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"Promoting independent national non-judicial mechanisms for the protection of human rights, especially for the prevention of torture"

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

For any queries, please contact:
markus.jaeger@coe.int

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Introduction

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

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

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

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

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

The preparation of the RSIF is funded under the so-called Peer-to-Peer II Project, a European Union – Council of Europe Joint Project entitled "Promoting independent national non-judicial mechanisms for the protection of human rights, especially the prevention of torture".

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

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

- **Right to life**

Bektaş and Özalp v. Turkey (no. 10036/03) (Importance 2), Özcan and Others v. Turkey (no. 18893/05) (Importance 2) – 20 April 2010 – Two violations (substantive and procedural) of Article 2 – Killing of the applicants' close relatives by State officers (first case) – Violation of Article 2 (substantive and procedural) – Killing of the applicants' close relative by State officials (second case) – Violation of Article 3 – Ill-treatment of the applicants' relative by State officials before his death (second case)

Both cases concerned the excessive use of force against the applicants' close relatives during operations by the police (first case) and by the military (second case). In the first case, the applicants complained about the killing of Murat Bektaş and Erdinç Arslan, their husband and brother respectively, during a police anti-terrorist raid on 5 October 1999 on the block of flats where the two men were living. The applicants in the second case are 16 Turkish nationals who allege that their close relative, Yılmaz Özcan, was severely beaten and then shot in the back of his neck on September 2000 by gendarmes who had come to the family home to arrest him. All the applicants complained that the use of force against their relatives had not been necessary and that the ensuing investigations into their deaths had been ineffective. In the case of *Özcan and Others* the applicants further complained about the ill-treatment to which their relative had been subjected before his death.

In the both of cases the Court held that there had been violations of Article 2 due to the State's positive obligation and responsibility as regards the death of the applicants' relatives by public officials. In the second case the Court also found a violation of Article 3 on account of the fact that the applicants' relative has been subjected to ill-treatment by State officers before his death.

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

Slyusarev v. Russia (no. 60333/00) (Importance 1) – 20 April 2010 – Violation of Article 3 – Degrading treatment on account of the confiscation of the applicant's damaged glasses in detention and the consequent delay in procuring a new set (five months)

The applicant is very short-sighted. He was arrested in July 1998 on suspicion of armed robbery; at some point during his apprehension his glasses were damaged and confiscated. Criminal proceedings were brought against him and he was also subsequently charged with several counts of fraud. In June 1999 he was found guilty of those charges and sentenced to nine years' imprisonment, upheld on appeal. According to the applicant, while in pre-trial detention, he and his wife complained on five occasions to the prosecution authorities about the deterioration of his eyesight and requested that his glasses be returned to him. The applicant was examined by an optician who concluded that his eyesight had dropped and prescribed new glasses, which he received in January 1999. In the meantime, the applicant's old glasses were returned to him on 2 December 1998 following a formal request made by his lawyer.

The applicant complained about his glasses having been taken away from him shortly after his arrest and that – still in pre-trial detention – they had only been returned to him five months later.

The Court considered that the applicant, unable to read or write normally without his glasses, had suffered from such a situation, which had created a lot of distress in the applicant's everyday life. The prosecution had to have been aware of the applicant's problem well before 2 December 1998 as a medical examination by an optician had been ordered in September 1998 following a request lodged by the defence some time earlier. Despite that examination, it had then taken the authorities almost five months to procure the new glasses prescribed for him. In the meantime, the applicant's old glasses could have been given back to him as they could have alleviated some of his difficulties. The Government gave no explanation for these shortcomings; nor did they explain why the applicant had only been examined by a specialist after two and half months' detention. Moreover, taking the applicant's glasses could not be explained in terms of the "practical demands of imprisonment" and had been unlawful in domestic terms. Given the degree of the applicant's suffering, mainly imputable to the authorities, and its duration, the Court concluded that the applicant had been subjected to degrading treatment, in violation of Article 3.

Charahili v. Turkey (no. 46605/07) (Importance 2) – Keshmiri v. Turkey (no. 36370/08) (Importance 3), Ranjbar and Others v. Turkey (no. 37040/07) (Importance 3), Tehrani and Others v. Turkey (nos. 32940/08, 41626/08 and 43616/08) (Importance 2) – 13 April 2010 – Violation of Article 3 (first, second and fourth case) – Risk of being subjected to ill-treatment if expulsion order were to be enforced – Violation of Article 3 (first and fourth case) – Conditions of detention – Violation of Article 13 (second and fourth case) – Lack of an effective remedy in respect of Article 3 – Violation of Article 5 § 1 (first, third and fourth case) – Unlawful deprivation of liberty on account of the lack of clear legal provisions establishing the detention orders – Violation of Article 5 § 4 (fourth case) – Lack of an effective remedy

The applicants are one Tunisian, currently held in the Kırklareli Foreigners' Admission and Accommodation Centre in Turkey, and ten Iranian nationals, some detained in the Kırklareli Centre, some currently settled in Kırklareli on the basis of a temporary residence permit and some currently living in Sweden. Recognised as refugees by the UNHCR (the United Nations High Commissioner for Refugees), they all left their country of origin and entered Turkey illegally. The four cases concerned their possible deportation to Tunisia (the first case) and Iran or Iraq (the other three cases). They alleged that, as members of illegal organisations (Ennahda in the first case, and former members of the People's Mojahedin Organisation in the second and fourth cases), they would be at real risk of death or ill-treatment if deported. In all the cases but one (*Keshmiri*), the applicants also made various complaints under Article 5 about the unlawfulness of their detention pending deportation. The applicants in the cases of *Charahili* and *Tehrani and Others* further complained under Article 3 about the conditions of their detention in a police station and in some of the detention centres where they had been held awaiting deportation.

In the above mentioned cases the Court found that there had been a violation of Article 3 due to the risk of being subjected to ill-treatment if the deportation order were enforced (1st, 2nd and 4th cases). The Court had also found a violation of the same provision due to the poor conditions of detention that the applicants have been detained in view of deportation (1st and 4th cases). In the 2nd and 4th cases the Court held that the applicants had not had an effective remedy in respect of Article 3, in violation of Article 13. In the 1st, 3rd and 4th cases the Court has found a violation of Article 5 § 1 on account of the unlawful detention of the applicants. It also considered that in the 4th case the applicants had not had any avenue or remedy to challenge their detention. In addition, the Court held that the State had to

secure the release of Mohammad Javad Tehrani and Parviz Norouzi and should not re-detain Nader Kazempour Marand and Parviz Ranjbar Shorehdel. Judge Sajó presented a partly dissenting opinion.

Trabelsi v. Italy (no. 50163/08) (Importance 3) – 13 April 2010 – Violations of Articles 3 and 34 – The expulsion of an Islamic fundamentalist from Italy to Tunisia in spite of the Court's interim measure placed him at a real risk of treatment contrary to Article 3 and deprived him of the effective exercise of his right of individual petition, which had been nullified by his expulsion

The applicant is a Tunisian national who had been living in Italy since 1986 with his wife, also a Tunisian national, and his three young children, born in Italy. In April 2003 he was arrested on suspicion of criminal conspiracy linked to fundamentalist Islamist groups and of aiding and abetting illegal immigration, and was placed in pre-trial detention. In July 2006 the Cremona Assize Court sentenced him to ten years and six months' imprisonment and ordered his deportation once his sentence had been served. The Brescia Assize Court of Appeal acquitted the applicant of the charge of aiding and abetting illegal immigration and reduced his sentence to seven years' imprisonment. That decision was upheld by the Court of Cassation and became final. In November 2008 the applicant was granted a remission of 485 days of his sentence. Meanwhile, the Tunisian courts had also sentenced him, *in absentia*, to ten years' imprisonment for membership of a terrorist organisation in peacetime. At the applicant's request, the Court, applying Rule 39 of the Rules of Court (interim measures), indicated to the Italian authorities on 18 November 2008 that, in the interests of the proper conduct of the proceedings before it, the applicant should not be deported until further notice. The Court pointed out that failure by a Contracting State to comply with a measure indicated under Rule 39 could entail a violation of Article 34 of the Convention. The applicant was nevertheless deported to Tunisia on 13 December 2008. The previous day, the Italian authorities had sought diplomatic assurances from the Tunisian authorities. Replying on 3 January 2009, the Advocate-General at the Directorate-General of Judicial Services in Tunisia assured the Italian authorities that the applicant's human dignity would be respected, that he would not be subjected to torture, inhuman or degrading treatment or arbitrary detention, that he would receive the appropriate medical care and that he would be able to receive visits from his lawyer and members of his family. Following an enquiry from the Italian authorities, the Tunisian Ministry of Foreign Affairs indicated in October 2009 that the applicant was being detained in Saouaf Prison and was receiving visits from his family and medical treatment.

Risk of torture (Article 3)

The Court noted that the expulsion of a person by a Contracting State could engage the responsibility of that State under the Convention, where substantial grounds had been shown for believing that the person in question, if expelled, would face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. In these circumstances, Article 3 dictated that the person concerned should not be expelled to that country. Basing its findings on the conclusions it had reached in a previous case, which were confirmed by Amnesty International's 2008 report on Tunisia, the Court considered that substantial grounds had been shown for believing that the applicant faced a real risk of being subjected to treatment contrary to Article 3 in Tunisia. It remained for the Court to ascertain whether the diplomatic assurances provided by the Tunisian authorities were sufficient to eliminate that risk and whether the information concerning the applicant's situation following his deportation confirmed the view of the Italian authorities. On the first point the Court noted first of all that it had not been established that the Advocate-General at the Directorate-General of Judicial Services had had the power to give assurances on behalf of the Tunisian State, that reliable international sources indicated that allegations of ill-treatment were not investigated by the competent authorities in Tunisia and that the Tunisian authorities were reluctant to cooperate with independent human rights organisations. The Court also noted that neither the applicant's representative before the Court nor the Italian ambassador in Tunisia had been able to visit the applicant in prison and check on his situation. Accordingly, the Court could not share the view of the Italian Government that the assurances given offered the applicant effective protection against the serious risk of being subjected to treatment contrary to Article 3. On the second point the Court reiterated that the existence of a risk of ill-treatment had to be assessed primarily with reference to those facts which were known or ought to have been known to the State in question at the time of the expulsion. The Court noted that the Tunisian Ministry of Foreign Affairs had stated that the applicant received regular visits from his family and would be kept under medical supervision. However, although these assertions came directly from the Tunisian Foreign Affairs Ministry, they were not corroborated by medical reports and were not capable of demonstrating that the applicant had not been subjected to treatment contrary to Article 3. In that connection the Court could only reiterate its observations as to the inability of the applicant's lawyer and the Italian ambassador to visit the applicant in prison and to verify whether his physical integrity and human dignity were indeed being respected. The Court therefore held that the carrying-out of the applicant's expulsion to Tunisia had been in breach of Article 3 of the Convention.

