DIRECTORATE GENERAL OF HUMAN RIGHTS
AND LEGAL AFFAIRS

LEGAL AND HUMAN RIGHTS CAPACITY BUILDING
DEPARTMENT

Division II National Human Rights Structures Unit

Strasbourg, 18 September 2009

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

Issue n°23 covering the period from 3 to 30 August 2009

Prepared jointly by

the **National Human Rights Structures Unit (NHRS Unit)**
Directorate General of Human Rights and Legal Affairs (DG-HL),
Legal and Human Rights Capacity Building Division

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

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

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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) and the Office of the Commissioner for Human Rights carefully select and try to present in a user-friendly manner. The information is sent to the Contact Persons in the NHRSs who are kindly asked to dispatch it within their offices.

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

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

The selection of the information included in the issues is made by the NHRS Unit and the Office of the Commissioner for Human Rights. It is based on what is deemed relevant to the work of the NHRSs. A particular effort is made to render the selection as targeted and short as possible.

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

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

A. Judgments

The judgments presented under this heading are the ones for which a separate press release is issued by the Registry of the Court as well as other judgments considered relevant for the work of the NHRSs. They correspond also to the themes addressed in the Peer-to-Peer Workshops. The judgments are thematically grouped. The information, except for the comments drafted by the NHRS Unit and the Office of the Commissioner for Human Rights, is based on the press releases of the Registry of the Court.

Some judgments are only available in French.

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

Note on the Importance Level :

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

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

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

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

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

- **Protection of life / Investigation**

Giuliani and Gaggio v. Italy (link to judgment in French) (no. 23458/02) (Importance 2) – 25 August 2009 – No violation of Article 2 – Proportionate and necessary use of force during the G8 summit (2001) – No violation of Article 2 – No failure in the State's positive obligation to protect the life of the applicants' relative – Violation of Article 2 – Lack of an adequate investigation – No violation of Article 38 – The incomplete information submitted by the Government did not prevent the Court from examining the case

The application concerns the death of the applicants' son and brother, Carlo Giuliani, while he was taking part in clashes during the G8 summit in Genoa from 19 to 21 July 2001.

On 20 July, during an authorised demonstration, there were extremely violent clashes between anti-globalisation militants and law-enforcement officers. In the incidents Carlo Giuliani, who was playing an active part in the attack, was fatally wounded by a bullet in his face. In an attempt to move the vehicle away, the driver twice drove over the young man's unconscious body. When the demonstrators dispersed, a doctor arrived at the scene and pronounced Carlo Giuliani dead.

An investigation was opened immediately by the Italian authorities. Criminal proceedings were instituted against the officer who had fired the shots and the driver of the vehicle for intentional homicide. An autopsy performed within 24 hours of the death revealed that the death had been caused by the shot and not by the attempts to drive the vehicle away. The forensic expert found that the shot had been fired at a downward angle. At the public prosecutor's request three expert reports were prepared. The authors of the third report, submitted in June 2002, deplored the fact that it had

been impossible to examine the body, since the public prosecutor had in the meantime authorised the family to have it cremated. They concluded that the bullet had been fired upwards by the *carabiniere* but had been deflected by a stone thrown at the vehicle by another demonstrator.

On 5 May 2003 the investigating judge discontinued the proceedings. She found that the driver of the vehicle, whose actions had resulted only in bruising, could not be held responsible for the killing as he had been unable to see Carlo Giuliani, given the confusion prevailing around the vehicle. As to the officer who had fired the fatal shot, the judge took the view that he had fired into the air without intent to kill and that he had in any event acted in self-defence in response to the violent attack on him and his colleagues.

The applicants alleged that Carlo Giuliani's death had been caused by excessive use of force and that the organisation of the operations to maintain and restore public order had been inadequate. In addition, they argued that the failure to provide immediate assistance amounted to a violation of Articles 2 and 3. The applicants further complained that there had not been an effective investigation into their close relative's death.

Lastly, they alleged that the Italian Government had breached Article 38 of the Convention by omitting to provide information to the Court or by producing false information.

Article 2

Excessive use of force

On the basis of the evidence produced by the parties, the Court analysed the reasons behind the investigating judge's decision to discontinue the proceedings. It noted that the *carabiniere* who had fired the shots had been confronted with a group of demonstrators carrying out a violent attack on the vehicle he was in, that he had issued warnings, holding his weapon in such a way that it was clearly visible, and that he had fired only when the attack had continued. The Court agreed with the investigating judge that the use of lethal force had not exceeded the limits of what was absolutely necessary in order to avert what the *carabiniere* had honestly perceived to be a real and imminent danger to his life and the lives of his colleagues (see §§ 225-226). It further found that it was not necessary to examine *in abstracto* the compatibility with Article 2 of the applicable legislative provisions on the use of weapons by law-enforcement officers, as the situation under consideration had involved an individual decision taken in a state of panic (see *McCann and Others v. the United Kingdom)*. Accordingly, there had been no disproportionate use of force and thus no violation of Article 2 in this regard.

Compliance with positive obligation to protect life

"In general terms, the Court considers that, when a State agrees to host an international event entailing a very high level of risk, it must take the appropriate security measures and deploy every effort to ensure that order is maintained. Hence, it is incumbent upon it to prevent disturbances which could lead to violent incidents. If such incidents should nevertheless occur, the authorities must exercise care in responding to the violence, in order to minimise the risk of lethal force being used. At the same time, the State has a duty to ensure that the demonstrations organised in connection with the event pass off smoothly, while safeguarding, inter alia, the rights guaranteed by Articles 10 and 11 of the Convention" (§231).

In the present case the Court had to consider whether in planning and directing the public-order operation the Italian authorities had minimised the risk of lethal force being used. It noted that, according to the applicants, there had been a number of shortcomings in the organisation of the operation and that no investigation at domestic level had shed any light on those allegations. In the absence of such an investigation, and bearing in mind that the operation had been very broad-ranging and had placed the law-enforcement agencies under enormous strain, the Court was unable to establish the existence of a direct and immediate link between any shortcomings in the planning of the operation and the death of Carlo Giuliani. In addition, the Court observed that after the shots had been fired, the police officers present on Piazza Alimonda had immediately called the emergency services. It was therefore not established that the Italian authorities had failed to comply with their positive obligations to protect Carlo Giuliani's life.

Compliance with procedural obligations under Article 2

The Court noted, firstly, that the autopsy performed on Carlo Giuliani's body had not led to the determination of the precise trajectory of the fatal bullet or to the recovery of a metal fragment which a scan had clearly shown to be lodged in the victim's skull. Moreover, even before he had received the results of the autopsy, the public prosecutor had authorised the Giuliani family to proceed prematurely with their close relative's cremation, thereby rendering it impossible to conduct any further analyses. The Court further considered that the domestic investigation had concerned only the precise circumstances of the incident, being confined to examining whether those directly involved should be

held responsible, without seeking to identify any shortcomings in the planning and management of the public-order operations. Italy had therefore not complied with its procedural obligations in connection with the death of the applicants' relative.

Articles 3, 6 and 13

The applicants alleged that the act of driving the vehicle over Carlo Giuliani's body and the failure to provide immediate assistance had caused him suffering amounting to inhuman and degrading treatment. The Court considered that it could not be inferred from the law-enforcement officers' conduct that they had had any intention to inflict suffering, and found that, having regard to the circumstances of the present case, the complaint fell to be examined solely under Article 2. Furthermore, in view of its finding of a violation of Article 2 in its procedural aspect, the Court considered that it was not necessary to consider the case separately under Articles 6 and 13.

Article 38

"269. The Court reiterates that it that it is essential to the effective operation of the system of individual petition under Article 34 of the Convention that States should furnish all necessary assistance to make possible an effective examination of applications (see Tanrıkulu, § 70). A failure on a Government's part to submit such information which is in their hands without a satisfactory explanation may not only give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations, but may also result in a finding of a violation of Article 38 § 1 (a) of the Convention. The same applies to delays by the State in submitting information (see Bazorkina v. Russia, no. 69481/01, § 171, 27 July 2006).

270. In the instant case, although the information provided by the Government does not deal exhaustively with the points listed above, the Court considers that the incomplete nature of that information has not prevented it from examining the case."

Italy had therefore not failed to comply with its obligations under Article 38.

Judge Bratza, joined by Judge Šikuta, expressed a partly dissenting opinion. Judges Casadevall and Garlicki expressed a joint partly dissenting opinion. Judge Zagrebelsky also expressed a partly dissenting opinion. The opinions are annexed to the judgment.

- **Protection of property**

Perdigão v. Portugal (no. 24768/06) (Importance 2) – 4 August 2009 – Violation of Article 1 of Protocol No. 1 – Excessive legal costs following compensation proceedings further to the expropriation of the applicants' land

A 130,000 m² piece of land the applicants owned was expropriated in 1995 to build a motorway. The applicants claimed over 20 million euros in compensation for the expropriation to cover the profit they claimed they could have made by exploiting a quarry on the land. In July 2003 the Evora Court of Appeal rejected their claim, considering that the potential profits from the quarry should not be taken into account, and set the compensation at just over 197,000 euros. However, the legal costs the applicants were required to pay (as the losing party) in those proceedings exceeded the amount of the award. As a result, not only did the amount awarded in compensation eventually revert to the State, but the applicants had to pay another EUR 15,000, which they did in February 2008.

The applicants complained that the compensation for expropriation awarded to them had ultimately been fully absorbed by the amount they had to pay to the State in legal costs.

The Court was not persuaded by the Government's argument that the applicants had only themselves to blame since the high level of the legal costs, which under Portuguese law were based on the value of the subject matter of the case, had been due to the fact that the applicants had over-estimated that value. In the Court's view, the applicants could not be criticised for having endeavoured to persuade the court, using the procedural means available to them, to include in the award elements which they deemed to be essential (in this case the profits they could have made by exploiting the quarry situated on the land).

