DIRECTORATE GENERAL OF HUMAN RIGHTS
AND LEGAL AFFAIRS

LEGAL AND HUMAN RIGHTS CAPACITY BUILDING
DEPARTMENT

LEGISLATIVE SUPPORT AND NATIONAL HUMAN
RIGHTS STRUCTURES DIVISION

NATIONAL HUMAN RIGHTS STRUCTURES UNIT

Strasbourg, 21 December 2009

Regular Selective Information Flow (RSIF) for the attention of the National Human Rights Structures (NHRSs)

Issue n°30
covering the period from 23 November to 6 December 2009

*The **selection** of the information contained in this Issue and deemed relevant to NHRSs is made under the responsibility of the NHRS Unit*

For any queries, please contact:
francesca.gordon@coe.int

TABLE OF CONTENTS

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) carefully selects and tries 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.

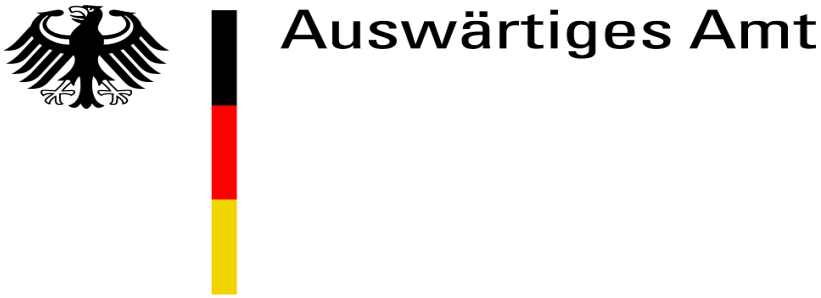
Each issue covers two weeks and is sent by the NHRS Unit to the Contact Persons a fortnight after the end of each observation period. This means that all information contained in any given issue is between two and four weeks old.

Unfortunately, the issues are available in English only for the time being due to limited means. However, the majority of the documents referred to exists in English and French and can be consulted on the websites that are indicated in the Issues.

The selection of the information included in the Issues is made by the NHRS Unit. 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.

The preparation of the RSIF is generously supported by funding from the Ministry of Foreign Affairs of Germany.



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

We invite you to read the INFORMATION NOTE No. 124 (provisional version) on the court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Section registrars and the Head of the aforementioned Division examined in November 2009 and selected as being of particular interest.

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, 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**

Kart v. Turkey (no. 8917/05) (Importance 1) – 3 December 2009 – No violation of Article 6 § 1 – The failure to lift the applicant's Parliamentary immunity did not impair his right of access to a court to a degree disproportionate to the legitimate aim pursued

In the Parliamentary elections of 3 November 2002, Mr Kart, a member of the CHP (the People's Republican Party), was elected to the Turkish Parliament. Prior to his election, he practised as a lawyer, and during the course of his professional activities two sets of criminal proceedings were brought against him, one for insulting a lawyer and the other for insulting a public official. As an MP he enjoyed Parliamentary immunity, and the criminal proceedings against him were suspended under Article 83 of the Turkish Constitution, which stipulates that an MP who is alleged to have committed an offence before or after election shall not be arrested, questioned, detained or tried unless the National Assembly decides to lift his immunity. Two requests for the applicant's immunity to be lifted were transmitted to the competent Parliamentary authorities, who decided to suspend the criminal proceedings for the duration of the applicant's term of Parliamentary office. Mr Kart challenged that

decision before the Plenary Assembly of the Turkish Parliament, relying on his right to be judged in a fair trial. The files concerning the applicant's requests to have his immunity lifted remained on the Plenary Assembly's agenda for over two years, until the next Parliamentary elections, without ever being examined.

Mr Kart was re-elected in the 2007 general elections. In 2008 the Speaker of the National Assembly informed him that the files concerning the lifting of his immunity were still pending.

Mr Kart complained that he had been deprived of his right to a fair trial, with the resulting restrictions on the rights of the defence, in that he had been deprived of the opportunity to clear his name.

The application was lodged with the European Court of Human Rights in February 2005. It was declared partly admissible in January 2008, after a public hearing. In July 2008 the Court delivered a judgment finding by four votes to three that there had been a violation of Article 6 § 1. In December 2008 a panel of the Grand Chamber acceded to the Turkish Government's request to have the case referred to the Grand Chamber in accordance with Article 43 of the Convention. On 3 December 2009 the Court pronounced the present judgment in a public hearing.

Preliminary remarks

It was not for the Court to rule in an abstract manner on the scope of the protection that States accorded their MPs, but to ascertain in this particular case how Mr Kart's Parliamentary immunity had affected his right of access to a court. This was the first time the Court had examined a case where it was the beneficiary of Parliamentary immunity who complained that his immunity was preventing him from being tried.

Article 6 § 1

The Court underlined that Parliamentary immunity pursued the legitimate aim of guaranteeing the smooth functioning of Parliament and protecting its integrity and independence. It noted that although the immunity enjoyed by Turkish MPs appeared to be broader than in other States, the scope of the protection afforded had limits and could not be deemed excessive *per se*. The procedure for examining requests to lift Parliamentary immunity in Turkey was regulated by the Constitution and the Rules of Procedure of the National Assembly. Mr Kart complained that the decision-making procedure in question lacked clarity; the Court pointed out that decisions concerning the implementation of Parliamentary liability were political decisions by nature, so they could not be expected to satisfy the same criteria of clarity as court decisions.

As to the decisions taken in Mr Kart's case, the Court noted that the applicant had had the possibility to file an objection to the decisions to suspend the criminal proceedings against him. The refusal to lift his Parliamentary immunity could not be considered discriminatory or arbitrary as similar requests, both from members of the Parliamentary majority and from opposition members had also been refused.

Criminal proceedings were still pending against Mr Kart and there was no denying that the uncertainty inherent in any criminal proceedings had been accentuated in this case by the impugned Parliamentary procedure, as the delays it had caused had resulted in equivalent delays in the determination of the criminal proceedings against him. However, in standing for election in two successive Parliamentary elections the applicant, who was a lawyer, had been aware that he was aspiring to a status that could well delay those proceedings. The Court stressed that the effect of the Parliamentary decisions concerning Mr Kart's immunity had merely been to suspend the course of justice, without influencing it or taking part in it. The damage Mr Kart complained that the criminal proceedings against him had done to his reputation was inherent in any official accusation, but there was no doubt in the Court's mind that the applicant's honour had been protected by respect for the presumption of innocence. The failure to lift Mr Kart's immunity had merely constituted a temporary procedural obstacle to the determination of the criminal proceedings, but had not deprived him of the possibility of having his case tried on the merits. It had not been disproportionate to the legitimate aim pursued by the authorities, which was to protect the Parliamentary institution. The Court held by thirteen votes to four that there had been no violation of Article 6 § 1.

Judge Malinverni expressed a concurring opinion, Judge Bonello, joined by Judges Zupančič and Gyulumyan, expressed a dissenting opinion, and Judge Power expressed a dissenting opinion. These opinions are annexed to the judgment.

- **Right to life**

G.N. and Others v. Italy (no. 43134/05) (Importance 1) – 1 December 2009 – No violation of Article 2 (substantive) – No failure to protect the lives of Mrs D.C. and the other applicants'

relatives on account of the Italian authorities' unawareness of the risk of transmission of HIV of Hepatitis C at the material time – Violation of Article 2 (procedural) – Domestic authorities' failure to provide the applicants with adequate and prompt response – Violation of Article 14 in conjunction with Article 2 – Discriminatory treatment on account of the possibility to benefit from out-of-court settlements being given to haemophiliacs only, and not to persons with a hereditary disorder as was the case for Mrs D.C. and the other applicants' relatives

The six applicants are the relatives of persons now deceased who contracted human immunodeficiency virus (HIV) or hepatitis C in the 1980s following blood transfusions carried out by the State health service. The seventh applicant, Mrs D.C., is the only surviving member of the infected group. The persons concerned had thalassaemia, a hereditary disorder whose sufferers need to be given blood and blood products in order to survive.

In 1993 a group of about a hundred persons commenced proceedings (the so-called "*Emo uno*" case) against the Ministry of Health ("the Ministry"), seeking compensation for damage sustained in similar cases. On various dates the applicants intervened in those proceedings. Following an appeal against the first-instance judgment, the Ministry was ordered to provide compensation only in respect of cases having occurred after certain key dates in terms of the understanding of the viruses. As the seventh applicant and the other applicants' relatives had been infected before those dates, they did not obtain compensation. The Court of Cassation upheld that decision in 2005, taking the view that before hepatitis C and HIV had been identified by the global scientific community no causal link had existed between the Ministry's conduct and the damage sustained.

A November 2003 decree enabled the Ministry to conclude out-of-court settlements with haemophiliacs infected in this manner. Because they suffered from thalassaemia, the applicants were unable to benefit. All the persons involved in the "*Emo uno*" case, with the exception of the applicants and ten others, settled out of court. Two other groups of persons infected in the same circumstances brought actions for damages against the Ministry. These cases, known as "*Emo bis*" and "*Emo ter*", are still pending. In these proceedings the courts did not follow the guidelines established in "*Emo uno*" with regard to the starting dates from which the Ministry's responsibility was engaged vis-à-vis infected persons.

The applicants complained that the authorities had not carried out the necessary checks in order to prevent infection. They also complained of the shortcomings in the subsequent conduct of the civil proceedings and of the refusal to award them compensation. They complained of the suffering endured as a result of their infection or that of their relative and of the length of the domestic proceedings. Lastly, they alleged that they had been discriminated against compared to other groups of infected persons.

Article 2

The Court noted that it had not been established that at the material time the Ministry had known or should have known about the risk of transmission of HIV or hepatitis C via blood transfusion, and the Court could not determine from what dates onward the Ministry of Health had been or should have been aware of the risk, nor could the assessment of the Ministry's responsibility by the domestic courts in the "*Emo uno*" case be regarded as arbitrary or unreasonable. The Italian authorities could not be said to have failed in their duty to protect the life of Mrs D.C. and the other applicants' relatives. The Court therefore held that there had been no violation of Article 2 on this point.

The Court observed that while the Italian system, by offering the applicants the possibility of a civil remedy, had in theory satisfied the procedural requirements of Article 2, in practice the proceedings in question had lasted for periods ranging from three and a half years to over ten years depending on the applicant, despite the fact that exceptional diligence was called for in compensation proceedings brought by persons infected following blood transfusions. While the Court accepted that the proceedings had been complex, it observed that there had been delays and periods of inactivity, and noted that the subsequent proceedings before the Court of Cassation had lasted for three years and ten months. Lastly, the remedy provided by the "*Pinto Act*" in order to complain of the excessive length of proceedings would not have been suitable in the applicants' case. The Court considered that the authorities had not provided them with an adequate and prompt response and held that there had been a violation of Article 2 in this respect.

Article 14

The Court examined the applicants' complaint concerning discriminatory treatment under Article 14 in conjunction with Article 2. With regard to the alleged discrimination against the applicants in relation to the infected persons who had brought the "*Emo bis*" and "*Emo ter*" proceedings, the Court considered that the difference between the findings of the Italian courts in these two cases and in the "*Emo uno*" case stemmed from a change in the case-law and did not provide sufficient basis for concluding that

the first set of proceedings had been arbitrary and had given rise to discriminatory treatment. This part of the complaint was therefore rejected as being manifestly ill-founded.

As to the discrimination claimed by the applicants as thalassaemia sufferers or their heirs in relation to the haemophiliacs who had benefited from out-of-court settlements, the Court observed that there had been a difference in treatment between persons in similar situations. The distinction had been based on the type of hereditary disorder from which Mrs D.C. and the other applicants' relatives suffered and on the fact that, under the law, the Italian Government could only conclude out-of-court settlements with haemophiliacs. The Court considered that the applicants had been subjected to discriminatory treatment and ruled that there had been a violation of Article 14 taken in conjunction with Article 2.

The Court declared the complaints under Article 3 and 8, inadmissible as being manifestly ill-founded and did not consider it necessary at this stage to examine the complaint concerning the length of the proceedings in the "*Emo uno*" case, under Article 6 § 1.

Velcea and Mazăre v. Romania (no. 64301/01) (Importance 1) – 1 December 2009 – Violation of Article 2 (procedural) – Domestic authorities' failure to conduct a speedy and effective investigation into the deaths of the applicants' relatives – Violation of Article 8 – Domestic courts' strict interpretation of the provision of the Civil Code on causes of unworthiness to inherit had gone beyond what was necessary to ensure adherence to the principle of legal certainty

The applicants are the father and sister of Tatiana A. In 1993 Tatiana and her mother were killed during a fight that had started between Tatiana and her husband, Aurel A. On the night of the incident Aurel A.'s brother, George L., an off-duty police officer, had been with him. George L. had then left with his brother and taken him home. Shortly afterwards Aurel A. committed suicide, leaving two letters in which he confessed to having killed his wife and mother-in-law. George L., acting in his capacity as a police officer, reported the incident to the police. The criminal investigation in respect of Aurel A. was discontinued by the Bucharest County Court on the ground that the perpetrator of the crimes had died and no one else had been involved. Following a criminal complaint lodged by the first applicant against George L., the Bucharest military prosecutor's office opened an investigation, which was discontinued in December 1994. On an appeal by the applicants, the Military General Prosecutor's Office of the Supreme Court of Justice decided to continue with the prosecution and the investigation was resumed. In April 2003, following legislative amendments concerning the status of police officers, the case was referred to the prosecution service at the Bucharest County Court, which discontinued it in March 2004. The applicants were not notified of those decisions.

Proceedings for the division of Tatiana's estate were commenced in 1993. The first applicant sought to have Aurel A.'s family disqualified from inheriting on the ground that his daughter had been killed by Aurel A. The Romanian Civil Code (Article 655 § 1 at the material time) provided that a person convicted of murdering the deceased was unworthy to inherit under the latter's estate. Applying a strict interpretation of that provision, the Romanian courts refused to declare Aurel A. unworthy of inheriting because he had not been convicted of murder by a final court decision as he had committed suicide.

The applicants complained that the national authorities had not undertaken a speedy and effective investigation with a view to identifying and punishing those responsible for the events of 1993. The main subject of their complaint was the judicial proceedings against George L. They also complained of the refusal of the courts to rule that Aurel A. was unworthy to inherit, which had had the effect of allowing Aurel A.'s family to inherit under Tatiana's estate. The application was lodged with the Court on 11 April 2000 by Mr Velcea and on 12 April 2002 by Mrs Mazăre.

