the clarity and foreseeability of the underlying principles of Article 161 of the Criminal Code have been put in doubt both by Parliament and the Supreme Court. Albeit only after the applicant's final conviction, they found that the conformity of criminal liability for causing significant moral damage with the principle of "nullum crimen sine lege" was questionable. Doubts were also cast on the broad interpretation according to which "causing significant damage" comprised a mere danger that significant damage could be caused even though no such damage had occurred." (§ 103)

The Court therefore unanimously concluded that it had not been foreseeable that the applicant's acts would have constituted an offence under the criminal law applicable at the relevant time, in violation of Article 7.

Other Articles

Given its finding under Article 7, the Court held that it was not necessary to examine the applicant's complaints under Articles 6, 13 or 17.

- **Right to respect for private life and for correspondence**

Hunt and Miller v. United Kingdom (nos. 10578/05 and 10605/05) (Importance 3) – 23 June 2009 – Friendly settlement – Alleged violation of Articles 8 and 13 – Investigations into the applicants' sexual orientation and lack of a domestic remedy to address the breach of their right for private life

The applicants complained that, while they were serving in the armed forces, investigations were carried out into their sexual orientation. Both applicants claimed that they subsequently resigned because life in the armed forces had become unbearable. The case has been struck out following a friendly settlement in which 29,000 pounds sterling (GBP) (approximately EUR 34,044) is to be paid to each applicant for any pecuniary damage, non-pecuniary damage, costs and expenses.

Konstantin Popov v. Bulgaria (no. 15035/03) (Importance 3) – 25 June 2009 – Violation of Article 8 – Disproportionate interference with the applicant's correspondence in prison – No violation of Article 13

The applicant alleged that the prison authorities opened and checked his correspondence with his counsel in relation to criminal proceedings against him. The Court noted that it had already held that systematic monitoring of prisoners' correspondence by the authorities in Bulgaria had been in breach of Article 8 of the Convention; it saw no reason to reach a different conclusion in the present case (see *Petrov v. Bulgaria*, 22 May 2008). It therefore held unanimously that there had been a violation of Article 8. It further held that there had been no violation of Article 13.

- **Freedom of expression**

Sorguç v. Turkey (no. 17089/03) (Importance 1) – 23 June 2009 – Violation of Article 10 – Reputation – Protection of academic freedom

The applicant is a professor of construction management at the Istanbul Technical University.

At an academic conference in 1997, he distributed a paper in which he criticised the selection procedure for assistant professors, without mentioning specific names. Later that year, N.A.C., an assistant professor, brought civil proceedings for compensation against him claiming that certain comments used in that paper represented an attack on his reputation. N.A.C. was later dismissed from his academic post due to professional incompetence and personal values incompatible with the university.

The first instance court found in favour of the applicant by holding that his statements were merely a criticism of the academic system and related institutions. Following N.A.C.'s appeal, the higher court, without addressing his dismissal from the university, found against the applicant, as it considered that his speech had been an attack on N.A.C.'s reputation. The applicant was ordered to pay 3,455,215,000 old Turkish liras (the equivalent of approximately EUR 1,600) – comprising the principal compensation, interest and court fees – for the non-pecuniary damage he was found to have caused to N.A.C.

The applicant complained of the domestic courts' decisions which found him guilty of defamation.

The Court found that Mr Sorguç had expressed his opinion on an issue of public importance, namely the question of the system for appointments and promotion in universities. As he had made his statements on the basis of personal experience, and the information he had disclosed had been known already in academic circles, his speech had presented value judgments susceptible of proof, at least in part (see *Perna v. Italy* 06.05.03).

The Turkish courts, however, had not given him the opportunity to substantiate his statements but had instead concluded that they had constituted an attack on the reputation of N.A.C. Thus, greater importance had been attached to the protection of an unnamed individual, including through the payment of rather high compensation, than to the freedom of expression that should normally have been enjoyed by an academic in a public debate.

The Court underlined the importance of academic freedom, and in particular academics' freedom to express freely their opinion about the institution or system in which they worked and freedom to distribute knowledge and truth without restriction.

"In view of the above, the Court considers that the Court of Cassation did not convincingly establish that there was pressing social need for putting the protection of the personality rights of an unnamed individual above the applicant's right to freedom of expression and the general interest in promoting this freedom where issues of public interest are concerned. In particular, it does not appear from the domestic courts' decisions that the applicant's statement affected N.A.C.'s career or private life.

Finally, although the applicant did not specify his monthly income at the relevant time, the Court considers that the damages he was ordered to pay to the plaintiff were very substantial when compared to the incomes and resources of academics in general." (§§ 36-37)

The Court finds that the reasons adduced by the domestic courts cannot be regarded as a sufficient and relevant justification for the interference with the applicant's right to freedom of expression. The national authorities therefore failed to strike a fair balance between the relevant interests.

Accordingly, it held unanimously that there had been a violation of Article 10.

Bodrožić and Vujin v. Serbia (no. 38435/05) and Bodrožić v. Serbia (no. 33550/05) (Importance 2) – 23 June 2009 – Violation of Article 10 – Criminal convictions for the publication of a satiric/provocative article – Domestic courts' disproportionate interference with journalistic freedom

The applicants are journalists and, at the time, were employed by the local weekly newspaper Kikindske.

In 2003 and 2004, they published two articles in the Kikindske newspaper. The first article was critical of criminal convictions previously imposed on several journalists for defamation; in particular it referred to a well-known man, a lawyer, as "a blonde" and contained a photo of a blonde woman in her underwear next to an anagram of the lawyer's name. The second article condemned the views expressed on public television by a well-known historian concerning the existence and history of national minorities in Vojvodina; it called the historian in question "an idiot" and "a fascist".

The lawyer and historian, referred to in the articles, brought criminal proceedings against the applicants for insult. Mr Bodrožić was also prosecuted by the historian for defamation, because at the hearing in the insult case, he had referred to the historian as "a member of the fascist movement in Serbia".

The domestic courts found both applicants guilty of insult, and Mr Bodrožić also of defamation, and fined them with sums upwards of EUR 150. The courts held, in the first case, that comparing the lawyer with a female was objectively insulting in society and, in the second case, that calling the historian “a fascist” and “an idiot” bore the sole aim of insulting him.

The applicants complained of being criminally convicted for the articles they had written.

As regards the first article, the Court noted that the applicants could have ended up in prison for 60 days had they not been able to pay the fine imposed. It found that while the text and picture of the article had been somewhat mocking, when considered as a whole, they could not have been understood as a gratuitous personal insult of the lawyer. In addition, the domestic courts’ conclusion that comparing an adult man to a blonde woman had been an attack on the integrity and dignity of men had been unacceptable. As the article had represented a general disapproval of the domestic courts’ practice of punishing journalistic freedom of expression, the applicants had raised an important issue of general public interest. The lawyer therefore, having been a locally well-known figure, should have displayed a higher degree of tolerance towards criticism directed at him.

As regards the second article, the Court noted that the applicant could have been imprisoned for 75 days, had he not been able to pay the fine imposed. The Court found that, while the journalist had indeed used harsh words which might have been considered offensive, his statements had been a reaction to the provocative interview given by the historian in the context of free debate on an issue of general interest. The article had not aimed to stir violence; the expressions used by the applicant could only have been interpreted as value judgments and therefore opinions not susceptible of proof. The historian, a well-known public figure having appeared on television, should have anticipated potential harsh criticism by a large group of people. Therefore, he too, had been obliged to display a greater degree of tolerance in this context.

Accordingly, the Court found in both cases that, by sentencing the applicants criminally for the articles they had written, the authorities had limited excessively their freedom of expression, in violation of Article 10.

Kara v. Turkey (no. 22766/04) (Importance 2) – 30 June 2009 – Violation of Article 10 – Criminal conviction for going on hunger strike and distributing leaflets in protest against F-type prisons– Matter of public interest

The applicant is the president of Anadolu TAYAD, the Anatolian Solidarity Association for Prisoners’ Families (*Anadolu Tutuklu ve Hükümlü Aileleri Yardımlaşma Derneği*). On 29 November 2000 the association’s executive committee decided to go on hunger strike to support the similar action taken by prisoners in protest at their transfer to F-type prisons. The Üsküdar public prosecutor’s office instituted criminal proceedings against Mr Kara on 8 February 2001, on the basis of the Associations Act (Law no. 2908). On 27 December 2002 the Criminal Court found the applicant guilty of organising a hunger strike and distributing leaflets and sentenced him to six months’ imprisonment, which was later commuted to a criminal fine. The judgment was upheld by the Court of Cassation.

The Court noted that the interference with the applicant’s freedom of expression as a result of his criminal conviction had had a basis in law and pursued the legitimate aim of preventing disorder.

The applicant had been seeking to raise public awareness of issues that had already been brought to public attention by the mass media, namely hunger strikes in prisons and detention conditions in F-type prisons, in which, under the new prison regime, dormitories had been replaced by living units for one to three prisoners. His actions – distributing leaflets and the hunger strike – had not incited the public to go on hunger strike or use violence but had been carried out to show solidarity with prisoners, among them a close relative of his, on a matter of topical interest in Turkish society (see § 36).

The Court held unanimously that the applicant’s criminal conviction had therefore been disproportionate to the aim pursued and had not been necessary in a democratic society, in breach of Article 10.

- **Freedom of assembly**

Herri Batasuna and Batasuna v. Spain (nos. 25803/04 and 25817/04), Etxeberría and Others v. Spain (nos. 35579/03, 35613/03, 35626/03 and 35634/03) and Herritarren Zerrenda v. Spain (no. 43518/04) (Importance 1) – 30 June 2009 – Dissolution of political parties (Herri Batasuna and Batasuna) – Subsequent disqualification from standing for elections – No violation of any provision of the Convention

Herri Batasuna and Batasuna v. Spain

The political organisation Herri Batasuna was established as an electoral coalition and took part in the general elections of 1 March 1979. On 5 June 1986 Herri Batasuna was entered in the register of political parties at the Ministry of the Interior. On 3 May 2001 the applicant Batasuna filed documents with the register of political parties seeking registration as a political party.

On 27 June 2002 the Spanish Parliament enacted organic law 6/2002 on political parties ("the LOPP"). The main innovations introduced by the new law concerned the organisation, functioning and activities of political parties and their dissolution or judicial suspension. The LOPP entered into force on 29 June 2002.

By a decision of 26 August 2002, central investigating judge no. 5 at the *Audiencia Nacional* suspended the activities of Batasuna and ordered the closure, for three years, of any offices and premises that Herri Batasuna and Batasuna might use.

On 2 September 2002, State Counsel, acting on behalf of the Spanish Government and further to the agreement adopted by the Council of Ministers on 30 August 2002, brought proceedings before the Supreme Court seeking the dissolution of the applicant parties, on the ground that they had breached the new LOPP by a series of activities that irrefutably amounted to conduct that was incompatible with democracy, prejudicial to constitutional values, democracy and human rights and contrary to the principles laid down in the explanatory memorandum to the LOPP. On the same day the Public Prosecutor's Office also brought proceedings before the Supreme Court seeking the dissolution of the parties in question.

On 10 March 2003 Batasuna requested that a preliminary question on the constitutionality of the LOPP be submitted to the Constitutional Court, since it considered that certain sections of the LOPP violated the rights to freedom of association, freedom of expression, freedom of thought, and the principles of lawfulness, judicial certainty, the non-retrospective nature of less favourable criminal laws, proportionality and *non bis in idem*, and also the right to participate in public affairs.

By a unanimous judgment of 27 March 2003, the Supreme Court dismissed their request, noting that the objections raised concerning the constitutionality of the LOPP had already been examined and dismissed in a judgment delivered by the Constitutional Court on 12 March 2003. The Supreme Court declared the parties Herri Batasuna, EH and Batasuna illegal, ordered their dissolution and liquidated their assets. By two unanimous judgments of 16 January 2004, the Constitutional Court dismissed the *amparo* appeals lodged by the applicants.

Article 11

The Court considered that the dissolution of the applicant parties amounted to an interference with the exercise of their right to freedom of association, that it was "prescribed by law" and pursued "a legitimate aim" within the meaning of Article 11 of the Convention.

As to the necessity in a democratic society and the proportionality of the measure, the Court considered that the dissolution corresponded to a "pressing social need". It considered that, in the present case, the national courts had arrived at reasonable conclusions after a detailed study of the evidence before them, which had allowed them to conclude that there was a link between the applicant parties and ETA. In view of the situation that had existed in Spain for many years with regard to terrorist attacks, those links could objectively be considered as a threat for democracy. In the Court's opinion, the Supreme Court's findings had to be placed in the context of an international wish to condemn the public defence of terrorism. In consequence, the Court considered that the acts and speeches imputable to the applicant political parties, taken together, created a clear image of the social model that was envisaged and advocated by the parties, which was in contradiction with the concept of a "democratic society".

With regard to the proportionality of the dissolution measure, the fact that the applicants' projects were in contradiction with the concept of "a democratic society" and entailed a considerable threat to Spanish democracy led the Court to hold that the sanction imposed on the applicants had been

proportional to the legitimate aim pursued, within the meaning of Article 11 § 2 of the Convention (§§ 81-84 and §§ 89-91).

The Court concluded unanimously that there had been no violation of Article 11 of the Convention.

Article 10

As the questions raised by the applicants under Article 10 concerned the same facts as those examined under Article 11 of the Convention, the Court considered that it was not necessary to examine them separately.