Failure to comply with the interim measure indicated to Italy

In cases such as the present one where a risk of irreparable damage was plausibly asserted, the object of the interim measure indicated by the Court was to maintain the status quo pending the Court's determination of the case; the interim measure therefore went to the substance of the application. Furthermore, the Court had already ruled that failure to comply with interim measures was to be regarded as preventing the Court from effectively examining the applicant's complaint, as impeding the effective exercise of his or her right and, accordingly, as a violation of Article 34. The present case was no exception. Italy had deported the applicant to Tunisia in the knowledge that the interim measure indicated under Rule 39 was still in force and without even having obtained beforehand the diplomatic assurances to which the Government referred in their observations. In the circumstances, the applicant had been unable to set out all the arguments relevant to his defence and the Court's judgment was in danger of being deprived of any useful effect. In particular, the fact that the applicant had been removed from Italian jurisdiction constituted a serious impediment to the fulfilment by the Government of their obligations (arising out of Articles 1 and 46 of the Convention) to safeguard the applicant's rights and make reparation for the consequences of the violations found by the Court. That situation had amounted to hindrance of the effective exercise by the applicant of his right of individual petition, which had been nullified by his expulsion. The Court therefore held that there had been a violation of Article 34.

Brega v. Moldova (no. 52100/08) (Importance 3) – 20 April 2010 – Violation of Article 3 – Lack of medical care in detention – Violation of Article 5 § 1 – Unlawful detention – Violation of Article 11 – The applicant's arrest for conducting a silent peaceful protest about his brother's arrest and detention

The applicant, a Moldovan national, is a journalist. In May 2008 outside a Government building in Chişinau's main square he staged a silent protest about his brother's arrest and detention which happened a few days earlier. He was approached by police officers and arrested for disturbing public order; he filmed the encounter. The domestic courts subsequently acquitted him, upholding that his arrest and detention were based on false grounds as it could be seen from his video that he had neither resisted arrest nor insulted the police officers.

The applicant complained about the verbal and physical abuse to which he was subjected before being arrested and the poor conditions – including lack of medical assistance – of his subsequent detention. He also complained about his detention for 48 hours without any legal basis.

Looking at all the elements cumulatively and taking into consideration the applicant's state of health at the time, the Court considered that the treatment applied to the applicant could be qualified at least as "degrading" in violation of Article 3. The Court noted that the applicant was arrested and charged with the offences of insulting police officers and resisting arrest. It appeared clearly from the video, and it was confirmed by the domestic court that acquitted the applicant, that the accusations against him were false and that he had not done any of the things imputed to him. In such circumstances, and given the absence of any "reasonable suspicion" within the meaning of Article 5 § 1(c), the Court considered that the applicant's detention on false charges that he had resisted arrest and insulted police officers could not be considered "lawful" under Article 5 § 1 of the Convention. There had a breach of that provision. The Court noted that the applicant's protest was staged in accordance with the law concerning assemblies, that he remained peaceful and did not disturb public order in any way. Nor was his filming the encounter with the police officers contrary to the law. He continued to be peaceful and polite even after being manhandled by the police and did not resist the abusive arrest in any way. In such circumstances, the Court held that the interference with his right of assembly could not be considered lawful under domestic law, in violation of Article 11 of the Convention.

Stefanou v. Greece (no. 2954/07) (Importance 3) – 22 April 2010 – Violation of Article 3 – Ill-treatment of a sixteen-year old Greek national of Roma origin in the hands of the police – Violation of Article 6 § 1 – Excessive length of criminal proceedings concerning the ill-treatment (six years, six months and seven days at two levels of jurisdiction)

The applicant is a Greek national of Roma origin. He was sixteen years old at the time of the events. On 5 August 2001, a kiosk owner in Argostoli reported that approximately 28,000 euros (EUR) had been stolen from him. The police conducted an immediate investigation and arrested in that connection four young persons of Roma origin, who were tried in summary proceedings on the following day and were acquitted of all charges. The applicant, a friend of the four youths, turned up at the police station spontaneously on 5 August 2001 out of fellow feeling for his friends. He was also shown to the kiosk owner but was not recognised by him. According to the applicant, while at the police station, he was questioned about his possible involvement in the theft. He was also punched and slapped hard in the face to make him confess that he had taken part in it. A few hours after his release, he was medically examined in a hospital and issued a certificate registering numerous injuries

on his head. Two days later the applicant attempted to lodge a complaint with the prosecutor about the beating but the prosecutor was absent from his office. In September 2001, the World Organisation Against Torture denounced the ill-treatment of the applicant in the Argostoli police station and in October that year he formally complained to the prosecutor about it. The investigation was carried out by the hierarchical superior police authority to the Argostoli police which was even situated in the same building. Although the first instance criminal court convicted a police officer for having ill-treated the applicant and sentenced him to three years imprisonment, the police officer in question was acquitted on appeal. The applicant complained on two occasions, in 2003 and in 2005, to the prosecutors in Cephalonia and Athens about eleven police officers whom he accused among other things of blackmail and forgery. In his complaint he alleged racial bias on the part of the police commander involved in his August 2001 questioning and claimed that he was ill-treated because of his Roma origin. The police officers were never tried, charges having been either not brought, or later dropped.

The applicant complained that he had been seriously ill-treated and that because of his Roma origin, that no effective investigation had been carried out into his complaints and that the criminal proceedings brought as a result of his complaint had lasted too long.

Ill-treatment (Article 3)

The Court noted that the parties agreed that the applicant had suffered injuries on or around the date of his arrest but disagreed about whether or not the injuries had been caused by police officers. The Court observed that as soon as the applicant had left the police station his injuries had been recorded by the local hospital. In addition, the first instance criminal court had established that one police officer had repeatedly punched the applicant in the head and caused him serious bodily harm. While the appeal court had overturned that ruling finding that the applicant had injured his arm during an unrelated fight the previous night, the Court noted that the hospital certificate had only registered head injuries consistent with the applicant's complaints and had been silent about an arm being broken. The Court thus had serious doubts about the alleged fight capable of providing a convincing explanation for the origin of the applicant's head injuries. The Court considered that these doubts were supported by the inadequacy of the investigation into this particular aspect. A number of shortcomings in the investigation were identified: it had been carried out by a police officer from the Directorate responsible for the police station of the alleged perpetrators; the applicant's state of health at the time he arrived at the police station had not been established nor recorded anywhere; and no serious attempt had been made to elucidate whether the applicant had actually participated in a previous fight or any other event which could have caused the injuries he had. The Court further noted that at the time of the events the applicant had been sixteen years old. The Court concluded that, in view of the above the applicant had been seriously physically harmed by the police. This ill-treatment had inevitably further caused him feelings of fear, anguish and inferiority as a result of his young age. Consequently, there had been a breach of Article 3 of the Convention.

Length of criminal proceedings (Article 6 § 1)

Having noted that the criminal proceedings concerning the applicant's ill-treatment had lasted six years, six months and seven days at two levels of jurisdiction, the Court held that this had been an excessively long time, in violation of Article 6 § 1.

- **Right to liberty and security**

C.B. v. Romania (no. 21207/03) (Importance 2) – 20 April 2010 – Violation of Article 5 §§ 1 (e) and 4 – Unlawful compulsory detention in a psychiatric hospital of a man charged with maliciously accusing a police officer – Lack of an effective remedy

The applicant's mother was living in Podenii Noi. The applicant, C.B., intervened on her behalf by means of several criminal complaints alleging theft and other court actions against individual third parties and agents of the State, including an officer in charge of Podenii Noi police station. In October 2001 the latter lodged a criminal complaint against C.B. for malicious accusation, and proceedings were initiated in September 2002. On 4 September 2002 police officers entered C.B.'s home by force and arrested him. They were acting on an order issued by the public prosecutor's office the previous day in the context of the proceedings for malicious accusation, which stated that C.B. was to be compulsorily detained "until an expert assessment could be carried out by Voila psychiatric hospital". The order, which was based on a certificate purportedly issued by C.B.'s "family doctor", stated that the applicant suffered from schizophrenia and concluded that doubts existed as to C.B.'s state of mental health at the time of the events being investigated. C.B. was detained for 14 days on a maximum-security ward in Obregia psychiatric hospital in Bucharest, where doctors found no obvious signs of any psychological disorder. The applicant lodged a complaint against his compulsory detention. In April 2003 the public prosecutor's office returned the complaint to the applicant on the

ground that he had already been committed for trial and would be able to assert his rights before the trial court. C.B. was committed to stand trial in December 2002. The applicant was acquitted in November 2004 by the Ploieşti Court of Appeal, which noted that, in taking action lawfully on his mother's behalf, the applicant had simply been exercising his rights. It further observed that the medical certificate issued by C.B.'s "family doctor", to which the public prosecutor had referred in ordering the applicant's detention, had in fact come from a doctor who had never seen or examined the applicant. C.B., who was studying law at the relevant time, was obliged to sit his degree examinations in 2004 instead of 2003 owing to these events.

C.B. complained that his psychiatric detention had been unlawful; in particular, it had been arbitrary as there had been no medical opinion stating that it was necessary. He further complained of the absence of any means to review of its lawfulness. The applicant also complained of the circumstances of his arrest on 4 September 2002.

Alleged unlawfulness of the applicant's detention (Article 5 § 1 (e))

The Court reiterated first of all that, as a rule, for the detention of a "person of unsound mind" to be considered lawful, an expert had to have found the person concerned to be of unsound mind prior to his arrest, and the disorder had to be of a kind or degree warranting compulsory detention. It might be acceptable, on an exceptional basis, for an expert opinion to be obtained immediately after the arrest. As deprivation of liberty was a very serious measure, it had to be shown that it had been absolutely necessary in the circumstances and that other less severe measures would not have been sufficient. The Court observed first of all that the applicant's compulsory detention had been based simply on the investigators' doubts as to his state of mental health and on a medical certificate produced by a general practitioner who had never seen or examined the applicant. As the applicant had not been accused of any violent or dangerous behaviour and did not have a history of psychiatric problems, his detention had quite clearly not been justified on urgent grounds either. Furthermore, the Government had offered no explanation as to why other measures, less severe than detention in a maximum-security ward had not been considered or, if they had, why they had been deemed insufficient. The Court noted in that regard that there was nothing in the case file to indicate that the applicant would have refused to undergo a psychiatric assessment of his own free will. Finally, the Court found most regrettable the clearly disproportionate manner in which the detention measure had been carried out (arrest using force in the small hours of the morning at C.B.'s home), particularly in view of the considerations outlined above. Accordingly, the Court held that there had been a violation of Article 5 § 1 (e).