Alleged violation of Article 2

The Court reiterated that where an individual had been killed as a result of the use of force, an effective official investigation had to automatically be carried out both properly and speedily. There also had to be a sufficient element of public scrutiny of the investigation or its results.

In this case an investigation had indeed been carried out on the initiative of the authorities. However, although they had been informed of George L.'s involvement in the incident it had not been until several months later and after the applicants had lodged a formal criminal complaint that the authorities had opened an investigation in his regard. Regarding whether the investigation had been adequate, the Court pointed out, among other things that as George L. had been a police officer and the investigation in his regard should have been carried out by independent officers. The independence of the military prosecutors who had carried out the investigation had been questionable given the national rules in force at the time according to which military prosecutors and police officers belonged to the same military structure, in accordance with the principle of hierarchical subordination. The role played by the prosecution service at the Bucharest County Court, which had merely discontinued the proceedings without undertaking any investigative measure, had not sufficed to offset

the lack of independence of the military prosecutors. It was also clear that the investigation – which lasted 11 years – into George L.'s involvement had not been conducted with the requisite speed.

Lastly, while acknowledging that the applicants had in some respects been kept involved in the proceedings, the Court found that they had not been duly informed of the orders of December 1994 and March 2004 discontinuing the proceedings, which might have prevented them from challenging those decisions effectively.

The Court held, unanimously, that the measures taken in respect of George L.'s involvement in the incident in 1993 had not amounted to a speedy and effective investigation and that Article 2 had been violated.

Alleged violation of Article 8

Inheritance rights were a feature of family life that could not be disregarded. The Convention did not require member States to enact legislative provisions in the area of worthiness to inherit, but where such provisions existed, as was the case under Romanian law, they had to be applied in a manner compatible with their aim.

In the present case there was no doubt that Aurel A. had killed Tatiana. The Court could not call into question the fundamental principle of domestic criminal law according to which criminal responsibility was personal and non-transferable. It found, however, that from a civil-law angle it was unacceptable that following a person's death (Aurel A. here) the unlawfulness of his acts should remain without effect. In the specific circumstances of this case, by applying the provision of the Civil Code on causes of unworthiness mechanically and too restrictively, the Romanian courts had gone beyond what was necessary to ensure adherence to the principle of legal certainty. The Court held, unanimously, that there had been a violation of Article 8.

- **Conditions of detention / Ill-treatment**

Jeronovičs v. Latvia (no. 547/02) (Importance 2) – 1 December 2009 – Violation of Article 3 – Degrading treatment during transfers between prisons – Violation of Article 6 § 1 – Infringement of the right to a fair trial on account of the applicant's inability to attend a Supreme Court hearing

The applicant is currently in Šķirotava Prison in Riga. In 2000 he was sentenced to nine years' imprisonment for armed robbery with violence. He appealed on points of law against that judgment in December 2001 and the appeal was set down for hearing in January 2002. Mr Jeronovičs was given notice of the date and time of the hearing on 9 January 2002. The following day he asked the prison authorities to arrange for his transfer to the Supreme Court so that he could attend the hearing. No action was taken. The applicant was transferred several times between Grīva Prison and Daugavpils Prison, situated in the same city. Before departure and on arrival he was placed in an isolation cell. In the cell in Grīva Prison, where he was held in April 2005, the applicant claimed to have had to sleep on a bunk without a mattress and without access to daylight. On his arrival at Daugavpils Prison, and before his departure, he was placed in a room measuring 1.5 sq. m, without windows or sanitary facilities. When he arrived he spent five hours there without sleeping owing to the cramped conditions and before his departure in May 2005 he remained there for over eight hours with two fellow prisoners. In June 2005 Mr Jeronovičs lodged a criminal complaint with the Chief Public Prosecutor's Office concerning his conditions of detention. The complaint was rejected on the ground that the transfer procedure had complied with the rules.

Mr Jeronovičs was again placed in an isolation cell in October 2005 with a view to his transfer to the Regional Court some 90 kilometres away, having been informed that his appeal – in the context of the proceedings he had brought to contest the prison board's refusal to place him under a more favourable prison regime – was due to be examined there. He remained in isolation for 17 hours without eating, having refused to take his meal sitting on the ground. On arrival at the Regional Court the following day he was once more placed in isolation. By the time the hearing began he had spent 27 hours without eating or sleeping. The Regional Court dismissed the applicant's appeal. In November 2005 he wrote to the Ministry of Justice complaining of his ill-treatment at the hands of the prison authorities. He received a reply suggesting that he apply in writing to the public prosecutor's office.

The applicant complained that the prison authorities had prevented him from appearing at the Supreme Court hearing in his case. He also complained of the conditions in which he had been held during his numerous transfers.

Article 6 § 1

The applicant had not at any point waived his right to appear before the Supreme Court and had expressly requested the prison authorities, five days before the hearing, to arrange for his transfer. The Government spoke of a "last-minute" request; the Court, however, could discern no lack of diligence on the part of Mr Jeronovičs, who had been prevented from appearing, without a lawyer being able to submit observations on his behalf. There had therefore been a breach of his right to a fair trial under Article 6 § 1.

Article 3

While the conditions of detention in Grīva Prison had been disputed between the parties, with regard to Daugavpils Prison it had not been disputed that on arrival and before departure the applicant had been locked in an extremely cramped cell (approximately 1.5 sq. m) without windows or sanitary facilities, first for five hours without sleeping and then for eight hours.

In October 2005, while awaiting transfer to the Regional Court, Mr Jeronovičs had again spent around 17 hours in isolation in Daugavpils Prison without being able to sleep or eat, before being transferred to the temporary isolation cell pending the hearing. The Government had not disputed either the description of the conditions there or the applicant's assertion that he had been deprived of food and sleep for 27 hours continuously.

The Court considered that, although they had lasted for a relatively short time, the conditions thus described had been objectively apt to undermine Mr Jeronovičs' dignity. The threshold of severity which characterised treatment contrary to Article 3 had been exceeded, even if the authorities had not intended to humiliate the applicant.

- **Risk of being subjected to ill-treatment / Deportation cases**

Daoudi v. France (no. 19576/08) (Importance 1) – 3 December 2009 – Violation of Article 3 if deportation order were implemented – Deportation to Algeria of a man convicted of terrorist acts would amount to a real risk of exposure to inhuman or degrading treatment

The applicant is currently subject to a compulsory residence order in the Creuse department. He arrived in France in 1979 with his parents and acquired French nationality by naturalisation in 2001. Between 1999 and 2001 he allegedly developed close contacts with radical Islamist groups and, among other things, admitted having attended a paramilitary training course in Afghanistan in 2001.

In September 2001 the applicant was arrested during an operation to dismantle a radical Islamist group affiliated to al-Qaeda and suspected of having prepared a suicide attack on the United States Embassy in Paris. On 2 October 2001 he was charged with conspiring to prepare an act of terrorism and with using a forged passport. In May 2002 he was stripped of his French nationality. In March 2005 the Paris *Tribunal de Grande Instance* found him guilty as charged, sentenced him to nine years' imprisonment and ordered his permanent exclusion from French territory. In December 2005 the Paris Court of Appeal upheld the judgment, but reduced the sentence to six years' imprisonment.

In April 2008 the applicant lodged an application to have the order permanently excluding him from French territory set aside. On the date of his release, he was taken to an administrative detention centre and immediately applied for asylum, lodged an application for judicial review of the administrative decision stipulating Algeria as the country to which he was to be deported and requested suspension of the deportation order. On the same day Mr Daoudi lodged a request with the Court under Rule 39 of the Rules of Court (interim measures). The Court indicated to the French Government that it would be advisable not to deport the applicant to Algeria pending the proceedings before the Court. Four days later he was made the subject of a compulsory residence order in the Creuse department. The applicant's applications and appeals were subsequently dismissed. Accordingly, in April 2008 the Paris Administrative Court decided that it was no longer necessary to decide the application for suspension of the deportation order following the application of Rule 39 of the Rules of Court. In June 2008 the French Office for the Protection of Refugees and Stateless Persons (OFPRA) dismissed the application for asylum. In November 2008 the Paris Court of Appeal dismissed the application for the order excluding him from French territory to be lifted. Lastly, in July 2009, the National Court of Asylum (CNDA) ruled on an appeal by the applicant against the decision refusing him asylum. It held that, in view of the nature and extent of his involvement in radical Islamist movements it was reasonable to believe that, given the interest which the Algerian Security Services might take in him, the applicant could be subjected to inhuman or degrading treatment on his arrival in Algeria. However, under the relevant domestic and international provisions, no protection was given to persons who gave serious cause for belief that they were guilty of acts contrary to the purposes and principles of the United Nations – which was the case with regard to the applicant. An appeal on points of law against that decision is pending before the *Conseil d'Etat*.

The applicant alleged that implementation of the order deporting him to Algeria would expose him to a risk of inhuman or degrading treatment prohibited by Article 3. He also alleged that as he had come to France when he was five years old and had no ties with Algeria, his deportation would be a disproportionate interference with his right to respect for his private and family life guaranteed by Article 8. The application was lodged with the Court in April 2008.

Alleged violation of Article 3

The Court, aware of the danger posed to the community by terrorism and, accordingly, of the importance of the stakes involved in the fight against terrorism, considered that it was legitimate for States to show great firmness in dealing with those who took part in acts of terrorism, which it could not condone in any circumstances. Having regard to the absolute prohibition of torture and of inhuman or degrading treatment or punishment, the Court nonetheless had to assess the risk incurred by Mr Daoudi of exposure to such treatment if he were to be deported to Algeria.

The Court noted first of all that it was a known fact that the Algerian authorities knew of the applicant's identity and of the serious crimes of which he had been convicted. Admittedly, there was nothing to suggest that he was or could be the subject of criminal proceedings in Algeria for the offences at the origin of this case, but that was not decisive here. It was clear from many corroborative, reliable and recent sources (including reports of the United Nations Committee against Torture, a number of non-governmental organisations, the US Department of State and the UK Ministry of the Interior) that in Algeria persons involved in terrorist acts were arrested and detained by the Department for Information and Security (DRS) unpredictably and without a clearly established legal basis essentially for the purposes of being interrogated or obtaining information, and not with a purely judicial aim. According to those sources, such persons placed in detention without review by the judicial authorities and without any communication with the outside (lawyer, doctor or family), could be subjected to ill-treatment, including torture. The Government had not produced evidence to refute those assertions and, furthermore, the National Court of Asylum had also considered it reasonable to believe that, given the interest which the Algerian security services might take in him, Mr Daoudi might, on his arrival in Algeria, be subjected to inhuman or degrading treatment.

For those reasons, and having regard in particular to the applicant's background, who was not only suspected of having links with terrorism, but had been convicted of serious crimes in France of which the Algerian authorities were aware, the Court was of the opinion that it was likely that were he to be deported to Algeria the applicant would become a target for the DRS. It held, unanimously, that the decision to deport Mr Daoudi to Algeria would amount to a violation of Article 3 if it were implemented.

Alleged violation of Article 8

Having regard to its finding that the applicant's deportation to Algeria would amount to a violation of Article 3 and having no reason to doubt that the French Government would comply with the present judgment, the Court did not consider it necessary to settle the hypothetical question whether, if deported, the applicant's right to respect for his private and family life would be violated.

Dolenec v. Croatia (no. 25282/06) (Importance 2) – 26 November 2009 – No violation of Article 3 (substantive) – Lack of sufficient information to conclude as to the existence of ill-treatment on account of the general conditions of the applicant's detention – Violation of Article 3 (procedural) – Lack of an effective investigation into the alleged ill-treatment by prison personnel (incident of 18 September 2006 and incident of 21 January 2007) – No violation of Article 8 – The applicant's psychiatric condition was adequately addressed by the relevant prison authorities – Violation of Article 6 §§ 1 and 3 – Failure to provide the applicant with access to his case file

The applicant's case notably concerned his complaint about his conditions of detention in various prisons and the alleged lack of adequate medical care for his psychiatric condition, post-traumatic stress disorder. He also alleged that he had been assaulted by prison guards and that there had been no effective and thorough investigation into his allegation. He also complained that the proceedings against him had been unfair. The Court concluded that due to the lack of clear medical findings proving the alleged ill-treatment and the applicant's treatment under regular and adequate psychiatric supervision there has not been violation of Articles 3 and 8. But it concluded that there had been a violation of Article 3 on account of the lack of an effective investigation in respect of alleged ill-treatment. Regarding the applicant's inability to engage the services to prepare his defence, the Court found a violation of Article 6 §§ 1 and 3.

Tabesh v. Greece (no. 8256/07) (Importance 2) – 26 November 2009 – Violation of Article 3 – Conditions of detention pending the deportation – Violation of Article 5 § 1 f) – Unlawful detention – Violation of Article 5 § 4 – Lack of an effective remedy

The applicant is an Afghan national. In December 2006, he was arrested and convicted for being in possession of fake identity documents and later that month he was placed in detention for the purpose of deportation to Afghanistan. The applicant complained about the conditions of his detention pending deportation and alleged that his placement in detention had been unlawful, since the reasoning of the administrative and judicial decisions had been insufficient in this connection, and that when arrested, he was informed of the reasons for his arrest in a language that he did not understand. The Court found that there had been a violation of Article 3 on account of the poor conditions of the applicant's detention for the purpose of deportation. It held also that there had been a violation of Article 5 §§ 1 and 4, due to the applicant's unlawful detention and the lack of an effective remedy to challenge that detention.

- **Right to liberty and security / Administrative detention**

Shannon v. Latvia (no. 32214/03) (Importance 2) – 24 November 2009 – No violation of Article 5 § 1 c) – Sufficient grounds to justify a sex offender's pre-trial detention – No violation of Article 5 § 4 – No failure attributable to the national authorities in the delay of reviewing three of the decisions on the lawfulness of the applicant's detention – Domestic courts' abstract reasoning in decisions to extend the applicant's detention were justified by the particular circumstances of the case – Violation of Article 5 § 4 – Failure to speedily review two of the decisions on the lawfulness of the applicant's detention

The applicant, Mr Shannon, citizen of the United States of America, is currently thought to be living in the United States of America. Temporarily staying in Latvia, Mr Shannon was arrested and taken into custody in October 2002 on suspicion of having sexually assaulted juveniles during a previous trip to Latvia. The suspicion against him was based on statements by four victims and testimony from an unnamed eyewitness. He was officially charged with sexual assault in October 2002.