Etxeberría and Others v. Spain

The applicants are Spanish nationals and electoral groupings which were active within the political parties that were declared illegal and dissolved (in particular, Herri Batasuna and Batasuna) on the basis of the LOPP.

On 28 April 2003 the electoral commissions of the Basque Country and Navarre registered the candidacies of the groupings in the municipal, regional and autonomous community elections scheduled to take place in the Basque Country and Navarre on 25 May 2003.

On 1 May 2003 State Counsel and the Public Prosecutor's Office submitted requests to the special Division of the Supreme Court, seeking to have approximately 300 candidacies, including those of the electoral groupings in question, struck off the lists. They accused the groupings of pursuing the activities of the political parties Batasuna and Herri Batasuna, which had been declared illegal and dissolved in March 2003.

On 3 May 2003 the Supreme Court granted the appeals submitted by State Counsel and the Public Prosecutor's. It based its findings on section 44 § 4 of the organic law on the general electoral system, as amended by the LOPP. The electoral groupings concerned then lodged an *amparo* appeal with the Constitutional Court.

By a judgment of 8 May 2003 the Constitutional Court dismissed the appeals, *inter alia*, of the four electoral groupings in the present application. Sixteen of the electoral groupings involved in the domestic proceedings had their *amparo* appeals allowed. As to the four electoral groupings in the present application, the Constitutional Court referred to its own case-law with regard to the constitutionality of the electoral disputes procedure as set out in section 49 of the organic law on the general electoral system. While reiterating that it did not have jurisdiction to review the findings of the Supreme Court, it also referred to the Supreme Court judgments in question and held that they were reasonable and sufficiently well-motivated to attest to the existence of a joint strategy, drawn up by the terrorist organisation ETA and the dissolved party Batasuna, aimed at helping to rebuild the party and to present candidates in the forthcoming municipal, regional or autonomous community elections.

The applicants at the origin of applications nos. 35613/03 and 35626/03, each of whom was at the head of the list of one of the electoral groupings in question, alleged that they had been deprived of the possibility of standing as candidates in the elections to the Parliament of Navarre and to represent the electorate, which had hindered the free expression of the opinion of the people in the choice of the legislature.

All the applicants complained about the fact that they had been barred from standing in the elections to the Parliament of Navarre and in the municipal and regional elections in the Basque Country and in Navarre. Challenging the foreseeability of section 44 § 4 of the organic law on the general electoral system, and alleging that there had been no legitimate aim or necessity in a democratic society for the interference, they alleged that the purpose of the interference, and of the LOPP, was to prohibit all forms of political expression of Basque separatism, and that the disputed measure was not proportionate to the aim pursued.

All of the applicants also alleged that they had had no effective remedy in respect of the request for judicial review of an electoral matter before the Special Division of the Supreme Court.

Article 3 of Protocol No. 1

In the Court's opinion, Spanish legislation provided for the disputed measure and the applicants could reasonably have expected that the provision in question, which was sufficiently foreseeable and accessible, would be applied in their case.

As to the aims of the measure, the Court considered that the dissolution of the political parties Batasuna and Herri Batasuna would have been pointless if they had been able to continue *de facto* their activities through the electoral groupings in this application. Accordingly, it held that the impugned restriction pursued aims that were compatible with the principle of the rule of law and the general objectives of the Convention.

With regard to the proportionality of the measure, the Court took the view that the national authorities had available considerable evidence and the time necessary to conclude that the electoral groupings in question wished to continue the activities of the political parties that had previously been declared illegal. The Supreme Court had based its reasoning on elements external to the manifestos of the disputed groupings and, in addition, the authorities had taken decisions to bar individual candidacies after an examination in adversarial proceedings, during which the groupings had been able to submit observations, and the domestic courts had found an unequivocal link with the political parties that had been declared illegal.

Accordingly, the Court considered that the impugned restriction was proportionate to the legitimate aim pursued, and, in the absence of any element of arbitrariness, that it had not infringed the free expression of the opinion of the people.

The Court concluded unanimously that there had been no violation of Article 3 of Protocol No. 1.

Article 10

The Court concluded that Article 10 of the Convention was applicable in this case, as freedom of expression had to be interpreted as encompassing also the right to communicate information and ideas to third parties in a political context.

With regard to applications nos. 35613/03 and 35626/03, the Court referred to its conclusions under Article 3 of Protocol No. 1 and declared that no separate issue arose under Article 10 of the Convention.

With regard to applications nos. 35579/03 and 35634/03, taking into account the close relationship between the right to freedom of expression and the criteria arising from the case-law concerning Article 3 of Protocol No. 1, the Court considered that the State was entitled to enjoy a margin of appreciation for Article 10 comparable to that accepted in the context of Article 3 of Protocol No. 1, and that in the present case the State had not exceeded that margin of appreciation. It also dismissed the complaint concerning the allegation that the organic law on the general electoral system had been applied with retrospective effect.

In consequence, the Court concluded unanimously that there had been no violation of Article 10 of the Convention.

Article 13

The Court considered that the applicants had not shown that the time-limits imposed had prevented the representatives of the groupings in question from submitting their appeals to the Supreme Court or the Constitutional Court, from filing observations and defending their interests appropriately.

The Court concluded unanimously that there had been no violation of Article 13 of the Convention.

Herritarren Zerrenda v. Spain

By an agreement of 17 May 2004, the central electoral commission (*Junta Electoral Central*) registered the candidacy of Herritarren Zerrenda for the elections to the European Parliament on 13 June 2004, which had been called by Royal decree no. 561/2004 of 19 April 2004.

On 19 May 2004 State Counsel, representing the Spanish Government, submitted a request to the Special Division of the Supreme Court seeking to have this candidacy barred. On 18 May 2004, the Public Prosecutor's Office (the Public Prosecutor) also submitted a request to the Special Division of the Supreme Court, seeking to have the applicant's candidacy barred.

By two judgments of 21 May 2004, the Supreme Court granted the appeals submitted by State Counsel and the Public Prosecutor's Office. The applicant then lodged an *amparo* appeal with the Constitutional Court. By a judgment of 27 May 2004, the Constitutional Court dismissed the appeal.

On 13 June 2004 elections to the European Parliament were held. As the applicant had called on the electorate to vote for him in spite of his barred candidacy, he obtained 113,000 votes in Spain. Those votes were considered null and void.

The applicant complained that he had been barred from standing as a candidate in the elections to the European Parliament and that he had been deprived of the possibility of standing in elections to the European Parliament and representing the electors, which had hindered the free expression of the opinion of the people in the choice of the legislature. He also claimed that there had been a violation of Article 13 on account of the judicial review procedure before the Special Division of the Supreme Court.

The Court reached the same conclusions as in the case of *Etxeberría and Others* and concluded that there had been no violation of Article 13 of the Convention and Article 3 of Protocol No. 1, and that no separate question arose under Article 10 of the Convention.

- **Protection of property**

Zouboulidis v. Greece (No. 2) (no. 36963/06) (Importance 2) – 25 June 2009 – Violation of Article 1 of Protocol No. 1 – Preferential treatment to the State in fixing the date from which default interest was charged – Disproportionate interference with the right to property

The applicant is married and has two minor children. He is a civil servant at the Ministry of Foreign Affairs and between 1993 and 2002 he worked as an usher at the Greek Embassy in Berlin under a permanent contract governed by private law.

Officials of the Ministry of Foreign Affairs ("the Ministry") receive a basic salary plus allowances and additional payments. Mr Zouboulidis received an expatriation allowance but the Ministry refused him entitlement to the additional payments for dependent children as the law drew a distinction between officials employed under a private-law contract and others.

Further to an action brought in the civil courts in May 1998, the Athens Court of First Instance held on 19 June 2002 that the applicant was entitled to these additional payments for the period from 1 June 1998 to 31 December 2001, amounting to a sum of EUR 65,432 plus default interest from the date on which the payments had been due, on the basis of a new law that removed the distinction between private-law and other contracts.

The judgment of 19 June 2002 was reversed on appeal in September 2003. The Court of Appeal confirmed the applicant's entitlement to the payments with effect from 24 March 1998 but ruled that the payments for the period from 1 June to 31 December 1998 were precluded by the two-year limitation period applied in the specific case of State debts. Lastly, it held that the applicant was entitled to the payments with effect from 1 January 1999 to 31 December 2001, plus default interest from the date on which notice of his action had been served on the State.

Mr Zouboulidis appealed on points of law in December 2003, challenging the privilege of the two-year limitation period accorded to the State alone and the rule that the date from which default interest was charged was the day on which notice of the action was served on the State and not the day on which the payments in question had been due.

The applicant alleged that the application of shorter limitation periods for the State than those provided for by the Civil Code and the calculation of default interest with effect from the date on which notice of the action was served on the State, constituting an exception to the rules of labour law, had reduced the value of his claims, without being justified on any public-interest grounds.

Article 1 of Protocol No. 1

It was not disputed that the applicant was entitled to a supplement to his expatriation allowance and that he had a certain and enforceable claim to payment from the Greek State of the additional amounts in question, plus default interest.

The Court noted that the two-year condition departed from the provisions of civil law and meant that the period within which the State could enforce its own claims was two to ten times as long as the limitation period for enforcing claims against the State. The Court further considered that, although the applicant had been assigned to a public administrative authority, in the present case the State had been acting like any other private employer.

While privileges or immunities might be necessary for an administrative authority where it discharged duties governed by public law, the mere fact of belonging to the State structure was not sufficient in itself to justify the application of privileges in all circumstances; such privileges had to be necessary for the proper performance of public duties.

The Greek Government had cited the public-interest ground of ensuring that the State's debts were settled promptly so as to avoid an unforeseen burden on its budget, but they did not provide any specific evidence as to the financial interests at stake. The Court considered that the mere interest of the State's cash flow could not in itself be treated as a public or general interest justifying interference with individual rights, in this case with Mr Zouboulidis' right of property, through the application of the two-year limitation period and the granting of preferential treatment to the State in fixing the date from which default interest was charged (see §§ 35-36).

The Court thus unanimously concluded that the fair balance to be struck between the protection of property and the requirements of the general interest had been upset, in breach of Article 1 of Protocol No. 1.

Minasyan and Semerjyan v. Armenia (no. 27651/05) (Importance 2) – 23 June 2009 – Violation of Article 1 of Protocol No. 1 – Unlawful deprivation of the applicants' possessions

The applicants, mother and daughter live in Los Angeles, the United States of America. The first applicant was the owner of a flat in an apartment building situated on a plot of land owned by the State in Yerevan. Several decrees related to expropriation were adopted by the Government between 2001 and 2004. In July 2004, a private company, Glendale Hills CJSC, and the Yerevan Mayor's Office signed an agreement which authorised the company to negotiate directly with the owners of the property subject to expropriation and to institute court proceedings on behalf of the State seeking forced expropriation if related negotiations failed.

In December 2004, Glendale Hills CJSC offered Nelli Minasyan 7,000 United States Dollars (USD) (the equivalent of approximately 5,000 euros (EUR)) compensation for expropriating her flat and an additional USD 6,720 (the equivalent of approximately EUR 4,800) financial incentive if she agreed to hand it over within five days. Her daughter was offered separately USD 3,500 as compensation and financial incentive. The applicants rejected the offer as a result of which the company, on behalf of the State, brought court proceedings against them. The courts found against the applicants; they based their findings in particular on the Civil Code, following which their flat was destroyed.

The applicants complained of the expropriation and demolition of their flat in Yerevan.

The Court first considered it established that the second applicant enjoyed the right of use of the flat, and found that the termination of the first applicant's ownership and the second applicant's right of use amounted to a deprivation of their possessions.

As regards the first applicant, no law on expropriation of property had ever been adopted by the Armenian Parliament; instead, the whole expropriation process had been governed by a number of Government decrees. In view of the fact that Article 28 of the Armenian Constitution, as interpreted by the Constitutional Court, required that expropriation of property be carried out on the basis of a statute adopted by Parliament and not just governmental decrees, the expropriation had not been carried out in compliance with the conditions provided for by law (§§ 71-72).

In respect of the second applicant, the domestic courts had terminated her right of use of the flat in question on the basis of the Civil Code, despite the fact that such termination had only been possible upon the request of the owner. The Civil Code had made no mention of applications lodged by any person other than the owner, be it the State, or like in the applicants' case, a private company on behalf of the State. Accordingly, the second applicant's right of use had been terminated arbitrarily by relying on rules that had not been applicable to her case.

The Court concluded that the deprivation of the applicants' possessions was incompatible with the principle of lawfulness. This conclusion makes it unnecessary to ascertain whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

Consequently, the Court unanimously held that both applicants' deprivation of their possessions had been incompatible with the principle of lawfulness, in violation of Article 1 of Protocol No. 1.

Zaharievi v. Bulgaria (no. 22627/03) (Importance 3) – 2 July 2009 – Violation of Article 1 of Protocol No. 1 – Non-execution of a final judgment – Unjustified interference with the right to peaceful enjoyment of possessions

In 1998, under the 1997 Law on Compensation for Owners of Nationalised Real Property – which provided, subject to certain conditions, for the possibility of compensation for the expropriation of property where restitution was impossible – the applicants requested that half the compensation due for a wheat mill that had belonged to their father be awarded in the form of compensation bonds and the other half in shares in the M. company.

Their claim was granted in a decision of 29 July 1999 by the Ministry of Agriculture and Forestry. Following an expert valuation, the compensation was assessed at 162,659.39 Bulgarian levs (BGN), half of which was payable in compensation bonds and the other half in 2,437 shares in the M. company (the number of shares being determined according to their book value), equivalent to BGN 81,330.