Alleged failure to review the lawfulness of the applicant's detention (Article 5 § 4)

In the Court's view, the Government had not demonstrated that the applicant had had any remedy available to him by which to challenge the public prosecutor's decision ordering his detention. The Court also observed that C.B.'s complaint concerning his detention had been returned to him by the public prosecutor's office on the ground that he had already been committed for trial and could assert his rights before the trial court. Ultimately, the applicant's detention had not been the subject of any review by the courts. The Court therefore held that there had been a violation of Article 5 § 4.

- **Right to a fair trial**

Laska and Lika v. Albania (nos. 12315/04 and 17605/04) (Importance 2) – 20 April 2010 – Violation of Article 6 § 1 – Unfairness of criminal proceedings on account of clear irregularities at the investigation stage

The applicants are currently serving prison sentences in Burrel Prison, Albania. On 31 March 2001, three persons wearing blue and white balaclavas robbed a minibus on the road line between Tirana and Kukës. The aggressors were armed with two Kalashnikovs and a knife. Having taken the passengers' money and jewellery, they left the scene without causing casualties. Some hours after the event, the police searched houses near the scene of the crime, including that of Mr Lika in which he was having lunch with his father, his brother, and his friend, Mr Laska. The police searched the house in the absence of the applicants' lawyer and found in the pocket of Mr Laska's jacket two white T-shirts and a blue cloth made into balaclavas. In addition they found some grenades near the house, but failed to find the stolen goods or the weapons that had been in the possession of the aggressors. The applicants and Mr Lika's brother and father were then taken to a police station and questioned. Later the same day, the police officers in charge of the investigation conducted an identification of persons and items by the victims of the robbery. The applicants, wearing blue and white home-made balaclavas, and two other persons, wearing black balaclavas, were put in a row in the same room in order to be identified. Although the police changed the position of the persons in the room, the victims consistently identified the persons wearing blue and white balaclavas as the aggressors, that is to say

the applicants. The applicants' lawyer was not present either during the questioning or the identification.

In April 2001 the applicants were charged with armed robbery and illegal possession of arms which they contested during a hearing in November 2001 before the district court. While the court noticed certain irregularities during the investigation stage, such as the absence of a lawyer both during the questioning and the identification, it found the applicants guilty of armed robbery and of illegal possession of weapons on the basis of eyewitness statements. They were sentenced to thirteen years' imprisonment in a high-security prison. Their appeals before the higher domestic courts were dismissed including their requests for the courts to summon the police officers as witnesses and to produce at the trial the items presented as the balaclavas used during the robbery which the applicants insisted were simple T-shirts. During the November 2001 hearing, the applicants complained that they had been ill-treated by the police in an attempt to force them to confess to the robbery and to reveal the location of the stolen goods and the arms used. In May 2002 the district court rejected their complaint as submitted outside the limitations period.

The applicants complained of being ill-treated by the police during questioning and that the proceedings against them were unfair.

Fair trial (Article 6 § 1)

The Court observed that the applicants had been found guilty essentially on the strength of eyewitnesses' submissions obtained during the identification parade. As the applicants had been made to wear blue and white balaclavas, similar to those which had worn the robbers on the minibus and in stark contrast to the black balaclavas worn by the other persons in the line, the identification parade had amounted to an open invitation to witnesses to pick both applicants as the perpetrators of the crime. The Court noted that even though the district court had accepted that there had been irregularities at the investigation stage, in convicting the applicants it had relied on their positive identification by eyewitnesses during the identification parade. Neither the assistance provided subsequently by a lawyer nor the adversarial nature of ensuing proceedings could cure the defects which had occurred during the criminal investigation. There had been no independent oversight of the fairness of the procedure or opportunity for the applicants to protest against the blatant irregularities. The Court found that the manifest disregard of the rights of the defence at this stage seriously undermined the fairness of the subsequent criminal trial. The applicants should have been able to argue that the balaclavas they had been required to wear at the identification parade, and which had constituted the decisive evidence for their conviction, had been entirely different from those worn by the robbers. However, as that had not been allowed, they had been denied an opportunity at the trial to redress the irregularities which had occurred at the identification parade. Consequently, the proceedings in question had been unfair, in violation of Article 6 § 1.

Villa v. Italy (no. 19675/06) (Importance 2) – 20 April 2010 – Violation of Article 2 of Protocol No. 4 – Unjustified delay between a hearing before the judge responsible for the execution of sentences and the actual lifting of the supervision measure imposed on the applicant

The applicant is an Italian national. In July 1997 he was summoned to appear before the Milan magistrate for threatening to kill his father and wounding him with a knife. Doctors had found that Mr Villa, who was recognised as a 100% disabled civilian, suffered from chronic paranoid psychosis, had strong destructive tendencies and was a danger to society. In a judgment in May 1999, the Milan magistrate found the applicant guilty, but made a finding of diminished responsibility and sentenced him to three months and 15 days' imprisonment, a sentence replaced by a seven-month community sentence followed by a one-year supervision order. Starting in July 2000 the applicant first served the seven-month community sentence (entailing a prohibition on leaving Milan, a requirement to report daily to the police station, a ban on carrying weapons or explosives, suspension of his driving licence, confiscation of his passport and a requirement to carry a copy of the order setting out the terms of the community sentence). In October 2001 the Milan judge responsible for the execution of sentences ruled that the applicant was still a danger to society and therefore decided to subject him to a one-year supervision order (requiring him to report once a month to the relevant police authority, to remain in contact with a psychiatric clinic, to reside in Milan at a specified address, not to leave the city, to remain at home between 10 p.m. and 7 a.m. and to carry a copy of the supervision order setting out its terms). Between November 2001 and December 2002 Mr Villa was detained in Montelupo Fiorentino psychiatric hospital, before again being made subject to a supervision order and ordered to reside at his father's home. That measure was extended several times until July 2005. On each occasion the Florence judge responsible for the execution of sentences found that the applicant continued to pose a danger to society, giving reasons for that finding. On 1 July 2005 the judge re-examined the file and took the view that Mr Villa was no longer a danger to society (he took account of the fact that the applicant was cooperating with a psychiatric clinic, was in work and had an improved relationship with

his father). On the same day the judge decided to lift the supervision measure. However, that decision was not deposited with the registry until four months later, on 2 November 2005; it was served on the applicant on 7 November 2005. Mr Villa subsequently sought compensation, without success, for the allegedly excessive length of the proceedings against him (including the period of application of the security measures).

Mr Villa alleged that the period of application of the security measures imposed on him had been excessive and that the latter had been arbitrary in nature. He further contended that the excessive length of the proceedings against him, including the period of application of the security measures, had been in breach of Article 6 § 1.

The Court noted that measures such as supervision orders were justified only if they had a sufficient legal basis (which was not disputed in this case) and for as long as they furthered the aims they were supposed to pursue (in this instance, the maintenance of public order and the prevention of crime). The Court pointed out that, where the measures in issue were imposed with reference to factors in relation to the person concerned that were susceptible to change over time, such as the danger posed by the applicant to society, it was incumbent on the State to review periodically whether the grounds for any restrictions on freedom of movement persisted. In Mr Villa's case the Court took the view that this had been the case until 1 July 2005, when the necessity of keeping the supervision order in place was reviewed for the last time. The Court went on to observe that the Florence judge responsible for the execution of sentences had re-examined the file on 1 July 2005 and decided on that date to lift the supervision order. However, that decision had not been served on the applicant until four months later, in November 2005. In the Court's view, greater diligence and speed had been called for in the context of a decision affecting the applicant's freedom of movement, in particular as the restrictions imposed on Mr Villa had already been extended for nine months. The interval of over four months between the hearing before the judge responsible for the execution of sentences and the actual lifting of the supervision measure had not been justified and had made the restrictions on the applicant's freedom of movement disproportionate. There had therefore been a violation of Article 2 of Protocol No. 4 on account of the delay in notifying the applicant of the decision to lift the supervision order after the hearing of 1 July 2005.

Chesne v. France (no. 29808/06) (Importance 2) – 22 April 2010 – Violation of Article 6 § 1 – Lack of objective impartiality of two judges on account of their pre-conceived view of the applicant's guilt

On 25 March 2003, in the course of an investigation into suspected drug trafficking, police found substantial quantities of drugs and weapons in a garage rented by the applicant. Mr Chesne, who had a previous conviction for drug trafficking, admitted that he had resumed his activity and described the organisation of the operation in detail. The applicant was placed under investigation for a drug-related offence committed as a repeat offender and was remanded in custody. He appealed against his pre-trial detention to the investigation division of the Orléans Court of Appeal, made up of three judges including Ms C. In April 2003 the investigation division ruled that a court supervision measure would be ineffective and upheld the detention order. In reaching that conclusion the judges, while acknowledging that the investigation revealed some inconsistencies at that stage, found that the applicant "[had] acted very much as a professional drug trafficker, making a substantial profit in the process" and was considered as "one of the main traffickers". The judges also took into account the applicant's previous conviction. In June 2004, the Orléans Criminal Court found the applicant guilty of unauthorised purchase of drugs as a repeat offender and sentenced him to 13 years' imprisonment. After lodging an appeal the applicant's lawyers learned that the bench of the Orléans Court of Appeal that would hear the case would include Ms C. (president), who had been on the bench which adopted the judgment of 2003, and Mr L. The latter had ruled in July 2003 on the extension of the applicant's pre-trial detention and that of his girlfriend, whom he had described as the "live-in partner of one of the main traffickers ... who took over from him when he was absent". The applicant's lawyers challenged the two judges concerned, questioning their impartiality. The President of the Court of Appeal rejected the challenge. In December 2004 the Criminal Appeals Division upheld the first-instance judgment but reduced the sentence to ten years' imprisonment. In November 2005 the Court of Cassation dismissed an appeal on points of law by the applicant.

The applicant alleged, in particular, that the reasons given for the judgments of April and July 2003 (concerning his and his girlfriend's continued pre-trial detention) demonstrated that the judges Ms C. and Mr L. had no longer been impartial in ruling on the merits of the case.

Given the nature of the applicant's complaint the Court confined its attention to ascertaining whether, quite apart from the personal conduct of the judges Ms C. and Mr L., there were ascertainable facts which might raise doubts as to their "objective" impartiality. In that connection the Court reiterated that the mere fact that a judge had already taken pre-trial decisions, including decisions relating to

detention, could not by itself be regarded as justifying concerns about his or her impartiality. The issue of a person's continued pre-trial detention was distinct from the issue of his or her guilt: suspicions could not be thus equated with a formal finding of guilt. Nevertheless, the particular circumstances of a given case could lead the Court to a different conclusion. In the present case the Court took the view that the reasons given by the investigation division of the Orléans Court of Appeal in the judgments of April and July 2003 (such as "[he had] acted very much as a professional drug trafficker" and was "one of the main traffickers") amounted more to a preconceived view of the applicant's guilt than to a mere description of a "state of suspicion" within the meaning of the Court's case-law. Consequently, the objective impartiality of the two judges of the Criminal Appeals Division of the Orléans Court of Appeal – who had been members of the investigation division of the Orléans Court of Appeal which delivered the impugned judgments of April and July 2003 – could appear to be open to doubt. It followed that the applicant's fears could be considered to be objectively justified. There had therefore been a violation of Article 6 § 1.