It was not the Court's task to conduct an overall examination of the Portuguese system for determining and fixing legal costs. However, the implementation of that system in practice in the case had resulted in their receiving no compensation whatsoever for the deprivation of their property. Accordingly, a "fair balance" had not been struck between the general interest of the community (in the funding of the justice system) and the rights of the applicants (see in particular §§ 37-41 of the judgment).

The Court therefore found a violation of Article 1 of Protocol No. 1.

Judges Zagrebelsky and Sajó expressed a dissenting opinion, which is annexed to the judgment.

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 22 June to 9 August 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.

- ***Decisions deemed of particular interest for the work of the NHRS :***

Georgia v. Russia (I) (no. 13255/07) (Importance 1) – 3 July 2009 – Alleged harassment of the Georgian immigrant population in the Russian Federation following the arrest in Tbilisi on 27 September 2006 of four Russian service personnel on suspicion of espionage against Georgia – Admissible – Six-month rule and administrative practice

On 26 March 2007 the Georgian authorities lodged with the Court's Registry an application against the Russian Federation under Article 33 (Inter-State cases) of the Convention.

The Georgian Government maintained that the reaction of the Russian authorities to the incident in September 2006 had amounted to an administrative practice of the official authorities giving rise to specific and continuing breaches of the Convention and its Protocols under Article 3 (prohibition of inhuman and degrading treatment and punishment), Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination), Article 18 (limitation on the use of restrictions on rights) of the Convention; Articles 1 (protection of property) and 2 (right to education) of Protocol No. 1; Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 and Article 1 (procedural safeguards relating to expulsion of aliens) of Protocol No. 7.

These breaches were said to have derived, in particular, from widespread arrests and detention of the Georgian immigrant population in the Russian Federation creating a generalised threat to security of the person and multiple, arbitrary interferences with the right to liberty. The Georgian Government also complained of the conditions in which "at least 2,380 Georgians" had been detained. They asserted that the collective expulsion of Georgians from the Russian Federation had involved a systematic and arbitrary interference with these persons' legitimate right to remain in Russia – a right duly evidenced by regular documents – as well as with the requirements of due process and statutory appeal process. In addition having closed the land, air and maritime border between the Russian Federation and Georgia, thereby interrupting all postal communication, had allegedly frustrated access to remedies for the persons affected.

The Russian Government contested the Georgian Government's allegations. They stated that the events surrounding the arrest in Tbilisi of four Russian officers and their subsequent release had no relation, either chronologically or in substance, with the events described by the Georgian Government in their application. The Russian authorities had not adopted reprisal measures against Georgian nationals, but had merely continued to apply the ordinary law aimed at preventing illegal immigration, in compliance with the requirements of the Convention and the Russian Federation's international obligations. In particular, the end of 2006 had not been marked by an increase in the number of administrative expulsions of Georgian nationals who had breached the regulations governing residence on Russian territory.

The Court first established the object of the application. It considered that its content and scope, and the written and oral submissions by the Georgian Government, were sufficiently clear to allow a judicial examination under the Convention. In the opinion of the Court, the object of the application covered two different complaints: the allegations concerning the existence of an administrative practice and those concerning individual violations of the rights guaranteed by the Convention.

Examining whether the allegations of the existence of an administrative practice had complied with Article 35 § 1 (admissibility criteria), the Court had regard to the evidence submitted by the parties and found that the allegations made by the Georgian Government could not be considered as being wholly

unsubstantiated or that they lacked the requirements of a genuine allegation required by Article 33 of the Convention. It pointed out, however, that the examination of all the other questions concerning the existence and scope of such an administrative practice, as well as its compatibility with the provisions of the Convention, related to the merits of the case and could not be examined at the admissibility stage. As to whether these allegations had complied with the six-month rule, the Court noted that the disputed events were said to have begun in Russia following the arrest on 27 September 2006 of four Russian officers in Georgia and that the application was lodged with the Court on 26 March 2007. In addition, and in so far as the Georgian Government had submitted additional evidence after that date, the Court found that the question of the six-month rule was so closely related to that of the existence of an administrative practice that they had to be considered jointly during an examination of the merits of the case.

As regards whether the allegations of individual violations of the rights guaranteed by the Convention had complied with Article 35 § 1, the Court also found that the question of exhaustion of domestic remedies was so closely linked with that of the existence of an administrative practice that they had to be considered jointly during an examination of the merits of the case.

Aktas v. France (no. 43563/08), Bayrak v. France (no. 14308/08), Gamaleddyn v. France (no. 18527/08), Ghazal v. France (no.29134/08), J. Singh v. France (no. 25463/08) and R. Singh v. France (no. 27561/08) (Importance 2) – 30 June 2009 – Alleged violation of Art. 9 in conjunction with Art. 14 – Disproportionate interference with the right to religion and application of the legislation to all conspicuous religious symbols – Alleged violation of Art. 6 §1 – Non-exhaustion of domestic remedies

The case concerns the expulsion of pupils from school for wearing conspicuous symbols of religious affiliation. The close relatives of the applicants were enrolled in various state schools for the year 2004-2005. On the first day of school, the girls, who are Muslims, arrived wearing a headscarf or kerchief. The boys were wearing a “keski”, an under-turban worn by Sikhs.

The Head Masters of the schools considered that the headwear in question infringed the legislation prohibiting the wearing of dress or other symbols that manifested religious affiliation, and not only during physical education classes but in all classes, in accordance with a French law of 2004. When the pupils refused to remove the offending headwear the Head Masters denied them access to the classroom. Miss Bayrak, Miss Gamaleddyn and Miss Aktas subsequently decided to wear hats instead of their headscarves.

After a period of dialogue with the families, the schools’ disciplinary boards took the decision, on different dates between October and November 2004, to expel the pupils for failure to comply with the provisions of Article L. 141-5-1 of the Education Code.

The chief education officers of the school districts concerned confirmed those decisions, which were challenged before the administrative courts. The challenges were dismissed, both at first instance and on appeal.

In the cases of Bayrak, Gamaleddyn and Aktas, the applicants’ requests to receive legal aid with a view to appealing on points of law to the *Conseil d’Etat* were rejected for a lack of serious grounds for such an appeal. Miss Aktas nevertheless appealed to the *Conseil d’Etat* in 2008 but was unsuccessful. The fathers of the two boys did the same. The *Conseil d’Etat* dismissed their appeals, taking the view that the Sikh “keski”, even though it was smaller than the traditional turban and dark in colour, could not be described as a “discreet” symbol. It found that the two boys, by wearing that headwear, had displayed conspicuously their religious affiliation in breach of the statutory ban.

The applicants complained about the ban on headwear imposed by their schools and alleged that they had been the victims of a difference in treatment based on their religion.

Miss Aktas and Miss Bayrak complained about the lack of impartiality in the disciplinary proceedings, and with Miss Gamaleddyn – who also complained about the length of the proceedings –, about the refusal by the French courts to examine the decision of the school disciplinary boards.

Miss Aktas, Miss Bayrak, Miss Ghazal, Mr Jasvir Singh and Mr Ranjit Singh complained that they had been denied access to the schools concerned.

Miss Gamaleddyn’s parents complained that their daughter had first been denied access to classes and then punished a second time by the expulsion measure.

The applications were lodged with the European Court of Human Rights between March and September 2008.

Article 9

The Court decided to examine only under Article 9 the various complaints based on the allegations about restriction of religious freedom.

In all these cases, the ban on the wearing by pupils of religious symbols constituted a restriction of their freedom to manifest their religion, that restriction being provided for by the law of 15 March 2004 (and restated in Article L. 141-5-1 of the Education Code), which pursued the legitimate aim of protecting the rights and freedoms of others and public order.

The Court pointed out that the expulsion measure could be explained by the requirements of protecting the rights and freedoms of others and public order rather than by any objections to the pupils' religious beliefs.

The Court again emphasised the importance of the State's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs. It also reiterated that a spirit of compromise on the part of individuals was necessary in order to maintain the values of a democratic society.

The ban on all conspicuous religious symbols in all classes of state schools was based on the constitutional principle of secularism, which was consistent with the values protected by the Convention and the Court's case-law.

The Court agreed with the opinion of the French authorities that the permanent wearing of substitute headwear also constituted a manifestation of religious affiliation. It pointed out that the 2004 law had to apply to the appearance of new religious symbols and also to potential attempts to circumvent the law.

As to the punishment of definitive expulsion, it was not disproportionate as the pupils still had the possibility of continuing their schooling by correspondence courses.

The interference by the authorities with the pupils' freedom to manifest their religion was therefore justified and proportionate to the aim pursued (see *Dogru* and *Kervanci v. France)*. Consequently, their complaints under Article 9 had to be rejected as manifestly ill-founded.

Concerning the complaints of Mr and Mrs Gamaleddyn about the proceedings conducted by the school which had resulted in their daughter's expulsion, the Court took the view that the school authorities, in accordance with the rules in force, had afforded the girl pedagogical supervision during the statutory dialogue period. Such a transitional period had therefore been neither unlawful nor arbitrary. This part of the application in the Gamaleddyn case was therefore manifestly ill-founded and had to be rejected.

The Court also rejected as manifestly ill-founded the part of the applications of Miss Ghazal, Miss Aktas, Mr Jasvir Singh and Mr Ranjit Singh, concerning Article 14, in conjunction with Article 9, as the legislation in question applied to all conspicuous religious symbols.

Article 6 § 1

As regards the complaint, in the Bayrak, Gamaleddyn and Aktas cases, that the proceedings had been unfair, this part of the applications had to be rejected, as the disciplinary board decisions had been subject to review by the administrative tribunal and the administrative court of appeal, which both had the power to deal with all aspects of a given case and to which the applicants had been able to submit their arguments.