The applicants applied for judicial review. The Supreme Administrative Court allowed their request for the face value of the shares to be taken into account rather than their book value. The applicants were awarded all the 20,108 shares held by the State in the M. Company.

Further to an appeal on points of law by the Ministry of Agriculture and Forestry, in a judgment of 5 February 2002 a five-judge bench of the Supreme Administrative Court set aside the judgment and

referred the case back for a fresh examination. An expert assessment concluded that the amount of compensation had been set at BGN 81,530, including procedural costs. To attain that amount, the applicants should therefore have received either 2,788 shares, taking into account the book value, or all the 78,356 shares plus supplementary compensation bonds, taking into account the face value.

In a judgment of 2 August 2002 the Supreme Administrative Court increased the number of shares awarded from 2,437 to 2,788, taking into account the shares' book value. The applicants appealed on points of law, contesting the decision to take into account the book value of the shares and not their face value. However, in a judgment of 24 January 2003 the Supreme Administrative Court confirmed its judgment of 2 August 2002.

In the meantime, on 21 January 2003 the M. company had been taken over by the C. company.

After submitting a request to the Ministry of Agriculture and Forestry to execute the Supreme Administrative Court's judgment of 24 January 2003, the applicants were informed that 2,788 shares in the C. company had been transferred into their names. The applicants submitted to the Ministry that the book value of shares in the C. company did not correspond to the value of shares in M. and that, as a result, the 2,788 shares they had been offered represented only one-fourteenth of the compensation initially awarded by the Supreme Administrative Court. However, the Ministry informed the applicants that it was no longer possible to alter the compensation, which had been determined with final effect by a court.

The applicants complained that the execution of the judgment of 24 January 2003 through the granting of shares in the C. company had had the effect of reducing the compensation actually awarded.

The judgment of 24 January 2003, by which the authorities had been required to pay compensation to the applicants, had created a possession for them. The fact that this final judgment had not been executed in accordance with its operative provisions had amounted to interference with their right to the peaceful enjoyment of their possessions.

The Court accepted that it had not been objectively possible to execute the judgment in accordance with its operative provisions, notably because the M. company no longer existed.

However, the Court noted the "mechanical" nature of the approach adopted by the authorities, which had not given any consideration to whether there had been any difference in the value of the same number of shares in the two companies so as to ensure that the applicants would be granted a number of shares equivalent in value to BGN 81,530 (see in particular §§ 39-42).

In addition, the authorities' argument that it had not been possible to review the situation on the ground that the judgment had become final had not justified the interference with the applicants' right to the peaceful enjoyment of their possessions, seeing that the applicants had highlighted a significant difference in the value of shares in the two companies.

The Court therefore held that there had been a violation of Article 1 of Protocol No. 1.

- **Freedom of movement**

Ignatov v. Bulgaria (no. 50/02) (Importance 3) – 2 July 2009 – Violation of Article 2 of Protocol No. 4 – Competent authorities' inaction to review a no-longer justified administrative measure – Violation of Article 13 – Lack of an effective remedy

On 20 June 2001 the applicant made an urgent application for a passport in order to travel to Romania to fetch his daughter from the Bucharest Airport three days later. The application was refused by the Regional Directorate for Internal Affairs ("the Directorate") on the ground that the applicant was barred from obtaining a passport as a result of an administrative measure taken in the context of civil proceedings brought against him by a bank in late 1998 for failure to repay a loan. The applicant maintained that he was unaware of the measure. In addition on 12 February 1999 the enforcement judge had stayed the proceedings brought by the bank against the applicant and the latter had made a partial repayment and undertaken to make further payments.

On 21 June 2001, on being informed of the refusal of his urgent application for a passport, the applicant sought to have the ban lifted, but was unsuccessful as the enforcement judge – who alone was empowered to take such action, having imposed the measure – was on leave.

On the same day the Directorate refused a request by the applicant to leave Bulgarian territory for one day on 23 June in order to fetch his daughter; he was thus unable to do so. The ban was lifted on 13 July 2001 at the request of the enforcement service.

An action for compensation brought by the applicant against the Directorate in 2003 was dismissed on the ground that the decision in question had been issued by the National Police Service and not the

Directorate. The Supreme Court of Cassation also dismissed an appeal on points of law by the applicant, holding that the Directorate had not been required to serve the decision at an address outside its territorial jurisdiction and that it had brought it to the attention of Mr Ignatov's mother at his permanent address. The Supreme Court of Cassation added that it had been possible for him to apply for judicial review at the time he had become aware of the decision.

Relying on Article 2 of Protocol No. 4 and Article 13, the applicant complained that his right to move freely and to leave his country had been infringed on account of the refusal to issue him with a passport, and that he had had no remedies in respect of it.

Article 2 of Protocol No. 4

The Court noted that, the interference with the applicant's right to freedom of movement had pursued the legitimate aim of protecting the interests of others, namely his creditors. However, such a measure could not remain in place over a long time without periodic reassessment of its justification. In the applicant's case, despite the fact that his debt had been repaid only a few days after the ban had been imposed, the enforcement judge had not taken any action and the police had not at any time examined whether the ban was necessary.

The applicant had therefore been prevented from travelling on the basis of a restrictive measure which had long since lost all justification and had remained in force because of the inaction of the competent authorities. The Court concluded unanimously that the interference with the applicant's right to freedom of movement had breached Article 2 of Protocol No. 4.

Article 13

Mr Ignatov had not had the possibility of applying for judicial review of the decision of 29 January 1999 as he had not been informed of it until 20 June 2001. That remedy had, moreover, lost its purpose from 13 July 2001, when the ban had been lifted. The Court noted, in relation to the confusion over addresses, that there was no evidence of any shortcomings on Mr Ignatov's part in this regard.

Furthermore, Mr Ignatov's request to the Directorate to lift the ban had been unsuccessful, as had his action for compensation for the unlawful decisions or actions of the State authorities. The Court noted that an application for judicial review of the refusal to issue him with a passport on 20 June 2001 would probably not have been effective given the very short time at his disposal.

The Court concluded that the applicant had not had a domestic remedy available in respect of his complaint, in breach of Article 13.

- **Case concerning Chechnya**

Pukhigova v. Russia (no. 15440/05) (Importance 2) – 2 July 2009 **–** Two violations of Article 2 – Lack of a plausible explanation for the disappearance of the applicant's husband and lack of an effective investigation in that regard **–** Violation of Article 3 – The psychological suffering of the applicant as a result of the disappearance of her husband – Violation of Article 5 – The unacknowledged detention of the applicant's husband – Violation of Article 13 – The impossibility for the applicant to obtain the identification and punishment of those responsible, nor redress for her suffering

2. Other judgments issued in the period under observation

You will find in the column "Key Words" of the table below a short description of the topics dealt with in the judgment[1]. For a more complete information, please refer to the following link:

- press release by the Registrar concerning the Chamber judgments issued on 23 June 2009 : here.
- press release by the Registrar concerning the Chamber judgments issued on 25 June 2009 : here.
- press release by the Registrar concerning the Chamber judgments issued on 30 June 2009 : here.
- press release by the Registrar concerning the Chamber judgments issued on 2 July 2009 : 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.

[1] The "Key Words" in the various tables of the RSIF are elaborated under the sole responsibility of the NHRS Unit of the DG-HL and the Office of the Commissioner for Human Rights.

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Bulgaria	25 Jun. 2009	Titovi (no. 3475/03) Imp. 3	Violation of Art. 5 § 3	Length of pre-trial detention (one year and five days) and lack of sufficient justification	link
Bulgaria	25 Jun. 2009	Stoyanova-Tsakova (no. 17967/03) Imp. 2	No violation of Art. 6 §1	No evidence to suggest that the Supreme Court failed to examine the memorial filed by the applicant's counsel with due care before deciding the case	link
Bulgaria	02 Jul. 2009	Dimitar Yanakiev (no. 1152/03) Imp. 3	Violation of Art. 6 § 1 (fairness)	Non-enforcement of a court decision in the applicant's favour concerning compensation for past expropriation of property and lack of an effective remedy in that respect	link
Bulgaria	02 Jul. 2009	Iordan Iordanov and Others (no. 23530/02) Imp. 2	Violation of Art. 6 § 1 (fairness) (Mr Iordanov) Violation of Art. 6 § 1	Failure to comply with the principle of judicial security in the proceedings with which the applicants had challenged their dismissal Length of the criminal proceedings	link
Finland	23 Jun. 2009	Kaura (no. 40350/05) Imp. 3	Violations of Art.6 § 1 (length and fairness)	Excessive length (four years and seven months) of proceedings and lack of an oral hearing	link
Greece	02 Jul. 2009	Chuwunonso (no. 43407/06) Sarantidou (no. 2002/07) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (five years and ten months, and six years and more than eight months respectively)	link link
Greece	02 Jul. 2009	Ekonomi (no. 39870/06) Imp. 3	Violation of Art. 6 § 1 Violation of Art. 13	Excessive length of proceedings (seven years and one month), lack of an effective remedy in that regard	link
Hungary	30 Jun. 2009	Bárkányi (no. 37214/05) Imp. 3	Violation of Art. 5 § 3	Excessive length (almost two years and three months) of the applicant's pre-trial detention and house arrest without justification	link
Italy	30 Jun. 2009	Fiume (no. 20774/05) Imp. 2	No violation of Art. 6 § 1	No violation on account of fact that that the judgment in favour of the applicant was not a final decision and an appeal could be lodged against it by the authorities	link
Poland	23 Jun. 2009	Figas (no. 7883/07) Imp. 3	Violation of Art. 5 § 3	Excessive length (approximately two years and eight months) of the pre-trial detention	link
Poland	23 Jun. 2009	Wroński (no. 473/07) Imp. 3	Violation of Art. 6 § 1	Excessive length (13 years and seven months) of proceedings for two levels of jurisdiction	link
Romania	23 Jun. 2009	Vişan (no. 5181/04) Imp. 3	Violation of Art. 1 of Prot. No. 1	Quashing of a final judgment in the applicant's favour granting him reimbursement of tax levied on an end-of-service allowance	link
Slovenia	23 Jun. 2009	Stojnšek (no. 1926/03) Imp. 2	No violation of Art. 3	The force used by the police had not been excessive but rather necessary to overcome the applicant's resistance	link
Turkey	23 Jun. 2009	Atsız and Others (no. 7987/07) Imp. 3	(All the applicants) Violation of Art. 5 § 3 (Four applicants) Violation of Art. 6 § 1	Excessive length (approximately 12 years and five months) of pre-trial detention Excessive length (15 years and two months) of proceedings still pending before the Court of	link

				Cassation	
Turkey	23 Jun. 2009	Bilget (no. 23327/05) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (approximately 11 years)	link
Turkey	23 Jun. 2009	Öngün (no. 15737/02) Imp. 3	Violation of Art. 6 § 1 (fairness)	Conviction on the basis of statements obtained during pre-trial investigation in the absence of a lawyer	link
Turkey	23 Jun. 2009	Oral and Atabay (no. 39686/02) Imp. 3	Violation of Art. 5 §§ 3, 4 and 5	Excessive length of detention (four days and two hours, and four days and four hours respectively), lack of an effective remedy to challenge the lawfulness of the detention, and lack of an effective remedy to demand compensation	link
Turkey	23 Jun. 2009	Veli Özdemir v. (no. 43824/07) Imp. 3	Violation of Art. 5 §§ 3 and 4 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (more than 6 years and four months), excessive length of proceedings	link
Turkey	30 Jun. 2009	Fırat (no. 37291/04) Imp. 3	Violation of Art. 5 § 3	Excessive length (four years and 21 days) of pre-trial detention and lack of sufficient justification in that regard	link

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 NHRSs 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.

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Bulgaria	25 Jun. 2009	Gyuleva and Others (no. 76963/01) link	(1st, 2nd and 3rd applicant) Violation of Art. 1 of Prot. No. 1 (1st, 2nd and 3rd applicant) Violation of Art. 6 § 1	Deprivation of property without a clear and foreseeable opportunity to obtain adequate compensation Length of proceedings
Bulgaria	02 Jul. 2009	Kirova and Others (no. 31836/04) link	(1st applicant) Violation of Art. 1 of Prot. No. 1	Deprivation of property and lack of an adequate compensation See *Velikovi and Others v. Bulgaria* 15.03.07
Bulgaria	02 Jul. 2009	Panayotova (no. 27636/04) link	Idem.	Idem.
Bulgaria	02 Jul. 2009	Peshevi (no. 29722/04) link	Idem.	Idem.
Bulgaria	02 Jul. 2009	Tsonkovi (no. 27213/04) link	Idem.	Idem.
Bulgaria	02	Yurukova and	(Ms Yurukova) Violation	Idem.