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

Macready v. the Czech Republic (nos. 4824/06 and 15512/08) (Importance 1) – 22 April 2010 – Violation of Article 8 – Domestic authorities' failure to ensure the applicant's effective exercise of the right of contact with his son during proceedings concerning his son's return to the United States

The applicant is an American national. He lived in the United States with his wife E.M. and their son A.T.M., born in December 2002, of whom the parents had joint custody. In May 2004, following a divorce petition filed by the applicant, an interim joint guardianship order was put in place. In May 2004 the applicant learnt that E.M. had taken their son to the Czech Republic without his consent. In proceedings instituted by her in June 2004, E.M. obtained custody of the child by virtue of a decision given by the Czech court before it had been informed of A.T.M.'s wrongful removal. In October 2004 the applicant brought proceedings in the Czech Republic under the Hague Convention on the Civil Aspects of International Child Abduction. In April 2005 the court ordered the return of A.T.M. to the United States. It found that the child had been wrongfully removed for the purposes of the Hague Convention and that the mother's ability to bring him up had been compromised because she was preventing the applicant from having contact with his son. On appeal by E.M., the court ordered an expert report. The expert concluded that A.T.M, who showed signs of suffering from autism, needed to remain with his mother, to whom he was much attached. The applicant challenged the expert's report, claiming that it was subjective and incomplete. In June 2006 the court dismissed the applicant's action on the ground that his son's return to the United States might cause him irreparable harm that risked making his mental illness worse. An appeal by the applicant on points of law was dismissed, and his application to the Constitutional Court was also unsuccessful. The court held that the principles of equity had been observed during the proceedings. From October 2004 the applicant made a number of requests for interim measures allowing him to meet with his son during his visits to the Czech Republic. E.M. appealed against most of these decisions, but it was nonetheless possible to organise a number of meetings between father and son, up until January 2006.

The applicant complained about the proceedings he had brought seeking his son's return after he had been removed by his ex-wife.

The Court was entirely in agreement with the philosophy underlying the Hague Convention which sought to deter the proliferation of international child abductions. In this type of case, as the passage of time could have irremediable consequences for relations between the children and the parent who did not live with them, it was crucial that the authorities reacted as quickly as possible in order to re-establish the child's initial situation and avoid the legal consolidation of de facto situations that had been brought about wrongfully from the outset. That had no longer been possible in the present case after a period of over twenty months had elapsed between the beginning of the proceedings and the decision of June 2006 finally settling the question of A.T.M.'s return to the United States, the child having been eighteen months old when he had left. During the lengthy proceedings for the child's return the courts had been prevented from ruling on the exercise of parental responsibility for the child. Accordingly, the only means by which the applicant had been able to exercise his parental rights had been by virtue of interim measures granting him a right of contact during his occasional visits to the Czech Republic. Furthermore, the courts had failed to act in such a way as to allow him to exercise his right of contact effectively. Accordingly, respect for the applicant's family life had not been effectively protected – in violation of Article 8.

- **Freedom of expression**

Fatullayev v. Azerbaijan (no 40984/07) (Importance 1) – 22 April 2010 – The Court asks Azerbaijan to release the wrongfully sentenced journalist from prison immediately – Two violations of Article 10 – Unjustified imposition of a prison sentence on the applicant for writing an article related to the Khojaly events – Unjustified imposition of a prison sentence on the applicant for writing an article focusing on Azerbaijan's specific role in the dynamics of international politics relating to US-Iranian relations – Violation of Article 6 §§ 1 and 2 – Lack of impartiality of the judge hearing the applicant's criminal case on the basis that he had previously examined the civil action against the applicant – Infringement of the principle of presumption of innocence on account of Prosecutor General's statement declaring that the applicant's article contained a threat of terrorism

The applicant was the founder and chief editor of the newspapers *Gündəlik Azərbaycan*, published in the Azerbaijani language, and *Realny Azerbaijan*, published in the Russian language. The applicant is currently serving a prison sentence. In 2007 two sets of criminal proceedings were brought against the applicant in connection with two articles published by him in *Realny Azerbaijan*.

The first set of criminal proceedings related to an article, published in April 2005, and separate Internet postings appearing more than a year later on a forum of a website called AzeriTriColor. The applicant had signed under the article, which he had written after his visit earlier that year to the area of Nagorno-Karabakh and other territories controlled by the Armenian military forces, but denied authorship of the Internet postings. The second set of criminal proceedings related to an article entitled "The Aliyevs Go to War" published in March 2007. In it the applicant expressed the view that, in order for President Ilham Aliyev to remain in power in Azerbaijan, the Azerbaijani Government had sought the support of the United States (US) in exchange for Azerbaijan's support for the US "aggression" against Iran. The criminal proceedings against the applicant in connection with this article were brought by the Ministry of National Security in May 2007. Before the applicant was formally charged with the offence of threat of terrorism, the Prosecutor General made a statement to the press, noting that the applicant's article constituted a threat of terrorism. The applicant was found guilty as charged and convicted of threat of terrorism in October 2007.

The applicant complained of being criminally convicted for several of his published statements, of not having had a fair trial in that connection and that his presumption of innocence was breached as a result of the Prosecutor General's statement to the press.

Freedom of expression and information (Article 10)

1) First criminal conviction

The Court acknowledged the very sensitive nature of the issues discussed in the applicant's article and that the consequences of the events in Khojaly were a source of deep national grief. It was understandable that the statements made by the applicant may have been considered shocking or disturbing by the public. However, the Court recalled that freedom of information applied not only to information or ideas that were favourably received, but also to those that offended, shocked or disturbed. In addition, it was an integral part of freedom of expression to seek historical truth. Various matters related to the Khojaly events still appeared to be open to ongoing debate among historians, and as such should have been a matter of general interest in modern Azerbaijani society. It was essential in a democratic society that a debate on the causes of acts of particular gravity which might amount to war crimes or crimes against humanity should have been able to take place freely. Further, the press had a vital role of a "public watchdog" in a democratic society. Although it ought not to overstep certain boundaries, in particular in respect of the reputation and rights of others, the duty of the press was to impart information and ideas on political issues and on other matters of general interest. The Court considered that the article had been written in a generally descriptive style with the aim of informing Azerbaijani readers of the realities of day-to-day life in the area in question. The public had been entitled to receive information about what was happening in the territories over which their country had lost control in the aftermath of the war. The applicant had attempted to convey, in a seemingly unbiased manner, various ideas and views of both sides of the conflict. As regards the particular statements, those had not been the applicant's own views as he had merely conveyed other persons' opinions. The article had not contained any statements directly accusing the Azerbaijani military or specific individuals of committing the massacre and deliberately killing their own civilians. As regards the Internet postings, the Court accepted that the applicant's authorship of those statements had been proved beyond reasonable doubt. It further accepted that, by making those statements without relying on any relevant factual basis, the applicant might have failed to comply with the journalistic duty to provide accurate and reliable information. Nevertheless, taking note of the fact that he had been convicted of defamation, the Court found that those postings had not undermined the dignity of the Khojaly victims and survivors in general and, more specifically, the four private prosecutors who were Khojaly refugees. It therefore held that the domestic courts had not given

"relevant and sufficient" reasons for the applicant's conviction of defamation. In addition, the Court held that the imposition of a prison sentence for a press offence would be compatible with journalists' freedom of expression only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in cases of hate speech or incitement to violence. As this had not been the case, there had been no justification for the imposition of a prison sentence on the applicant. There had accordingly been a violation of Article 10 of the Convention in respect of the applicant's first criminal conviction.

2) Second criminal conviction

The article "The Aliyevs Go to War" had focused on Azerbaijan's specific role in the dynamics of international politics relating to US-Iranian relations. As such, the publication had been part of a political debate on a matter of general and public concern. The applicant had criticised the Azerbaijani Government's foreign and domestic political moves. At the same time, a number of other media sources had also suggested during that period that, in the event of a war, Azerbaijan was likely to be involved and speculated about possible specific Azerbaijani targets for Iranian attacks. The fact that the applicant had published a list of specific possible targets, in itself, had neither increased nor decreased the chances of a hypothetical Iranian attack. The applicant, as a journalist and a private individual, had not been in a position to influence or exercise any degree of control over any of the hypothetical events discussed in the article. Neither had the applicant voiced any approval of any such possible attacks, or argued in favour of them. It had been his task, as a journalist, to impart information and ideas on the relevant political issues and express opinions about possible future consequences of specific decisions taken by the Government. Thus, the domestic courts' finding that the applicant had threatened the State with terrorist acts had been arbitrary. The Court considered that the applicant's second criminal conviction and the severity of the penalty imposed on him had constituted a grossly disproportionate restriction of his freedom of expression. Further, the circumstances of the case had not justified the imposition of a prison sentence on him. There had accordingly been a violation of Article 10 in respect of the applicant's second criminal conviction.

Fair trial (Article 6 § 1)

The Court noted that Judge I. Ismayilov, who had heard the criminal case, had been the same judge who had previously examined the civil action against the applicant. Both sets of proceedings, the civil and the criminal one, had concerned exactly the same allegedly defamatory statements made by the applicant. The judge had been called upon to assess essentially the same or similar evidentiary material. Having decided the civil case, the judge had already reached the conclusion that the applicant's statements had constituted false information tarnishing the dignity of Khojaly survivors. As the applicant had been subsequently prosecuted under criminal law on defamation, doubts could have been raised as to the appearance of impartiality of the judge who had already pronounced his opinion concerning the same allegedly defamatory statements made by the applicant. Accordingly, the Court considered that the applicant's fear of the judge's lack of impartiality could be considered as objectively justified. There had accordingly been a violation of Article 6 § 1.

Presumption of innocence (Article 6 § 2)

It had been the Court's consistent approach to find that the presumption of innocence was violated if a statement by a public official concerning a person charged with a criminal offence reflected an opinion that he was guilty before he had been proved guilty according to law. The fact that the applicant had been a well-known journalist had required the Prosecutor General to keep the public informed of the alleged offence and the ensuing criminal proceedings. However, the Prosecutor General's statement had unequivocally declared that the applicant's article indeed contained a threat of terrorism. Those specific remarks, made without any qualification or reservation, had amounted to a declaration that the applicant had committed the criminal offence of threat of terrorism and had thus prejudged the assessment of the facts by the courts. That in turn had encouraged the public to believe the applicant guilty before he had been proved guilty according to law. There had accordingly been a violation of Article 6 § 2.