His subsequent detention on remand was prolonged by two levels of jurisdiction on five occasions (October 2002, November 2002, January, March and May 2003). All of his appeals against the detention orders were refused on the basis of the reasonableness of the suspicion against him, the severity of the crime with which he was charged, the fact that he had no legal and/or fixed residence in Latvia, the danger of him absconding, and that he could impede the investigation. In June 2003, the prosecutor also accused the applicant of having molested young boys during other trips to Latvia in July, August and September 2001. The charges were extended from sexual assault to aggravated, forcible sexual assault, forcible sodomy and inducing juveniles to take part in prostitution and/or production of pornography.

Mr Shannon was convicted as charged in January 2004 and sentenced to five years' imprisonment; he was subsequently acquitted of the child pornography charges and his sentence reduced to four years. Released on parole in July 2006 after having served three quarters of his sentence, Mr Shannon was expelled from Latvia three days later.

Mr Shannon complained that his detention on remand during the proceedings against him had been unlawful and unjustified. He also complained about the procedure by which he had sought to challenge the lawfulness of his detention. He notably complained that the court orders extending his detention had been too abstract and concise, the reasons behind them simply repeating grounds for detention provided for by law without explaining how they applied in his particular case; and, that his appeals against those court orders had not been examined in good time.

Article 5 § 1 (c)

The Court considered that, even if the applicant had been able to prove that he had had no intention of fleeing Latvia upon release from detention, the reasonable suspicion of him having committed a crime, which had even been supported by new evidence, had been a sufficient ground to detain him until his trial and conviction. It held unanimously that there had been no violation of Article 5 § 1 (c).

Article 5 § 4

Reasoning behind extensions of the applicant's detention

Even though the reasoning used to apply and extend the applicant's pre-trial detention had been fairly abstract and concise in the specific circumstances of the applicant's case, notably the fact that he had no other link to the territory of Latvia, the illegality of his residence status could have legitimately been

taken into account by the national courts in deciding on his detention. The Court therefore held unanimously that there had been no violation of Article 5 § 4 in that respect.

Speediness of review of the applicant's detention on remand

Concerning the decisions of 4 October 2002, 30 January, and 30 May 2003, which had been reviewed by the courts between fourteen days - and one month and two days - later, following the applicant's appeals, the Court found that the requirement of speediness in examining those appeals had been observed, and there had therefore been no violation of Article 5 § 4.

As regards the decision of 29 November 2002, the Court noted that the delay of 89 days in deciding on the applicant's appeal against his detention had been chiefly caused by the Centre District Court's erroneous decision to return the applicant's appeal to him for translation and held, unanimously , that there had been a violation of Article 5 § 4. Finally, in respect of the decision of 31 March 2003, the Court held unanimously that the delay of one month and eight days had not been explained by the authorities and, therefore, there had been a violation of Article 5 § 4.

Koriyski v. Bulgaria (no. 19257/03) (Importance 3) – Violation of Article 5 § 3 – Excessive length of pre-trial detention – Alleged violation of Article 5 § 4 – Failure to speedily examine the applicant's applications for release – Lack of an effective remedy to challenge the lawfulness of the detention – Violation of Article 8 – Monitoring of the applicant's correspondence with his lawyer by the prison staff

The applicant was remanded in custody on a charge of robbery. He complained about the length of his detention. He also alleged that his applications for release had not been examined effectively or promptly and that his correspondence with his lawyer had been monitored. The Court found that there has been a violation of Article 5 § 3 due to the length of the applicant's detention. It also held that his applications for the release have not been examined promptly by a tribunal in breach with Article 5 § 4. The Court found also a violation of Article 8, on account of the monitoring of the applicant's correspondence with his lawyer in detention.

Hokic and Hrustic v. Italy (no. 3449/05) (Importance 2) – 1 December 2009 – Violation of Article 5 § 1 – Unlawful immigration detention

The applicants are nationals of Bosnia and Herzegovina of Roma origin. When the application was lodged they were living with their children in a travellers' encampment in Rome. They argued against their detention for the purpose of their deportation, arguing that the deportation orders had been set aside. The Court held that there has been a violation of Article 5 § 1 on account of the applicants' detention, following a court decision ordering their release.

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

Eberhard and M. v. Slovenia (no. 8673/05 and 9733/05) (Importance 1) – 1 December 2009 – Violation of Article 8 – Domestic authorities' failure to meet their positive obligation as regards the enforcement of the access order issued in administrative proceedings and the conduct of court proceedings concerning access and custody rights of the applicant concerning his daughter

In April 2001 the first applicant's wife, M.E., together with the second applicant, M., then aged four, moved out of the flat in which they all lived and subsequently filed a petition for divorce.

Following administrative proceedings, access arrangements - which became final and enforceable in October 2002 - were made. According to these arrangements, Mr Eberhard could spend four hours a week with his daughter. However, M.E. persistently failed to comply with the order and refused M.'s father all access to their daughter. In November 2002 Mr Eberhard asked for the access order to be enforced but despite a decision granting the enforcement and imposing a fine on M.E. she continued to prevent Mr Eberhard from seeing their daughter. Mr Eberhard' notified the Šentjur Administrative Unit (the Unit) thirteen times about M.E's continued refusal to let him see M. and the Unit imposed fines on M.E. on six occasions. M.E. appealed against the fines and the relevant Ministry ordered the Unit to re-examine them. It is not clear whether the authorities took any subsequent steps in the context of these proceedings.

In June 2001, further to the divorce application filed by M.E., the competent court had issued an interim decision granting M.E. provisional custody of M. pending the outcome of the proceedings. In February 2002 the court granted Mr Eberhard and M.E. divorce and gave M.E. custody of their

daughter. In June 2003, Mr Eberhard brought proceedings seeking custody of M. on the ground that M.E. continued not to let him see the child. He also requested an interim order asking for custody over M. pending the outcome of the proceedings. M.E. continuously failed to cooperate with the court and as a result an interim decision was issued only in May 2006. The court rejected Mr Eberhard's request for provisional custody; it granted him, however, the right to spend one afternoon a week with his daughter when he would pick her up from school, as well as every second weekend and part of the holidays. In January 2008, the proceedings were finally resolved the parties agreeing on new access arrangements and withdrawing all claims they had pending before the court against each other.

Mr Eberhard and his daughter M. complained about the authorities' failure to ensure contact between the two of them despite the access arrangements decided in administrative proceedings. The two applicants also complained about delays in the court proceedings concerning child custody and access arrangements.

Having noted that M.E. had sole custody of the second applicant after the interim order of June 2001, the Court found that the first applicant had no standing to act on the second applicant's behalf. The Court therefore limited its examination of the case to the part that concerned Mr Eberhard, hereafter referred to as "the applicant".

The Court recalled that Article 8 included for parents a right that steps be taken to reunite them with their children and an obligation on the national authorities to facilitate such reunions. In cases of enforcement of decisions concerning contacts with children, the authorities had to do everything necessary to execute such decisions swiftly, as the passage of time could have irreversible consequences for the relationship between children and parents who did not live together. The Court noted that Mr Eberhard had had visiting rights as the authorities had established that M. had an interest in maintaining contacts with her father. The access arrangements of August 2001 had not, however, been enforced between the moment they became final, in October 2002, and the time when new access arrangements had been determined by court in May 2006. M.E. had continuously refused to let Mr Eberhard see his daughter. That had resulted in Mr Eberhard having had contact with his daughter only three times during the first three years.

The Court found that the Slovenian authorities had failed to make effective efforts to execute the access arrangements. Furthermore, the court proceedings for access arrangements and custody had lasted over four and a half years and only five hearings had been held in all during that period. The authorities had not reacted adequately to the lack of cooperation by M.E. during those proceedings; neither had they acted with the utmost urgency as required by the situation. Accordingly, the Slovenian authorities had not done everything possible to ensure contact between Mr Eberhard and his daughter, as determined in the access arrangements, nor to have the court proceedings for access and custody rights completed speedily; as a result there had been almost no contact for over four years between M. and Mr Eberhard, in violation of Article 8.

Stolder v. Italy (no. 24418/03) (Importance 3) – Violation of Article 8 – Monitoring of the applicant's correspondence by prison personnel

Since the applicant's arrest in 1992 for, among other offences, criminal conspiracy, he has been held in several Italian prisons. He complained that he was made subject to a special prison regime which entailed restrictions on, among other things, visits and communications. The Court held that there has been a violation of Article 8 due to the monitoring of the applicant's correspondence.

Zaunegger v. Germany (no. 22028/04) (Importance 3) – 3 December 2009 – Violation of Article 14 in conjunction with Article 8 – Unjustified discrimination against unmarried father in comparison with divorced fathers concerning the applicant's request for joint custody

The applicant has a daughter born out of wedlock in 1995 who grew up with both parents until their separation in August 1998 and from that time until January 2001 lived with the applicant. After the child had moved to live with the mother, the parents reached an agreement according to which the applicant would have contact with the child on a regular basis.

Pursuant to the relevant provisions of domestic law, Article 1626a § 2 of the German Civil Code, the mother held sole custody for the child. As she was not willing to agree on a joint custody declaration, the applicant applied for a joint custody order. The Cologne District Court dismissed the application, holding that under German law joint custody for parents of children born out of wedlock could only be obtained through a joint declaration, marriage or a court order, the latter requiring the consent of the other parent. The decision was upheld by the Cologne Court of Appeal in October 2003. Both courts referred to a leading judgment of the Federal Constitutional Court of 29 January 2003, which had found that the relevant provision of the Civil Code was constitutional with regard to the situation of

parents of children born out of wedlock who had separated after 1 July 1998, the date an amended Law on Family Matters entered into force. In December 2003 the Federal Constitutional Court declined to consider the applicant's constitutional complaint.

The applicant complained in particular that the application of Article 1626a § 2 of the German Civil Code amounted to unjustified discrimination against unmarried fathers on the grounds of sex and in comparison with divorced fathers.

The Court noted that by dismissing the applicant's request for joint custody without examining whether it would be in the child's interest – the only possible decision under national law – the domestic courts had afforded him a different treatment in comparison with the mother and in comparison with married fathers. The Court first considered that the provisions on which the domestic courts' decisions had been based were aimed at protecting the welfare of a child born out of wedlock by determining its legal representative and avoiding disputes between the parents over custody questions. The decisions had therefore pursued a legitimate aim. It further considered that there could be valid reasons to deny the father of a child born out of wedlock participation in parental authority, for example if a lack of communication between the parents risked harming the welfare of the child. These considerations did not apply in the present case, however, as the applicant continued to take care of the child on a regular basis.

The Court noted that while it was true that legal proceedings on the attribution of parental authority could unsettle a child, domestic law provided for judicial review of the attribution of parental authority in cases where the parents were or had been married or had opted for joint parental authority. The Court did not see sufficient reasons why the situation of the present case should allow for less judicial scrutiny. It considered that there was not a reasonable relationship of proportionality between the general exclusion of judicial review of the initial attribution of sole custody to the mother and the aim pursued, namely the protection of the best interests of a child born out of wedlock. The Court therefore held by 6 votes to 1 that there had been a violation of Article 14 taken together with Article 8.

Judge Schmitt expressed a dissenting opinion, which is annexed to the judgment.

Omojudi v. the United Kingdom (no. 1820/08) (Importance 3) – 24 November 2009 – Violation of Article 8 – Deportation to Nigeria following a criminal conviction

The applicant is currently living in Nigeria. He had been living in the United Kingdom with his spouse, his three children and with his grandchild from 1982 until 2008, when he was deported to Nigeria. In 2005 he and his spouse were granted an Indefinite Leave to Remain. The applicant complained that, following his conviction for a sexual offence, he had been deported to Nigeria. Having regard to the strength of the applicant's family ties to the United Kingdom, his length of residence, and the difficulty that his youngest children would face if they were to relocate to Nigeria, the Court found that the applicant's deportation was not proportionate to the legitimate aim pursued and it held therefore a violation of Article 8 of the Convention.

- **Freedom of expression**

Karsai v. Hungary (no. 5380/07) (Importance 1) – 1 December 2009 – Violation of Article 10 – Domestic courts' failure to establish any pressing social need for prioritising the protection of the personality rights of a participant in a public debate above the applicant's right to freedom of expression

The applicant is a Hungarian historian and university professor. In 2004 there was a public debate in Hungary as to whether a statue should be set up to commemorate the former Prime Minister Pál Teleki, who had cooperated with Nazi Germany and had been involved in the passing of anti-Semitic legislation. Mr. Karsai published an article criticising the right-wing press, including the author B.T., for praising the politician's role and for making anti-Semitic statements. B.T. brought a civil action against the applicant, claiming that his reputation had been harmed by a passage in the article that could be referred to him and which included the expression "bashing the Jews". The Regional Court did not grant the claim, holding in essence that the impugned statement had not concerned B.T. himself but the right-wing media as such. The decision was later reversed by the Court of Appeal, which held that the statement could be seen as relating to B.T. and that the applicant had failed to prove that it was true. It ordered the applicant to publish a rectification at his own expense and to bear the legal costs. The Court of Appeal's decision was upheld by the Supreme Court in June 2006.

The applicant complained that the Hungarian courts' decisions amounted to a violation of his right to freedom of expression. In particular, he argued that the obligation to arrange for a public rectification was a disproportionately severe sanction, putting his credibility as a historian at stake.

The Court did not see a reason to depart from the Hungarian courts' findings that the impugned statement in the applicant's article, made with regard to the right-wing press in general, could also be considered as indirectly referring to the plaintiff B.T. and thereby affecting his reputation. However, contrary to the domestic courts, it could not find that the dispute concerned a pure statement of fact, an assessment that would limit the protection under Article 10. In the article the applicant had argued that the apology of a politician with well-known anti-Semitic convictions amounted to participation in the process, ongoing in the extreme right-wing press, of trivialising his racist policies. The Court noted that the applicant wrote the article in question in the course of a debate of utmost public interest, concerning Hungary's coming to terms with its totalitarian past. It therefore considered that its publication deserved the high level of protection granted to the press in view of its functions in a democratic society. The Court also pointed out that the plaintiff, by being the author of articles widely published in the popular daily press as part of the debate, had voluntarily exposed himself to public criticism. In this context even harsh criticism expressed directly would have been protected by Article 10 of the Convention, while the applicant's disagreement with B.T.'s views had been phrased only indirectly. With regard to the nature and severity of the sanction, the Court considered that, although the applicant was subject to civil-law rather than criminal sanctions, the obligation to publish a rectification affected his professional credibility as a historian and was therefore capable of producing an intimidating effect. The Court concluded that the domestic courts had not convincingly established that protecting the reputation of a participant in a public debate was more important than the applicant's right to freedom of expression and the general interest in promoting this freedom where issues of public interest were concerned. Accordingly there had been a violation of Article 10.