	Jul. 2009	Samundzhi (no. 19162/03) link	of Art. 1 of Prot. No. 1	
Italy	23 Jun. 2009	Carbè and Others (no. 13697/04) link	(4th applicant) Violation of Art. 6 § 1 (length) (1st applicant) Violation of Art. 8 (correspondence) (1st applicant) Violation of Art. 1 of Prot. No. 1 (1st applicant) Violation of Art. 2 of Prot. No. 4 (1st, 2nd and 3rd applicants) Violation of Art. 8 (private life) (4th applicant) No violation of Art. 13	Infringement of the applicants' rights further to bankruptcy proceedings
Italy	30 Jun. 2009	Mandola (no. 38596/02) link	Violation of Art. 1 of Prot. No. 1 Violation of Art. 6 § 1 (fairness)	Disproportionate interference with the right to respect for property on account of the lack of adequate compensation after expropriation See *Scordino v. Italy (n°1)*
Italy	23 Jun. 2009	Diurno (no. 37360/04) link	Violation of Art. 6 § 1 (length) Violation of Art. 8 No violation of Art. 13	Infringement of the applicants' rights further to bankruptcy proceedings
Italy	23 Jun. 2009	Roccaro (no. 34562/04) link Vinci Mortillaro (no. 29070/04) link	Violation of Art. 6 § 1 (length) Violation of Art. 8 Violation of Art. 13 (on one ground)	Idem.
Romania	23 Jun. 2009	Athanasiu Marshall (no. 21305/05) link	Violation of Art. 1 of Prot. No. 1	Deprivation of property further to illegal nationalisation and total lack of compensation
Romania	23 Jun. 2009	Babei and Clucerescu (no. 27444/03) link Paula Constantinescu (no. 28976/03) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. No. 1	Domestic authorities' failure to enforce final judgment in the applicants' favour
Romania	23 Jun. 2009	Brumărescu (No. 2) (no. 28106/03) link	Violation of Art. 1 of Prot. No. 1	Interference with the right to respect for property on account of the applicant's prolonged inability to make use of his flat and to receive rent See *Radovici and Stănescu v. Romania*
Romania	30 Jun. 2009	Daniel Ionel Constantin (no. 17034/03) link	Violation of Art. 6 § 1 (fairness)	Annulment of an appeal lodged by the applicant because he had not paid stamp duty
Romania	30 Jun. 2009	Octavian Popescu (no. 20589/04) link Priotese (no. 2916/04) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. No. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour in good time or at all
Romania	30 Jun. 2009	Schmidt (no. 28777/03) link	Violation of Art. 1 of Prot. No. 1	Interference with the right to respect for property on account of the applicant's prolonged inability to make use of his flat and to receive rent
Turkey	23 Jun. 2009	Günseli Kaya (No. 2) (no. 40886/02) link	Violation of Art. 6 § 1 (fairness)	Lack of public hearing in the proceedings against the applicant

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 NHRSs may be of particular relevance in that respect as well, as these judgments often reveal systemic defects, which the NHRSs may be able to fix with the competent national authorities.

With respect to the length of non criminal proceedings cases, the reasonableness of the length of proceedings is assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (See for instance Cocchiarella v. Italy [GC], no. 64886/01, § 68, published in ECHR 2006, and Frydlender v. France [GC], no. 30979/96, § 43, ECHR 2000-VII).

State	**Date**	**Case Title**	**Link to the judgment**
Bulgaria	02 Jul. 2009	Marinova and Radeva (no. 20568/02)	Link
Bulgaria	02 Jul. 2009	Ruga (no. 7148/04)	Link
Croatia	25 Jun. 2009	Vujčić (no. 33867/06)	Link
Denmark	02 Jul. 2009	Nielsen (no. 44034/07)	Link
Russia	25 Jun. 2009	Zaytsev and Others (no. 42046/06)	Link
Slovakia	23 Jun. 2009	Gajdoš (no. 19304/04)	Link
Sweden	30 Jun. 2009	Synnelius and Edsbergs Taxi AB (no. 44298/02)	Link
"the former Yugoslav Republic of Macedonia"	25 Jun. 2009	Blage Ilievski no. 39538/03)	Link
"the former Yugoslav Republic of Macedonia"	25 Jun. 2009	Josifov (no. 37812/04)	Link

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 18 May to 14 June 2009.

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.

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Bulgaria	02 Jun. 2009	Tosheva (no 30119/03) link	Alleged violation of Art. 6 § 1 (length of civil proceedings)	Inadmissible (no respect of the time frame of six months)
Bulgaria	09 Jun. 2009	Vihra Nikolova and Others (no 13640/03) link	Alleged violation of Art. 1 of Prot 1 (arbitrary interference with the applicants' property rights) and Art. 6 § 1 (delay in the examination of the applicants' request for compensation)	Inadmissible as manifestly ill-founded (no disproportionate interference with the applicants' property rights, no appearance of violation of the Convention regarding Art. 6 § 1)
Bulgaria	09 Jun. 2009	Valeri Ivanov (no 22434/02) link	Alleged lack of speedy examination of a request for the applicant's release from pre-trial detention, continued deprivation of liberty despite a court order for release, impossibility of obtaining compensation in respect of these matters	Struck out of the list (friendly settlement reached)

Bulgaria	09 Jun. 2009	Atanasov and Others (no 40423/04) link	Alleged arbitrary deprivation of property	Struck out of the list (applicants no longer wishing to pursue their application)
Bulgaria	02 Jun. 2009	Tanchev and Others (no 17366/04) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (unfairness of the decision dismissing the applicants' request for the reopening of civil proceedings, length of proceedings),	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible (concerning the remainder of application)
Bulgaria	09 Jun. 2009	Videv (no 36986/03) link	Lack of an effective investigation in respect of ill-treatment and length of criminal proceedings	Struck out of the list (friendly settlement reached)
Bulgaria	09 Jun. 2009	Boteva (no 4894/04) link	Alleged violation of Art. 5 §§ 1 e), 4 and 5 (placement of the applicant in a psychiatric hospital and lack of an effective remedy in that regard)	Struck out of the list (unilateral declaration of the Government)
Croatia	04 Jun. 2009	Sinobad (no 7136/08) link	Alleged violation of Art. 6 § 1 (lack of an adequate compensation for the occupation of the applicants' house and outcome of civil proceedings)	Struck out of the list (friendly settlement reached)
Croatia	04 Jun. 2009	Modric (no 21609/06) link	Alleged violation of Art. 3, Art. 8 (domestic authorities' failure to provide the applicant with an adequate protection against violence inflicted by a private individual), Art. 5 § 1, Art. 6 § 1, Art. 14, Art. 2 of Prot. No. 4 and Art. 1 of Prot. No. 12	Inadmissible (no respect of the time frame of six months)
Croatia	04 Jun. 2009	Knapić (no 2839/08) link	Alleged violation of Art. 6 §§ 1 and 3(c) and (d) (hearing in the applicant's absence)	Idem.
Croatia	11 Jun. 2009	Tadijanovic (no 39759/08) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Struck out of the list (applicant no longer wishing to pursue her application)
Finland	09 Jun. 2009	Sormunen (no 6557/08) link	Alleged violation of Art. 6 § 1 (length of civil proceedings)	Struck out of the list (friendly settlement reached)
Finland	09 Jun. 2009	Sormunen (no 6940/08) link	Idem.	Idem.
Germany	02 Jun. 2009	Kunkel (no 29705/05) link	Alleged violation of Art. 5 § 4 (refusal to allow the applicant's counsel to inspect the case file in the proceedings for the review of pre-trial detention)	Struck out of the list (unilateral declaration of the Government)
Germany	02 Jun. 2009	Metzele (no 36853/05) link	Alleged violation of Art. 6 and Art. 13 (length of compensation proceedings, infringement of the right to fair proceedings, including right of access to court and to equality of arms)	Inadmissible, (partly as manifestly ill-founded as the Court considers the length of proceedings reasonable), partly inadmissible for non exhaustion of domestic remedies (concerning the remainder of application)
Germany	02 Jun. 2009	Ditz (no 29056/06) link	Alleged violation of Art. 6 (unfairness of proceedings)	Inadmissible as manifestly ill-founded
Greece	11 Jun. 2009	Chorozidis (no 34015/08) link	Alleged violation of Art. 6 § 1 (length and unfairness of criminal proceedings)	Partly adjourned (concerning the length of proceedings), partly inadmissible (concerning the remainder of application)
Italy	02 Jun. 2009	Bonanno (no 36908/04) link	Complaints under Art. 9 and Art. 10	Struck out of the list (applicant no longer wishing to pursue his application)
Lithuania	09 Jun. 2009	Grudzinskienė (no 31438/04) link	Alleged violation of Art. 8 (interference with right to privacy following the publication of information about the private and family life of the applicant's late	Struck out of the list (friendly settlement reached)

			husband)	
Moldova	02 Jun. 2009	Cazacu (no 6914/08) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of judgment in the applicant's favour)	Idem.
Poland	02 Jun. 2009	Kuligowski (no 48636/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Idem.
Poland	02 Jun. 2009	Kowalczyk (no 27058/07) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings, deprivation of effective access to court on account of the refusal of the legal-aid lawyer to prepare the applicant's cassation complaint)	Idem.
Poland	09 Jun. 2009	Kosiarz (no 24696/08) link	Alleged violation of Art. 6 § 1 (length of proceedings), Art. 13 (impossibility to lodge an appeal against the decision of the first instance court), Art. 2 of Prot. 1 (lack of access to a vocational education course during detention) and Art. 3 (lack of an adequate medical treatment during detention)	Idem.
Portugal	02 Jun. 2009	Pereira De Morais Lima (no 32722/07) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Portugal	02 Jun. 2009	Honegger (no 29753/08) link	Alleged violation of Art. 6 § 1 (length of proceedings) and Art. 1 of Prot. 1	Idem.
Portugal	02 Jun. 2009	Marcelino Margarido (no 1396/07) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings)	Idem.
Portugal	02 Jun. 2009	Lousada Barreira Antunes (no 27927/08) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings), Art. 1, Art. 13 and Art. 1 of Prot. 1	Idem.
Romania	02 Jun. 2009	G.C.P. (no 20899/03) link	Alleged violation of Art. 6 § 1 (unfairness and length of criminal proceedings, unreasonably short length of the final stage of the trial), Art. 6 § 2 (infringement of presumption of innocence by the negative media campaign conducted against the applicant), Art. 6 § 3 (a) (failure to inform the applicant of the charges brought against him), Art. 13 (lack of an effective remedy in respect of the length of proceedings), Art. 1 of Prot. 1 (financial losses on account of the length of proceedings)	Partly adjourned (concerning the complaint regarding the right to the presumption of innocence), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Romania	02 Jun. 2009	Szasz (no 27067/05) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings), Art. 1 of Prot. 1 (deprivation of land)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible (concerning the remainder of the application)
Romania	09 Jun. 2009	Ciobotaru (no 36245/07) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Struck out of the list (unilateral declaration of the Government)
Romania	02 Jun. 2009	Rădvan (no 26846/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a final decision in the applicant's favour)	Inadmissible as manifestly ill-founded

Romania	09 Jun. 2009	Rad (no 9742/04) link	Alleged violations of Art. 8, Art. 6 § 1 and Art. 13	Inadmissible (partly as manifestly ill-founded, partly for incompatibility *ratione materiae)*
Romania	09 Jun. 2009	Costache (no 22068/03) link	Alleged violation of Art. 1 of Prot. 1 (allowance awarded when the applicant retired from military had been unlawfully subjected to income tax), Art. 14	Struck out of the list (applicant no longer wishing to pursue his application)
Romania	09 Jun. 2009	Dima (no 26770/04) link	Alleged violation of Art. 1 of Prot. 1 (allowance awarded when the applicant retired from military had been unlawfully subjected to income tax), Art. 6 (unfairness of proceedings) and Art. 14	Struck out of the list (friendly settlement reached)
Russia	11 Jun. 2009	Bogdanov (no 9187/04) link	Alleged violation of Art. 3 (ill-treatment and conditions of detention), Art. 6 and 13 (unfairness of proceedings and infringement of the right to attend court hearings in person)	Struck out of the list following the applicant's death
Russia	11 Jun. 2009	Safyanov (no 74264/01) link	Alleged violation of Art. 6 (non-enforcement of decision in the applicant's favour)	Inadmissible as manifestly ill-founded (no appearance of violation of the Convention)
Serbia	02 Jun. 2009	Lazarevic (no 13411/07) link	Alleged violation of Art. 6 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (unilateral declaration of the Government)
Serbia	26 May 2009	Srpska Pravoslavna Crkvena Opština Za Rašku Oblast (no 43494/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Slovakia	19 May 2009	Martinka (no 40759/05) link	Idem.	Idem.
Slovakia	26 May 2009	Bartl (no 27632/08) link	Idem.	Idem.
Slovakia	09 Jun. 2009	Bartl (no 27639/08) link	Idem.	Idem.
Slovenia	26 May 2009	Cvetič (no 15555/04) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 13 (lack of an effective remedy in that regard)	Matter resolved at the domestic level (settlement reached)
Slovenia	19 May 2009	Kešelj (no 20674/05; 20680/05 etc) link	Idem.	Idem.
Slovenia	19 May 2009	Vrbek (no. 8413/03; 14184/03 etc) link	Idem.	Idem.
Slovenia	19 May 2009	Piršič (no 10874/03) link	Idem.	Idem.
Slovenia	19 May 2009	Marot (no 36200/03) link	Idem.	Idem.
Slovenia	19 May 2009	Medvešek (no 37188/03) link	Idem.	Idem.
Slovenia	26 May 2009	Majcen and Blazinšek (no 15600/04) link	Idem.	Idem.
Slovenia	26 May 2009	Pražnikar (no 28208/04) link	Idem.	Idem.