In the Gamaleddyn case, the Court found that the refusal to grant legal aid with a view to an appeal before the *Conseil d'Etat* had not constituted a violation of Article 6 § 1, as that refusal had been justified by the legitimate need to allocate public funds only to those requests that were likely to be successful, and that the composition of the legal aid section offered substantial guarantees of fairness. This part of the application was therefore rejected.

In the same case, the complaint concerning the length of the proceedings also had to be rejected for failure to exhaust domestic remedies, as the applicants had not brought an action in damages against the French State for shortcomings in the public justice service.

Complaints under other Articles

As regards the complaints submitted by Miss Ghazal, Miss Aktas, Mr Bayrak, Mr Jasvir Singh and Mr Ranjit Singh under Article 2 of Protocol No. 1, the Court considered that no separate question arose under that head and that it did not need to examine these complaints.

As regards the complaint of Mr and Mrs Gamaleddyn under Article 4 of Protocol No. 7, to the effect that their daughter had been punished twice for the same act, the Court rejected this part of the application on the ground that this Article applied only to criminal offences.

The Court thus found that all six applications had to be rejected.

Al-Saadoon & Mufdhi v. the United Kingdom (no. 61498/08) (Importance 3) – 3 July 2009 – Alleged violation of Art. 2, 3, 6, 13, 34 and 1 of Protocol No. 13 – Risk of being subjected to an unfair trial before the Iraqi High Tribunal – Risk of being submitted to ill-treatment or extra-judicial killing in detention in Rusafa Prison – Inadmissible for non-exhaustion of domestic remedies

The applicants are Sunni Muslims from southern Iraq and former senior officials of the Ba'ath party. They are currently detained in Rusafa Prison, near Baghdad.

Following the invasion of Iraq on 20 March 2003, the applicants were arrested by British forces and detained in British-run detention facilities "for imperative reasons of security." Their notices of internment stated that they were suspected of being senior members of the Ba'ath Party under the former regime and of orchestrating violence against the coalition forces.

In October 2004 the Special Investigations Branch of the UK's Royal Military Police, which had been investigating the deaths of two British soldiers, who had been ambushed and murdered in southern Iraq on 23 March 2003, concluded that there was evidence that the applicants had been involved.

On 16 December 2005, the British authorities decided to refer the murder case against the applicants to the Iraqi criminal courts. On 18 May 2006 an arrest warrant was issued against them under the Iraqi Penal Code; an order was also made authorising their continued detention by the British Army in Basra. The cases were then transferred to Basra Criminal Court which decided that the allegations against the applicants constituted war crimes and therefore fell within the jurisdiction of the Iraqi High Tribunal ("IHT": a court set up under Iraqi national law, to try Iraqi nationals or residents accused of genocide, crimes against humanity and war crimes allegedly committed during the period 17 July 1968 to 1 May 2003 and to impose sentences in line with Iraqi law, including the death penalty which was reintroduced to the Iraqi Penal Code in August 2004). On 27 December 2007 the IHT formally requested the British forces to transfer the applicants into its custody; repeated requests were made to that effect until May 2008.

On 12 June 2008, the applicants brought judicial review proceedings in England challenging, among other things, the legality of their transfer. The case was heard by the English Divisional Court which, on 19 December 2008, declared the proposed transfer lawful. The court found that since the applicants were held in a British military detention facility, albeit since 18 May 2006 on the order of the Iraqi Criminal Court, they were within the jurisdiction of the UK as provided by Article 1 (obligation to respect human rights) of the European Convention on Human Rights. However, under public international law the UK was obliged to surrender the applicants unless there was clear evidence that the receiving State intended to subject them to treatment so harsh as to constitute a crime against humanity. The evidence before it fell far short of establishing substantial grounds for believing there to be a real risk that, on being transferred, a trial against the applicants would be flagrantly unfair or that they would face torture and/or inhuman and degrading treatment. Moreover, although it found that there was a real risk that the death penalty, contrary to Protocol No. 13 (abolition of the death penalty) to the Convention which had entered into force in respect of the UK in February 2004, would be applied if the applicants were surrendered to the Iraqi authorities, the death penalty in itself was not prohibited by international law.

The applicants' appeal was refused by the Court of Appeal on 30 December 2008. It was accepted that there was a real risk that the applicants would be executed but, as they were being held within another sovereign State, they did not fall within the UK's jurisdiction, and the UK therefore had no discretionary power of its own to hold, release or return the applicants. The UK was in essence detaining the applicants only at the request and order of the IHT and was obliged to return them to the IHT in accordance with UK-Iraq arrangements. In any event, even if the applicants did fall within the UK's jurisdiction, the death penalty was not contrary to international law and there was no evidence that there would be a crime against humanity or torture if the applicants were transferred. In those circumstances the UK's obligation to respect Iraqi sovereignty and transfer the applicants had to take precedence.

Immediately after that decision, the applicants applied to the Court for an interim measure under Rule 39 of its Rules of Court to prevent the British authorities making the transfer. On 30 December 2008 the Court indicated to the UK Government that the applicants should not be removed or transferred from their custody until further notice. The following day the UK Government informed the Court that, principally because the UN Mandate, which authorised the role of British forces in arrest, detention and imprisonment tasks in Iraq, was due to expire at midnight on 31 December 2008, exceptionally they could not comply with the measure indicated by the Court and that they had transferred the applicants to Iraqi custody earlier that day.

On 16 February 2009 the applicants were refused leave to appeal by the House of Lords.

The applicants' trial before the IHT commenced on 11 May 2009. If convicted, they will have 28 days from the date of the verdict to make an appeal.

The applicants complain about their transfer to Iraqi custody. They also complain about the fact that that they were transferred to the Iraqi authorities despite the Court's indication under Rule 39 of its Rules of Court, in breach of Articles 13 and 34.

As concerned the preliminary issue of jurisdiction, the Court considered that the United Kingdom authorities had total and exclusive control, first through the exercise of military force and then by law, over the detention facilities in which the applicants were held. The applicants were therefore within the UK's jurisdiction and remained so until their physical transfer to the custody of the Iraqi authorities on 31 December 2008.

The Court further considered that the applicants' complaints that, at the moment they were transferred, there were substantial grounds for believing that they were at real risk of being subjected to an unfair trial before the IHT followed by execution, raised serious questions of fact and law which were of such complexity that they had to be determined on an examination of the merits. Those complaints under Articles 2, 3, 6 and 1 of Protocol No. 13 were therefore declared admissible. The issue of the admissibility of the complaints under Articles 13 and 34, closely connected to those complaints, were joined to the merits of the case.

The complaints concerning ill-treatment and/or extra-judicial killing in Rusafa Prison were, however, declared inadmissible as the applicants had not exhausted all available domestic remedies before the British courts.

- ***Other decisions***

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Bulgaria	23 Jun. 2009	Gospodinovi (no 38646/04) link	Alleged violation of Art. 2, 3 and 8 (lack of an effective investigation into the threat against the applicants' lives, into the second and third applicants' beating and the forcible entry into their house) and Art. 6§1 and 13 (first applicant's complaints)	Partly adjourned (concerning the length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Bulgaria	23 Jun. 2009	Todorov (no 14397/03) link	Alleged irregularity of the applicant's placement in a psychiatric hospital	Struck out of the list (applicant no longer wishing to pursue his application)
Bulgaria	23 Jun. 2009	Tzanev (no 15445/03) link	Idem.	Idem.
Croatia	25 Jun. 2009	Roje (no 8301/06) link	Alleged violation of Art. 6 § 1 and 13 (length of proceedings and lack of an effective remedy)	Inadmissible as manifestly ill-founded (the applicant can no longer claim to be a "victim" on account of the fact that the sum awarded can be considered a sufficient redress for the violation suffered)
Finland	23 Jun. 2009	Manner (no 32681/06) link	Alleged violation of Art. 6 § 1 (length of civil proceedings and lack of an oral hearing before the Court of Appeal)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Georgia	23 Jun. 2009	Khvichia and Others (no 26446/06) link	Alleged violation of Art. 1 of Prot. 1 (infringement of the right to peaceful enjoyment of possessions on account of the enforcement authorities' failure to retrieve from the debtors the allowance awarded by the court)	Inadmissible (the application was rejected as abusive)
Germany	23 Jun. 2009	Kübler (no 32715/06) link	Alleged violation of Art. 6 § 1 (infringement of the right to effective access to a court and unfairness of the hearings on account of the	Partly adjourned (concerning the lack of an effective access to court), partly inadmissible as manifestly ill-founded