Execution of the judgment by the Azerbaijani authorities (Article 46)

The Court noted that the applicant was currently serving the sentence for the press offences in respect of which it had found Azerbaijan in violation of the Convention. Having considered unacceptable that the applicant still remained imprisoned and the urgent need to put an end to the violations of Article 10, the Court held, by six votes to one, that Azerbaijan had to release the applicant immediately.

Haguenauer v. France (no. 34050/05) (Importance 2) – 22 April 2010 – Violation of Article 10 – Infringement of the right to freedom of expression on account of the severity of the penalty imposed on the applicant for remarks insulting a civil servant made during a demonstration in the context of a public debate on racism and "négationisme"

The applicant was a deputy mayor of Lyons at the relevant time. In March 2002 she participated in a demonstration that took place when the Chancellor of Jean Moulin University of Lyons III was awarded the *Légion d'honneur*. The demonstrators claimed that the chancellor had shown an indulgent attitude towards the racist positions defended by some of the university's teaching staff. One of the university lecturers shouted at the demonstrators, saying "it's scandalous what you are saying. I am proud to be Jewish and proud to be at Lyons III". The applicant, herself of Jewish faith, replied "you put the community to shame". The lecturer took out a summons against the applicant to appear before the Lyons Criminal Court for insulting a civil servant. In December 2003 the Criminal Court held that the criminal limb of the offence was covered by an amnesty law of 6 August 2002. With regard to the civil limb, it dismissed the lecturer's claim for damages. In June 2004 the Lyons Court of Appeal set that judgment aside in respect of the civil provisions, stating that the remarks made by the applicant in public had been aimed at the lecturer in his capacity as a member of the teaching staff at Jean Moulin University of Lyons III, and thus as a representative of the administration. It ordered the applicant to pay 3,000 euros (EUR) in damages and EUR 2,500 in court costs. The Court of Cassation dismissed an appeal lodged by the applicant and ordered her to pay an additional sum of EUR 2,500 in court costs. In November 2001 the Minister of Education had set up a commission of historians to study the issue of racism and "négationisme" at Jean-Moulin University of Lyons III. The commission issued a 263-page report, which included the following sentence in its conclusions: "These data have definitively transformed a university problem into a public problem, making it into an issue of general scope reaching beyond local boundaries: our report itself is an indication of that".

The applicant complained that her conviction had amounted to an excessive infringement of her right to freedom of expression.

An infringement of freedom of expression was not acceptable unless it was prescribed by law and pursued a legitimate aim, which was clearly the case here. The measure in question also had to be capable of being considered as "necessary in a democratic society". It was particularly with regard to the latter point that the Court would exercise its supervision in this case. The Court reiterated first of all that civil servants acting in their official capacity were subject to wider limits of acceptable criticism than ordinary individuals (even though it could prove necessary to provide civil servants with special protection from offensive verbal attacks because they had to have the confidence of the general public without being unduly perturbed). The Court went on to say that in the present case the remarks made by the applicant related to a matter of general interest (the fight against racism and "négationisme") and were part of an extremely important public debate (the attitude of Jean Moulin University of Lyons III towards lecturers who had aroused controversy for the views they defended). Furthermore, there was no doubt that the applicant had made the remarks in her capacity as local councillor; they had thus been a form of political or "militant" expression. In those circumstances the latitude available to the authorities in assessing the need to convict the applicant was particularly limited. The Court reiterated the principle that there had to be possible recourse to a degree of exaggeration, or even provocation. It also noted that the remarks in question had been made orally, during a demonstration, as part of a swift exchange of words, and held that the lecturer's incisive remarks could have influenced the tone used when replying to him. Above all, the Court found that it was of crucial importance to resituate the applicant's remarks in the context of the debate raging at the time in Lyons and at national level, as could be seen from the fact that a commission of historians had been set up by the Ministry of Education to study the issue, and from that commission's report. Lastly, account also had to be taken of the severity of the penalty imposed on the applicant. Having regard to all those factors, the Court held that there had been a violation of Article 10.

Cârlan v. Romania (no. 34828/02) (Importance 3) – 20 April 2010 – No violation of Article 6 § 1 – The applicant's defence arguments had been taken into account – Violation of Article 10 – Conviction of a municipal councillor for defamation of the town's mayor breached his right to freedom of expression

In 1998 the applicant was a municipal councillor in Iaşi and a member of the opposition. In that capacity he and other council members formed a commission to review the situation regarding commercial properties managed by the mayor's office. On 8 May 1998 the applicant staged a press conference at which he stated that "... if a commercial property Mafia exists, it is headed by the mayor himself; mayor C.S. is at the apex of the pyramid of unlawful dealings." On 11 May 1998 the commission published its report, finding a number of irregularities. On 15 May 1998 the applicant stated at a second press conference that the mayor had "not abided by the provisions of the law" applicable to the designation of properties for commercial use. At the applicant's request the police carried out an investigation, which partly endorsed the findings of the commission's report. However, the prosecuting authorities closed the case in 2001. The supervisory unit attached to the Prime Minister's Office also conducted an investigation; while it disagreed with most of the commission's conclusions, it nevertheless found that some irregularities had occurred. In June 1998 the mayor

brought an action for defamation against the applicant. In May 2001 the Iaşi District Court ordered the applicant to pay a criminal fine of 10 million lei (ROL) solely on account of the remarks made on 8 May 1998. The court based its decision in particular on the fact that, although he had submitted evidence to the court in that connection, the applicant had not expressly stated that he wished to prove the truth of his assertions. The court further held that it did not have jurisdiction to rule on the lawfulness of the mayor's actions. In a final judgment in March 2002 the Iaşi County Court dismissed an appeal by the applicant. It allowed the appeal lodged by the mayor and ordered the applicant to pay the latter ROL 60 million in damages in addition to the criminal fine. The applicant had specified before the County Court that the evidence he had produced was aimed at proving the truth of his statements. The County Court likewise held that it did not have jurisdiction to rule on the alleged unlawfulness of the mayor's actions, but nevertheless examined the evidence submitted by the applicant and held that the latter had failed to prove the truth of his allegations. The applicant's conviction was entered in the criminal records.

The applicant complained of the refusal of the courts to take account of his main defence in the form of evidence demonstrating the truth of the statements for which he was convicted. Under Article 10 he alleged that his criminal conviction and the award of damages against him had breached his right to freedom of expression.

Fairness of the proceedings (Article 6 § 1)

The Court reiterated that Article 6 § 1 required courts to give reasons for their decisions. In the applicant's case the Court accepted that the national courts hearing the case had responded only indirectly to the applicant's wish to adduce evidence proving the truth of his assertions. The Iaşi District Court had adopted a very formalist approach in finding that the applicant had not expressly requested that the evidence be taken, although he had done so in substance. However, despite initially stating that it did not have jurisdiction on this point, the County Court had nevertheless gone on to examine the applicant's evidence, concluding that the latter had not succeeded in proving the truth of his allegations. The applicant's defence arguments had therefore been taken into account. Accordingly, the Court held that there had been no violation of Article 6 § 1.

Freedom of expression (Article 10)

The Court began by pointing to its case-law, according to which the fact of describing a mayor's actions as unlawful, expressing a personal opinion of a legal nature, amounted to a value judgment and should be analysed as such. Although the truth of value judgments was not susceptible of proof, the applicant had been asked to furnish such proof and had been convicted on the basis that no competent authority had expressly found the actions of which he accused the mayor to have been unlawful. The Court went on to observe that the impugned remarks had had a sufficiently substantiated factual basis (two investigations and a report) and had been made in the context of a press conference on a subject of undoubted public interest (the designation of property for commercial use). Furthermore, unlike the Romanian courts, the Court took the view that the manner in which the applicant had planned the two press conferences, timed to coincide with the publication of the commission's report, meant that he had made the impugned remarks in his capacity as a municipal councillor, a member of the opposition and a member of the above-mentioned commission. While precious to all, freedom of expression was particularly important for political parties and their active members. The limits of acceptable criticism were wider with regard to politicians (like the mayor in the present case) than with regard to private individuals; the former were inevitably and knowingly open to close scrutiny of their every word and deed by both journalists and the public at large. Taking all these factors into consideration, together with the amount of the fine imposed on Mr Cârlan and the entry of his conviction in the criminal records, the Court took the view that the applicant's conviction, while it had been prescribed by law and had pursued a legitimate aim (to protect the reputation and rights of others), had not been "necessary in a democratic society". The Court therefore held that there had been a violation of Article 10.

- **Disappearance cases in Chechnya**

Khatuyeva v. Russia (no. 12463/05) (Importance 3) – 22 April 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicant's husband, Sultan Khatuyev – Lack of an effective investigation into the circumstances of his disappearance – Violation of Article 3 – The applicant's mental suffering – Violation of Article 5 – Unacknowledged detention – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy – No violation of Article 34 – Lack of sufficient details about the alleged pressure put on the applicant by State representatives in relation to her complaint

Mutayeva v. Russia (no. 43418/06) (Importance 3) – 22 April 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicant's daughter, Luiza

Mutayeva – Failure to conduct an effective investigation into the circumstances of her disappearance – Violation of Article 3 – The applicant's mental suffering – Violation of Article 5 – Unacknowledged detention – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Tupchiyeva v. Russia (no. 37461/05) (Importance 3) – 22 April 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicant's son, Vakhit Dzhabrailov – Failure to conduct an effective investigation into the circumstances of her disappearance – Violation of Article 3 – The applicant's mental suffering – Violation of Article 5 – Unacknowledged detention – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 13 Apr. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 20 Apr. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 22 Apr. 2010: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Azerbaijan	22 Apr. 2010	Gulmammadova (no. 38798/07) Imp. 2 Hasanov (no. 50757/07) Imp. 3	(Both cases) Violation of Art. 6 § 1 (fairness) (Both cases) Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments ordering the eviction of IDP occupants from flats owned by the applicants	Link Link
Bulgaria	22 Apr. 2010	Kostov and Yankov (no. 1509/05) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 13	Excessive length of criminal proceedings Lack of an effective remedy	Link
Bulgaria	22 Apr. 2010	Radkov (no. 27795/03) Imp. 3	Violation of Art. 8	Monitoring of correspondence between the applicant and his lawyer and the Registry of the Court by Lovech Prison authorities	Link
France	22 Apr. 2010	Moon (no. 39973/03) Imp. 3	Just satisfaction Friendly settlement	Just satisfaction following the judgment of 9 July 2009 concerning a violation of Art. 1 of Prot. 1	Link
Greece	22 Apr. 2010	Athanasiadis (no. 16282/08) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of compensation proceedings (more than 10 years for three levels of jurisdiction)	Link
Greece	22 Apr. 2010	Kamvyssis (no. 2735/08) Imp. 3	Violations of Art. 6 § 1 (access and length)	Dismissal of the applicant's application for being out of time despite the fact that he had not been informed of the impugned decision until the deadline for appealing against it had expired Excessive length of proceedings	Link
Greece	22 Apr. 2010	Maggafinis (no. 44046/07) Imp. 3 Sarantidis and Others (no.	Violations of Art. 6 § 1 (length)	Excessive length of criminal proceedings	Link Link