Slovenia	02 Jun. 2009	Gregl (no. 8460/06; 15538/06 etc.) link	Idem.	Idem.
Slovenia	02 Jun. 2009	Zebič (no 21198/06; 22291/06 etc.) link	Idem.	Idem.
Slovenia	09 Jun. 2009	Butolen (no 41356/08) link	Alleged violation of Art. 3 (ill-treatment by the police, lack of an effective investigation in that regard), Art. 6 (unfairness of criminal proceedings and partiality of the Maribor Higher Court)	Partly adjourned (concerning the complaints about the ill-treatment and lack of an effective investigation in that regard), partly inadmissible (concerning the remainder of the application)
Slovenia	09 Jun. 2009	Grušovnik (no 75201/01) link	Alleged violation of Art. 6 § 1 (the applicant had been awarded default interest on compensation for non-pecuniary damage only from the date on which the judgment had been delivered, not from the date on which the damage had occurred) Art. 14 (discrimination between those who had to wait longer for a court judgment and those who succeeded with their claim in a shorter period of time in compensation proceedings), Art. 1 of Prot. 1	Inadmissible, partly as manifestly ill-founded (no appearance of violation of the Convention concerning the complaints under Art. 6 § 1 and Art. 14), partly as incompatible *ratione materiae (*concerning Art. 1 of Prot. 1)
Slovenia	02 Jun. 2009	Smiljanić (no 481/04) link	Alleged violation of Art. 1 of Prot. 1 and Art. 14 (infringement of the right to restitution of the property acknowledged by the Denationalisation Act of 1991, discrimination on grounds of Croatian nationality)	Inadmissible as incompatible *ratione materiae* (in the context of the applicant's restitution claim the applicant did not have a "possession" within the meaning of the first sentence of Art. 1 of Prot. 1)
Sweden	26 May 2009	Plåt Rör Och Svets Service I Norden AB (no 12637/05) link	Alleged violation of Art. 6 §§ 1 and 3 (b) (in particular unfairness of proceedings, deprivation of access to criminal proceedings, impossibility to hear the witness), Art. 1 of Prot. 1 (financial loss due to the Tax Authority's actions), and Art. 6 §§ 1 and 2 (infringement of the right to the presumption of innocence, lack of reasoning of the judgments)	Inadmissible, partly for non-exhaustion of domestic remedies (concerning the complaints under Art. 6 §§ 1 and 3 b)), partly for lack of evidence regarding the allegations under Art. 1 of Prot. 1, partly as manifestly ill-founded (concerning the claims under Art. 6 §§ 1 and 2)
"the former Yugoslav Republic of Macedonia"	26 May 2009	Vraniskoski (no 37973/05) link	Alleged violation of Art. 6 (unfairness of proceedings and infringement of the principle of equality of arms), Art. 9, 10 and Art. 14 and Art. 1 of Prot. 12 (discrimination in conjunction with the above alleged violations)	Inadmissible (partly for non exhaustion of domestic remedies concerning the complaints under Art. 9, 10, 14 and 1 of Prot. 12), (partly as manifestly ill-founded Art. 6 § 1)
"the former Yugoslav Republic of Macedonia"	09 Jun. 2009	Denesoski (no 19252/04) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 7 § 1 (the legal basis for the applicant's conviction was no longer in force when the offence was committed)	Inadmissible (partly as incompatible *ratione personae* concerning the complaint under Art. 7), (partly as manifestly ill-founded for no appearance of violation of the Convention)
the Netherlands	09 Jun. 2009	Safahani Langeroudi and Zendeh Del (no 44092/05) link	Alleged violation of Art. 3 and 13 (risk to be subjected to ill-treatment if deported to Iran and lack of an effective remedy in that respect)	Struck out of the list (applicants no longer wishing to pursue their application since they were granted residence permit in the Netherlands)
the Netherlands	09 Jun. 2009	Galić (no 22617/07) link	Alleged violation of Art. 34 in conjunction with Art. 14 (Headquarters Agreement allowed the Kingdom of the Netherlands to deny the applicant access to the European Court of Human Rights), Art. 6 § 1 (unfairness of proceedings	Inadmissible as incompatible *ratione personae* (the case involves an international tribunal – ICTY – established by the Security Council of the United Nations, an international organisation)

			before the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY)), Art. 6 § 2 (infringement of the right to presumption of innocence), Art. 6 §§ 1 and 3 (d) (impossibility to question the witnesses)	See *Behrami and Behrami and Saramati v. France, Germany and Norway* 02.05.07 and *Banković and Others v. Belgium and 16 Other Contracting States* 12.12.01
the Netherlands	09 Jun. 2009	Blagojević (no 49032/07) link	Alleged violation of Art. 6 (impossibility to replace lawyer)	Idem.
the United Kingdom	02 Jun. 2009	Small (no 7330/06) link	Alleged violation of Art. 8 and 14 (discrimination on account of the fixing of the minimum age for lawful homosexual activities between men at eighteen years of age, rather than sixteen as for heterosexual activities) See applicable law at the material time and 2007 law	Struck out of the list (friendly settlement reached)
the United Kingdom	09 Jun. 2009	Murphy (no 2495/07) link	Alleged violation of Art.6 § 1 (length of proceedings) and Art. 6 § 3(d) (prosecution's failure to disclose all relevant material)	Idem.
Turkey	09 Jun. 2009	Saçilik and Others (no 43044/05; 45001/05) link	Alleged violation of Art. 1, 3, 6, 13 and 14 (politically motivated ill-treatment and lack of an effective investigation in that regard) and Art. 1 of Prot. 1 (destruction of personal belongings in prison)	Partly adjourned (concerning the ill-treatment and the lack of an effective investigation in that respect), partly inadmissible (concerning the remainder of the application), partly as incompatible *ratione personae* for some of the applicants
Turkey	09 Jun. 2009	Çelik (no 2600/06) link	Alleged violation of Art. 3 and 13 (ill-treatment while in police custody and lack of an effective investigation in that regard), Art. 6 § 3 (c) (deprivation of access to legal assistance while in police custody)	Partly adjourned (concerning the complaint about the ill-treatment and the lack of an effective investigation in that regard), partly inadmissible for non-exhaustion of domestic remedies (Art. 6 § 34)
Turkey	09 Jun. 2009	Alp and Others (no 34396/05; 8753/06) link	Alleged violation of Art. 3, 5 §§ 1, 3, 4, 5 and 6 §§ 1 and 2 (excessive length of pre-trial detention which amounted to ill-treatment), Art. 13 (impossibility to challenge the lawfulness of the pre-trial detention), Art. 5 § 5 (lack of an effective compensation for the allegedly lengthy pre-trial detention), Art. 6 § 1 and 13 (length of criminal proceedings and lack of an effective remedy in that regard)	Partly adjourned for some of the applicants (concerning the length of pre-trial detention, lack of an effective remedy, lack of an enforceable right to compensation for the allegedly lengthy pre-trial detention, length of criminal proceedings and lack of an effective remedy in that regard), partly inadmissible (concerning the remainder of the application)
Turkey	02 Jun. 2009	Arslan (no 45092/05) link	Alleged violation of Art. 2, 3 and 13 (lack of adequate medical care while in prison, and lack of an effective remedy in that respect)	Struck out of the list (the matter had been resolved)
Turkey	09 Jun. 2009	Güney (no 3973/05) link	Alleged violation of Art. 5 § 3 (length of pre-trial detention) and Art. 6 § 1 (length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Turkey	09 Jun. 2009	Aktemur (no 20196/04) link	Unfairness of proceedings	Idem.
Turkey	26 May 2009	Ağdaş (no 23126/06) link	Alleged violation of Art. 3 and 13 (torture while in police custody and lack of an effective investigation in that regard), Art. 6 § 1, 2, 3 (length and unfairness of proceedings)	Partly adjourned (concerning the length of the criminal proceedings), partly inadmissible as manifestly ill-founded (Art. 3 and 13) and for non-exhaustion of domestic remedies (unfairness)
Turkey	26 May 2009	Nazsiz (no 22412/05) link	Alleged violation of Art. 6, 13 (unfairness and length of disciplinary investigation and lack of an effective remedy in that regard, length of	Partly adjourned (concerning the length of criminal proceedings), partly inadmissible (concerning the remainder of the application)

			proceedings) and Art. 8 (interference with the right to respect for private life on account of the first applicant's removal from office and his exposure in the media in respect of the disciplinary and criminal proceedings)	
Turkey	26 May 2009	Keloğlan (nos. 14019/07; 46287/07 etc.) link	In particular alleged violation of Art. 6 § 1 (infringement of the right to adversarial proceedings in conjunction with the principle of equality of arms on account of the restriction on access to the documents submitted as evidence against the applicants to the Supreme Military Administrative Court)	Partly adjourned (concerning the right to adversarial proceedings and the principle of equality of arms), partly inadmissible as manifestly ill-founded
Turkey	19 May 2009	Kavak (no 34719/04; 37472/05) link	Alleged violation of Art. 3 and 6 (ill-treatment while in police custody and lack of an effective remedy in that regard), Art. 6 § 1 (length and unfairness of proceedings), Art. 14 in conjunction with Art. 6	Struck out of the list (friendly settlement reached)
Turkey	26 May 2009	Özakinci (no 10182/04) link	Alleged violation of Art. 1 of Prot. 1 (annulment of property title without compensation) and Art. 6 § 1 (length of proceedings)	Partly adjourned (concerning the length of proceedings) partly inadmissible for non-exhaustion of domestic remedies (concerning the lack of compensation)
Turkey	26 May 2009	Mazaca (no 25066/04) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings - presence of a military judge on the bench of the State Security Court, lack of legal assistance), Art. 5 (length of pre-trial detention)	Struck out of the list (friendly settlement reached)
Turkey	26 May 2009	Harnuboğlu (no 22368/04) link	Alleged violation of Art. 3 and 13 (ill-treatment during arrest and detention by police agents and impunity of the agents, lack of an effective remedy), Art. 6 §§ 1 and 2 (unfairness of proceedings and infringement of the right to presumption of innocence)	Inadmissible as manifestly ill-founded
Turkey	26 May 2009	Yilmazkart and Mamukoğlu (no 30863/05) link	Alleged violation of Art.6 § 1 (length of civil proceedings)	Struck out of the list (friendly settlement reached)
Turkey and Switzerland	26 May 2009	Küçük (no 33362/04) link	Alleged violation of Art. 8 and 13 (Turkish, Bulgarian, French and Swiss authorities' failure to stop the applicants' forced and illegal deportation), Art. 5 § 1 (unlawful detention in Esenboğa airport in Ankara)	Partly adjourned (the complaints concerning the Turkish and Swiss authorities), partly inadmissible (concerning the remainder of the application)
Ukraine	26 May 2009	Moskalenko (no 37466/04) link	Alleged violation of Art. 6 § 1 and 13 (conditions of detention, unlawful detention, length of pre-trial detention, impossibility to lodge an appeal against the detention order, unfairness of the proceedings)	Partly adjourned (concerning the length of the applicant's pre-trial detention), partly inadmissible (concerning the remainder of the application)
Ukraine	26 May 2009	Vlasenko (no 24897/03) link	Alleged violation of Art. 6 § 1 and Art. 13 (length of proceedings and lack of an effective remedy in that regard)	Inadmissible as manifestly ill-founded
Ukraine	26 May 2009	Stankevich (no 48814/07) link	Alleged violation of Art. 3, 6 and 13 (risk of torture and unfair trial if extradition to Belarus and lack of an effective remedy in that regard), Art. 5 §§ 1, 4, 5	Struck out of the list further to the applicant's death
Ukraine	26 May 2009	Brazhnikov (no 42335/04) link	Alleged violation of Art. 6 § 1 and 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (applicant no longer wishing to pursue his application)

Ukraine	26 May 2009	Galagan and Others (no. 38273/06; 25950/07; 40530/07) link	Non-enforcement of the judgment in the applicants' favour	Idem.

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.

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. Below you will find the links to the lists of the weekly communicated cases which were published on the Court's Website :

- on 29 June 2009 : link
- on 6 July 2009 : link

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 but also of other issues brought before the Court which may reveal structural problems. Below you will find a list of cases of particular interest identified by the NHRS Unit and the Office of the Commissioner for Human Rights.

NB. The statements of facts and complaints have been prepared by the Registry (solely in one of the official languages) on the basis of the applicant's submissions. The Court cannot be held responsible for the veracity of the information contained therein.

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum/ immigration, data protection, anti-terrorism/ rule of law and disability cases for the attention of the European Group of NHRIs with a view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables (dhogan@ihrc.ie).