			Ministry of Justice's failure to comply with the Federal Constitutional's Court interim injunction; infringement of the right to a fair hearing on account of the Federal Court of Justice's refusal to refer the case to the Common Senate), Art. 1 of Prot. 1 (infringement of the applicant's "legitimate expectation" to be appointed as an advocate notary and interference with his law practice and his clientele on account of the Ministry of Justice's failure to respect the Federal Constitutional Court's interim injunction and the non-enforcement of its decision) and Art. 14 in conjunction with the Art. 1 of Prot. 1 (discrimination on grounds of age)	(concerning the remainder of the application)
Germany	23 Jun. 2009	Kaletsch (no 31890/06) link	Alleged violation of Art. 8 (execution of the judicial search warrant more than six months after its issue), Art. 6 §1 (use of evidence obtained during the search of home on the basis of the above warrant, length of criminal proceedings) and Art. 7 (German courts' interpretation of the concept of "medicinal product" in an unforeseeable manner)	Inadmissible
Greece	25 Jun. 2009	Maggafinis (no 44046/07) link	Alleged violation of Art. 6 §1 (length of criminal proceedings), Art. 6, 17 and 4 of Prot. 7 (violation of the *non bis in idem* principle)	Partly adjourned (concerning the length of criminal proceedings), partly inadmissible (concerning the remainder of the application)
Greece	25 Jun. 2009	Giannilos (no 1722/07) link	Alleged violation of Art. 1 of Prot. 1 (cutback on the applicant's retirement pension)	Inadmissible (incompatible *ratione materiae*)
Greece	25 Jun. 2009	Serdenis (no 36994/07) link	Alleged violation of Art. 6 § 1 (length of proceedings), Art. 3 (ill-treatment in detention) and Art. 5 §§ 1 et 2	Struck out of the list (applicant no longer wishing to pursue his application)
Greece	02 Jul. 2009	Giannatos (no 12652/07) link	In particular alleged violation of Art. 6 § 1 (unfairness of civil proceedings) and Art. 1 of Prot. 1 (right to respect for property)	Inadmissible (no appearance of violation of the Convention) See also *Gorou v. Greece (No.2)*
Greece	02 Jul. 2009	Xypolias and Xypolia (no 48159/07) link	Alleged violation of Art. 1 of Prot. 1 (domestic courts' refusal to compensate the applicant's company further to the expropriation of the land on which the company was established)	Inadmissible as manifestly ill-founded (proportionate interference in light of the national margin of appreciation)
Hungary	30 Jun. 2009	Szabó (no 45395/05) link	Alleged violation of Art. 6 (outcome, unfairness and length of proceedings)	Struck out of the list (friendly settlement reached)
Italy	30 Jun. 2009	Guetti and Others (no 19380/05) link	Alleged violation of Art. 1 of Prot 1 (lack of an adequate compensation further to expropriation of the applicants' land)	Idem.
Italy	07 Jul. 2009	Gallo (no 24406/03) link	Alleged violation of Art. 3, Art. 8 and Art. 13	Inadmissible as manifestly ill-founded (no appearance of violation of the Convention)
Latvia	30 Jun. 2009	Dağis (no 7843/02) link	Alleged violation of Art. 3 (ill-treatment and deterioration of the applicant's health during detention on remand), Art. 5 § 3 (length of pre-trial detention), Art. 6 § 1 (length of criminal proceedings) and Art. 1 of Prot. 4 (imprisonment on account of the applicant's inability to fulfil a contractual debt)	Partly struck out of the list (unilateral declaration of the Government concerning the length of detention and the length of the proceedings), partly inadmissible (concerning the remainder of the application)
Lithuania	30 Jun. 2009	Shub (no 17064/06) link	Alleged violation of Art. 6, 14 and Art. 1 of Prot. 1 (unfairness of proceedings, discrimination on	Inadmissible (non-exhaustion of domestic remedies concerning the unfairness of proceedings

			grounds of citizenship; deprivation of property on account of the refusal to extend the time-limit for the restitution of property rights)	and discrimination), incompatible *ratione materiae* (concerning the refusal to extend the time-limit for the application requesting restitution)
Monaco	23 Jun. 2009	Lynnik-Lorenzi (no 48093/07) link	Alleged violation of Art. 3 and 6§1 (unfairness of proceedings and lack of adequate investigation)	Inadmissible (no respect of the six-month requirement)
Norway	02 Jul. 2009	Khoa Rahim (no 4356/08) link	Risk for the applicant's life if expelled to Iraq	Inadmissible as manifestly ill-founded (lack of substantial grounds for believing that, if the applicant's deportation were to be effected, he would face a real risk of treatment contrary to the Convention)
Poland	23 Jun. 2009	Weitz (no 37727/05) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (deprivation of ownership further to municipality acquiring ownership by way of prescription on the strength of adverse possession)	Inadmissible as manifestly ill-founded (no appearance of violation of the Convention)
Poland	23 Jun. 2009	Nowak and Krynicki (no 32932/02) link	Alleged violation of Art. 9 (harassment of the applicant's son by the school authorities and his fellow pupils on account of his not following religious education), and Art. 2 of Prot. 1 (State's failure to ensure that the applicant's son received education in conformity with her philosophical convictions)	Struck out of the list (applicants no longer wishing to pursue their application)
Poland	23 Jun. 2009	Kujawka (no 26561/08) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Struck out of the list (friendly settlement reached)
Poland	23 Jun. 2009	Kuźlak (no 38332/03) link	Alleged violation of Art. 6 §1 (unfairness and length of proceedings)	Idem.
Poland	30 Jun. 2009	Kozłowska (no 38168/07) link	Alleged violation of Art. 6 § 1 (length and outcome of proceedings) and Art. 1 of Prot.1 (deprivation of property on account of the applicant's inability to sell or use her car throughout the proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of the proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	30 Jun. 2009	Głogowski (no 39531/08) link	Alleged violation of Art. 6 (lack of access to a court on account of refusal to appoint a legal-aid lawyer, outcome and unfairness of the proceedings) and Art. 13 (lack of an effective remedy to challenge some of the decisions given in the proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the access to a court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	27 Jul. 2009	Pielok (no 1083/07) link	Alleged violation of Art. 6 § 1 and 13 (length of proceedings and lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government concerning the alleged violations)
Poland	30 Jun. 2009	Draczyński (no 53591/07) link	Alleged violation of Art. 6 § 1 (length of civil proceedings)	Struck out of the list (friendly settlement reached)
Poland	30 Jun. 2009	Kuśnierek (no 50069/06) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Idem.
Poland	07 Jul. 2009	Sokołowski (no 39590/04) link	The applicant complained under Art. 1 of Prot. 1 that the Polish authorities had failed to pay him any compensation for damage that had been caused to the property of his predecessors in title by the German occupying authorities.	Inadmissible (incompatible *ratione materiae* with the provisions of the Convention)
Poland	07 Jul. 2009	Nowosad (no 11261/07) link	Alleged violation of Art. 5 § 3 (length of detention), Art. 6 § 1 (length of criminal proceedings), Art. 8 (restriction on family visits and interference with right to	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-

			correspondence)	founded (concerning the remainder of the application)
Poland	30 Jun. 2009	Goc (no 8322/07) link	Alleged violation of Art. 3 (ill-treatment due to lack of medical care during detention), Art. 5 § 3 (length of detention) and Art. 6 § 1 (length of criminal proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of detention), partly inadmissible (concerning the remainder of the application)
Poland	07 Jul. 2009	Skiba (no 10659/03) link	Alleged violation of Art. 9,10 and 11	Inadmissible as manifestly ill-founded (proportionate interference in light of the aim pursued)
Poland	07 Jul. 2009	Belica (no 25278/04) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings) and Art. 3 (lack of medical care during detention)	Struck out of the list (applicant no longer wishing to pursue his application)
Romania	07 Jul. 2009	Toboltoc (no 29302/03) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings) and Art. 1 of Prot. 1 (deprivation of the right to property)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Romania	07 Jul. 2009	Istrate (no 20397/05) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings)	Idem.
Romania	07 Jul. 2009	Ion and Others (no 35498/06) link	Alleged violation of Art. 6 § 1 (length of proceedings) and Art. 1 of Prot. 1 (degradation of the applicants' assets due to the excessive length of the proceedings)	Struck out of the list (friendly settlement reached)
Romania	07 Jul. 2009	Bodnariu (no 7504/07) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings) and Art. 1 of Prot. 1 (deprivation of property due to the outcome of the proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible (concerning the remainder of the application)
Romania	23 Jun. 2009	Stănoi (no 19256/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (the allowance awarded when the applicant had retired from military had been unlawfully subjected to income tax)	Struck out of the list (friendly settlement reached)
Romania	23 Jun. 2009	Guiu (no 26843/03) link	Alleged violation of Art. 1 of Prot. 1 (the allowance awarded when the applicant had retired from military had been unlawfully subjected to income tax), Art. 14 (difference of treatment) and Art. 6 § 1 (unfairness of proceedings)	Idem. See *Driha v. Romania*
Romania	23 Jun. 2009	Bunduc (no 8135/03) link	Idem.	Idem.
Romania	23 Jun. 2009	Vuscan (no 15842/03) link	Alleged violation of Art. 1 of Prot. 1 (the allowance awarded when the applicant had retired from military had been unlawfully subjected to income tax), Art. 14 (difference of treatment)	Struck out of the list (unilateral declaration of the Government concerning the alleged violations)
Romania	23 Jun. 2009	Radu (no 23850/04) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings) and Art. 2 of Prot. 7	Struck out of the list (applicant no longer wishing to pursue his application)
Romania	23 Jun. 2009	Zaharie (no 29612/02) link	Alleged violation of Art. 1 of Prot. 1 (the allowance awarded when the applicant had retired from military had been unlawfully subjected to income tax), Art. 14 (difference of treatment)	Struck out of the list (unilateral declaration of the Government concerning the alleged violations)
Romania	23 Jun. 2009	Şandru (no 23464/05) link	Alleged violation of Art. 1 of Prot. 1 (the allowance awarded when the applicant had retired from military had been unlawfully subjected to	Partly struck out of the list (unilateral declaration of the Government concerning the complaints under Art. 14 and 1 of