Aleksandr Krutov v. Russia (no. 15469/04) (Importance 3) – 3 December 2009 – Violation of Article 10 – Domestic authorities' failure to strike a fair balance between a journalist's right to freedom of expression and the importance of protecting a public prosecutor's reputation

In January 2003 the applicant, a journalist, published an article in a local newspaper, "*Nedelya Oblasti*", in which he examined the interrelations between the political groups in the Saratov Region during the year 2002. In particular, he wrote about the Saratov Regional Prosecutor, Mr B., having received "gifts" from the town hall in exchange for support he had provided to some of its members including by shielding them from criminal prosecution. B. brought court proceedings against the applicant, complaining that the article damaged his honour, dignity and professional reputation. The court found in favour of B. While it accepted the facts as presented by the applicant in that article, namely that the "gifts" had been received by B. and that criminal proceedings had only been brought in respect of one town hall member who had subsequently been acquitted, it held that the article was defamatory as it contained statements of fact in respect of B. which had not been proven by the applicant. The court fined both the applicant and the newspaper and ordered the newspaper to publish a rectification.

The applicant complained about being found liable for defamation for having written the article while he had only expressed his opinion based on facts related to the political environment in the region at the time.

The Court first recalled that the applicant had been a journalist and that the press had a duty to impart information and ideas on all matters of public interest. The article had raised important issues and the applicant had been entitled to bring them to the attention of the public.

Referring to its well-established case law the Court found that, as B. had been a civil servant in office, he had had to tolerate broader criticism than had he been a private individual. The Court further observed that the Russian authorities had confined themselves to analysing the importance to protect the public prosecutor's reputation and had failed to strike a fair balance between that and the journalist's freedom of expression. In addition, the Court was satisfied that the applicant's assumptions expressed in his article had not been incidental but based on sufficient facts as accepted by the domestic court.

The Court concluded that the applicant had expressed in his article a value judgement the truthfulness of which had not been susceptible of proof. In addition, the applicant had not used abusive language. The Court held unanimously that the authorities had not justified the fine they had imposed on the applicant for defamation, in violation of Article 10.

Flux v. Moldova (no. 7) (no. 25367/05) (Importance 3) – 24 November 2009 – Violation of Article 10 – Interference with the applicant newspaper's right to freedom of expression was not "necessary in a democratic society", as the applicant newspaper acted in good faith in reporting on an issue of genuine public interest

The applicant, *Flux*, is a newspaper registered in Moldova. In April 2004, it published an article entitled "Four more communists have obtained housing on our money". The article reported about four apartments apparently built with public money in a former Parliament warehouse and indicated that "according to certain sources in Parliament, who have asked to remain anonymous, the future owners of the relevant apartments include V.S., the president of the communist fraction in Parliament…", as well as other politicians. The article, criticising the Parliament for its lack of transparency, added that the newspaper had tried to verify this information by telephoning V.S., the Speaker and Deputy Speaker of the Parliament and other State officials, but that it had been impossible to reach them. However, the newspaper visited the apartments and took pictures. Mr Secăreanu, a Member of Parliament, also informed the newspaper that he had been told by the head of the Parliament apparatus (for whom one of the apartments was allegedly reserved) and another Deputy Speaker in the Parliament that the Parliament had paid for the apartments. The article further described Mr Secăreanu's efforts to obtain information on the expenditure by the Parliament and the Presidency from the President of the Court of Accounts - information made secret by the latter -, as well as his efforts to obtain that information from the Parliament leadership.

In May 2004, V.S. brought court proceedings against the applicant newspaper, claiming that he had been defamed by its article. In June 2004, The Buiucani District Court accepted this claim in full, awarding damages to V.S. and ordering the newspaper to publish an apology. The court found that the expressions used had been defamatory and that the applicant newspaper had not submitted any evidence to prove that the information published about V.S. had been true. In September 2004 the Chişinău Court of Appeal confirmed this judgment but reduced the award made. In March 2005, the Supreme Court of Justice rejected the applicant newspaper's appeal on points of law.

Flux complained that its conviction for defamation amounted to a breach of its right to freedom of expression, guaranteed by article 10. The article had been aimed at criticising the Parliament for alleged lack of transparency, rather than at disparaging V.S. (or any other person) specifically. It had dealt with the issue of whether the Parliament leadership had spent public money in a non-transparent manner, which had been a matter of genuine public interest, calling for particular protection under Article 10.

The Court noted that in situations such as in this case, where on the one hand a statement of fact has been made and insufficient evidence adduced to prove it, and on the other hand the journalist has been discussing an issue of genuine public interest, it was paramount to verify whether the journalist acted professionally and in good faith. The Court considered that the applicant newspaper had acted in a professional manner and had attempted in good faith to verify its facts as far as it had been reasonably possible. The lack of any official information on the matter at issue, despite the applicant newspaper's attempts to obtain such details, plus the other uncontested facts raising legitimate doubts as to the legitimacy of the distribution of the apartments, could reasonably have prompted the journalist to report on anything that had been available, including unconfirmed rumours. Significantly, the applicant newspaper had clearly informed its readers in the article itself that it had been unable to verify the truth of the information received, and had thus avoided presenting the rumours on which it had been reporting as established facts. The Court held, unanimously, that there had been a violation of Article 10.

Ieremeiov v. Romania (no. 1) (no. 75300/01) and Ieremeiov v. Romania (no. 2) (no. 4637/02) (Importance 2) – 24 November 2009 – Violation of Article 10 – Domestic authorities' failure to provide sufficient reasons to justify the interference with the applicant's right to freedom of expression – Violation of Article 6 § 1 – Infringement of the right to a fair trial on account of the domestic courts' quashing of the first-instance judgment and re-examining the merits of the accusations against the applicant without hearing evidence from him and without allowing him to present his defence

A former journalist of the newspaper *Ziua de Vest*, Mr Ieremeiov, had two sets of criminal proceedings brought against him for defamation following the publication in June 2000 of articles that he had written: one accusing Dr. P., the Head of the Timiş Public Health Service of sexual harassment of an intern and a second one reporting on rumours about the Mayor of Buziaş' collaboration with the *Securitate* (the intelligence service during the communist period). In both sets of proceedings the courts acquitted the applicant at first instance of defamation but subsequently, quashing those decisions, re-examined the merits of the cases and gave the applicant administrative fines. He was further ordered to pay compensation for non-pecuniary damage (a total of ROL 25,000,000 in both cases – the equivalent of EUR 5,822). The courts found in particular that the applicant had intended to denigrate Dr. P. by publishing his photograph in an article which referred to a "scandal in the medical world" and "sexual blackmail and harassment". They found that the applicant had had the same intention with regard to the Mayor of Buziaş when reporting on his alleged collaboration with the *Securitate* and the fact that the mayor, under surveillance, was on file about the matter. The applicant

was invited to address the court before the end of the hearings in both cases but was not given the opportunity to give evidence or allowed time to prepare and present his defence.

Mr Ieremeiov alleged in particular that both sets of proceedings brought against him had been unfair and that the resulting fines and compensation he had been ordered to pay were in breach of his right to freedom of expression.

Article 6 § 1

Firstly, the Court found that, although the penalties – administrative fines – imposed on the applicant had not been severe in either of the defamation cases against him, nonetheless they had amounted to a criminal conviction within the meaning of the Convention. Furthermore, the fact that the applicant had been able to address the domestic courts before the end of the hearings in his cases could not be equated with his right to be heard during trial. The failure to hear the applicant in person was difficult to reconcile with the requirements of a fair trial in cases such as these where the courts had to carry out an assessment of the subjective element of the alleged offence, that is, the applicant's intent to denigrate. The Court therefore concluded that by quashing the first-instance judgments and re-examining the merits of the accusations against the applicant without hearing evidence from him and without allowing him to present his defence, the Romanian courts had failed to comply with the requirements of a fair trial. It held unanimously that there had been a violation of Article 6 § 1 in both cases.

Article 10

The Court noted that it was not in dispute between the parties that the decisions had constituted an interference with the applicant's freedom of expression. That interference had been "prescribed by law" and had served a legitimate aim, namely the protection of the rights and reputations of others. Firstly, the Court found that the articles in question, concerning two public figures, had dealt with issues – indecent behaviour towards an intern and rumours of collaboration with the communist political police – which merited legitimate public concern. Given the context and seriousness of the allegations, the articles had therefore contributed to a debate of public interest. Furthermore, there had been facts to support the applicant's statements: the intern had told the courts that she had made accusations about Dr. P.; two witnesses had admitted in court that they had provided information to the applicant about the Mayor's collaboration with the *Securitate*. Moreover, aside from the fact that the Court attached no importance to the Government's argument that the applicant had acted in bad faith when writing both articles – as the criminal proceedings had lacked the requirements of a fair trial – there was nothing in the case files to indicate that the applicant had tried intentionally to denigrate Dr. P. or the Mayor of Buziaş. In conclusion, although the fines and damages imposed on the applicant had been moderate, the Court found that the Romanian authorities had not given relevant and sufficient reasons in either of the cases to justify the interference with the applicant's freedom of expression. The interference had not therefore been "necessary in a democratic society" and the Court held unanimously in both cases that there had been a violation of Article 10.

- **Right to free elections**

Seyidzade v. Azerbaijan (no. 37700/05) (Importance 3) – 3 December 2009 – Violation of Article 3 of Protocol No. 1 – Registration of a candidate in parliamentary elections refused arbitrarily

Mr Seyidzade held the following positions: head of the education department of the Caucasus Muslims Board (Qafqaz Müsəlmanlar İdarəsi, the official governing body of Muslim religious organisations in Azerbaijan), member of the Qazi (Islamic Judges') Council (Qazılar Şurası) of the Caucasus Muslims Board, and director of the Sumgayit branch of Baku Islamic University. He was also a founder and editor-in-chief of a journal with Islamic religious content. On an unspecified date, he applied to the electoral commission to be registered as a candidate for the November 2005 parliamentary elections. He submitted with his application an undertaking to terminate any professional activity incompatible with the office of Member of Parliament and by August 2005 he had resigned from all his positions involving professional religious activities. However, the electoral commission refused to register him as a candidate for the elections finding that he continued to act as a professional clergyman. Mr Seyidzade appealed unsuccessfully before several court instances. While acknowledging that he had resigned from his positions, the courts found that this fact did not exclude his engaging in professional religious activity which, in accordance with the Constitution and the Electoral Code, was an obstacle to standing for parliamentary elections.

Mr Seyidzade complained of the authorities' arbitrary refusal to register him as a candidate in the parliamentary elections.

The Court first noted that the applicant had resigned from all his positions which could have been interpreted as "professional religious activity" believing that this would have made him eligible to stand for election. However, without even specifying any reasons for their finding, the electoral authorities had considered him still a professional clergyman and consequently belonging to the category of persons affected by the domestic law restriction on people eligible to stand for election. The courts, like the electoral commission, had failed to point out on the basis of what definition and evidence had he been considered a clergyman. The Court found that the relevant domestic law had not been clear or precise and thus had left considerable room for speculation as to the definition of the categories of persons whose rights had been restricted. The Azerbaijani authorities had not submitted examples of consistent interpretation given in domestic practice to the scope of the legal restriction on the right to stand for elections. In fact, the authorities had arbitrarily applied the restrictions in respect of Mr Seyidzade and had thus prevented him, without a clear or sufficient explanation, from exercising his right to free elections, in violation on Article 3 of Protocol 1.

- **Freedom of movement**

Gochev v. Bulgaria (no. 34383/03) (Importance 1) – 26 November 2009 – Violation of Article 2 of Protocol No. 4 – Disproportionate interference with the applicant's right to freedom of movement on account of the withdrawal of his passport for more than six years without appropriate review

In October 1999 and April 2001 enforcement orders were issued against the applicant at the request of private companies to which the applicant owed money. In decisions of 21 December 2001 and 27 May 2002, in accordance with the Bulgarian Identity Documents Act 1998, the director of the Department for Identity Documents ordered the applicant's passport to be withdrawn and instructed the competent authorities not to issue him a new one.

The applicant made several appeals to the Supreme Administrative Court, but to no avail: the court upheld the impugned decisions. His creditors having made no further claims, the enforcement proceedings against the applicant were discontinued and he has been free to leave the country since 17 May 2008.

The applicant alleged that his freedom to leave the country had been violated.

The Court noted that a degree of ambiguity in the law on which the authorities had based their decision to restrict the applicant's freedom of movement could not in itself lead to the conclusion that the interference had been unforeseeable to the extent that it was unlawful. The Court reiterated that the domestic authorities were under an obligation to ensure that a breach of an individual's right to leave his or her country was, from the outset and throughout its duration, justified and proportionate in view of the circumstances. Such review should normally be carried out, at least in the final instance, by the courts, since they offered the best guarantees of the independence, impartiality and lawfulness of the procedures.

In this case, however, the applicant had been prevented from leaving the country for more than six years and four months, without any judicial review of the measures concerned. Once the measure had been imposed the authorities had not sought relevant information on the applicant's personal situation or the circumstances of his failure to pay his debts. Nor had the courts effectively reviewed the need for the measure. The applicant had thus been subjected to measures of an automatic nature, with no limitation as to their scope or duration. The Court accordingly found that the Bulgarian authorities had failed in their duty to ensure that the interference with the applicant's right to leave the country was, from the outset and throughout its duration, justified and proportionate in the light of the circumstances. There had therefore been a violation of Article 2 of Protocol no. 4.