Communicated cases published on 29 June 2009 on the Court's Website and selected by the NHRS Unit and the Office of the Commissioner for Human Rights

The batch of 29 June 2009 concerns the following States (some cases are however not selected in the table below): Austria, Azerbaijan, Bulgaria, France, Georgia, Greece, Italy, Lithuania, Moldova, Poland, Russia, Serbia, Slovenia, "the former Yugoslav Republic of Macedonia", the Netherlands, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words
Austria	12 Jun. 2009	Jenik no. 11568/08	Alleged violation of Art. 6 – Lack of a public hearing in administrative proceedings, excessive length of the proceedings, lack of a publicly pronounced judgment and lack of a decision on the merits – Alleged violation of Art. 13 – Lack of an effective remedy regarding the length of proceedings and regarding the refusal to grant legal aid – Alleged violation of Art. 1 of Prot. 1 – Infringement of property rights on account of the Austrian authorities' dismissal of the applicant's requests
Azerbaijan	08 Jun. 2009	Abdulgadirov no. 24510/06	Alleged violation of Art. 3 – Conditions of detention – Alleged violation of Art. 6 §§ 1 and 3(c) – Impossibility to attend hearings before the Court of Appeal and the Supreme Court – Lack of impartiality of the Supreme Court – Alleged violations of Art. 13 and 14 – Discrimination on the ground of the applicant's alleged adherence to the Wahhabi religious movement
Azerbaijan	08 Jun. 2009	Garayev no. 53688/08	The applicant is currently detained in a remand facility in Baku awaiting extradition to Uzbekistan – Alleged violation of Art. 3 – Risk to be submitted to torture if extradition to Uzbekistan – Alleged violation of Art. 13 – Lack of an effective remedy in that respect – Alleged violation of Art. 5 §§ 1 (f) and 4 – Unlawfulness of detention and lack of an effective review
Lithuania	09 Jun. 2009	Lalas no. 13109/04	Alleged violation of Art. 6 § 1 – Entrapment of the applicant by policemen – Alleged violation of Art. 1 and 13 – Non-disclosure at trial of evidence relating to the authorisation and use of the Criminal Conduct Simulation Model
Moldova	11 Jun. 2009	Mocanu no. 24163/09	Alleged violation of Art. 5 § 1 and 18 –Politically motivated arrest and detention The complaint is related to the April 2009 events
Russia	11 Jun. 2009	Saybatalov no. 26377/06	Alleged violation of Art. 9, 10 and 11 taken alone and in conjunction with Art. 14 – Conviction on account of the applicant's religious beliefs, his opinions and his membership of the peaceful organisation Hizb ut-Tahrir – Alleged violation of Art. 7 – Lack of foreseeability of the law
Russia	10 Jun. 2009	Tsakoyev and Tsakoyeva no. 16397/07	The applicants are represented before the Court by lawyers of the NGO Memorial Human Rights Centre based in Moscow – Alleged violation of Art. 2, 3 – Death of the applicants' son as a result of the use of torture by State agents, lack of an effective investigation in that regard – Mental suffering because of the disappearance – Art. 5 – Unlawfulness of detention – Art. 13 – Lack of effective remedies
Russia	09 Jun. 2009	Skachkov no. 25432/05	Alleged violation of Art. 3 and 13 – Conditions of detention in remand prison no. 77/2 in Moscow and lack of an effective remedy in that connexion
Russia	09 Jun. 2009	Tsarenko no. 5235/09	Alleged violation of Art. 3 – Conditions of detention in detention facility no. IZ-47/1 of St Petersburg – Alleged violation of Art. 5 § 1 (c) – Unlawfulness of detention – Art. 5 § 3 – Length of detention pending trial – Alleged violation of Art. 5 § 4 (a) – Excessive length regarding the appeals against the extension orders – Alleged violation of Art. 13 – Lack of an effective remedy regarding the inhuman conditions of detention.
Serbia	12 Jun. 2009	Rakić and 29 other applications no. 47460/07	Alleged violation of Art. 6 – Rejection of the applicants' own claims by domestic courts, based on the "erroneous application of the relevant domestic legislation", and the simultaneous acceptance by the same courts of identical salary-related claims filed by their colleagues
"the former Yugoslav Republic of Macedonia"	12 Jun. 2009	Krstev and 6 other applications no. 30278/06	Alleged violation of Art. 6, 14 and 18 – Lack of a fair hearing on account of the inconsistency of the jurisprudence of the Supreme Court
the Netherlands	12 Jun. 2009	F.A.K. no. 30112/09/09	Alleged violation of Art. 3, 8 and 13 – Risk of being subjected to torture if expulsion to Libya and alleged violation of the right to respect of family life – Lack of an effective remedy
the	12 Jun.	A.M.	Alleged violation of Art. 3, 8 and 13 – Risk of being subjected to torture if

Netherlands	2009	no. 29094/09	expelled to Afghanistan and alleged violation of the right to respect of family life– Lack of an effective remedy
Turkey	9 Jun 2009	Akbaba and others no 48887/06	Alleged violation of Art. 2 and 13 – Death of the applicants' relative because of operations carried out by State agents, lack of an effective investigation and lack of an effective remedy – Alleged violation of Art. 6 § 1 (length)
Turkey	12 Jun 2009	Erhan and Çoban no. 20129/07	Alleged violation of Art. 3 – Ill-treatment by police officers and lack of an effective investigation in that regard
Ukraine	12 Jun. 2009	Sitnikov no. 27650/05	Alleged violation of Art. 3 – Conditions of detention in Bilyaivka ITT and SIZO-21 facilities – Alleged violation of Art. 5 § 3 – Length of pre-trial detention – Alleged violation of Art. 6 § 1 – Length of criminal proceedings

Communicated cases published on 6 July 2009 on the Court's Website and selected by the NHRS Unit and the Office of the Commissioner for Human Rights

The batch of 6 July 2009 concerns the following States (some cases are however not selected in the table below): Armenia, Cyprus, France, Greece, Lithuania, Moldova, Poland, Romania, Russia, Slovenia, Spain, the Netherlands and Turkey.

State	**Date of communication**	**Case Title**	**Key Words**
Cyprus	19 Jun. 2009	Kazali no. 49247/08 and 9 other applications	In particular alleged violation of Art. 1 of Prot. 1 – Restriction on the use of property of the applicants of Turkish ethnic origin within the Republic of Cyprus – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 8 –Interference with the right to respect for home
France	16 Jun. 2009	Payet No. 19606/08	Alleged violation of Art. 3 –Conditions of detention in Fleury-Mérogis prison– Alleged violation of Art. 6 § 1 – Unfairness of the decision of the disciplinary commission in prison – Alleged violation of Art. 6 § 3 c) – Impossibility to prepare the defense due to the constant transfers – Alleged violation of Art. 8 – Infringement of the right to family life – Lack of an effective remedy to challenge the disciplinary sanction
Greece	15 Jun. 2009	R.U. no 2237/08	Alleged violation of Art. 3 – Conditions of detention in Soufli Border Station and in the Attique Division for foreigners –Risk to be submitted to torture, if expelled to Turkey – Alleged violation of Art. 13 – Lack of an effective remedy regarding the deportation decision – Alleged violation of Art. 5 §§ 1 and 4 – Unlawfulness of detention
Lithuania	16 Jun. 2009	Vasiliauskas no. 35343/05	Alleged violation of Art. 7 on account of the Lithuanian Law's wider interpretation of "genocide" than the Convention on the Prevention and Punishment of the Crime of Genocide, as it includes political groups among the groups that could be subjected to genocide – Non-compliance with the principle of *nullum crimen sine lege* on account of the fact that the Law on Responsibility for Genocide of Lithuanian Inhabitants as enacted on 9 April 1992 didn't include criminal responsibility for the "genocide of a political group", and only on 21 April 1998 did the amendments to the criminal legislation include "political groups"
Moldova	15 Jun. 2009	D. and N. no. 25397/09	Alleged violation of Art. 2 – Danger for the applicants' life and the lack of an effective protection from the State – Alleged violation of art. 3 – Ill-treatment during arrest – Alleged violation of Art. 5 – Unlawfulness of detention – Alleged violation of Art. 13 – Lack of an effective remedy enabling the applicants to secure protection against possible attack The complaint is related to the April 2009 events
Russia	15 Jun. 2009	Pleshchinskiy no. 37/06	Alleged violation of Art. 3 and 13 – Conditions of detention in the temporary detention centre of the Solnechnogorsk police department and lack of an effective remedy – Alleged violation of Art. 6 § 1 – Lack of an effective participation in the appeal hearing – Infringement of the principle of equality of arms
Slovenia	15 Jun. 2009	Trdan and Ćirković no. 28708/06	Alleged violation of Art. 6 § 1 and 13 – Length of child custody proceedings and lack of an effective remedy – Alleged violation of Art. 8
Turkey	18 Jun. 2009	Disk and Kesk no.	Alleged violation of Art. 11 § 1 – Interference with the applicants' freedom of peaceful assembly (1st May) – Alleged violation of Art. 13 – Lack of an effective remedy in that regard – Alleged violation of art. 14 – Discrimination on account of

		38676/08	the applicants' membership of the Confederation of Revolutionary Workers' Trade Unions (DISK)
Turkey	16 Jun. 2009	Kaos GL No. 4982/07	Alleged violation of Art. 10 – Infringement of the right to freedom of expression by the Ankara Court's order prohibiting the distribution of the applicant's- a LGBT association- magazine – Alleged violation of Art. 6 § 1 – Lack of motivation of the judicial decision – Alleged violation of Art. 14 – Discrimination on the ground of sexual orientation
Numerous cases concerning conditions of detention were communicated to Romania: (Antochi v. Romania no. 36632/04 (lack of medical care in Târgu-Ocna Prison Hospital); Coman v. Romania, no. 34619/04 (conditions of detention in Mândreşti Prison, lack of medical care in Rahova Prison Hospital); Creţu v. Romania, no. 33563/03 (conditions of detention in Oradea Prison); David v. Romania no 27121/04 (conditions of detention in Gherla prison); Falibac v. Romania no. 19610/04 (conditions of detention and lack of adequate medical treatment in Mândreşti Prison); Gavriliță v. Romania no. 10921/03 (conditions of detention in Constanța Police and in Poarta Albă Prison);			

D. Miscellaneous (Referral to grand chamber, hearings and other activities)

Information note from the Registrar (30.06.09)

The Registrar of the Court has published an information note on the pilot-judgment procedure. Information note

Election of the judge in respect of San Marino (24.06.09)

The Parliamentary Assembly of the Council of Europe has elected Kristina Pardalos as judge to the European Court of Human Rights with respect to San Marino. Press release

Election to the Court (01.07.09)

The Court has elected Renate Jaeger as Vice-President of one of its Sections. Press Release

Hearing in July (01.07.09)

The Court held a Grand Chamber hearing in the case of *Čudak v. Lithuania.* Press release, webcast of the hearing

Visit by the State Secretary to the French Minister of State, Minister of Justice and Liberties (02.07.09)

On 2 July 2009 Jean-Marie Bockel, the State Secretary to the French Minister of State, Minister of Justice and Liberties, visited the Court and was received by President Costa. Erik Fribergh, Registrar, took also part in this meeting.

Visit by the President of Ireland (23.06.09)

On 23 June 2009 Mary McAleese, President of Ireland, visited the Court and met President Costa. Ann Power, the judge elected in respect of Ireland, Erik Fribergh, Registrar, and Michael O'Boyle, Deputy Registrar, also attended the meeting.

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 15 to 16 September 2009 (the 1065th meeting of the Ministers' deputies).

B. General and consolidated information

Please note that useful and updated information (including developments occurred between the various Human Rights meetings) on the state of execution of the cases classified by country is provided:

http://www.coe.int/t/e/human%5Frights/execution/03%5FCases/

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 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/dghl/monitoring/execution/default_en.asp

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

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

A. European Social Charter (ESC)

You may find relevant information on the implementation of the Charter in States Parties using the following country factsheets:

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)

Council of Europe anti-torture Committee visits Sweden (22.06.09)

A delegation of the CPT recently carried out a ten-day visit to Sweden. The visit, which began on 9 June 2009, was the CPT's fourth periodic visit to this country.

The CPT's delegation reviewed measures taken by the Swedish authorities in response to recommendations made by the Committee after previous visits. Particular attention was paid to the safeguards offered to persons detained by the police, the restrictions imposed on remand prisoners, and the situation of sentenced prisoners held under conditions of isolation and in high-security units. The conditions of detention of foreign nationals held in immigration centres and in prisons were also examined.

During the visit, the CPT's delegation met Tobias BILLSTRÖM, Minister for Migration and Asylum Policy, Ragnwi MARCELIND, State Secretary at the Ministry of Health and Social Affairs, Lars NYLÉN, Director General of the National Prison and Probation Service, and Erna ZELMAN, Director General of the National Board of Forensic Medicine. It also held consultations with senior officials from the Ministry of Justice, the Ministry of Health and Social Affairs, the Ministry of Foreign Affairs, the National Police Board, the National Board of Institutional Care, the National Board of Health and Welfare, and the Swedish Migration Board. The delegation also met Mats MELIN, Kerstin ANDRÉ and Cecilia NORDENFELT, Parliamentary Ombudsmen.

Further, discussions were held with the UNHCR Regional Office for the Baltic and Nordic countries in Stockholm and with members of non-governmental organisations active in areas of concern to the CPT.
At the end of the visit, the delegation presented its preliminary observations to the Swedish authorities.

Council of Europe anti-torture Committee visits Turkey (23.06.09)

A delegation of the CPT carried out a visit to Turkey from 4 to 17 June 2009. It was the CPT's fifth periodic visit to this country.

In the course of the visit, the CPT's delegation reviewed the measures taken by the Turkish authorities in response to recommendations made by the Committee after previous visits. Particular attention was paid to the treatment of persons detained by law enforcement agencies and to the conditions under which immigration detainees are held in detention centres for foreigners. The delegation also examined in detail various issues related to prisons, including the activities offered to prisoners and health-care services.

The delegation met Mr Osman GÜNEŞ, Deputy Minister of the Interior, Mr Ahmet KAHRAMAN, Deputy Minister of Justice, and Mr Turan BUZGAN, Deputy Under-Secretary of State at the Ministry of Health. In addition, it had consultations with senior officials from the Ministries of Foreign Affairs, Health, the Interior, Justice and National Defence and the Turkish Armed Forces, as well as with the Director General for Social Services and Child Protection. Discussions were also held with representatives of the Ankara Office of the United Nations High Commissioner for Refugees (UNHCR) and two Turkish NGOs, the Human Rights Association and the Human Rights Foundation.