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

		51446/07) Imp. 3			
Lithuania	20 Apr. 2010	Novikas (no. 45756/05) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings for premeditated burglary	Link
Moldova	20 Apr. 2010	Racu (no. 13136/07) Imp. 3	Just satisfaction Friendly settlement	Just satisfaction following the judgment of 28 July 2009 concerning a violation of Art. 6 § 1 Art. 1 of Prot. 1 for the non-enforcement of a final judgment in the applicant's favour	Link
Poland	20 Apr. 2010	Krzysztofiak (no. 38018/07) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention Excessive length of criminal proceedings – still pending – against the applicant for drug-trafficking	Link
Poland	20 Apr. 2010	Z. (no. 34694/06) Imp. 3	Violation of Art. 8	Domestic authorities' failure to provide the applicant with prompt and effective assistance to the applicant to effectively enforce his parental and contact rights	Link
Romania	20 Apr. 2010	Bălaşa (no. 21143/02) Imp. 2	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1 (fairness)	Annulment of the applicant's property title 8 years after its acquisition by the applicant on account of domestic authorities' application of a new law Breach of the principle of equality of arms and of the adversarial principle on account of the domestic courts' refusal to take into account new evidence submitted by the applicant	Link
Russia	22 Apr. 2010	Bik (no. 26321/03) Imp. 2	Violation of Art. 5 § 1	Domestic authorities' failure to apply for judicial authorisation for the applicant's committal to a psychiatric hospital in reasonable time	Link
Russia	22 Apr. 2010	Goroshchenya (no. 38711/03) Imp. 2	Violation of Art. 3 (treatment) Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Conditions of detention in facilities nos. IZ-47/1 and 47/4 in St Petersburg Unjustified extension of the pre-trial detention for almost four years Excessive length of criminal proceedings	Link
Russia	22 Apr. 2010	Sevastyanov (no. 37024/02) Imp. 2	Violation of Art. 6 § 1 (fairness) Violation of Art. 34	Various procedural defects in the criminal proceedings in particular failure to provide the applicant with a reasonable opportunity to present his case Opening and inspection by the prison staff of a Court's letter addressed to the applicant and the delay in handing it over to him	Link
Serbia	13 Apr. 2010	Krivošej (no. 42559/08) Imp. 3	Violation of Art. 6 § 1 (fairness) Violation of Art. 8	Domestic authorities' failure to execute a final access order recognising the applicant's access rights to her son	Link
Serbia	20 Apr. 2010	Kin-Stib and Majkić (no. 12312/05) Imp. 2	Violation of Art. 1 of Prot. 1	Non-enforcement of an arbitration award given in the applicants' favour in a dispute about a casino with the owners of a hotel	Link
the United Kingdom	20 Apr. 2010	Adetoro (no. 46834/06) Imp. 3	No violation of Art. 6 § 1	Notwithstanding the deficient direction to the jury, there was no unfairness in the applicant's trial as a whole	Link

3. Repetitive cases

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

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

State	Date	Case Title	Conclusion	Key words
Turkey	13 Apr. 2010	Çağlar (no. 11192/05) link	Violation of Art. 1 of Prot. 1	Deprivation of property, designated as public forest area without compensation
Turkey	20 Apr. 2010	Bek (no. 23522/05) link	Violation of Art. 6 § 1 (fairness)	Infringement of the right of access to a court on account of domestic court's refusal to grant the applicant legal aid
Turkey	20 Apr. 2010	Oray (no. 37243/05) link	Violation of Art. 6 § 1 (fairness)	Lengthy non-enforcement of a final decision awarding severance pay to the applicant

4. Length of proceedings cases

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

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

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

State	Date	Case Title	Link to the judgment
Croatia	22 Apr. 2010	Čiklić (no. 40033/07)	Link
Croatia	22 Apr. 2010	Kvartuč (No. 2) (no. 34830/07)	Link
Croatia	22 Apr. 2010	Praunsperger (no. 16553/08)	Link
Greece	22 Apr. 2010	Flaris (no. 54053/07)	Link
Greece	22 Apr. 2010	Panoussi (no. 33057/08)	Link
Italy	20 Apr. 2010	Martinetti and Cavazzuti (nos. 37947/02 and 39420/02)	Link
Poland	20 Apr. 2010	Wiśniewska (no. 42401/08)	Link
Portugal	13 Apr. 2010	Ferreira Alves (No. 6) (nos. 46436/06 and 55676/08)	Link
Romania	20 Apr. 2010	Toader (no. 25811/04)	Link
"the former Yugoslav Republic of Macedonia"	22 Apr. 2010	Ilievski (no. 35164/03)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 22 March to 4 April 2010**.

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

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Bulgaria	23 Mar. 2010	Shterev (no 10353/05) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of criminal proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Bulgaria	23 Mar. 2010	Andonov (no 34877/05) link	Alleged violation of Art. 6 § 1 (length, fairness outcome of criminal proceedings) and Art. 13 (lack of an effective remedy)	Idem.
Croatia	25 Mar. 2010	Kačinari (no 61059/08) link	Alleged violation of Articles 2, 3 and 8 (State's failure to protect the applicant's life and his right to respect for his private life), Art. 5 (the applicant's personal safety had been put at risk by the acts of private individuals), Art. 13 (lack of an effective remedy), Art. 14 (threats against the applicant had been motivated by ethnic racial hatred but not prosecuted as hate crimes)	Partly inadmissible for non-respect of the six-month requirement (event of May 1992), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the event of May 2004), partly inadmissible for non-exhaustion of domestic remedies (concerning the event of July 2005), and partly inadmissible as premature (criminal proceedings still pending at domestic level concerning the event of March 2007)
Croatia	25 Mar. 2010	Gazibarić (no 17765/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy in respect of the length), Art. 2 of Prot. 4 (the national authorities had withdrawn the applicant's passport pending a criminal investigation against him), Art. 3 (mental suffering due to prolonged investigation) and Art. 14 (discrimination due to the applicant's Serbian origin)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings and the claim under Art. 2 of Prot. 4), partly inadmissible as manifestly ill-founded (existence of effective domestic remedies concerning claim under Art. 13 and the treatment did not reach the necessary level of severity to fall within the ambit of Art. 3 and no indication of discrimination in the proceedings against the applicant concerning claim under Art. 14)
Croatia	25 Mar. 2010	Drljan (no 34687/08) link	Alleged violation of Art. 6 §§ 1 and 3 (d) (the applicant allegedly had no opportunity to question any of the witnesses in the criminal proceedings against him)	Inadmissible for non-exhaustion of domestic remedies (the applicant did not provide the Constitutional Court with an opportunity to afford him a remedy)
Croatia	25 Mar. 2010	Prežec (No. 3) (no 7588/08) link	Alleged violation of Art. 3 (ill-treatment by the prison guards in Gospić Prison and lack of an effective investigation)	Struck out of the list (applicant no longer wished to pursue his application)
Cyprus	25 Mar. 2010	Makrides (no 29373/08) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning length of proceedings), partly inadmissible (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Finland	23 Mar. 2010	Aalto and Others (no 12809/09) link	Alleged violation of Articles 6 and 13 (unfairness and excessive length of proceedings, lack of effective access to a court to permit a judicial determination of their civil rights), Art. 1 of Prot. 1 in conjunction with Art. 13 (deprivation of property) and Art. 14	Partly inadmissible as manifestly ill-founded (existence of effective access to a court; justified dispense of an oral hearing; the length of the proceedings could not be considered excessive), partly incompatible *ratione personae* (concerning the deprivation of property), and partly inadmissible for failure to substantiate their complaint concerning claims under Art. 14
France	23 Mar.	Lopez (no 28627/06)	Alleged violation of Art. 6 (the applicant deprived of the right of	Partly inadmissible as manifestly ill-founded (no arbitrariness

	2010	link	access to a court), Art. 1 of Prot. 1 (alleged legitimate expectation to have a work contract renewed) and Art. 13 (lack of an effective remedy)	concerning claims under Art. 6; lack of an effective work contract) partly incompatible *ratione materiae* concerning claims under Art. 13)
France	23 Mar. 2010	Papp (no 49524/07) link	Alleged violation of Art. 6 (unfairness of proceedings), Art. 8 (infringement of the right to respect for family life on account of domestic courts' decisions), Articles 10, 13 and 14	Struck out of the list (applicants no longer wished to pursue their application)
France	23 Mar. 2010	Khan (no 34155/07) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention) and Art. 6 (hindrance to the applicant's right to see his lawyer in detention)	Struck out of the list (applicant no longer wished to pursue his application)
France	23 Mar. 2010	Kadouci (no 48279/07) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings and lack of access to a court) and Art. 1 of Prot. 1 (insufficient compensation in respect of expropriated property)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	23 Mar. 2010	Bouguerbous (no 47779/06) link	Alleged violation of Art. 2 (lack of an effective investigation and length of proceedings concerning the applicant's sister's death)	Inadmissible (non-exhaustion of domestic remedies)
France	23 Mar. 2010	Heiec (no 13772/04) link	Alleged violation of Art. 6 § 1 (hindrance to the applicant's right of access to a court in particular because of the applicant's poor knowledge of the French language)	Inadmissible as manifestly ill-founded (lack of sufficient evidence to conclude the applicant had insufficient knowledge of French)
France	23 Mar. 2010	Pa (no 45269/07) link	Alleged violations of Articles 2 and 3 (risk of being subjected to ill-treatment if expelled to Afghanistan)	Inadmissible (lack of sufficient evidence to believe the existence of a real risk of ill-treatment)
Georgia	23 Mar. 2010	Abayeva and Others (nos. 52196/08, 52200/08, 49671/08, 46657/08 and 53894/08) link	(5 applications) 1st case - Alleged violations of Articles 2, 3, 13 and 14 (the applicant's husband was killed and her life had been threatened, that she had been subjected to inhuman and degrading treatment, and that she had been discriminated against on the ground of her nationality) 2nd case – Alleged violation of Articles 2, 3, 8, 13 and 14 and Art. 1 of Prot. 1 (the applicant's wife had been killed, he had been subjected to inhuman and degrading treatment, his right to respect for his private and family life had been breached, his property had been damaged and he had been discriminated against on the ground of his nationality) 3rd case – Alleged violation of Articles 2, 3, 5, 13 and 14 and Art. 1 of Prot. 1 (allegedly the applicant's life had been threatened, he had been subjected to inhuman and degrading treatment, he had been taken hostage, his property had been damaged and he had been discriminated against on the ground of his nationality) 4th case – Alleged violation of Articles 3, 13 and 14 and Art. 1 of Prot. 1 (allegedly the applicant had been subjected to inhuman and degrading treatment, his property had been destroyed and he had been discriminated against on the ground of his nationality) 5th case – Alleged violation of Art. 2	Struck out of the list (the applicants no longer wished to pursue their application)