- **Disappearances cases in Chechnya**

Ismailov and Others v. Russia (no. 33947/05) (Importance 3) – 26 November 2009 **–** Violations of Article 2 (substantive and procedural) – Presumed death of the applicants' relatives and lack of an effective investigation **–** Violation of Article 3 **–** Inhuman treatment on account of the applicants' psychological suffering **–** Violation of Article 5 **–** Unacknowledged detention of applicants' relatives **–** Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Ustarkhanova v. Russia (no. 35744/05) (Importance 3) – 26 November 2009 - Violations of Article 2 – Presumed death of the applicant's son and lack of an effective investigation **–** Violation of Article 3 **–** Inhuman treatment on account of the applicant's psychological suffering **–** Violation of Article 5 **–**

Unacknowledged detention of applicant's son – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

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*. For a more complete information, please refer to the following link:

- Press release by the Registrar concerning the Chamber judgments issued on 24 Nov. 2009: here
- Press release by the Registrar concerning the Chamber judgments issued on 26 Nov. 2009: here
- Press release by the Registrar concerning the Chamber judgments issued on 01 Dec. 2009: here
- Press release by the Registrar concerning the Chamber judgments issued on 03 Dec. 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.

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Armenia	01 Dec 2009	Khachatryan (no. 31761/04) Imp. 3	Violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Lengthy non-enforcement (more than eight years and four months) of a final judgment against the applicants' former employer (a private company whose majority shareholder is the State), in which they were granted damages for salary arrears	Link
Azerbaijan	03 Dec 2009	Humbatov (no. 13652/06) Imp. 3	Violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Lengthy non-enforcement of a judgment in the applicant's favour granting the applicant's company the right to use a plot of land	Link
Azerbaijan	03 Dec 2009	Mirzayev (no. 50187/06) Imp. 3	Violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Lengthy non-enforcement of a judgment in the applicant's favour confirming his status as the lawful tenant of a flat occupied by another family	Link
Bosnia and Herzegovina	24 Nov. 2009	Halilović (no. 23968/05) Imp. 3	Violation of Art. 5 § 1	Unlawfulness of the applicant's detention in the Zenica Prison Forensic Psychiatric Annex following an administrative decision and not a competent civil court's decision as required (See *Tokić and Others v. Bosnia and Herzegovina*)	Link
Bulgaria	26 Nov. 2009	Naydenov (no. 17353/03) Imp. 2	Violation of Art. 1 of Prot. 1	Excessive length and ineffectiveness of proceedings for restitution and compensation in respect of land that had been nationalised at the beginning of the Communist era	Link
Bulgaria	03 Dec 2009	Aliykov (no. 333/04) Imp. 3	Violation of Art. 6 § 1	Infringement of the right to a fair trial on account of the applicant's conviction *in absentia* concerning proceedings against him following his arrest for drink driving and the Supreme Court of Cassation's refusal to reopen the case	Link
Bulgaria	03 Dec 2009	Mutishev and Others (no. 18967/03) Imp. 3	Violation of Art. 1 of Prot. 1	Non-enforcement of a final judgment in the applicants' favour restoring their ownership of more than 100 hectares of farmland which was collectivised during the	Link

* The "Key Words" in the various tables of the RSIF are elaborated under the sole responsibility of the NHRS Unit of the DG-HL

				communist era	
France	24 Nov. 2009	Vautier (no. 28499/05) Imp. 2	No violation of Art. 8	Adequate and proportionate measures taken by the authorities by placing into care the applicant's two minor daughters	Link
Moldova	24 Nov. 2009	Ipteh SA and Others (no. 35367/08) Imp. 3	Violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Domestic courts' failure to apply the Statute of Limitations in accordance with the provisions of the old Civil Code thus allowing the Prosecutor General to successfully challenge the first company's privatisation after almost eight years in breach of the principle of legal certainty	Link
Poland	24 Nov. 2009	Hermanowicz (no. 44581/08) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings concerning several offences for fraud	Link
Poland	24 Nov. 2009	Żurawski (no. 8456/08) Imp. 3	Violation of Art. 5 § 3	Excessive length of detention on remand on suspicion of establishing and leading an organised criminal group involved in money laundering, illegal trading in liquid fuel and the falsification of tax documents (See also *Kauczor v. Poland* as to the existence of a structural problem in Poland concerning unjustified lengthy continued detention of individuals on suspicion of being involved in organised crimes and the need for the Polish State to adopt measures to remedy the situation)	Link
Poland	01 Dec 2009	Drużkowski (no. 24676/07) Imp. 3	Violation of Art. 5 § 3	Excessive length of pre-trial detention (five years and four months) for murder	Link
Poland	01 Dec 2009	Potoniec (no. 40219/08) Imp. 3	Violation of Art. 6 § 1	Length of criminal proceedings (more than eight years for one level of jurisdiction) on charges of fraud and forgery of documents	Link
Romania	24 Nov. 2009	Bolovan (no. 64541/01) Imp. 2	No violation of Art. 3 (substantive) Violation of Art. 3 (procedural)	Insufficient evidence to establish the existence of ill-treatment in the hands of the police Inadequate investigation in respect of the alleged ill-treatment	Link
Romania	01 Dec 2009	Popa and Others (nos. 6289/03, 6297/03 and 9115/03) Imp. 3	Violation of Art. 5 §§ 1, 3 and 4	Unlawfulness and excessive length of detention, failure to bring the applicants promptly before a judge and lack of adequate reasons for the detention extension orders	Link
Russia	26 Nov. 2009	Nazarov (no. 13591/05) Imp. 3	Violation of Art. 3 Violation of Art. 5 §§ 1, 3 and 4	Conditions of detention in remand prison Unlawfulness and excessive length of detention and failure to "speedily" examine the applicant's appeals against decisions to extend his detention	Link
Serbia	01 Dec 2009	Vinčić and Others (nos. 44698/06, 44700/06, amongst others) Imp. 2	Violation of Art. 6 § 1	Infringement of the right to a fair hearing on account of the judicial uncertainty before the District Court in Belgrade as a result of the inconsistent adjudication of claims brought by persons in identical situations concerning employment-related benefits	Link
the Czech Republic	26 Nov. 2009	Pešková (no. 22186/03) Imp. 2	Violation of Art. 1 of Prot. 1	Deprivation of property on the basis of an interpretative directive, not on the basis of a law or a price regulation	Link

Turkey	24 Nov. 2009	Çeven (no. 41746/04) Imp. 3	Violation of Art. 5 §§ 3, 4 and 5 Violation of Art. 6 § 1 Violation of Art. 13	Excessive length of pre-trial detention and lack of compensation Length of proceedings Lack of an effective remedy in respect of the length of proceedings (See *Bağrıyanık v. Turkey*)	Link
Turkey	24 Nov. 2009	Şentürk (no. 27577/04) Imp. 3	Violation of Art. 6 § 1 (fairness)	Absence of an oral hearing in proceedings concerning compensation for being unlawfully arrested and detained on charges of armed robbery and murder	Link
Turkey	24 Nov. 2009	Yıldırır (no. 21482/03) Imp. 3	Violation of Art. 1 of Prot. 1	Lack of compensation after the demolition of the applicant's house by the local authorities on grounds that it was an illegal construction (See *N.A. and Others v. Turkey*)	Link
Turkey	01 Dec 2009	Abay (no. 19332/04) Imp. 3	Violation of Art. 5 § 4	Lack of an effective remedy against the applicant's placement in pre-trial detention on suspicion of belonging to an illegal organisation	Link
Turkey	01 Dec 2009	Adalmış and Kıkıç (no. 25301/04) Imp. 3	Violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1	Lack of legal assistance while in police custody	Link
Turkey	01 Dec 2009	Ahmet Engin Şatır (no. 17879/04) Imp. 3	Violations of Art. 3 (substantive and procedural) Violation of Art. 6 §§ 1 and 3 (c)	Ill-treatment while in police custody and lack of an effective investigation Lack of legal assistance while in police custody	Link
Turkey	01 Dec 2009	Yusuf Gezer (no. 21790/04) Imp. 2	Violations of Art. 3 (substantive and procedural) Violation of Art. 6 § 1 (fairness)	Ill-treatment while in police custody and lack of an effective investigation Infringement of the right to a fair trial on account of the applicant's conviction on the basis of evidence obtained in conditions of ill-treatment	Link
Turkey	01 Dec 2009	Akbulut (no. 7076/05) Imp. 3	Violation of Art. 6 § 1	The applicant unable to defend herself, as well as lack of public hearing on her case	Link
Turkey	01 Dec 2009	Arıkan (no. 14071/04) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings (seventeen years and one month for two levels of jurisdiction) on charges of belonging to an illegal organisation	Link
Turkey	01 Dec 2009	Özcan Korkmaz and Others (nos. 44058/04, 19807/05 and 26384/05) Imp. 3	(Mr Yazar and Mr Korkmaz) Violation of Art. 6 § 1 (fairness) (Mr Korkmaz) Violation of Art. 6 § 1 (fairness)	Failure to provide the applicant with access to classified documents submitted to the court by the Ministry of Defence to the Supreme Military Administrative Court in support of its decision to discharge him from the armed forces Failure to communicate to the applicant the written opinion of the principal public prosecutor	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
Romania	24 Nov. 2009	Petroiu (no 33055/09) link Petroiu and Others (no 30105/05) link	Violation of Art. 1 of Prot. 1	Deprivation of the applicants' possessions and total lack of compensation
Romania	01 Dec. 2009	Dumitrescu Cristian and Mihail (no 29231/06) link	Violation of Art. 1 of Prot. 1	Deprivation of property and total lack of compensation as a result of illegal nationalisation and domestic authorities' refusal to annul the sale of the applicants' property
Romania	01 Dec. 2009	Gărdean and S.C. Group 95 SA (no 25787/04) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Infringement of the principle of legal certainty and of the right of protection of property on account of domestic annulment of a final judgment in the applicant's favour, following an appeal by the chief public prosecutor (See *SC Maşinexportimport Industrial Group SA v. Romania*)
Russia	26 Nov. 2009	Botskalev and Rostovtseva and 42 other "Privileged pensioners" cases (nos. 22666/08, 22673/08, 22675/08 etc.) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Quashing of final judgments in favour of the applicants, pensioners who before retirement used to work in hazardous industries, concerning the amount of their pensions
Russia	26 Nov. 2009	Zaytseva (no 11583/05) link	Violation of Art. 6 § 1 (fairness)	Domestic authorities' failure to notify the applicant of the appeal hearing
Serbia	24 Nov. 2009	Popović (no 33888/05) link	Violation of Art. 1 of Prot. 1 Violation of Art. 13 taken together with Art. 1 of Prot. 1	Non-enforcement of a final decision by the Serbian authorities in the applicant's favour Lack of an effective remedy
Turkey	24 Nov. 2009	Anthousa Iordanou (no 46755/99) link	Violation of Art. 1 of Prot. 1	The applicant's deprivation of access to, use, control and enjoyment of her properties as well as of any compensation due to the Turkish occupation of the northern part of Cyprus
Turkey	24 Nov. 2009	Devecioğlu (no 17203/03) link	Just satisfaction	Just satisfaction on account of deprivation of the property without any compensation
Turkey	24 Nov. 2009	Kök and Others (no 20868/04) link	Violation of Art. 1 of Prot. 1	Deprivation of property, designated as public forest area, without any compensation

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
Germany	24 Nov. 2009	Abduvalieva (no. 54215/08)	Link
Hungary	24 Nov. 2009	Horváth and Others (no. 45407/05)	Link
Poland	24 Nov. 2009	Polkowska (no. 20127/08)	Link
Poland	01 Dec. 2009	Trzaskalska (no. 34469/05)	Link
Portugal	01 Dec. 2009	Castro Ferreira Leite (no. 19881/06)	Link
Serbia	24 Nov. 2009	Simić (no. 29908/05)	Link
Slovakia	24 Nov. 2009	Majeríková (no. 21057/06)	Link
"the former Yugoslav Republic of Macedonia"	24 Nov. 2009	Ivanovski and Others (no. 34188/03)	Link
Turkey	24 Nov. 2009	Kaygısız (no. 33106/04)	Link
Turkey	24 Nov. 2009	Nane and Others (no. 41192/04)	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 2 to 10 November 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*
Armenia	03 Nov. 2009	Bojolyan (no 23693/03) link	Alleged violation of Art. 10 (conviction of the applicant, a journalist, for his work which included translations from the Armenian press to various media agencies)	Inadmissible as manifestly ill-founded (proportionate interference with the applicant's right to freedom of expression)
Bulgaria	10 Nov. 2009	Valkov and Others (no 2033/04; 19125/04 etc.) link	Alleged violation of Art. 1 of Prot. 1 (deprivation of part of the pensions), Art. 14 (different treatment in comparison to other pensioners to whom the restrictions on the pensions did not apply) and Art. 13 in conjunction with Art. 1 of Prot. 1 and Art. 14 (lack of an effective remedy)	Partly adjourned (concerning the deprivation of part of the pensions and different treatment between the pensioners), partly incompatible *ratione materiae* concerning the claims under Art. 13)
Bulgaria	10 Nov. 2009	Pfeifer (no 24733/04) link	Alleged violation of Art. 6 § 1 (length of criminal proceedings), Art. 2 § 2 of Prot. 4 (the travel ban imposed on the applicant prohibiting him to leave Bulgaria), Art. 8 (interference with the right to respect for family life as a result of the ban), Art. 13 (lack of an effective remedy), Art. 3 (conditions of detention), Articles 5, 6 and 13 (unfairness of proceedings)	Partly adjourned (concerning the travel ban imposed on the applicant, the lack of effective remedies in that respect, and the interference with his right to respect for family life), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
France	03 Nov. 2009	Pages (no 8065/04; 8068/04) link	Alleged violation of Art. 6 § 1 and 13 (deprivation of the right of access to a court and lack of an effective remedy) and Art. 14	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	03 Nov. 2009	Favre (no 3719/06) link	Alleged violation of Art. 6 § 1 (failure to communicate to the applicant the conclusions of the public prosecutor, lack of legal assistance, lack of sufficient reasoning of the judgment and length of	Partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention), partly inadmissible (non-exhaustion of domestic remedies)