At the end of the visit, the delegation presented its preliminary observations to the Turkish authorities.

Council of Europe anti-torture Committee publishes report on Lithuania (25.06.09)

The CPT has published on 25 June 2009 the report on its April 2008 visit to Lithuania. The report has been made public at the request of the Lithuanian authorities.

During the 2008 visit, the CPT reviewed the measures taken by the Lithuanian authorities to implement the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment of persons deprived of their liberty by the police and to conditions of detention in police holding facilities. The CPT's delegation also examined in detail various issues related to prisons, including the situation of juvenile and life-sentenced prisoners. Further, for the first time in Lithuania, the Committee's delegation visited a forensic psychiatric hospital and a social welfare institution.

Council of Europe anti-torture Committee publishes report on Greece (30.06.09)

The CPT has published on 30 June 2009 the report on its ad hoc visit to Greece in September 2008, together with the response of the Greek Government. These documents have been made public at the request of the Greek authorities.

In the course of this visit, the CPT reviewed the treatment of persons detained by law enforcement officials and examined the conditions of detention in police and border guard stations as well as in special facilities for illegal migrants, in order to evaluate progress made since the CPT's last visit to Greece in 2007.

C. European Commission against Racism and Intolerance (ECRI)

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

Serbia: early publication of the 2nd cycle opinion (25.06.09)

The Opinion of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) on Serbia has been made public by the Government. The Advisory Committee adopted this Opinion in March 2009 following a country visit in November 2008.

Summary of the Opinion:

"Since the adoption of the Advisory Committee's first Opinion in November 2003, the Serbian authorities adopted a new Constitution in 2006 which includes a commendable chapter on national minority protection. A new Criminal Code was adopted with some important provisions in the field of non-discrimination. The State level Ombudsman has started his work, with promising initiatives to be launched in the field of monitoring minority protection in all regions of Serbia. The commitment shown by the recently established Ministry of Human and Minority Rights in pursuing reform is encouraging.

Opportunities for persons belonging to national minorities to learn their languages have been expanded in certain areas of Serbia and some further measures to display traditional names and topographical indications have been taken. The national minority councils established so far have started to play an active role in articulating minorities' interests, despite the legal vacuum regarding their role and activities.

[*] No work deemed relevant for the NHRSs for the period under observation

The delay in adopting some pending legislation, including the law on the national minority councils, over the last five years has caused legitimate concerns and, on the whole, the pace of reform in the area of minority protection, has slowed down. The changes introduced to the legislative framework with regard to minority media have been marked by a lack of consistency and as a result, have created confusion.

In the field of education, the optional character of minority language teaching requires further discussion with representatives of national minorities. The problems encountered with regard to the recognition of diplomas from educational institutions from the region still complicate the access to education of certain persons belonging to national minorities.

It is crucial that the future National Strategy on Roma address vigorously the difficulties encountered by the Roma in accessing employment, education, housing and health care and that their lack of personal documentation is tackled as a matter of priority."

Adoption of four opinions (26.06.09)

The Advisory Committee on the Framework Convention for the Protection of National Minorities adopted four country-specific opinions under the first and third cycles of monitoring the implementation of this convention in States Parties.

The opinion on the Netherlands was adopted on 25 June; those on Liechtenstein, Moldova and San Marino on 26 June. They are restricted for the time-being.

These four opinions will now be submitted to the Committee of Ministers, which is to adopt conclusions and recommendations.

The Opinions of the Advisory Committee are made public upon the adoption of the Committee of Ministers' resolution but can be made public at an earlier stage at the country's initiative.

E. Group of States against Corruption (GRECO)

Greco publishes report on Belgium (22.06.09)

GRECO published on 22 June 2009 its Third Round Evaluation Report on Belgium, following the agreement of the Belgian authorities. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding.

Numerous aspects of Belgian law on corruption offences meet the requirements of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). Moreover, Belgian practice reflects the country's genuine capacity to bring various corrupt activities before the courts, especially since the abandonment in 1999 of the need to establish that there was a prior agreement between the two parties or that the proposal of one had been accepted by the other. The effectiveness of the provisions could be strengthened still further by recalling that receiving an advantage - within the meaning of the Convention – is an offence. Furthermore, thanks to broad jurisdiction, it is easy to prosecute in Belgium cross-border corruption offences, but it would be appropriate to clarify certain aspects. GRECO also invited Belgium to withdraw or not renew its reservations to the Convention, which concern in particular the incrimination of trading in influence and that of bribery in the private sector.

The legislation of 1989 on the financing of political activities, in conjunction with a significant level of public funding of political parties, have seemingly led parties to show financial moderation and the country no longer suffers from the major political and financial scandals of the past. The measures in place reflect to some extent the relevant provisions of the Council of Europe Committee of Ministers' Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.

GRECO also considers that political parties' various activities and structures should be better accounted for in the financial statements, and that there is room for improving the rules governing donations as well as the control mechanism since the parliamentary control commissions have not been able to establish their authority over time and remain shackled by their political composition. A fairly wide range of sanctions are available to help enforce the rules but in certain cases, questions can be asked about their proportionality and dissuasiveness.

The report addresses a total of 15 recommendations to Belgium. GRECO will assess the implementation of these recommendations in the second half of 2010, through its specific compliance procedure.

Link to the report: Theme I on Incriminalisation of corruption and Theme II on Transparency of party funding.

GRECO's 43rd Plenary Meeting in Strasbourg (29.06.09 – 02.07.09)

At its 43rd Plenary Meeting, GRECO adopted: the Joint First and Second Round Evaluation Report on Italy; Third Round Evaluation Reports on Denmark and Lithuania; Addenda to the Second Round Compliance Reports on Bulgaria, Germany, Lithuania, Malta and Sweden.

Publication of the Addendum to the Second Round Compliance report on Germany has already been authorised by the German authorities. It is expected that the other reports will soon be published on this website.

GRECO also held an exchange of views with a representative of the Directorate General "Justice, Freedom and Security", European Commission. GRECO stressed the need for enhanced cooperation with a view to avoiding duplication and promoting synergies.

The Bureau will hold its 50th meeting on 22 September 2009; the next GRECO Plenary will take place on 6-8 October 2009, following the High-level Conference on the occasion of GRECO's 10th Anniversary (5 October 2009).

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

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G. Group of Experts on Action against Trafficking in Human Beings (GRETA)

The Committee of the Parties - second meeting (19.06.09)

GRETA met for the second time in Strasbourg on 15 June 2009.You may now consult the list of items discussed and decisions taken at the second meeting.

Part IV : The intergovernmental work

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

The **United Kingdom** has accepted on 19 June 2009 the provisional application in its respect of certain provisions of Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194).

Monaco signed and ratified on 1 July 2009 Protocol No. 14bis to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 204).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/ResCPT(2009)2E / 01 July 2009

Election of members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in respect of Denmark and Hungary

C. Other news of the Committee of Ministers

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* No work deemed relevant for the NHRSs for the period under observation

Part V : The parliamentary work

The Parliamentary Assembly of the Council of Europe held its Summer Session in Strasbourg from the 22-26 June 2009. You may consult the agenda here.

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe

Resolution 1674: Reconsideration on substantive grounds of previously ratified credentials of the Ukrainian delegation (Rule 9 of the Assembly's Rules of Procedure) (23.06.09)

Recommendation 1875: Reconsideration on substantive grounds of previously ratified credentials of the Ukrainian delegation (Rule 9 of the Assembly's Rules of Procedure) (23.06.09)

Resolution 1673: The challenges of the financial crisis to the world economic institutions (23.06.09)

Resolution 1672: The activities of the European Bank for Reconstruction and Development (EBRD) in 2008: reinforcing economic and democratic stability (23.06.09)

Resolution 1671: Situation in Belarus (23.06.09)

Recommendation 1874: Situation in Belarus (23.06.09)

Recommendation 1877: Europe's forgotten people: protecting the human rights of long-term displaced persons (24.06.09)

Resolution 1677: The functioning of democratic institutions in Armenia (24.06.09)

Recommendation 1878: The funding of public service broadcasting (25.06.09)

Recommendation 1879: Renewable energies and the environment (25.06.09)

Resolution 1679: Nuclear energy and sustainable development (25.06.09)

Resolution 1678: The situation in Iran (25.06.09)

Resolution 1681: The urgent need to combat so-called "honour crimes" (26.06.09)

Recommendation 1881: The urgent need to combat so-called "honour crimes" (26.06.09)

Recommendation 1880: History teaching in conflict and post-conflict areas (26.06.09)

Resolution 1680: Establishment of a "Partner for democracy" status with the Parliamentary Assembly (26.06.09)

B. The state of human rights in Europe: the fight against impunity

In the debate which it holds every two years on the state of human rights in Europe, the Assembly urged member states to make the fight against impunity a priority by clearly stating at the highest political level that serious human rights violations committed or aided by state agents cannot be tolerated in any circumstances. In this connection, the members of the Assembly believe that full and speedy execution of the judgments of the European Court of Human Rights in cases of impunity is the key to fighting this scourge in the member states.

PACE also called on the Committee of Ministers to elaborate guidelines on the fight against impunity, drawing from the case law of the Court, its own work on the execution of judgments, pertinent Assembly resolutions and recommendations and the work of the European Committee for the Prevention of Torture, the UN and non-governmental organisations active in this field. It also called on the Committee of Ministers to consider the possibility of setting up an independent commission of inquiry to tackle the worst violations.

In her report in plenary, Herta Däubler-Gmelin (Germany, SOC) listed the different categories of impunity which demand adapted strategies for their eradication. The many concrete examples given by the rapporteur testify to the continued existence of this phenomenon in most member states in different forms, including wide-spread abuses in conflict situations, murders of journalists and human rights activists, negligent killing by police officers or ill-treatment of detainees, and hate crimes whose perpetrators profit from lax law enforcement.

Resolution 1676: The state of human rights in Europe and the progress of the Assembly's monitoring procedure
Resolution 1675: The state of human rights in Europe: the need to eradicate impunity
Recommendation 1876: The state of human rights in Europe: the need to eradicate impunity

Amnesty International: states must be held accountable for violations abroad (24.06.09)

Claudio Cordone, the Senior Director of Research and Regional Programmes of Amnesty International, told the Assembly on 24 June that states should be held accountable for violations committed by their forces in operations outside their borders. Delivering a statement on behalf of Amnesty International Secretary General Irene Khan, he listed the death penalty, impunity, counter-terrorism, discrimination and freedom of expression as key areas of concern for the organisation.

Speech

Antonio Cassese: strengthening the role of the European Court of Human Rights (24.06.09)

Antonio Cassese, the President of the Special Tribunal for Lebanon, speaking at the Assembly on 24 June, stressed the prompting role of the European Court of Human Rights in enhancing criminal accountability procedures. The former President of the UN International Criminal Tribunal for the former Yugoslavia and of the Council of Europe's anti-torture committee (CPT) also suggested that a new monitoring body be established: a European Commission of Inquiry.
Speech

Human Rights Watch: genuine political will indispensable to end violations (24.06.09)

Holly Cartner, the Director of the Europe and Central Asia Division, Human Rights Watch, addressing the Parliamentary Assembly on 24 June, underlined that despite the impressive legal framework embodied in the European Convention on Human Rights, serious violations by member states continue, threatening the credibility of the institution and jeopardising the integrity of the Court.

Speech

C. Other news of the Parliamentary Assembly of the Council of Europe

- *Countries*

PACE to observe the parliamentary elections in Albania (22.06.09)

A 19-member delegation of the Parliamentary Assembly of the Council of Europe (PACE), led by Corien Jonker (Netherlands, EPP/CD) visited Albania from 26 to 29 June to observe the parliamentary elections, alongside observers from the OSCE and NATO Parliamentary Assemblies, and the Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

The delegation met with the President of the Central Electoral Commission and representatives of the political parties standing in the election, civil society and the media, before observing the ballot on 28 June in a sample of polling stations across the country.

A PACE pre-electoral delegation, visiting Tirana on 4 and 5 June, stressed that the authorities had the responsibility to take all necessary measures to provide each voter with a new ID card in order to ensure they can exercise their constitutional right on 28 June. Considering that these elections will be a test of the maturity of democracy in Albania, it also called on the authorities to fully implement the recommendations of the Parliamentary Assembly contained in its Resolution 1538 (2007).

Statement by PACE pre-electoral mission

Moldova: declassification of PACE rapporteurs' information note (23.06.09)

The PACE Monitoring Committee held an exchange of views on 23 June 2009 on the situation in Moldova and made public the information note on follow-up to Resolution 1666 (2009) prepared by the committee's co-rapporteurs, Josette Durieu (France, SOC) and Egidijus Vareikis (Lithuania, EPP/CD), on the basis of their visit to Chisinau on 10 June 2009.

In this note the rapporteurs called on the authorities to apply scrupulously the new provisions of the Electoral Code. They also recommended that the Assembly Bureau appoint a strong delegation to observe the elections in Moldova on 29 July 2009. Lastly, the co-rapporteurs expressed their desire to see the election campaign take place under the best possible conditions, in accordance with European standards, particularly with regard to access to the media.

PACE decides not to annul Ukrainian delegation's credentials (23.06.09)

PACE voted on 23 June 2009 not to annul the credentials of the Ukrainian parliamentary delegation "on the understanding that Ukraine will take without further delay all necessary steps to finalise the election of a judge of the European Court of Human Rights". The Assembly noted Ukraine's request for an Advisory Opinion from the Court on "the right of a state to withdraw a list of candidates, once submitted" but said any such an opinion should also deal with "the issue of the conformity, with the European Convention on Human Rights, of Ukraine's refusal to provide the name of a third candidate".