			(allegedly the applicant's life had been threatened as a result of the military action of the Georgian armed forces)	
Germany	23 Mar. 2010	Thind (no 29752/04; 16771/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 5 § 3 (excessive length of pre-trial detention) and Art. 5 § 1 (unlawful detention)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6 § 1), partly inadmissible as manifestly ill-founded (reasonable length of the pre-trial detention), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Italy	23 Mar. 2010	Sommer (no 36586/08) link	Alleged violation of Art. 6 § 1 (delayed opening of criminal proceedings against the applicant – more than 50 years after the facts), Art. 6 § 3 c) (hindrance to the applicant's right to question a witness and to access evidence to prepare his defence 60 years after the facts), Art. 7 § 1 (the applicant was punished more heavily than provided for by the legislation at the time of the facts), Articles 7, 14 and Art. 1 of Prot. 12 (difference of treatment on grounds of nationality)	Partly incompatible *ratione temporis and ratione materiae* (concerning claims under Art. 6 § 1), partly inadmissible as manifestly ill-founded (concerning claims under Art. 6 § 3 c) and Art. 14; clarity of the law concerning claims under Art. 7 § 1), partly incompatible *ratione personae* (Italy hasn't ratified Art. 1 of Prot. 12)
Moldova	23 Mar. 2010	Stati and Marinescu (no 19828/09) link	Alleged violation of Art. 5 § 1 (unlawful detention), Art. 6 § 2 (violation of the right to be presumed innocent due the declaration of the then President Mr. Voronin declaring the applicants guilty of having financed the protest that took place in Moldova after the elections of April 2009), Art. 18 (allegedly the real reason for the applicants' arrest had been the intention to force the first applicant's family to sell their business and to prevent it from financing opposition parties in the general elections)	Struck out of the list (friendly settlement reached)
Moldova	23 Mar. 2010	*Timpul De Dimineata* (no 16674/06) link	Alleged violation of Art. 6 § 1 (the applicant company's civil rights and obligations had been decided in proceedings to which it had not been a party and thus had no possibility to defend itself, unfairness of proceedings), Art. 10 (the State had not discharged its positive obligations to protect the applicant company's right to freedom of expression)	Idem.
Poland	23 Mar. 2010	Sikora (no 38891/07) link	Alleged violation of Art. 6 § 1 (lack of access to the Supreme Court)	Idem.
Poland	23 Mar. 2010	Kujawka (no 54290/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Poland	23 Mar. 2010	Białous (no 19387/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 8 (the Public Prosecutor's decision to place the applicant in a psychiatric center; the applicant alleges a wrongful analysis of her mental health by medical reports)	Partly struck out of the list (unilateral declaration of the Government concerning length of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Poland	23 Mar. 2010	Sommerfeld (no 27998/06) link	Alleged violation of Art. 3 (conditions of detention)	Struck out of the list (friendly settlement reached)
Portugal	23	Ventura	Alleged violation of Art. 6 § 1	Idem.

	Mar. 2010	Sestelo Moreira (no 42902/07) link	(excessive length of administrative proceedings)	
Portugal	23 Mar. 2010	De Sousa Pinheiro (no 50159/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Portugal	23 Mar. 2010	Conceição Pereira (no 1557/08) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Idem.
Portugal	23 Mar. 2010	Faria (no 48278/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Saúde Barreiros Amigo (no 10667/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Portugal	23 Mar. 2010	Goncalves (no 48262/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Goncalves Dos Santos (no 44532/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Condominio Do Edificio Zarco (no 53185/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Sociedade de Construções Martins & Vieira, Lda., Gonçalves Costa and da Costa Vieira (N° 1) (no 55177/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Ferreira Da Costa (no 55636/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Cruz Tavares Ferreira (no 57043/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Anibal Vieira E Filhos, LDA (no 55670/08) link	Idem.	Idem.
Portugal	23 Mar. 2010	Pereira Marrafa and Pinho Da Silva (no 55567/08) link	Idem.	Idem.
Romania	23 Mar. 2010	Cioponea (no 25272/04) link	Alleged violation of Art. 6 § 1 (dismissal of the applicant's appeal as being out of time after the notification of a judgment to another address than that indicated by the applicant in her application)	Struck out of the list (applicant no longer wished to pursue her application)
Romania	23 Mar. 2010	Dumitru (no 14510/04) link	Alleged violation of Art. 2 § 2 of Prot. 4 (suspension of the applicant's right to use her passport)	Struck out of the list (applicant no longer wished to pursue her application)
Russia	25 Mar. 2010	Belchikova (no 2408/06) link	Alleged violations of Articles 6, 8 and 13 (concerning the proceedings for the validity of the applicant's sister's will, unfairness and outcome	Partly inadmissible for non-exhaustion of domestic remedies (concerning the proceedings about the will's validity), partly

			of eviction proceedings against the applicant)	inadmissible as manifestly ill-founded (the proceedings complied with the requirements of the Convention concerning the remainder of the application)
Russia	25 Mar. 2010	Khamzayev and Others (no 1503/02) link	Alleged violation of Art. 2, Art. 8, Art. 1 of Prot. 1 and Art. 2 of Prot. 4 (destruction of the first and second applicants' private house in the attack by the federal military forces on 19 October 1999, the strike by federal troops with high-explosive bombs on a heavily populated residential area of Urus-Martan on 19 October 1999 had put the third applicant's life at real risk), Art. 10 (false information about the air strike provided by high-ranking military officers) and Art. 2 of Prot. 1 (after the air strike of 19 October 1999 the secondary school the third applicant's children attended had ceased functioning)	Partly admissible concerning the third applicant's complaints under Articles 2 and 8 and the applicants' complaints under Article 1 of Protocol No. 1, partly inadmissible for non respect of the six-month requirement (concerning claims under Art. 10), partly incompatible *ratione personae* (concerning the third applicant's complaint under Art. 2 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Serbia	23 Mar. 2010	Mirković (no 40053/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of Government)
Serbia	23 Mar. 2010	Savić (no 39321/06) link	The application concerned excessive length of civil proceedings	Idem.
Spain	23 Mar. 2010	Bergillos Moreton (I) (no 56471/08) link	Alleged violation of Art. 5 §§ 2, 3 and 4 (failure to inform the applicant about the reason for her arrest, and to bring the applicant promptly before a judge, inability to challenge the arrest and detention), Art. 6 § 1 (unfairness of proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
the Czech Republic	23 Mar. 2010	Piková (no 2913/04) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 1 of Prot. 1 (deprivation of property without compensation)	Inadmissible for non-respect of the six-month requirement)
the Netherlands	23 Mar. 2010	Krops (no 26748/07) link	Alleged violations of Articles 2, 3 and 5 § 1 (d) (the applicant's placement, as a minor and on the basis of a civil court's order, for one and a half years in a custodial institution for juveniles (*justitiële jeugdinrichting*) without any form of treatment pending his placement in an appropriate facility), Articles 6 and 13 (the Council for the Administration of Criminal Justice and Juvenile Protection (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) was not a competent judicial body)	Struck out of the list (friendly settlement reached)
the Netherlands	23 Mar. 2010	Registe (no 28620/09) link	Alleged violations of Articles 5, 6, 8 and 14, Art. 1 of Prot. 6 and Art. 1 of Prot. 12, (the applicant risked being sentenced to death following unfair criminal proceedings in Georgia)	Struck out of the list (incomplete application: it is no longer justified to continue the examination of the application)
Turkey	23 Mar. 2010	Ayatollahi and Hosseinzadeh (no 32971/08) link	Alleged violations of Articles 2, 3 and 13 (risk of being executed or subjected to ill-treatment or torture if expelled to Iran and lack of an effective remedy)	Inadmissible as manifestly ill-founded (absence of substantial grounds for believing that the applicants would be exposed to a real risk of being ill-treated or killed and no arguable claim under Article 13)
Turkey	23 Mar. 2010	Nejat (no 51854/08) link	Alleged violations of Articles 2, 3 and 6 (risk of being executed or subjected to ill-treatment if expelled to Iran)	Struck out of the list (the applicant has now been granted a renewable residence permit valid for a period of one year pending the asylum proceedings: it is no

				longer justified to continue the examination of the application)
Turkey	23 Mar. 2010	Döşemealtı Belediyesi (no 50108/06) link	Alleged violation of Art. 6 § 1 (excessive length of administrative proceedings)	Incompatible *ratione personae* (a local community can not apply to the Court under Art. 34)

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 6 April 2010 : link
- on 12 April 2010 : link

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

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

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

Communicated cases published on 6 April 2010 on the Court's Website and selected by the NHRS Unit

The batch of 6 April 2010 concerns the following States (some cases are however not selected in the table below): Armenia, Austria, Bosnia and Herzegovina, Bulgaria, France, Georgia, Greece, Latvia, Moldova, Poland, Romania, Russia, Slovakia, Switzerland, the Czech Republic, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Georgia	16 Mar. 2010	Samiev no 9934/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Uzbekistan – The Government was asked to answer whether the applicant was only going to be tried for the crimes for which the Georgian authorities accepted his extradition to Uzbekistan
Latvia	19 Mar. 2010	Treimanis no 7108/06	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment during the applicant's stay in the Talsi short-term detention unit – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Article 3
Latvia	19 Mar. 2010	Vasiljevs no 5433/05	Alleged violation of Art. 3 – Lack of an effective investigation in respect of ill-treatment by the police officers
Moldova and Russia	15 Mar. 2010	Matcenco no 10094/10	Question as to whether the applicant came within the jurisdiction of Moldova and/or Russia within the meaning of Article 1 of the Convention as interpreted by the Court, *inter alia,* in the case of *Ilaşcu and Others v. Moldova and Russia* and could the responsibility of the respondent Governments under the Convention be engaged on account of their positive obligations to secure the applicant's rights under the Convention; Have there been any developments following the *Ilaşcu and Others* case which might affect the responsibility of either Contracting Party – Alleged violation of Art. 3 – Ill-treatment upon arrest – Lack of adequate medical care given the applicant's medical condition – Alleged violation of Art. 5 – Failure to provide the applicant with the assistance of a lawyer of his own

			choice during his detention – Alleged violation of Art. 8 – Refusal to allow the applicant visits by his relatives – Alleged violation of Art. 13 – Lack of effective remedies in respect of Articles 3, 5 and 8
Turkey	15 Mar. 2010	Uğur no 37308/05	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 5 § 2 – Failure to inform the applicants promptly about the reasons for their detention – Alleged violation of Art. 5 § 4 – Lack an effective remedy by which the applicants could have challenged the lawfulness of their detention
Turkey	15 Mar. 2010	Güleçyüz and Kutlular no 24906/07	Has there been an interference with the applicants' freedom of expression, in particular their right to impart information and ideas, within the meaning of Article 10 § 1 of the Convention, concerning their conviction for writing an Article about a deceased, high-profile army commander and comparing him to the Gestapo? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2?
Turkey	15 Mar. 2010	Tuşalp nos 32131/08 and 41617/08	Has there been an interference with the applicant's freedom of expression, in particular his right to impart information and ideas, within the meaning of Article 10 § 1 of the Convention, concerning his sentence requiring him to pay excessive compensation for criticising Turkey's prime minister in an Article? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2?
Turkey	15 Mar. 2010	Yerme no 3434/05	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment by police officers at Diyarbakır prison – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy

Communicated cases published on 12 April 2010 on the Court's Website and selected by the NHRS Unit

The batch of 12 April 2010 concerns the following States (some cases are however not selected in the table below): Denmark, Finland, France, Georgia, Germany, Greece, Latvia, Moldova, Portugal, Russia, San Marino, Serbia, Switzerland and Turkey.