			income tax), Art. 14 (difference of treatment) and Art. 6 § 1 (unfairness of proceedings)	Prot. 1), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Romania	23 Jun. 2009	Urzică (no 23741/06) link	Idem.	Idem.
Romania	23 Jun. 2009	Dinculescu (no 49339/06) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (infringement of the right to property on account of the non-enforcement of a decision in the applicant's favour)	Struck out of the list (applicant no longer wishing to pursue his application)
Romania	23 Jun. 2009	Băleanu (no 19326/03) link	Alleged violation of Art. 6 § 1 (length of proceedings)	Struck out of the list (unilateral declaration of the Government concerning the alleged violation)
Romania	30 Jun. 2009	Zink (no 19980/04) link	Alleged violation of Art. 1 of Prot. 1	Struck out of the list (applicant no longer wishing to pursue his application)
Romania	30 Jun. 2009	Adam (no 37230/03) link	Alleged violation of Art. 6 and 13 (infringement of the right of access to a court on account of the obligation to pay stamp duty) and Art. 1 of Prot. 1 (lack of compensation for seized property)	Inadmissible as manifestly ill-founded (concerning the obligation to pay stamp duty) and incompatible *ratione materiae* (concerning the deprivation of the property) See *Weissman and Others v. Romania*
Romania	30 Jun. 2009	Mihăilă (no 26758/04) link	Alleged violation of Art. 6 §1 (length of criminal proceedings)	Struck out of the list (unilateral declaration of the Government concerning the alleged violation)
Romania	07 Jul. 2009	Stănilă (no 26836/03) link	Alleged violation of Prot. 12 (difference of treatment compared to other militaries concerning the income tax on the allowance awarded when the applicant had retired from military) and Art. 6 (unfairness of the proceedings)	Struck out of the list (friendly settlement reached)
Russia	25 Jun. 2009	Bryuzgin (no 44694/05) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (friendly settlement reached)
Russia	25 Jun. 2009	Kovaleva and Others (no 6025/09) link	Alleged violation of Art. 6 (lack of a tribunal established by law) and Art. 1 of Prot. 1 (unlawful deprivation of property)	Inadmissible as manifestly ill-founded (no appearance of violation of the Convention)
Russia	25 Jun. 2009	OOO Link OIL SPB (no 42600/05) link	Alleged violation of Art. 6 and 1 of Prot. 1 (infringement of the right to legal certainty and to peaceful enjoyment of possessions on account of the non-enforcement and the quashing of binding and enforceable judgments in the applicant company's favour by the Supreme Commercial Court) and Art. 13 (lack of an effective remedy to challenge the decisions taken in the supervisory-review proceedings)	Inadmissible as manifestly ill-founded (no breach of the legal certainty requirement in the supervisory-review proceedings conducted before the Supreme Commercial Court, no appearance of violation concerning the claim about the lack of an effective remedy)
Russia	02 Jul. 2009	Sharkunov and Mezentsev (no 75330/01) link	Alleged violation of Art. 3 and 13 (ill-treatment in police custody and lack of an effective investigation), Art. 5 § 1 (c) (unlawful arrest and detention), Art. 6 §§ 1 and 3 (b), (c) and (d) (unfairness of criminal proceedings) and Art. 9 (refusal to see a priest)	Partly admissible (concerning the ill-treatment and the unfairness of the criminal proceedings), partly inadmissible (concerning the remainder of the application)
Russia	07 Jul. 2009	Sankov (no 21814/03) link	Alleged violation of Art. 5 (unlawfulness of pre-trial detention), Art 6 § 3 (b) (refusal of request for a dactylographic expert examination of the banknotes), 6 §§ 1 and 3 (d) (impossibility to confront the attesting	Inadmissible as manifestly ill-founded (the applicant can no longer claim to be a victim in respect of his right to examine witnesses against him) and no appearance of violation of the

			witnesses) as well as an alleged violation of the right to presumption of innocence on account of a statement made by the investigator	Convention (concerning the remainder of application)
Russia	07 Jul. 2009	Alshev (no 5849/05) link	Alleged violation of Art. 5 (unlawfulness of detention)	Inadmissible as manifestly ill-founded (the applicant's detention was in accordance with the law)
Serbia	30 Jun. 2009	Đurić (no 3558/08) link	Alleged violation of Art. 6, 13 and Art. 1 of Prot. 1 (unfairness and length of child maintenance proceedings and lack of an effective remedy)	Struck out of the list (applicant no longer wishing to pursue his application)
Serbia	07 Jul. 2009	Katić (no 13920/04) link	Alleged violation of Art. 6§1, 13, 14 and 1 of Prot. 1 (unfairness and length of compensation proceedings, Government's failure to comply with the terms of a friendly settlement in a case which has been struck out on 4 March 2009)	Application restored to the list of cases; examination of the applicants' complaints adjourned and friendly settlement negotiations have restarted
Slovenia	23 Jun. 2009	Softić (no 8687/05) link	Alleged violation of Art. 6 § 1 and 13 (length of civil proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached at the domestic level)
Slovenia	23 Jun. 2009	Ajdarovič and Others (no 12349/05 etc.) link	Idem.	Inadmissible as manifestly ill-founded (concerning Ms Škrinjar and Mr Žibert) and struck out of the list concerning the other applicants (the matter has been resolved at the domestic level)
Slovenia	23 Jun. 2009	Jager (no 8286/05) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level and applicant no longer wishing to pursue his application)
Slovenia	23 Jun. 2009	Skutnik (no 21168/03) link	Idem.	Struck out of the list (the matter has been resolved at domestic level)
Slovenia	23 Jun. 2009	Borinc and other applications (no 712/04 etc.) link	Idem.	Struck out of the list (applicants no longer wishing to pursue their application)
Slovenia	23 Jun. 2009	Leone (no 15568/03) link	Alleged violation of Art. 6 § 1 and 13 (infringement of the right of access to a court, length of civil proceedings and lack of an effective remedy), Art. 1 of Prot. 1 in conjunction with Art. 14 (infringement of the right to property on account of the wrong interpretation of domestic law concerning the nationalisation of property of foreigners)	Partly struck out of the list (State Attorney's settlement proposal concerning the length of the proceedings and the lack of an effective remedy), partly inadmissible (concerning the remainder of the application)
Slovenia	30 Jun. 2009	Sekulič (no 15281/04) link	Alleged violation of Art. 6 § 1 and 13 (length of civil proceedings and lack of an effective remedy)	Struck out of the list (the matter has been resolved at the domestic level and applicant no longer wishing to pursue her application)
Slovenia	30 Jun. 2009	Krašovec (no 8263/05) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level and applicant no longer wishing to pursue his application)
Slovenia	30 Jun. 2009	Polak (no 1377/05) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level and applicant no longer wishing to pursue her application)
Slovenia	30 Jun. 2009	Tratnik (no 2586/03) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level and applicant no longer wishing to pursue his

				application)
Slovenia	30 Jun. 2009	Dominko and other applications (no 12080/05 etc.) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level and applicants no longer wishing to pursue their applications)
Slovenia	07 Jul. 2009	Wraight (no 15613/05) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings), Art. 14 (discrimination on the grounds of language, ethnicity and status) and Art. 13 (lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Slovenia	07 Jul. 2009	Blekić (no 14610/02) link	Alleged violation of Art. 6 § 1 and 13 (length of proceedings and lack of an effective remedy)	Inadmissible as manifestly ill-founded (the length of proceedings –three years and six months for three levels of jurisdiction was not excessive, non observance of the six-month requirement concerning the complaint about the length of the non-contentious proceedings)
the Netherlands	30 Jun. 2009	Mešić and Others (no 23208/05) link	Alleged violation of Art. 8 and 13 (national authorities' refusal to grant the applicants a residence permit for the purpose of staying with their relatives and lack of an effective remedy)	Struck out of the list (applicants no longer wishing to pursue their application)
the Netherlands	30 Jun. 2009	Van Hout (no 20500/07) link	Alleged violation of Art. 6 § 1 and 13 (length of proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached)
the Netherlands	30 Jun. 2009	Tubajika (no 6864/06) link	Alleged violation of Art. 3 (risk of being subjected to treatment contrary to this Article if expelled to Congo)	Struck out of the list (applicant no longer wishing to pursue his application)
the United Kingdom	23 Jun. 2009	Iqbal (no 19149/05) link	Alleged violation of Art. 6 § 1 (unfairness and length of proceedings)	Struck out of the list (friendly settlement reached)
the United Kingdom	23 Jun. 2009	M.W. (no 11313/02) link	Alleged violation of Art. 14 in conjunction with Art. 8 and Art. 1 of Prot. 1 (deprivation of benefits available to a survivor of a married couple for a survivor of a same-sex couple who had no means to achieve formal recognition of their relationship)	Inadmissible as manifestly ill-founded (the applicant can not claim that, at the material time, he was in an analogous situation to a bereaved spouse)
Turkey	23 Jun. 2009	Őztekin (no 21385/07) link	Alleged violation of Art. 6, 9 and 10 (disciplinary sanctions in the İzmir Buca F-type Prison)	Struck out of the list (applicant no longer wishing to pursue his application)
Turkey	30 Jun. 2009	Sökmen (no 3212/05) link	Alleged violation of Art. 6 § 1 and 1 of Prot. 1 (in particular authorities' failure to comply with domestic court judgment for the payment of additional compensation further to expropriation)	Inadmissible as manifestly ill-founded (reasonable time taken by the authorities to enforce the judgment and sufficient compensation)
Turkey	30 Jun. 2009	Fathi (no 32598/06) link	The applicant alleges that his deportation to Iran would subject him to torture and would pose a risk to his life. He also complains about the Turkish authorities' refusal to allow him to leave the country in order to resettle in a third country	Inadmissible (the applicant can no longer claim to be a victim, as he currently resides in Belgium) and incompatible *ratione materiae* (as Turkey has not ratified Art. 2 of Prot. 4 which safeguards freedom of movement)
Turkey	30 Jun. 2009	Yağmakan (no 2847/05) link	Alleged violation of Art. 3 (ill-treatment during arrest and while in police custody) and Art. 13 (lack of an effective investigation)	Inadmissible as manifestly ill-founded (lack of evidence to conclude that there had been a violation of the alleged provisions)