Monitoring Committee: changes to Law on Elections of the President of Ukraine should be adopted without delay (23.06.09)

After discussing an information note prepared by the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) with respect of Ukraine, on the basis of their last visit to Kiev from 5 to 8 April 2009, the PACE Monitoring Committee expressed its concern that the positive changes to the Law on Elections of the President of Ukraine, adopted after the controversial second round of the Presidential election in 2004, were only of a temporary nature and will not be applicable for the forthcoming Presidential elections. Taking into account that Presidential elections will be held soon in Ukraine, the Committee called upon the Verkhovna Rada of Ukraine to urgently re-enact the 2004 changes, to ensure that the shortcomings and violations that occurred during the first two rounds of the Presidential election in 2004 can not be repeated in the forthcoming elections.

The Committee also noted that several positive changes were made to the electoral framework for parliamentary elections in Ukraine, which resulted in the last two parliamentary elections being generally conducted in line with Council of Europe standards. The Committee therefore recommended that these positive elements should also be incorporated in the Law on Elections of the President of Ukraine that will govern the upcoming Presidential election in Ukraine in January 2010.

In the view of the Committee, it would be incomprehensible if, as a result of such changes not being enacted, the Ukrainian voters were to lose their confidence in the democratic electoral process of their country. The political forces in Ukraine should therefore set aside their political differences and adopt these changes, in close consultation with the Venice Commission of the Council of Europe, without any further delay.

Read the Information note

Azerbaijan: PACE committee urges parliament to seek the Venice Commission's opinion (24.06.09)

The Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) urged the Parliament of Azerbaijan on 24 June 2009 to seize the Venice Commission for an opinion on a package of amendments to the legislation on NGOs prior to their adoption, as well as for an opinion on the amendments on the Law on Freedom of Religion adopted in May 2009, in line with the spirit of co-operation with the Venice Commission set forth in the decree of the President of Azerbaijan of 3 April 2009.

The committee also made public an information note from the co-rapporteurs on recent legislative developments in Azerbaijan.

Information note (PDF); Joint declaration

PACE to observe the parliamentary elections in Bulgaria (30.06.09)

A PACE delegation led by Tadeusz Iwínski (Poland, SOC), visited Bulgaria from 3 to 6 July to observe the parliamentary elections. Talks were scheduled with the Speaker of the Parliament, the President of the Central Electoral Commission and with representatives of the political parties standing in the election. The delegation was to meet with the Bulgarian delegation to PACE, and with representatives of the diplomatic community, civil society and the media, before observing the ballot on 5 July in a sample of polling stations across the country.

- *Special Guest status*

"The passing of another death sentence in Belarus shows the urgent need for a moratorium on executions" (02.07.09)

The President of the Parliamentary Assembly of the Council of Europe (PACE), Lluís Maria de Puig, has expressed deep concern about the death sentence passed on a young man in Belarus on 29 June. "The death penalty is a flagrant violation of human rights. It does not serve, but denies justice. No crime could justify it. This is why the Assembly asked its Bureau on 23 June not to lift the suspension of the Belarus Parliament's special guest status until such time as a moratorium on executions has been introduced by the appropriate Belarus authorities," he said.

- *Themes*

Human Rights Prize

When the PACE held its very first all-embracing debate on the state of human rights and democracy in Europe in April 2007, it decided to establish an annual award for outstanding civil society action in the defence of human rights.

Regulations (PDF)
Members of the panel for the 2010 Prize
Nomination form (MS Word version)
Link to Resolution 1547 (2007)
Launch of PACE Human Rights Prize

British Irish Rights Watch: a success story in combating impunity (24.06.09)

"Your organisation has upheld human rights in times and in a country when terrorism was being fought. That shows that there is no contradiction between the need to eradicate terrorism and the respect for human rights, as the Assembly has repeatedly affirmed. On the contrary, it is precisely in such troubled times that there is a need to uphold human rights with renewed vigour", today said Lluis Maria de Puig during the award ceremony for the 2009 Parliamentary Assembly Human Rights Prize. "The very meaning of the entire activity of your organisation is a good example of a success story in eradicating impunity, the theme of this morning's debate on the State of Human Rights in Europe", he added.

Walter Kälin: the situation of internally displaced people in Europe remains stagnant (24.06.09)

Walter Kälin, the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, told the Assembly session on 24 June that the situation of the 2.5 million people who have suffered internal displacement in Europe remains stagnant. He noted that most of them live in Central Caucasus, Turkey, the Balkans and Cyprus having fled their homes as a result of conflicts from rejected independence claims and territorial disputes.

Speech

Keeping politics out of the law: PACE committee wants greater independence for judges (23.06.09)

A report approved by the Legal Affairs Committee of the Council of Europe Parliamentary Assembly (PACE) on 23 June 2009 has recommended a series of steps to boost the independence of judges across Europe to end what it calls "politically-motivated interference" in individual cases.

The report, prepared by Sabine Leutheusser-Schnarrenberger (Germany, ALDE), exposes ways that politicians can meddle with the law in four countries representing the principal types of criminal justice system in Europe, analysing high-profile cases such as the dropping of the BAE fraud investigation and "cash for honours" scandal in the United Kingdom, or the second Khodorkovsky trial, HSBC/Hermitage Capital case and Politkovskaya investigation in Russia.

Read the Provisional version of the report (PDF)

Local authorities and transfrontier co-operation: PACE adopts two opinions (26.06.09)

In an opinion prepared by Miljenko Doric (Croatia, ALDE) and unanimously adopted at it's plenary sitting, PACE came out in favour of two draft protocols, one on the right of citizens to participate in the affairs of a local authority and the other on Euroregional co-operation groupings (ECGs). The Assembly welcomed these initiatives, which it had in fact encouraged in its Recommendation 1829 in 2008 on transfrontier co-operation.
Opinion 274 (2009); Opinion 275 (2009)

- *Speeches*

Theo-Ben Gurirab highlights the global relevance of human rights (22.06.09)

The President of the Inter-Parliamentary Union (IPU) addressed the Assembly on 22 June, highlighting the global relevance of human rights. The current Speaker of the National Assembly of the Republic of Namibia focused on the co-operation between IPU - which celebrates its 120th anniversary - and the Council of Europe, facing common challenges in the international political arena.
Video of the speech

Mary McAleese acknowledges Council of Europe's role for peace in Northern Ireland (23.06.09)

The President of Ireland, Mary McAleese, acknowledged the role of the Council of Europe creating a context for change in Northern Ireland, and for its advocacy and support to the peace process. Speaking at the Parliamentary Assembly on 23 June, she pointed out the success of police reforms in Northern Ireland as a major step in the process.
Address by Mary McAleese, President of Ireland

Terry Davis takes stock of his mandate (23.06.09)

"The fact is that the Council of Europe is a logical whole, in which every part, from the Committee of Ministers to the Assembly, the Court to the Congress, the Commissioner, the operational directorates and the partial agreements, all have their own roles and reinforce each other's work. [...] That is how our organisation has developed and disseminated democracy, defended and extended human rights, advocated and encouraged the rule of law over the past sixty years, and this is how it will continue to carry out its mission for decades to come...," declared the Secretary General.

Women should be actively involved in conflict prevention and resolution (25.06.09)

"Women have limited access to resources and decision-making. On the other hand, they are often the main victims of conflicts," said Krista Kiuru (Finland, SOC), rapporteur of the PACE Committee on Equal Opportunities for Women and Men, at the fifth meeting of women members of the Assembly. "The gender perspective and the contribution of women are a crisis management tool and must be incorporated into conflict prevention and resolution, but there will be no fundamental change until there is a change in mentalities," stressed the parliamentarian, who is preparing a report on the subject.
Speech by Helen Shaw
Speech by Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe

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

A. Country work

Commissioner Hammarberg visits Turkey to discuss the situation of asylum seekers and minorities (25.06.09)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, started on Sunday 28 June a six day visit to Istanbul, Izmir and Ankara.

“The aim of the visit is to gain first hand information on the human rights’ situation of asylum-seekers and minorities and to discuss other major human rights issues with the Turkish authorities, continuing and enhancing the constant dialogue with my Office” said the Commissioner.

During the visit the Commissioner intended to meet with high level state authorities including the President of the Republic and the Minister of Justice, as well as with members of the Turkish delegation to the Parliamentary Assembly of the Council of Europe and the Chair of the Human Rights Inquiry Commission of the Grand National Assembly of Turkey. In Izmir, the Commissioner also met with local authorities. Further meetings are scheduled with religious leaders, representatives of civil society, experts and international organisations. Visits to relevant institutions including places of detention, were also on the agenda.

A report with the findings of the visit is expected to be published later in the year.

“All people in Kosovo[1] should benefit from European standards of human rights protection” says Commissioner Hammarberg on publishing his report (02.07.09)

Presenting his special mission report on Kosovo on 2 July 2009, the Council of Europe’s Commissioner for Human Rights stressed that all people living in Kosovo, regardless of their ethnicity, must benefit from European standards of human rights protection. They should not be held hostage to any lack of international consensus on the status of Kosovo.

The Commissioner analyses the every day human rights problems faced by the people living in Kosovo. Focusing on access to justice, policing, and minority rights, as well as the fate of refugees and internally displaced persons, he observes that Kosovo has an advanced legislative framework in place, but its implementation still needs to be ensured. "An effective access to the judıcıal system is not being respected in practice, in particular in the northern municipalities. Corruption of the judiciary and different public sectors should be also tackled more effectively.”

The Commissioner appreciates the work of the UN-established Human Rights Advisory Panel in examining complaints against UNMIK and recommends that the European Union’s Rule of Law Mission, EULEX, improve accountability by providing Kosovo “with an effective mechanism to challenge alleged unlawful conduct of the international civil and security presence.”

In addition, Commissioner Hammarberg welcomes the efforts made to promote police training and encourages more “efforts to combat organised crime and corruption. Moreover, inspection of police detention cells is essential, and the OSCE should continue with its work in this field.” He stresses that it is essential to retain a multi-ethnic police service.

[1] “All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.”

Gender equality and the rights of persons with disabilities should be promoted and intercultural education policies strengthened to favour mutual respect and understanding. “It is important to develop a Serbian language curriculum, improve textbooks at all levels as well as provision of Albanian language classes for minority groups. Better education for Roma, Ashkali and Egyptian people should be also ensured, especially in response to the high drop-out rate.”

The Commissioner calls an urgent closure of the lead-contaminated Roma camps in northern Mitrovica. Action on this serious health hazard is long overdue and should now start through an immediate relocation of the families still living there. Moreover, he urges UNMIK and the Kosovo authorities to step up their efforts to find a solution to this humanitarian disaster.

Furthermore, the Commissioner appeals to European governments to avoid forced returns of minorities to Kosovo and to regulate the status of those in their host country until conditions permit their safe return. “The economic and social situation is still a major obstacle to a sustainable return process. While security issues have improved, the situation in Kosovo remains tense with inter-ethnic violence occurring sporadically.”

The report is based on the findings of a special mission carried out on 23-27 March and is available on the Commissioner’s website, together with photographs taken during the visit.

B. Thematic work

"The International Criminal Court should be defended and strengthened" says Commissioner Hammarberg (22.06.09)

“European countries should defend the International Criminal Court and request the withdrawal of impunity for US nationals” says the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing his latest Viewpoint today. “It is high time that the US policies towards the International Criminal Court are reviewed in the spirit of active and positive cooperation with the Court. The new US administration should contribute to making the Court an effective instrument of last resort against impunity for crimes that have gone unpunished despite their horrendous character”. The Commissioner criticises, in particular, the full-scale campaign against the Court, including the political and diplomatic pressure by former US administrations on a number of Council of Europe member states. He encourages European states which have still not ratified or acceded to the Rome Statute, to come on board. “An effective and independent international justice mechanism is still needed”.

Read the Viewpoint

Read the Viewpoint in Russian (.pdf or .doc)

“The right to housing is essential in a democratic society”, says Commissioner Hammarberg (30.06.09)

“The right to housing is of central importance to the effective enjoyment of most human rights. States should ensure their implementation, in particular in times of economic crisis” said today the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, issuing a recommendation on housing rights.

“Many people across Europe are experiencing a great housing need which is exacerbated by the current economic crisis. Significant numbers of people cannot access housing in the market while others have nowhere to live or live in places unfit for human habitation. Among those facing major difficulties are Roma and Travellers, victims of domestic violence, people with disabilities, refugees, migrants, internally displaced persons, tenants without security, certain national minorities and other discriminated groups, as well as people on the lowest parts of the labour market.”

The Commissioner stresses that the international obligations on the right to housing must be recognised in appropriate ways in domestic law. “Remedies or means of redress must be available to individuals or groups aggrieved by the denial of housing rights.” Furthermore, Commissioner Hammarberg calls for a sound governmental accountability both at national and local level and recommends that the European standards on housing rights be specified in national jurisprudence. “These norms should be used for clarifying the legal obligations and minimum standards involved in the implementation of the right to housing as well as in the development of indicators for monitoring the situation.”

Underlining that housing rights must be implemented in full compliance with the principle of non-discrimination, the Commissioner finally addresses a number of recommendations to member states aimed at designing better housing policy and practice.

C. Miscellaneous (newsletter, agenda…)

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* No work deemed relevant for the NHRSs for the period under observation