			proceedings)	
France	03 Nov. 2009	Association Lectorium Rosicrucianum (no 45316/06) link	Alleged violation of Art. 9 in conjunction with Art. 14 (domestic authorities' refusal register the applicant association as a cultural association)	Struck out of the list (the applicant association no longer wished to pursue its application)
France	03 Nov. 2009	Hartung (no 10231/07) link	Alleged violation of Art. 8 (infringement of the right to respect for the home on account of searches conducted in the applicant's lodge), Art. 5 § 1 and 6 § 1 (unlawful detention and infringement of the principle of equality of arms)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	03 Nov. 2009	A. Ka. (no 55540/07) link	Alleged violation of Art. 3 and 13 (risk of being tortured if expelled to Sri-Lanka)	Struck out of the list (the applicant was granted subsidiary protection by the National Court for Asylum)
Germany	03 Nov. 2009	Meixner (no 26958/07) link	Alleged violation of Art. 3 (the applicant's life sentence had not been commuted to probation after fifteen years, but he had been ordered to remain in prison until he had served twenty-five years), Art. 5 § 1 (unlawful detention) and Article 6 § 2 (c) (lack of legal assistance) and Articles 13, 1 and 8	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Germany	10 Nov. 2009	Otto (no 21425/06) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Inadmissible (no respect for the six-month requirement)
Malta	03 Nov. 2009	De Petri Testaferrata Bonici Ghaxaq (no 26771/07) link	Alleged violation of Art. 6 § 1 (length of proceedings before the Land Arbitration Board, deprivation of the right of access to a court), Art. 1 of Prot. 1 (lack of adequate compensation), Art. 14 in conjunction with Art. 1 of Prot. 1 (discriminatory treatment), Art. 13 (lack of an effective remedy in respect of the inadequate compensation and in respect of the applicant's property rights)	Partly adjourned for non-exhaustion of domestic remedies (concerning the length of proceedings, the applicant's property rights and the lack of an effective remedy in respect of the applicant's property), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Moldova	03 Nov. 2009	Açik Göz (no 3586/05) link	Alleged violation of Art. 10 (the applicant newspaper's conviction for publishing a letter and an article concerning the KGB)	Struck out of the list (applicant no longer wished to pursue its application)
Poland	03 Nov. 2009	Stanny (no 24579/07) link	The applicant complained about the outcome and unfairness of the proceedings and his lawyer's refusal to represent him before the Supreme Court without relying on any specific provision of the Convention	Struck out of the list (friendly settlement reached)
Poland	03 Nov. 2009	Tendera-Właszczuk (no 43018/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (unilateral declaration of Government)
Poland	03 Nov. 2009	Zawłocki (no 2748/03) link	Alleged violation of Art. 6 § 1 (outcome and unfairness of proceedings, failure to summon the applicant to a hearing and the lawyer's refusal to represent the applicant before the Supreme Court)	Struck out of the list (friendly settlement reached)
Poland	03 Nov. 2009	Styczyński (no 24824/05) link	The applicant complained about the outcome and unfairness of the proceedings and his lawyer's refusal to represent him before the Supreme Court without relying on any specific provision of the Convention	Idem.

Poland	03 Nov. 2009	Rogoziński and Others (no 13281/04) link	Alleged violation of Art. 1 of Prot. 1 (inability to obtain reimbursement for the construction of an electricity supply installation which later became the property of the State-owned electricity supply company), Art. 6 (unfairness of proceedings)	Inadmissible (non-exhaustion of domestic remedies)
Poland	03 Nov. 2009	Wojciechowski (no 17206/03) link	Alleged violation of Art. 6 § 1 and 8 (length, outcome and unfairness of proceedings, deprivation of an opportunity to participate in the proceedings effectively on account of the courts' refusal to prepare the documents concerning the applicant's case in Braille), Articles 3, 13 and 14	Struck out of the list (friendly settlement reached)
Poland	03 Nov. 2009	Rutecki (no 18880/07) link	Alleged violation of Art. 5 § 3 (excessive length of detention on remand), Art. 3 (conditions of transport between detention centers), Art. 8 (refusal to allow the applicant to maintain personal contact with his family)	Partly struck out of the list (unilateral declaration of Government concerning the length detention), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	03 Nov. 2009	Szymański (no 32975/05) link	The applicant complained about the outcome and unfairness of the proceedings and his lawyer's refusal to represent him before the Supreme Court without relying on any specific provision of the Convention	Struck out of the list (friendly settlement reached)
Poland	03 Nov. 2009	Chomont (no 13478/08) link	Alleged violation of Art. 3 (lack of appropriate health care while in pre-trial detention), Art. 5 § 3 (excessive length of pre-trial detention)	Idem.
Poland	03 Nov. 2009	Zajdel (no 33931/06) link	Alleged violation of Art. 3 (conditions of detention on remand), Art. 5 § 2 (failure to inform the applicant about the reasons of his detention), Art. 5 § 3 (excessive length of pre-trial detention) and Art. 6 § 1 (unfairness of proceedings)	Partly struck out of the list (unilateral declaration of Government concerning the length of pre-trial detention), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	03 Nov. 2009	Kasztelan (no 995/07) link	Alleged violation of Art. 6 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Poland	03 Nov. 2009	Banasiak and Woźny (no 32431/03; 32720/03) link	Alleged violation of Art. 3 (conditions of detention)	Struck out of the list (the applicants no longer wished to pursue their application)
Poland	03 Nov. 2009	Buczko (no 31205/03) link	Idem.	Struck out of the list (the applicant no longer wished to pursue his application)
Poland	03 Nov. 2009	Sowula (no 2939/04) link	Idem.	Idem.
Poland	03 Nov. 2009	Rawski (no 44573/04) link	Idem.	Idem.
Poland	03 Nov. 2009	Boś (no 2827/05) link	Idem.	Idem.
Poland	03 Nov. 2009	Antos (no 4455/05) link	Idem.	Idem.
Poland	03 Nov. 2009	Kusy (no 16488/05) link	Idem.	Idem.
Poland	03 Nov. 2009	Sikora (no 24198/06) link	Idem.	Idem.

Poland	03 Nov. 2009	Bandach (no 24877/06) link	Idem.	Idem.
Poland	03 Nov. 2009	Bartkowiak (no 38119/06) link	Idem.	Idem.
Poland	03 Nov. 2009	Antonkiewicz (no 38472/06) link	Idem.	Idem.
Poland	03 Nov. 2009	Witkowski (no 651/07) link	Idem.	Idem.
Poland	03 Nov. 2009	Wardecki (no 25934/06) link	Alleged violation of Art. 3 (lack of adequate medical care in detention), Art. 5 § 3 (length of pre-trial detention), Art. 6 (excessive length of proceedings) and Art. 8 (interference with the applicants right to respect for family life)	Partly struck out of the list (unilateral declaration of Government concerning the length of pre-trial detention), partly inadmissible for non-exhaustion of domestic remedies (concerning the claim under Art. 6) and partly inadmissible (concerning the remainder of the application)
Poland	03 Nov. 2009	Zasuń (no 22547/04) link	Alleged violation of Art. 5 § 3 (length of pre-trial detention) and Art. 6 § 1 (excessive length of proceedings)	Partly struck out of the list (unilateral declaration of Government concerning the length of pre-trial detention), partly inadmissible (the applicant has been awarded sufficient redress and can no longer claim to be a victim)
Poland	03 Nov. 2009	Wojnowski (no 35631/05) link	Alleged violation of Art. 5 § 3 (length of detention), Art. 5 § 4 (the hindrance of the applicant's ability to attend court hearing to challenge the extension of his detention), Art. 6 § 1 (unfairness of proceedings) Art. 8 (monitoring of the applicant's correspondence)	Struck out of the list (friendly settlement reached)
Romania	03 Nov. 2009	Păvălache (no 38746/03) link	Alleged violation of Art. 3 (conditions of detention and lack of adequate medical care in detention), Art. 5 § 1 (unlawful detention and failure to bring the applicant promptly before a judge), Art. 6 § 1 (unfairness of proceedings), Art. 6 § 2 (infringement of the principle of presumption of innocence) and Art. 14 (discrimination for political reasons)	Partly adjourned (concerning the lack of adequate medical care in detention, the unlawful detention, the discriminatory treatment and the infringement of the principle of presumption of innocence), partly inadmissible (non respect of the six-month requirement), partly inadmissible (non-exhaustion of domestic remedies), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Russia	05 Nov. 2009	Martynets (no 29612/09) link	Alleged violation of Art. 1 of Prot. 1 (unlawful deprivation of property), Art. 6 § 1 (lack of an independent and impartial court) and Art. 13 (lack of an effective remedy)	Partly inadmissible for no respect of the six-month requirement, partly inadmissible as manifestly ill-founded (concerning the violations in the supervisory review proceedings)
Serbia	03 Nov. 2009	Šarčević (no 47927/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (unilateral declaration of Government)
Slovakia	03 Nov. 2009	Hollý (no 29239/03) link	Alleged violation of Art. 6 § 1 (length and unfairness of proceedings concerning the dissolution of the joint ownership)	Partly inadmissible for non-exhaustion of domestic remedies, partly inadmissible as manifestly ill-founded
Slovakia	03 Nov. 2009	Koniarik (no 1285/05) link	Alleged violation of Art. 6 § 1 and Art. 13 (length of proceedings and lack of an effective remedy), Art. 6 § 3 (d) (the courts' failure to examine important witnesses), Article 14, Art. 1 of Prot. 1 and Art. 1 of Prot. 12	Partly struck out of the list (unilateral declaration of Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
"the former Yugoslav	10	Taneva and	Alleged violation of Art. 6 § 1 (length	Partly inadmissible for non-

Republic of Macedonia"	Nov. 2009	Others (no 11363/03) link	and unfairness of proceedings), Art. 1 of Prot. 1 (unlawful deprivation of plot of land)	exhaustion of domestic remedies, partly inadmissible as manifestly ill-founded
Turkey	03 Nov. 2009	Abdollahi (no 23980/08) link	Alleged violation of Art. 2, 3 (risk of being executed or subjected to torture if expelled to Iran and conditions of detention), Art. 5 §§ 3 and 4 (deprivation of access to a lawyer and lack of an effective remedy to challenge the detention or deportation order)	Struck out of the list (applicant no longer wished to pursue his application)
Turkey	03 Nov. 2009	Bacak (no 18904/09; 18914/09) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of administrative and bankruptcy proceedings)	Partly adjourned (concerning the length of administrative proceedings), partly inadmissible for non-exhaustion of domestic remedies
Turkey	03 Nov. 2009	Agha Rezalou (no 32384/08) link	Alleged violation of Art. 2, 3 and 13 (real risk of death or ill-treatment if expelled to Iran)	Struck out of the list (applicant no longer wished to pursue her application)
Turkey	03 Nov. 2009	Akilli (no 37947/04) link	The application concerned the applicant's conditions and length of detention, the length and unfairness of criminal proceedings	Struck out of the list (friendly settlement reached)
Turkey	03 Nov. 2009	Böğüm (no 34756/04) link	Alleged violation of Art. 8, 9, 10 (failure to give the applicant his correspondence), and Art. 13 (lack of an effective remedy), Art. 14 (discriminatory treatment)	Struck out of the list (applicant no longer wished to pursue his application)

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 30 November 2009 : link
- on 7 December 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.

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 30 November 2009 on the Court's Website and selected by the NHRS Unit

The batch of 30 November 2009 concerns the following States (some cases are however not selected in the table below): Austria, Bulgaria, France, Georgia, Greece, Hungary, Italy, Poland, Romania, Russia, the United Kingdom and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Austria	12 Nov. 2009	E.B. no. 26271/08	Alleged violation of Art. 8 in conjunction with Art. 14 – Discrimination on grounds of sex on account of Austrian courts' and authorities' refusal to delete the data processed in files and filing cards concerning the criminal proceedings – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 6 § 2 – Infringement of the principle of presumption of innocence due to the refusal of deletion of the above mentioned private data
Austria	12 Nov. 2009	F. J. no. 2362/08	Alleged violation of Art. 8 in conjunction with Art. 14 – Discrimination on grounds of sex on account of Austrian courts' and authorities' refusal to delete the data processed in files and filing cards concerning the criminal proceedings – Alleged violation of Art. 13 – Lack of an effective remedy
France	09 Nov. 2009	A.A.H. no. 50497/09	Alleged violation of Art. 3 – Risk of being subjected to the torture if expelled to Sudan on account of the applicant's Darfur origins and his alleged connection with the Movement for Justice and Equality
France	09 Nov. 2009	E.I. no. 24185/09	Alleged violation of Art. 3 – Risk of being subjected to the torture if expelled to Nigeria – Alleged violation of Art. 8 – Interference with the right to respect for family life in the event of deportation
Romania	09 Nov. 2009	Verbinț no. 7842/04	Alleged violation of Art. 3 – Unnecessary physical and mental suffering on account of the domestic courts' delay in deciding on the applicant's third request for the suspension of the execution of his prison sentence – Conditions of detention and the lack of adequate medical treatment
Ukraine	12 Nov. 2009	Mikhalkova and Others no. 10919/05	Alleged violations of Art. 2 (substantive and procedural) – The applicants' relative's death resulting from the use of force by police officers – Lack of an effective investigation – Alleged violation of Art. 3 – Ill-treatment while in police custody
Ukraine	09 Nov. 2009	Mustafayev no. 36433/05	Alleged violation of Art. 3 – Conditions of detention in the Feodosia Temporary Detention Center – Alleged violation of Art. 5 § 1 (c) – Unlawful detention
Ukraine	09 Nov. 2009	Zhukov no. 22430/05	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Conditions of detention and lack of adequate medical treatment in the Yevpatoriya Temporary Detention Center – Alleged violation of Art. 5 § 1 – Unlawful detention

Communicated cases published on 7 December 2009 on the Court's Website and selected by the NHRS Unit

The batch of 7 December 2009 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Belgium, France, Georgia, Germany, Greece, Hungary, Italy, Latvia, Luxembourg, Moldova, Poland, Romania, Russia, Serbia, Spain, Sweden, the Netherlands, the United Kingdom, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Azerbaijan	19 Nov. 2009	Insanov no. 16133/08	Alleged violation of Art. 3 – The applicant's detention was incompatible with his state of health – Conditions of detention – Alleged violations of Art. 6 § 1 – Unfairness of civil proceedings against the Prison Service of the Ministry of Justice – Alleged violation of Art. 6 § 3 (b) and (d) – Lack of sufficient time to prepare defence and inability to question the witnesses – Alleged violation of Art. 6 §§ 1 and 3 – Infringement of the principle of equality of arms – Alleged violation of Art. 1 of Prot. 1 – Unlawful deprivation of possessions in the public interest A partial decision on admissibility is available on HUDOC*
Azerbaijan	17 Nov. 2009	Mammadov no. 38073/06	Alleged violation of Art. 3 – Conditions of detention in Gobustan prison – Alleged violation of Art. 6 §§ 1 and 3 (c) – The applicant's and/or his lawyer absence at the hearings before the Court of Appeal and before the Supreme Court
Belgium	17 Nov. 2009	M.S.S.no 30696/09	Alleged violation of Art. 3 – Belgian authorities' refusal to grant the applicant with asylum and his refoulement to Greece, where he risks being deported to Afghanistan and there risks being subjected to torture – Alleged violation of Art. 13 – Lack of an effective remedy
France	16 Nov. 2009	F. E. no. 51968/09	Alleged violation of Art. 3 – Risk of being tortured or ill-treated if expelled to Sri Lanka
France	16 Nov.	R. S.	Idem.