Turkey	07 Jul. 2009	Çimen and Mete (no 19539/02) link	Alleged violation of Art. 5 and 6 (in particular absence of early legal advice)	Struck out of the list (friendly settlement reached)
Turkey	07 Jul. 2009	Aslanbakan (2) (no 15979/08) link	Alleged violation of Art. 6 § 1 (length of criminal proceedings : twenty-seven years and still pending)	Idem.
Turkey	30 Jun. 2009	Güler (no 3078/05) link	Alleged violation of Art. 6 § 1 (length of civil proceedings)	Idem.
Turkey	23 Jun. 2009	Ekinci (no 218/04) link	Alleged violation of Art. 6 and 7 (unfairness of proceedings)	Struck out of the list (applicant no longer wishing to pursue her application)
Turkey	30 Jun. 2009	Firat (no 17228/03) link	Alleged violation of Art. 2 (death of the applicants' son during military service) and Art. 6 (unfairness of proceedings before the administrative high military court)	Struck out of the list (friendly settlement reached)
Turkey	30 Jun. 2009	Sari and Mutlu and other applications (no 31853/06 etc.) link	Alleged violation of Art. 1 of Prot. 1 (non-enforcement of a decision in the applicants' favour)	Struck out of the list concerning several applications (applicants no longer wishing to pursue their application), adjourned (remaining applications)
Turkey	07 Jul. 2009	Beştaş (no 2144/03) link	The applicant alleges the lack of an effective remedy to challenge the lawfulness of a measure	Inadmissible (no respect of the six-month requirement)
Turkey	07 Jul. 2009	Karaismailoğlu and Others (no 29602/05; 41206/05) link	Alleged violation of Art. 1 and 2 of Prot. 1 (infringement of the right to education on account of the annulment of the applicant's diploma and its consequences on his professional life) and Art. 1, 3 and 5, Art. 6, 13, 7, 8, 10, 14, 17 and Art. 2 of Prot. 1	Inadmissible (no appearance of violation of the Convention)
Turkey	07 Jul. 2009	Çalişkan (no 1794/05) link	Length of compensation proceedings	Struck out of the list (friendly settlement reached)
Ukraine	07 Jul. 2009	Buryaga (no 27672/03) link	Alleged violation of Art. 5 and Art. 13 (unlawfulness and length of pre-trial detention), Art. 6 (length and unfairness of criminal proceedings), Art. 2 of Prot. 7 (lack of review by the appellate court of the procedural rulings of the first-instance court), Art. 17	Partly adjourned (concerning the length and unfairness of pre-trial detention and the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Ukraine	07 Jul. 2009	Pleshkov (no 37789/05) link	Alleged violation of Art. 5 §§ 1, 3, 4 (unlawfulness and length of detention, domestic courts' failure to review the lawfulness of the detention), Art. 3 (conditions of detention in SIZO-27), Art. 6 §§ 1 and 3 (b), (c), (d) and Art. 13 (length and unfairness of criminal proceedings), Art. 14 (discrimination on the ground of the applicant's application to the Court) and Art. 34 (deprivation of access to copies of documents necessary to substantiate the application before the Court)	Partly adjourned (concerning the unlawfulness, length and lack of review of lawfulness of the applicant's detention and the length of proceedings), partly inadmissible (concerning the remainder of the application)
Ukraine	07 Jul. 2009	Sylenok and Others (no 20988/02) link	1st applicant: Alleged violation of Art. 6 and 13 (lack of an effective investigation into allegations of ill-treatment), Art. 3 (ill-treatment, lack of adequate medical assistance in the Chernigiv SIZO) Art. 5 and 6 (unlawfulness of detention and unfairness of proceedings), Art. 1 of Prot. 1 (seizure of belongings), Art. 8,	Partly adjourned (concerning the first applicant's alleged beating by the police and the lack of an effective investigation into these allegations, as well as the non-enforcement of the judgment of in favour of the third applicant and the lack of effective remedies), partly inadmissible

			10, 13, 14, 34 and Art. 2 of Prot. 7 2nd applicant: Alleged violation of Art. 6, 13, 1 of Prot. 1 (lack of review of the decision ordering the confiscation of belongings) 3rd applicant: Alleged violation of Art. 6, 8, 13, 1 of Prot. 1 (unfairness of proceedings, confiscation, non-enforcement of a decision, lack of an effective remedy)	(concerning the remainder of the application)
Ukraine	07 Jul. 2009	Chukanov (no 16108/03) link	Alleged violation of Art. 6 § 1, 13, 14 and 17 (non-enforcement of a judgment in the applicant's favour, unfairness and length of proceedings)	Partly adjourned (concerning the non-enforcement of the judgment and the excessive length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Ukraine	07 Jul. 2009	Skydan (no 32927/06) link	Non-enforcement of a judgment in the applicant's favour	Struck out of the list (friendly settlement reached)
Ukraine	07 Jul. 2009	Dyakonov (no 35911/05) link	Idem.	Idem.
Ukraine	07 Jul. 2009	Patsyuk (no 26014/02) link	Alleged violation of Art. 6 § 1 (non-enforcement of a judgment in the applicant's favour in good time) and Art. 1 of Prot. 1 (interference with right to property on account of the demolition of the applicant's house and lack of compensation in good time)	Inadmissible (incompatible *ratione temporis,* the facts occurred before the ratification of the Convention by Ukraine)

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 31 August 2009 : link

The list itself contains links to the statement of facts and the questions to the parties. This is a tool for NHRSs to be aware of issues involving their countries but also of other issues brought before the Court which may reveal structural problems. Below you will find a list of cases of particular interest identified by the NHRS Unit and the Office of the Commissioner for Human Rights.

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

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum/ immigration, data protection, anti-terrorism/ rule of law and disability cases for the attention of the European Group of NHRIs with a

view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables (dhogan@ihrc.ie).

Toumi v. Italy (no. 25716/09) – Alleged violation of Art. 3 – Risk of being subjected to treatment contrary to this Article if expelled to Tunisia – Alleged violation of Art. 6 – Lack of a fair trial further to a military court judgment in Tunisia

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

17th Ambassadors' Conference in Paris (31.08.09)

On 28 August 2009 President Costa attended the 17th Conference of French Ambassadors in Paris. On that occasion he talked with Bernard Kouchner, Minister for Foreign and European Affairs. President Costa gave a presentation, together with Louise Arbour, President of the International Crisis Group and the UN High Commissioner for Human Rights from 2004 to 2008, on multilateral protection of human rights (programme, in French only).

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held its latest "human rights" meeting from 15 to 16 September 2009 (the 1065th meeting of the Ministers' deputies). More information will be provided in RSIF n° 24 and n° 25.
See the Preliminary list of items for consideration

B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights: http://www.coe.int/t/dghl/monitoring/execution/default_en.asp

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

http://www.coe.int/t/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage

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

A. European Social Charter (ESC)

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia: decision on the merits now public (10.08.09)

In a decision on the merits in the complaint INTERIGHTS v. Croatia (no. 45/2007), the European Committee of Social Rights concluded that Croatia is in violation of Article 11 § 2 (right to protection of health) of the Social Charter.

Summary of 45/2007

INTERIGHTS asked the Committee to find that the situation in Croatia is not in conformity with Articles 11§2 and 16 taken alone of the European Social Charter 1961and in the light of the non-discrimination clause in the Preamble as well as with Article 17 of the Charter, because Croatian schools do not provide comprehensive or adequate sexual and reproductive health education for children and young people.

INTERIGHTS stated that sexual and reproductive health information in Croatia is delivered in time limited fragments through general school subjects and that students receive only a minimal amount of rudimentary sexual and reproductive health information.

Secondly, INTERIGHTS stated that the content of the sexual and reproductive health information provided to students falls considerably short of including of the comprehensive range of topics recommended by regional and international bodies, or alternatively the information provided to students is out of date and could be considered to be scientifically inaccurate, gender stereotyped or outright discriminatory on grounds of sexuality and/or family status. Examples were given of material used in the Biology course where heterosexual relationships are presented as the “normal” form of relationship, implying that any other form of relationship is abnormal.

INTERIGHTS emphasised in particular that information provided as part of the elective Catholic religious teachings course and the extracurricular TeenStar programme is not comprehensive and evidence-based: key topics such as the use of effective contraception are often deliberately excluded and in some respects the information is inaccurate and replete with bias and discrimination.
The complainant organisation stated also that the Offices of the Ombudspersons for Gender Equality and for Children have both expressed concern about these specific aspects of the TeenStar programme, finding them contrary to Croatia’s own gender equality laws and international standards.

Furthermore, according to INTERIGHTS, the new GROZD programme selected in November 2007 by the Ministry of Science, Education and Sports to be implemented in a limited number of primary and secondary schools is discriminatory and unscientific in its content and that it presents many of the same deficiencies as TeenStar in areas such as gender stereotyping, the use of contraceptives and the relative merits of marriage compared to other forms of relationships.

Thirdly, INTERIGHTS noted the concern expressed by the Office of the Ombudsperson for Children about the lack of rigorous standards for teachers of the programme who are not required to have a background in basic pedagogical education.

Finally, INTERIGHTS submitted that Croatia’s failure to date to institute an adequate programme of sexual and reproductive health education in schools has a disproportionate impact on and disadvantages the health and development of girls and young women.

The Committee's assessment

"[…] *The Committee does not consider that it has been established that the overall content of the ordinary curriculum in general is sufficiently deficient so as to fall short of the substantive requirements imposed by Article 11§2.*
However, the Committee does find that certain specific elements of the educational material used in the ordinary curriculum are manifestly biased, discriminatory and demeaning, notably in how persons of nonheterosexual orientation are described and depicted.

The conclusion in this respect is based on an examination of specific material contained in the evidence provided by the complainant organisation […], in particular the extracts from the mandatory Biology course textbook used at secondary school level (Biology 3: Processes of Life) in which it is stated that "Many individuals are prone to sexual relations with persons of the same sex (homosexuals –men, and lesbians –women). It is believed that parents are to blame because they impede their children's correct sexual development with their irregularities in family relations. Nowadays it has become evident that homosexual relations are the main culprit for increased spreading of sexually transmitted diseases (e.g. AIDS)", or "The disease [AIDS] has spread amongst promiscuous groups of people who often change their sexual partners. Such people are homosexuals because of sexual contacts with numerous partners, drug addicts because of shared use of infected drug injection equipment and prostitutes".
These statements stigmatize homosexuals and are based upon negative and degrading stereotypes about the sexual behaviour of all homosexuals. Although the Government maintains that all curricula are taught in compliance with domestic law as well as international standards, it does not dispute the existence of the above-mentioned statements.

In effect, by officially approving or allowing the use of the textbooks that contain these anti-homosexual statements, the Croatian authorities have failed in their positive obligation to ensure the effective exercise of the right to protection of health by means of non-discriminatory sexual and reproductive health education which does not perpetuate or reinforce social exclusion and the denial of human dignity. As the European Court of Human Rights has stated in the field of the right to education, the public authorities have a duty which "is broad in its extent as it applies not only to the content of education and the manner of its provision but also to the performance of all the 'functions' assumed by the State. […] In addition to a primarily negativeundertaking, it implies some positive obligation on the part of the State" (see Case of Folgerø and Others v. Norway, Judgment of 29 June 2007, § 84). In the context of the right to protection of health through the provision of sexual and reproductive health education as set out in Article 11§2, this positive obligation extends to ensuring that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to the social exclusion, embedded discrimination and denial of human dignity often experienced by historically marginalised groups such as persons of non-heterosexual orientation. The reproduction of such state-sanctioned material in educational materials not alone has a discriminatory and demeaning impact upon persons of non-heterosexual orientation throughout Croatian society, but also presents a distorted picture of human sexuality to the children exposed to this material. By permitting sexual and reproductive heath education to become a tool for reinforcing demeaning stereotypes, the authorities have failed to discharge their positive obligation not to discriminate in the provision of such education, and have also failed to take steps to ensure the provision of objective and non-exclusionary health education.

With regard to the elective Catholic religious teachings course and the extracurricular courses referred to by the complainant organisation, the Committee notes that although they are state-approved they do not replace or substitute for ordinary curricular education and they are freely chosen by parents and their children. As noted above at paragraph 49, such optional courses will not be subject to the same level of scrutiny by the Committee as are ordinary curricular activities that receive direct state sanction and approval. In the light of its finding above concerning the ordinary curriculum, the Committee does not consider it necessary in the present case to examine where the exact boundaries lie for what is acceptable under the Charter where these optional courses are concerned. However, the Committee nevertheless draws the attention of the authorities to their positive obligation to ensure through the domestic legal system that state-approved sexual and reproductive health education is objective and non-discriminatory.

As regards INTERIGHTS' claim that there is a "distinct possibility" that certain on-going extracurricular or experimental activities (in casu the GROZD programme) may eventually be adopted as the basis for the ordinary school curriculum in Croatia, he Committee observes that this argument belongs in the realm of the hypothetical. Notwithstanding the experimental application of the programme in a limited number of schools, according to the information at the Committee's disposal the nature and content of

the programme to be implemented remains to be finally decided and it cannot therefore be a basis for the Committee to make a finding of a violation of the Charter at present.

The claim by the complainant organisation that Croatian school textbooks in general perpetuate certain gender stereotypes in the Committee's view remains imprecise and undeveloped. While the examples quoted by the complainant organisation might raise doubts about the gender-sensitivity and appropriateness of the educational material used, they do not amount in themselves to a violation of Article 11§2 of the Charter. However, once again, the Committee draws the attention of the authorities to their positive obligation to ensure that state-approved sexual and reproductive health education is objective and non-discriminatory.

Finally, with respect to INTERIGHTS' allegation that the quantitative and qualitative inadequacy of the sexual and reproductive health education provided as part of the ordinary school curriculum leaves girls vulnerable to certain health risks amounting to discrimination on grounds of sex, it follows from the conclusions above that the Committee cannot concur. The evidence at the Committee's disposal is insufficient to justify a conclusion that the sexual and reproductive health education overall is inadequate under Article 11§2 and in any event it has not been established by the statistical evidence or otherwise that Croatian girls are inordinately exposed to certain health risks.

The Committee therefore holds that the discriminatory statements contained ineducational material used in the ordinary curriculum constitute a violation of Article 11§2 in the light of the non-discrimination clause".

It is now possible to consult this decision on line.

Collective complaint filed against the Belgian government alleging a violation of the right to strike

The complaint European Trade Union Confederation (ETUC)/ *Centrale Générale des Syndicats Libéraux de Belgique* (CGSLB)/ *Confédération des Syndicats chrétiens de Belgique* (CSC)/ *Fédération Générale du Travail de Belgique* (FGTB) v. Belgium (Complaint No. 59/2009) was registered on 22 June 2009. The complainant organisations allege that the situation in Belgium is not in conformity with the rights laid down in Article 6§4 (right to strike) of the Revised Charter. They believe that judicial intervention in social conflicts in Belgium, in particular concerning restrictions imposed on the action of picket line, violate this provision.

Complaint n° 59/2009

The 238th Session of the European Committee of Social Rights was held in Strasbourg from 7-11 September 2009. See the agenda of the 238th session and the reports examined

You may find relevant information on the implementation of the Charter in States Parties using the following country factsheets:
http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable_en.asp

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

Council of Europe anti-torture Committee visits Italy (04.08.09)

A delegation of the CPT carried out an ad hoc visit to Italy from 27 to 31 July 2009. It was the Committee's eighth visit to this country. During the visit, the delegation examined various issues pertaining to the Government's new policy to intercept at sea irregular migrants approaching Italy's Southern Mediterranean border and send them back to Libya. In particular, the delegation focused its attention on the system of safeguards in place to ensure that no one is sent to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

In the course of the visit, the delegation held consultations with high officials of the Ministry of Interior, Ministry of Justice, and Ministry of Defence as well as with representatives of the Carabinieri, Guardia di Finanza, Guardia Costiera and Marina Militare. Further, it met representatives of non-governmental organisations active in areas of concern to the CPT.

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

Council of Europe anti-torture Committee visits Moldova (04.08.09)

A delegation of the CPT carried out an ad hoc visit to Moldova from 27 to 31 July 2009. The main purpose of the visit was to assess the manner in which investigations were and are being carried out into cases possibly involving ill-treatment by members of police forces in the context of the post-election events in April 2009 in Chişinău. The visit also provided an opportunity to review the treatment of persons detained by the police.

The CPT's delegation visited the Temporary detention facility of the General Police Directorate and Centru and Ciacana district police stations in Chişinău. It also had a series of interviews in private, including at Penitentiary establishment No. 13, with alleged victims and witnesses of police ill-treatment at the time of the April events and examined in detail a number of relevant investigation files. It also spoke to several members of police forces involved during the events, including the "Fulger" special police force.

In the course of the visit, the delegation held discussions with Vitalie PÎRLOG, Minister of Justice, Valentin ZUBIC and Ghenadie COSOVAN, Deputy Ministers of Internal Affairs, Vasile PASCARI, First Deputy Prosecutor General and Anatolie MUNTEANU, Parliamentary Advocate. The delegation also met with representatives of international and non-governmental organisations, members of the Moldovan Bar Association and defence lawyers.

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

C. European Commission against Racism and Intolerance (ECRI)

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

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E. Group of States against Corruption (GRECO)

GRECO's 10th Anniversary - Strasbourg, 5 October 2009 (20.08.09)

In October 2009, 10 years will have elapsed since 21 member States of the Council of Europe gathered in Strasbourg on the occasion of the first plenary meeting of the GRECO. Save for Liechtenstein and San Marino, GRECO now comprises 45 of the 47 member states of the Council of

Europe as well as the United States of America. The conference which takes place during the Slovenian Chairmanship of the Council of Europe's Committee of Ministers is designed as a high-level event which will bring together Ministers, Secretaries of State as well as other important stakeholders in the fight against corruption, including representatives from many international organisations and bodies.

During the two morning sessions of the conference, Ministers and Secretaries of State from some fourteen countries will highlight achievements in three distinct areas: Prevention of corruption – fighting corruption in public administration; Contribution of criminal law to the fight against corruption; Transparency of political financing

The two expert roundtables in the afternoon will be devoted to the cooperation of international stakeholders in the fight against corruption as well as future challenges and emerging subject areas, such as lobbying and bribery in the private sector.

Ms Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe, Mr Aleš ZALAR, Minister of Justice of Slovenia, and Mr Drago KOS, President of GRECO and Chair of the Slovenian Commision for the prevention of corruption, will address the conference in the opening Session.

Draft Programme

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

MONEYVAL's 30th Plenary meeting will take place in Strasbourg on 21-24 September 2009.

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

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

Part IV : The intergovernmental work

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

Lithuania ratified on 10 August 2009 the Agreement on the Transfer of Corpses (ETS No. 080).

Austria signed on 24 August 2009 the Council of Europe Convention on the avoidance of statelessness in relation to State succession (ETS No. 200).

Liechtenstein has accepted on 24 August 2009 the provisional application in its respect of certain provisions of Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194).

Ukraine ratified on 28 August 2009 the European Convention on Cinematographic Co-production (ETS No. 147).

Portugal ratified on 28 August 2009 the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199).