* Partial decisions are now being tracked in the RSIFs following NHRSs request to link communicated cases with decisions and judgments

	2009	no. 50254/09	
Latvia	20 Nov. 2009	Bērziņš no. 46229/06	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment in the hands of the police – Lack of an effective investigation
Romania	20 Nov. 2009	Flamînzeanu no. 56664/08	Alleged violation of Art. 3 – Conditions of detention and lack of adequate medical care in Rahova and Giurgiu Prisons
Romania	20 Nov. 2009	Colesnicov no. 36479/03	Alleged violation of Art. 3 – Ill-treatment while in police custody – Conditions of detention and lack of adequate medical care in Galati prison
Sweden	20 Nov. 2009	Samina no. 55463/09	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Pakistan

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

Colloquium in Strasbourg (07.12.09)

On 3 and 4 December 2009 a colloquium on remedies for gross and systematic human rights violations was held at the Court. This colloquium organised by the International Center for Transitional Justice (ICTJ) brought together, among others, representatives of other international human rights protection mechanisms and international courts, national judges, representatives of NGOs, academics and practitioners. President Costa delivered the opening speech to the colloquium, at which judges and members of the Registry were also present.
Speech of President Costa

Visit to Brussels (07.12.09)

On 1 December 2009 President Costa went to Brussels, accompanied by Erik Fribergh, Registrar of the Court, at the invitation of the Swedish Minister of Justice, Beatrice Ask. He took part in a meeting with the Ministers of Justice of the European Union, who had gathered for the "Justice and Home Affairs" (JHA) Council. The President of the Court of Justice of the European Union, Vassilios Skouris, was also invited to the meeting.

This official journey was organised by the Ambassador Torbjørn Frøysnes, Special Representative of the Secretary General and Director of the Liaison Office with the European Union in Brussels. At the same time President Costa took the opportunity of giving a press conference. He was also able to have bilateral talks with Luis Romero Requena, Director-General of the Commission's Legal Service and his colleagues. The discussions centered on the entry into force of the Treaty of Lisbon, on 1 December 2009, and the question of the European Union's accession to the European Convention on Human Rights.

Link to the President's pages

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held its last "human rights" meeting from 1 to 4 December 2009 (the 1072th meeting of the Ministers' deputies).

You are kindly invited to find the documents listed below, issued at this meeting.

- Agenda: CM/Del/OJ/DH(2009)1072prelE / 30 September 2009
- Decisions: CM/Del/Dec(2009)1072immediatE / 07 December 2009
- Resolutions: CM/Del/Dec(2009)1072volresE / 07 December 2009, CM/ResDH(2009)160E / 03 December 2009, CM/ResDH(2009)159E / 03 December 2009, CM/ResDH(2009)158E / 03 December 2009
- Information Document: CM/Inf/DH(2009)31revE / 27 November 2009

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

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

A. European Social Charter (ESC)

Action Plan Seminar to take place in Krasnador (03.12.09)

Following the recent ratification of the Revised Charter by the Russian Federation, a seminar was held in Krasnador from 15-16 December 2009, in order to provide comprehensive information to the authorities of the Russian Federation with a view to a wider application of the ESC. Mr Colm O'CINNEIDE, Vice President of the European Committee of Social Rights and Mr Régis BRILLAT, Head of the Department of the ESC attended this seminar, as well as Ms Elena VOKACH-BOLDYREVA, Department for International Cooperation, Ministry of Health and Social Development of the Russian Federation.
Draft programme

The European Committee of Social Rights held its last session on 7-11 December 2009. See the agenda here.

A meeting of the Bureau of the Governmental Committee was held in Strasbourg on 11 December 2009.

An electronic newsletter is now available to provide updates on the latest developments in the work of the Committee:

http://www.coe.int/t/dghl/monitoring/socialcharter/newsletter/newsletterno1sept2009_en.asp

You may find relevant information on the implementation of the Charter in State 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 publishes report on Azerbaijan (26.11.09)

The CPT has published on 26 November the report on its ad hoc visit to Azerbaijan in December 2008, together with the response of the Azerbaijani Government. These documents have been made public at the request of the Azerbaijani authorities.

During the visit, the CPT's delegation reviewed the situation at Gobustan Prison (previously visited in 2005 and 2006). The delegation received several credible allegations from life-sentenced prisoners of deliberate physical ill-treatment and excessive use of force by prison officers. In their response, the Azerbaijani authorities indicate that staff at Gobustan Prison has been instructed to apply physical force and special means only in exceptional circumstances determined by law.

In the units for lifers, the delegation observed some improvements to material conditions. However, life-sentenced prisoners continued to spend 23 hours a day locked up in their cells, without being offered any form of organised activity. The CPT has called upon the Azerbaijani authorities to take steps to devise and implement a comprehensive regime of out-of-cell activities for life-sentenced prisoners. Further, the Committee has stressed once again that it can see no justification for keeping life-sentenced prisoners apart from other prisoners. The authorities' response makes reference to plans to set up workshops and sports facilities at Gobustan Prison, as well as to enable inmates to receive education.

During the 2008 visit, the CPT's delegation also carried out a visit to the Central Penitentiary Hospital in Baku. It found that nursing staff resources were insufficient and that no health-care staff was present in the wards after 4 p.m. The delegation gained the impression that the treatment provided at the hospital's internal diseases, narcology and psychiatry wards left a lot to be desired. The CPT has recommended that a thorough assessment of the hospital's health-care services be carried out. The authorities' response refers to various training courses for health-care staff of the hospital and the involvement of experts from the Ministry of Health in the treatment of prisoners.

At the Republican Psychiatric Hospital No. 1 in Mashtaga, the CPT's delegation heard a number of allegations from patients of occasional physical ill-treatment, mostly by orderlies and occasionally by nurses. Living conditions in the wards which had already been refurbished were on the whole acceptable, but conditions in the non-refurbished wards were very poor. The worst situation was observed in Ward 12, conditions in the ward's two isolation rooms being particularly bad. According to the authorities' response, a refurbishment of Ward 12 has been launched and the isolation rooms have been abolished. As regards the Regional Psycho-Neurological Dispensary in Sheki (visited in 2006), the delegation observed a number of positive changes. That said, the dormitories remained overcrowded, dilapidated and impersonal, and lacked privacy. The response refers to a decision to move the dispensary to a new hospital to be built in Sheki region.

More generally, the CPT has recommended that steps be taken at psychiatric establishments to adopt a policy on the use of means of restraint, and that the recording of information on the use of means of restraint be improved. Other recommendations concern the legal safeguards in the context of involuntary hospitalisation and the setting up of a system for regular visits to psychiatric establishments by independent outside bodies responsible for the inspection of patients' care.

Council of Europe anti-torture Committee: visits in 2010 (03.12.09)

In 2010, as part of its programme of "periodic" visits, the CPT intends to examine the treatment of persons deprived of their liberty in the following ten countries: **Albania**, **Armenia**, **Bulgaria**, **Czech Republic**, **France**, **Georgia**, **Germany**, **Ireland**, **Romania**, **"the former Yugoslav Republic of Macedonia"**. Other "ad hoc" visits that appear to the CPT to be required in the circumstances will also be organised during 2010.

C. European Commission against Racism and Intolerance (ECRI)

Statement by the European Commission against Racism and Intolerance on the ban of the construction of minarets in Switzerland (01.12.09)

ECRI wishes to express its deep concern about the results of the Swiss popular initiative which approved the inclusion, in the Federal Constitution, of a new provision banning the construction of minarets.

In its report on Switzerland published on 15 September 2009, ECRI clearly regretted that "an initiative that infringes human rights can be put to vote". ECRI added that it "very much hoped that it would be rejected".

The figure of 57,5% in favour of the ban, and the fact that the Federal Council's and other key Swiss stakeholders' call to vote against went unheeded, are difficult to reconcile with the efforts made to combat prejudice and discrimination in the country over the last years. This vote will result in discrimination against Muslims and infringe their freedom of religion. As ECRI has warned in its report, this would risk creating further stigmatisation and racist prejudice against persons belonging to the Muslim community. ECRI calls on the Swiss authorities to study carefully the consequences of this vote and do their utmost to find solutions that are in keeping with international human rights law. In the meantime, ECRI emphasises the urgent need for the Swiss authorities to follow-up on its recommendation "to pursue their efforts and dialogue with Muslim representatives*".*

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

Slovak Republic: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (03.12.09)

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Bratislava and Kosice from 30 November - 04 December 2009 in the context of the monitoring of the implementation of this convention in the Slovak Republic.

This is the third visit of the Advisory Committee to the Slovak Republic. The Delegation had meetings with the representatives of all relevant ministries, public officials, as well as persons belonging to national minorities and Human Rights NGOs.

The Delegation included Ms Ilze BRANDS-KEHRIS (First Vice-President of the Advisory Committee and member elected in respect of Latvia), Mr Giorgi MELADZE (member of the Advisory Committee elected in respect of Georgia) and Mr Alan PHILLIPS (President of the Advisory Committee and member elected in respect of the United Kingdom). They were accompanied by Ms Eva KONECNA of the Secretariat on the Framework Convention for the Protection of National Minorities.

Note: The Slovak Republic *submitted its third State Report under the Framework Convention in July 2009. Following its visit, the Advisory Committee will adopt its own report (called Opinion), which will be sent to the Government for comments. The Committee of Ministers of the Council of Europe will then adopt conclusions and recommendations in respect of the Slovak Republic.*

E. Group of States against Corruption (GRECO)

Outcome of the 45th Plenary Meeting of GRECO (04.12.09)

Second and Third Round Evaluation reports - At its 45th Plenary Meeting, GRECO adopted an Addendum to the Second Round Compliance Report on Romania, Third Round Evaluation Reports on Croatia, Germany and Ireland, as well as the Third Round Compliance Report on Finland. With regard to the low number of fully implemented recommendations, as reflected in the Third Round Compliance Reports on Finland and the United Kingdom, the Bureau was asked to discuss the possible need to revise GRECO's Rules of Procedure, in particular as regards the use of the non-compliance procedure.

Fourth Evaluation Round - GRECO, after examination of the thematic proposals for its Fourth Evaluation Round, expressed support for the topic on "Human rights and corruption prevention in parliaments, public administration and the private sector". The Bureau was mandated to revise and refine its proposals in light of the discussions.

GRECO activities (programme for 2010 and 2009 general report) - GRECO adopted its Programme of Activities for 2010 which, *inter alia*, foresees evaluation visits to: Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Czech Republic, Moldova, Montenegro, Portugal, Romania, Serbia and United States of America. Concerning its Tenth General Activity Report (2009), GRECO decided to include a substantive section on "Experience with the criminal offence of trading in influence" or, alternatively, on "Human rights and corruption".

Cooperation with the European Union - GRECO took note of the latest version of the Stockholm Programme and the invitation addressed by the European Council to the Commission, to submit a report, in 2010, on the modalities for the Union to accede to GRECO and expressed its willingness to contribute to the development of a comprehensive anti-corruption policy of the European Union.

Forthcoming meetings - GRECO will hold a Bureau meeting on 1 March 2010 and its 46th Plenary meeting on 22-26 March 2010.

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

MONEYVAL 8th Typologies meeting (04.12.09)

Over 80 experts from 24 countries and 2 international organisations attended from 10-12 November 2009 in Limassol the MONEYVAL's 8th experts' meeting on typologies, which was organised and co-financed by the Cypriot authorities, the Unit for Combating Money Laundering (MOKAS) and the Council of Europe. Private sector representatives were also invited to attend the meeting. The meeting was opened by Mr Petros CLERIDES, Attorney General and was closed by Mr Charilaos STAVRAKIS, Minister of Finance of the Republic of Cyprus. The meeting was chaired by Ms Eva ROSSIDOU-PAPAKYRIACOU, Head of the Unit for Combating Money Laundering and Head of the Delegation of Cyprus to MONEYVAL.

Participants examined a number of emerging money laundering and terrorist financing methods and trends in the context of two typology research projects, focusing on the ways in which money launderers operate through the insurance and private pension funds sector, as well as through the internet gaming sector. MONEYVAL undertakes regularly typologies research to better understand the money laundering and terrorist financing environment in the European region and to assist through its findings decision makers and operational experts with up-to-date information in order that they may target policies and strategies to combat these threats. The final reports on these two topics are expected to be available in the second half of 2010.

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

*

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

Part IV: The inter-governmental work

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

27 November 2009

Ukraine signed Protocol No. 14bis to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 204), and ratified the Criminal Law Convention on Corruption (ETS No. 173), and the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191).

30 November 2009

Spain signed the European Convention on the Adoption of Children (Revised) (CETS No. 202).

The **Netherlands** signed the European Convention on the Adoption of Children (Revised) (CETS No. 202).

Finland ratified the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine-Convention on Human Rights and Biomedicine (ETS No. 164), the Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (ETS No. 168), and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (ETS No. 186).