B. Recommendations and Resolutions adopted by the Committee of Ministers

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C. Other news of the Committee of Ministers

Killing of Zarema Sadulayeva and her husband - Statement by Samuel Žbogar (11.08.09)

Samuel Žbogar, Chairman of the Committee of Ministers and Minister for Foreign Affairs of Slovenia, condemned the murder of Sarema Sadulajeva and her husband Alik Djibralov, and expressed deep concern over yet another criminal attack against humanitarian workers in the region. "I call on the Russian authorities to do the utmost to bring the culprits to justice as soon as possible and to investigate any possible link with similar recent tragic events. The chain of assassinations must stop, and the enemies of human rights must know that they cannot act with impunity."

Terrorist attack in Ingushetia: Statement by Samuel Žbogar (18.08.09)

The Chairman of the Committee of Ministers and Minister for Foreign Affairs of Slovenia condemned on 18 August the terrorist attack in Ingushetia. "I strongly condemn the terrorist attack in Nazran, Russia. My thoughts are with the families of the victims today, to whom I extend my deepest condolences. This event follows on a series of attacks over the last months and represents a surge in violence involving innocent victims, including children. There can be no justification for this kind of action. The Slovenian Chairmanship of the Committee of Ministers will continue following the situation in the North Caucasus closely," he said.

Part V : The parliamentary work

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

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

➢ *Countries*

Organ trafficking in Kosovo[1]: Dick Marty undertakes visits to Serbia and Albania (03.08.09)

In connection with his forthcoming report on inhuman treatment of people and illicit trafficking in human organs in Kosovo, Dick Marty (Switzerland, ALDE), rapporteur of the PACE Committee on Legal Affairs and Human Rights began a fact-finding visit to Serbia (3 to 5 August), immediately followed by a visit to Albania (5 to 6 August). Mr Marty met various official representatives in the two countries, including the Justice and Interior ministers and state prosecutors, the national parliamentary delegations and NGOs, particularly ones representing the families of missing persons.

H. Däubler-Gmelin and C. Pourgourides: blatant disregard yet again, by Italy, of binding interim measures ordered by the ECHR (06.08.09)

"It is totally unacceptable to ignore binding interim measures ordered by the European Court of Human Rights (ECHR). It is disgraceful, for a mature democracy like Italy, to have send Ali Toumi back to Tunisia last Sunday, a case in which there exists an imminent risk of irreparable damage to the applicant", said Herta Däubler-Gmelin (Germany, SOC) and Christos Pourgourides (Cyprus, EPP/CD), respectively the Chair of the Council of Europe Parliamentary Assembly (PACE) Legal Affairs Committee and the rapporteur on the implementation of Strasbourg Court judgments.

"Such action is in blatant contravention of the Strasbourg Court's clearly established case-law. This is the fourth case in which, since 2005, the Italian authorities have taken measures in flagrant disregard of the Court's orders", they added. "This intolerable behaviour must be condemned by the Council of Europe without delay. Our Legal Affairs Committee will need to be seized of this matter", they concluded.

PACE Res 1571: Member states' duty to co-operate with the ECHR
PACE Rec 1809: Member states' duty to co-operate with the ECHR
Committee of Ministers ResDH(2006)45: States obligation to co-operate with the ECHR
CommDH(2009)16: HR Commissioner's Report of 16 April 2009 following his visit to Italy, §§ 94-105

Azerbaijan: PACE rapporteurs regret death in prison of Talysh activist (18.08.09)

Andres Herkel (Estonia, EPP/CD) and Evguenia Jivkova (Bulgaria, SOC), the co-rapporteurs for the monitoring of Azerbaijan by the PACE, made the following statement on 18 August:

"We are saddened to learn of the death in prison of Novruzali Mammadov, a prominent member of the Talysh ethnic community who was editor-in-chief of the Talysh Sedo newspaper and a member of the Azerbaijan National Academy of Sciences.

He was sentenced to ten years in prison in February 2007 for high treason and for stirring up national, racial or religious hostility, but is considered a political prisoner by the Federation of Human Rights Organizations of Azerbaijan. PACE had strong doubts about the fairness of his trial, which was not

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

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

public, and had made numerous calls for his release, including on humanitarian grounds, given his age and state of health. These fell on deaf ears. We also deplore the fact that, at the time of his arrest, his linguistic manuscripts were destroyed by law enforcement bodies and that this immense work for the benefit of Talysh cultural heritage is now lost forever."

- *Themes*

PACE has clocked up 60 years now, but its work is far from over (07.08.09)

On the eve of the 60th anniversary of the first meeting of the PACE, that took place on 10th August 1949, its President, Lluís Maria de Puig, gives a very positive account of its achievements, but recalls that the work of the Council of Europe and its Assembly as the "conscience of Europe" is far from over:

"I am among those who consider the Organisation's record after sixty years as very positive. At a time of budgetary austerity we can say that the Council of Europe represents "good value for money" for its Member States. It has successfully conducted a highly ambitious political project, bringing together under the same roof, around the same values, all the countries of a continent with a wide range of histories, cultures, languages and traditions.

The Council of Europe has taken the defence and promotion of human rights, the rule of law and democracy as the moral bedrock of its political project. Respect for these values is not just an internal matter for individual Member States. It is the business of each and every one of us, and as parliamentarians we have the right and the duty to act to ensure that all government activities are in keeping with our values and principles. The "monitoring system" developed by the Assembly helps remind States of the commitments and obligations which they took on when they joined the Organisation.

In every family, and this also goes for our European family, criticism seems to be all right for one's neighbours but not for oneself. And yet criticism is part of democracy; it helps us pinpoint our weaknesses and remedy them. It is a case not of trying to replace the democratically elected governments but of ensuring that they respect our values by means of dialogue and co-operation.

We must shield democracy from the danger of the latent – and often actual – temptation of trying to deal with our societal problems by sacrificing certain of our values and restricting the exercise of our rights and freedoms.

The work of the Council of Europe and its Assembly as the 'conscience of Europe' is far from over".

The Assembly marks the 60th anniversary of its first meeting with a commemorative webpage

Murder of Zarema Sadulayeva and her husband: the situation in Chechnya is becoming untenable (11.08.09)

PACE President, Lluís Maria de Puig, and various Assembly rapporteurs expressed their grief and shock following the murder in Grozny of Zarema Sadulayeva, head of the NGO "Save the Generation," and of her husband: "We have just been horrified to learn that the bodies of Zarema Sadulayeva, head of the NGO "Save the Generation," and of her husband, have been discovered lifeless in the boot of their car. We wish to pay tribute to the courage and commitment of Mrs Sadulayeva and above all to express our condolences to their family and our solidarity with their friends and colleagues.

PACE President condemns terrorist attack in Nazran (18.08.09)

"I strongly condemn the terrorist attack in Nazran, which will bring only further sadness and anger to this troubled part of Europe," said Lluís Maria de Puig, the President of the PACE. "My thoughts are with those facing grief and distress. This is the latest – and most shocking – sign of a dangerous escalation of violence in what is fast becoming a 'dirty war', drawing in innocent victims. The Parliamentary Assembly is following closely the situation in the North Caucasus, including as part of its monitoring procedure."

Dick Marty: time for Europe to come clean once and for all over secret detentions (21.08.09)

Dick Marty (Switzerland, ALDE), the rapporteur of the PACE on secret detentions, made the following statement on 21 August:

“With the report that Lithuania hosted a secret CIA prison, as well as other recent revelations regarding the ‘black sites’ in Poland and Romania, the time has now come for Europe to account in full for its involvement in this shameful episode. I have always believed that the ‘dynamic of truth’ would prevail in the face of state secrecy. But European credibility is damaged by these repeated leaks of only partial truths every few weeks or months. Let us draw a line under this, once and for all, and come clean.

My own sources seem to confirm the news report that US ‘high-value detainees’ were held in Lithuania. The authorities should now carry out a full, independent and credible investigation. Furthermore, an unjustified use of the ‘state secrets’ doctrine should not act as a barrier to full disclosure of what occurred on the outskirts of Vilnius.

Denial and evasion are no longer credible: European countries must come clean.”

Chronology of the Council of Europe’s investigations into secret detentions

Campaign against climate change (26.08.09)

A campaign called the ‘New Earth Deal’ was launched in London on 26 August, with the support of PACE’s Environment Committee, to push for a global climate change deal at Copenhagen in which richer countries should do more. PACE’s rapporteur on climate change John Prescott (United Kingdom, SOC), a former Deputy Prime Minister who took part in the Kyoto Protocol negotiations, said developed countries must “carry a greater share of the burden of reducing emissions” because of their historic responsibility for past emissions: “They must now recognise the central principle that the polluter pays.”

The committee is organising a conference in Strasbourg on 29 September, and the campaign will also involve school visits, a social networking website, and showings of the environmental film ‘Age of Stupid’.
'New Earth deal' website

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

A. Country work

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B. Thematic work

State budgets reveal whether the government is committed to human rights (03.08.09)

"The current economic crisis has made it particularly important to screen state budgets for their compliance with human rights" said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Viewpoint published on 3 July 2009. "The allocation of resources will affect human rights protection - including gender equality, children's rights and the situation of old or disabled persons, migrants and other groups which risk being disadvantaged. The way state revenues are obtained will also have an influence on justice and fairness in society; in this regard no tax system is neutral."

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

"Serious implementation of human rights standards requires defined benchmarking indicators" says Commissioner Hammarberg (17.08.09)

"Closing the implementation gap between the rights proclaimed in human rights treaties and the reality in member states requires a systematic approach and meaningful indicators" said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Viewpoint published on 17 August. Highlighting models and categories of indicators adopted by international organisations such as the Council of Europe, the European Union and the United Nations, the Commissioner stresses that "indicators make human rights planning and implementation processes more efficient and transparent. They make it easier to hold governments accountable for the realisation of human rights and also help highlight success through accurate criteria."

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

C. Miscellaneous (newsletter, agenda…)

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