2 December 2009

San Marino ratified 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 (Adopted by the Committee of Ministers on 25 November 2009 at the 1071st meeting of the Ministers' Deputies and on 3 December 2009 at the 1072nd meeting of the Ministers' Deputies)

CM/Res(2009)45E / 25 November 2009

Resolution on the Appendix to Article 41 – Actuarial studies of the New Pension Scheme "NPS" (Appendix Vbis of the Staff Regulations)

CM/Res(2009)44E / 25 November 2009

Resolution on the Appendix to Article 41 – Actuarial studies of the Pension Scheme Rules (Appendix V of the Staff Regulations)

CM/Res(2009)43E / 25 November 2009

Resolution on the remuneration of specially appointed officials

CM/Res(2009)42E / 25 November 2009

Resolution on the revision of the tables appended to the Regulations governing staff salaries and allowances

CM/Res(2009)41E / 25 November 2009

Resolution on the Enlarged Partial Agreement on the European Centre for Modern Languages (Graz) - 2010 Budget

CM/Res(2009)40E / 25 November 2009

Resolution on the Enlarged Partial Agreement on the European Centre for Modern Languages (Graz) - 2010 Budget

CM/Res(2009)39E / 25 November 2009

Resolution on the Partial Agreement on the Youth Card - 2010 Budget

CM/Res(2009)38E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the budget of the Partial Agreement on the Youth Card with effect from 1 January 2010

CM/Res(2009)37E / 25 November 2009

Resolution on the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) - 2010 Budget

CM/Res(2009)36E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the budget of the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) with effect from 1 January 2010

CM/Res(2009)35E / 25 November 2009

Resolution on the Partial Agreement on the European Support Fund for the co-production and distribution of creative cinematographic and audio-visual works “Eurimages” - 2010 Budget CM/Res(2009)34E / 25 November 2009

Resolution on the Partial Agreement on the Co-operation Group for the prevention of, protection against, and organisation of relief in major natural and technological disasters - 2010 Budget

CM/Res(2009)33E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the budget of the Partial Agreement on the Co-operation Group for the prevention of, protection against, and organisation of relief in major natural and technological disasters with effect from 1 January 2010

CM/Res(2009)32E / 25 November 2009

Resolution on the Partial Agreement on the Co-operation Group to combat drug abuse and illicit trafficking in drugs (Pompidou Group) - 2010 Budget

CM/Res(2009)31E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the budget of the Partial Agreement on the Co-operation Group to combat drug abuse and illicit trafficking in drugs (Pompidou Group) with effect from 1 January 2010

CM/Res(2009)30E / 25 November 2009

Resolution on the European Pharmacopeia - 2010 Budget

CM/Res(2009)29E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the budget of the European Pharmacopoeia with effect from 1 January 2010

CM/Res(2009)28E / 25 November 2009

Resolution concerning the Budget of the European Youth Foundation - 2010 Budget

CM/Res(2009)27E / 25 November 2009

Resolution concerning the Pension Reserve Fund - 2010 Budget

CM/Res(2009)26E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the Pension Reserve Fund with effect from 1 January 2010

CM/Res(2009)25E / 25 November 2009

Resolution concerning the Pensions Budget - 2010 Budget

CM/Res(2009)24E / 25 November 2009

Resolution on the Extraordinary Budget relating to buildings expenditure - 2010 Budget

CM/Res(2009)23E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the Extraordinary Budget with effect from 1 January 2010

CM/Res(2009)22E / 25 November 2009

Resolution approving the Programme of Activities for 2010

CM/Res(2009)21E / 25 November 2009

Resolution concerning the Ordinary Budget for 2010

CM/Res(2009)20E / 25 November 2009

Resolution on the adjustment of the scale of contributions to the Council of Europe Ordinary Budget and Budget of the European Youth Foundation with effect from 1 January 2010

CM/ResDH(2009)160E / 03 December 2009

Interim Resolution - Execution of the judgment of the European Court of Human Rights in the case *Hirst against the United Kingdom* (No. 2) (Application No. 74025/01)

CM/ResDH(2009)159E / 03 December 2009

Final Resolution - Execution of the judgment of the European Court of Human Rights in 324 cases against Ukraine concerning the failure or serious delay in abiding by final domestic courts' decisions delivered against the state and its entities as well as the absence of an effective remedy (Zhovner group)

CM/ResDH(2009)158E / 03 December 2009

Final Resolution - Execution of the judgment of the European Court of Human Rights in the case *Burdov* (No. 2) *against the Russian Federation* - Application No. 33509/04

Part V: The parliamentary work

.

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

*

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

Ukraine: statement by PACE pre-election delegation (26.11.09)

PACE pre-election delegation observed an overall free and competitive atmosphere in Ukraine in the run-up to the 17 January 2010 Presidential election. The situation with the freedom of the media improved significantly after the 2004 elections. The delegation notes the commitment and endeavours of journalists, although it recognises that the media works under heavy financial and business influences. In order to assist more efficiently the Ukrainian people to make a well-founded choice, politicians should have no role in setting the agenda for the media. Intimidation is, hopefully, a thing of the past.
PACE delegation makes pre-electoral visit to Ukraine

Monitoring visit by PACE co-rapporteur to Ukraine (04.12.09)

Renate Wohlwend (Liechtenstein, EPP/CD), co-rapporteur of PACE on the honouring of obligations and commitments by Ukraine, made a fact-finding visit to Kyiv on 7-8 December, during which she examined the legal framework for the presidential elections on 17 January 2010, and took stock of the reform of the Prokuratura (Office of the Public Prosecutor), the reform of the judiciary and the drafting of a unified election code. Meetings were also held with the President of the Ukrainian Parliament Volodymyr Lytvyn, the Minister of Justice Mykola Onischuk, the President of the Supreme Court Vasyl Onopenko and a representative of the National Constitutional Council. Mrs Wohlwend also met the Ukrainian delegation to PACE, the members of a parliamentary working group on the drafting of a unified election code and representatives of NGOs.

Minarets in Switzerland – reaction of PACE President (30.11.09)

“Although it expresses the popular will, the decision to ban the construction of new minarets in Switzerland is a source of profound concern to me”, said PACE President, Lluís Maria de Puig, commenting on 30 November on the referendum of 28 November. “On the one hand, this position reflects fears within the Swiss population – and the population of Europe as a whole – regarding Islamic fundamentalism; on the other, far from helping to tackle the causes of fundamentalism, it is likely to encourage feelings of exclusion and deepen the rifts in our societies”, he added.

Russia: PACE condemns terrorist attack (30.11.09)

"My most sincere condolences to the families of those who lost their lives as a result of Friday's bomb attack," said President de Puig on 30 November, responding to reports of a terrorist attack on the Moscow to St. Petersburg railway line. "The Assembly condemns terrorism as an affront to the civilised values of our Organisation and its member States," he added.

PACE rapporteur welcomes teenagers in Tskhinvali heading for home (03.12.09)

“The developments over the last 24 hours in solving the plight of the four teenagers detained in Tskhinvali, and the five ethnic Ossetians held by the Georgian authorities, are to be welcomed,” said Corien Jonker (Netherlands, EPP/CD), PACE rapporteur on the humanitarian consequences of the war between Georgia and Russia on 3 December. “The release has not come too soon, and although

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

two of the four teenagers are still in detention, the indications are that they too will be released in the near future."

PACE President to invite Dmitri Medvedev to address Assembly (04.12.09)

"PACE represents the most representative pan-European political forum to discuss initiatives and proposals by member states regarding European and world affairs," declared Lluís Maria de Puig during his meeting with Sergei Mironov, Chairman of the Federation Council of the Russian Federation held on 3 December 2009 in Saint Petersburg. In this connection, Mr de Puig announced his intention to invite the President of the Russian Federation, Dmitri Medvedev, to present before the parliamentarians of the 47 member States his recent initiatives concerning the new European Security Architecture as well as the creation of an international tribunal on the acts of piracy.

The PACE President took this occasion to call on Russia to increase its involvement in the work of the Council of Europe. "The future of Europe cannot be built without Russia," he said.

He also expressed his satisfaction at the moves in Russia towards the ratification of Protocol No. 14 to the European Convention of Human Rights and stressed that it was of crucial importance that the ratification occur as soon as possible.

The PACE President was in Saint Petersburg on the occasion of the 33rd plenary session of the Parliamentary Assembly of the Commonwealth of Independent States (CIS). He also met Mikhail Krotov, Secretary General of the CIS PA, to discuss the preparations for a joint conference on the issues of European security in April next year in Saint Petersburg.

PACE post-monitoring visit to Bulgaria (04.12.09)

As part of the post-monitoring dialogue with Bulgaria, Serhiy Holovaty (Ukraine, ALDE), Chair of the Monitoring Committee of PACE, travelled to Sofia on 7-8 December on a fact-finding visit. This included meetings with the President of the National Assembly Tsetska Tsacheva, the Minister of the Interior Tsvetan Tsvetanov, the Minister of Justice Margarita Popova, the President of the Supreme Court Lazar Gruev and the Chief Prosecutor Boris Velchev. Mr Holovaty also met the leaders of the political groups represented in parliament, the Bulgarian delegation to PACE, the Ombudsman, and representatives of NGOs.

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

A. Country work

North Caucasus: "Persistent pattern of impunity", reports Commissioner Hammarberg (24.11.09)

"Stability in the North Caucasus region has not been achieved. Increased activity by illegal armed groups, the lack of effective investigations into disappearances and killings, and murders of human rights activists are of particular concern" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing his report based on the visit to Chechnya and Ingushetia carried out last September. The Commissioner points out that while state authorities must protect the public from terrorism and actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights norms. "The Russian authorities should specify the applicable rules and human rights safeguards for all counter-terrorism operations. Particular care should be taken to prevent the possibility of extrajudicial executions through provision and implementation of precise guidelines governing the use of force."

He further recalls that the response to terrorism must never be allowed to degenerate into acts of torture or ill-treatment. "Human rights standards must be strictly applied in the detention of terrorist suspects and during court proceedings. Access to a lawyer and a doctor should be granted at the outset of custody, and records must be kept whenever a person is deprived of his liberty. In addition, places of detention should be subject to regular independent monitoring. Fair trial guarantees should be respected and any evidence suspected of having been obtained through the use of torture or inhuman or degrading treatment should always be excluded from court proceedings."

The Commissioner urges the authorities to conduct effective and independent investigations into alleged abductions, disappearances, extrajudicial executions and other unlawful killings, as well as unlawful detention. "Such practices must be eliminated and those responsible brought to justice. A close oversight of security forces in the fight against illegal armed groups is also necessary." Furthermore, he stresses that collective punishment of relatives of alleged terrorists or members of illegal armed groups must be stopped.

The Commissioner highlights the importance of carrying out thorough investigations into past disappearances and identifying the dead bodies buried in the known sites in Chechnya. "It is essential that the exhumation of corpses takes place in an orderly and methodological manner, demonstrating due sensitivity to the relatives concerned. All realistic possibilities for providing sufficient forensic expertise and facilities for the task at hand should be considered."

While serious efforts to reinforce the rule of law are observed, Commissioner Hammarberg considers that further steps should be taken to ensure the desired result of more effective investigations. "Patterns of impunity persist" he said. "Sustained efforts should be pursued to combat corruption in the judiciary and law enforcement agencies. The protection of witnesses during investigations and court cases should also be ensured."

Noting the value of the human rights work performed by non-governmental organisations, the Commissioner strongly emphasises the need to promote safe and favourable conditions for their activities. "The recent murders and violent attacks against human rights activists must be investigated to ensure the criminal accountability and punishment of the perpetrators."

Commissioner Hammarberg continues dialogue with Hungarian Prime Minister to eradicate intolerance and discrimination (26.11.09)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, published on 26 November a letter sent to the Prime Minister of Hungary, Mr Gordon Bajnai, on the fight against intolerance, discrimination and racism affecting members of minority groups, in particular Roma.

The letter follows the Commissioner's visit to Hungary last October during which he held discussions with the Prime Minister, the Ministers of Foreign Affairs and of Justice and Law Enforcement as well as with other representatives of national authorities, international and non-governmental organisations.

In his letter, the Commissioner reiterates his grave concern about the observed rise of extremism, intolerance and racism which has targeted in particular Roma. He is also worried by the public use of anti-Roma, hate speech by certain public figures and by the lack of strong condemnation of and effective measures for preventing similar incidents. While welcoming some positive measures undertaken by the Hungarian government like those aimed at integrating Roma into the public sector, Commissioner Hammarberg stresses that such measures should be accompanied by activities to increase public awareness of the situation of national minorities and other communities which suffer from discrimination or intolerance, such as the Roma, the Jewish community and LGBT (lesbian, gay, bisexual, transgender) people.

Finally, the Commissioner recommends the ratification by Hungary of Protocol N° 12 to the European Convention on Human Rights, containing a general prohibition of discrimination, and the acceptance of the collective complaints procedure under the European Social Charter.

Kosovo*: "Time is not right for returns", stresses Human Rights Commissioner (02.12.09)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, expressed on 2 December his very deep concern at the forced returns to Kosovo of people who have found shelter in European states. "The time simply is not right for returns in general, let alone forced returns", said the Commissioner. Commissioner Hammarberg visited Kosovo last March and in July he made public a report on the human rights situation.

Commissioner Hammarberg in Georgia: detainees released (03.12.09)

Two detained teenagers were released on Wednesday after intervention by Thomas Hammarberg in Tskhinvali. Two other minors will be freed within the coming days according to a pledge given to the Commissioner. The boys had crossed the administrative borderline from Georgia in early November and were tried on charges of illegal entry carrying weapons. The Commissioner could also ensure the release of five older South Ossetians from the Georgian city of Gori.

"There are more cases on each side which must result in releases", said the Commissioner in a first comment. "There are also several cases of persons missing, the fate of whom must be seriously investigated - among them three young Ossetians who were photographed in captivity in October last year and have since disappeared. All such cases must now been clarified", said Thomas Hammarberg.

B. Thematic work

"Europe should embrace multiculturalism and avoid narrow definitions of national identities" says Commissioner Hammarberg (30.11.09)

"Europe is still not free from racism, xenophobia and discrimination. Minorities are made targets of hate speech, violence and systematic discrimination, not least in the job market", said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Viewpoint published on 30 November. He asked politicians to take such negative tendencies more seriously. "There is a need to analyse and address the very root causes of these human and political failures. Our ability to interact positively with one another will affect the future of Europe."
Read the Viewpoint

Commissioner Hammarberg at press conference in Tbilisi: "Ordinary people should be protected from the consequences of the conflict" (04.12.09)

The Council of Europe Commissioner for Human Rights Thomas Hammarberg visited Georgia from 27 November to 3 December. He was determined to contribute to the release of detainees and to family reunification during his mission. He achieved the following: two Georgian teenage school boys who were being detained in Tskhinvali since 4 November 2009 were released, and a firm commitment was given by the leadership in Tskhinvali that the remaining two would be released in the morning of 13 December 2009. Furthermore, five Ossetians were released from Gori and could also join their families.

* "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."

Part VII : Activities of the Peer-to-Peer Network*

(under the auspices of the NHRS Unit of the Directorate General of Human Rights and Legal Affairs)

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