State	**Date of communication**	**Case Title**	**Key Words of questions submitted to the parties**
Finland	23 Mar. 2010	H no 37359/09	Has there been an interference with the applicant's right to respect for her private and family life, within the meaning of Article 8 § 1 of the Convention, concerning the complexity of the legal side of changing gender and identity number in Finland? If so, was that interference necessary in terms of Article 8 § 2? In particular, is the requirement that the applicant's marriage, which is a long-term and stable relationship, be turned into a civil partnership as a condition of her obtaining recognition of her change of gender, proportionate? Has there been a violation of the applicant's right to marry, contrary to Article 12 of the Convention? In particular, what are the differences in protection provided, on the one hand, by a marriage and, on the other hand, by a civil partnership, taking into account that the applicant has a minor child? Would any prejudice that might flow from the transformation *ex lege* of a marriage into a civil partnership be addressed? Has the applicant suffered discrimination in the enjoyment of her Convention rights on the ground of her sex, contrary to Article 14 of the Convention?
Moldova	23 Mar. 2010	Levinta no 5116/08	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation
Russia	26 Mar. 2010	Alekseyeva no 22490/05	Alleged violations of Art. 2 (substantive and procedural) – State's responsibility for the applicant's son's death in the State's custody during his military service – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Art. 2
Turkey	24 Mar. 2010	Kayak no 60444/08	Alleged violation of Art. 2 – State's responsibility for the applicants' relative's death while in school after having been stabbed –The Government was asked to provide more information about the security and student supervision in that school – Alleged violation of Art. 6 § 1 – Excessive length of administrative proceedings
Turkey and Greece	23 Mar. 2010	Avci and Others no 45067/05	Alleged violations of Art. 2 (substantive and procedural) – The States' responsibility for the applicants' relative's death on account of the authorisation to use anti-personnel mines at the Turkey-Greece border – Have Greece and Turkey taken sufficient measures to indicate the dangerous zone or to prohibit the population from reaching that zone? – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Art. 2 and to obtain compensation (concerning Greece only)
Turkey	23 Mar.	Evin	Alleged violations of Art. 2 (substantive and procedural) – States responsibility

	2010	(Akdemir) no 58255/08	for the applicant's son's death due to the explosion of an object found in a region that was in a state of emergency – Lack of an effective investigation into the alleged death – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Art. 2 – Alleged violation of Art. 6 §§ 1 and 3 b) and c) – Unfairness and excessive length of proceedings
Turkey	23 Mar. 2010	Mengi nos. 13471/05 and 38787/07	Has there been an interference with the applicant's freedom of expression, in particular her right to impart information and ideas within the meaning of Article 10 § 1 of the Convention on account of the applicant's conviction to pay excessive compensation for accusing the president and a member of the Turkish Criminal Code Commission of discriminatory treatment towards women and children? If so, was that interference prescribed by law and "necessary" in terms of Article 10 § 2?

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

Visit by the Swiss Minister of Justice (29.04.2010)

On 29 April 2010, Eveline Widmer-Schlumpf, the Swiss Minister of Justice, visited the Court and was received by President Costa. Giorgio Malinverni, the judge elected in respect of Switzerland, and Erik Fribergh, Registrar, attended also the meeting.

Visit by the President of Ukraine (28.04.2010)

On 27 April 2010, Viktor Yanukovych, President of Ukraine, visited the Court and met President Costa. Erik Fribergh, Registrar, took also part in this meeting.

Part II : The execution of the judgments of the Court

A. New information

Execution of judgments of Court of Human Rights: annual report (14.04.2010)

The Committee of Ministers issued its third annual report on the supervision of the execution of judgments of the European Court of Human Rights on 14 April. In 2009, 1515 new judgments finding violations of the European Convention on Human Rights were brought before the Committee of Ministers. Link to the third annual report (2009)

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 1 to 3 June 2010 (the 1086th meeting of the Ministers' deputies).

B. General and consolidated information

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

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

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

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

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

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

A. European Social Charter (ESC)

Round Table on the ESC and the European Convention of Human Rights in Ankara (13.04.2010)

In the framework of a joint project on enhancing the role of the supreme judicial authorities in respect of European standards, a Round Table was held in Ankara from 14-16 April 2010. The meeting was attended by Mr Régis BRILLAT, Head of the ESC, as well as Mr Rüchan IŞIK, member of the European Committee of Social Rights, and Mr Tekin AKILLIOĞLU, former member of the Committee. Programme

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

http://www.coe.int/t/dghl/monitoring/socialcharter/Newsletter/NewsletterNo2Jan2010_en.asp

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

http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable_en.asp

The next session of the European Committee of Social Rights will be held from 21-25 June 2010 in Strasbourg

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

Council of Europe anti-torture Committee publishes report on Italy (20.04.2010)

The CPT has published on 20 April the report on its fifth periodic visit to Italy, carried out from 14 to 26 September 2008, together with the response of the Italian Government. These documents have been made public at the request of the Italian authorities.

The report states that the CPT's delegation received a number of allegations of physical ill-treatment and/or excessive use of force by police and Carabinieri officers and, to a lesser extent, by officers of the Guardia di Finanza, particularly in the Brescia area. The report assesses the procedural safeguards against ill-treatment and concludes that further action is required in order to bring the law and practice in this area into line with the CPT's standards. In their response, the Italian authorities state that specific directives have been issued to prevent and sanction inappropriate aggressive behaviour of law enforcement officials. Further, the authorities provide information on the points raised by the CPT as regards procedural safeguards against ill-treatment. The conditions of detention at the Identification and Expulsion Centre in Milan were also examined. The CPT recommends, inter alia, that irregular migrants held there be offered a greater number and broader range of activities

On prison matters, the Committee's delegation focused on overcrowding, prison health care (responsibility for which has now been transferred to the regions) and the treatment of prisoners who are subject to a maximum security regime ("41-bis"). As regards the Filippo Saporito judicial psychiatric hospital (OPG) in Aversa, the report draws attention to the poor material conditions and the need to improve the patients' daily regime, by increasing the number and variety of day-to-day activities offered to patients. As regards the Psychiatric diagnosis and Treatment Department (SPDC) at San Giovanni Bosco Hospital in Naples, the delegation focused on the involuntary medical treatment of patients. The Committee recommends that the judicial phase of the involuntary medical treatment procedure (TSO) be improved.

C. European Commission against Racism and Intolerance (ECRI)

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

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

"The former Yugoslav Republic of Macedonia" and the Russian Federation: receipt of the 3rd cycle State Reports (19.04.2010)

"The former Yugoslav Republic of Macedonia" submitted its third cycle State Report on 11 March in English and Macedonian, and the Russian Federation submitted its third cycle State Report on 9 April in English and Russian, pursuant to Article 25, paragraph 1, of the FCNM. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

San Marino: adoption of the Committee of Ministers' 3rd cycle resolution (23.04.2010)

The Committee of Ministers has adopted a resolution on the protection of national minorities in San Marino. The resolution contains conclusions and recommendations, highlighting positive developments but also a number of areas where further measures are needed to advance the implementation of the FCNM. The resolution stated a need to increase awareness of the importance to combat racism in all its forms and to set up an independent institution to monitor racism and discrimination. In doing so, the authorities should guarantee that its competences and resources are sufficient to ensure its independence and its capacity to provide adequate assistance to persons who have been victims of discrimination. The Committee of Ministers adopted the following recommendations in respect of San Marino: to continue efforts to heighten public awareness of the importance of tolerance and intercultural dialogue, and pursue measures to promote and facilitate integration of immigrants and to pay particular attention to the full and effective implementation of the Law No. 66 on "Provisions against Racial, Ethnic, Religious and Sexual Discrimination" and set up an independent institution to monitor racism and discrimination."

E. Group of States against Corruption (GRECO)

Group of States against Corruption publishes report on Turkey (20.04.2010)

GRECO has published on 20 April its Third Round Evaluation Report on Turkey. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding. Link to the report: Theme I and Theme II

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

Money laundering through private pension funds and the insurance sector - Red flags and indicators (15.04.2010)

This report seeks to bring together a comprehensive list of red flags and indicators specifically for the insurance and private pensions sectors, which are drawn from indicators developed by countries within the MONEYVAL region as well as other relevant sources. It will be further complemented by a comprehensive typology report on ML/TF through private pension funds and the insurance sector, which is expected to be finalised in September 2010. Report

MONEYVAL report on the 4th assessment visit of Slovenia made public (23.04.2010)

The mutual evaluation report on the 4th assessment visit of Slovenia, as adopted at MONEYVAL's 32nd plenary meeting (15-18 March 2010) is now available for consultation.
Executive Summary; Report; Annexes

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

The Netherlands 27th state to become Party to the Council of Europe Convention on Action against Trafficking in Human Beings (22.04.2010)

The Council of Europe Convention on Action against Trafficking in Human Beings entered into force on 1 February 2008. The Convention was accepted by the Netherlands on 22 April 2010 and will enter into force for this state on 1 August 2010.

Part IV: The inter-governmental work

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

14 April 2010

Luxembourg ratified Protocol No. 14bis to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 204).

19 April 2010

Sweden ratified the Council of Europe Convention on Access to Official Documents (CETS No. 205).

21 April 2010

Luxembourg signed Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

22 April 2010

The **Netherlands** accepted the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

Portugal ratified Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/RecChL(2010)4E / 22 April 2010

Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by the United Kingdom (Adopted by the Committee of Ministers on 21 April 2010 at the 1083rd meeting of the Ministers' Deputies)

CM/ResCMN(2010)2E / 14 April 2010

Resolution on the implementation of the Framework Convention for the Protection of National Minorities by San Marino (Adopted by the Committee of Ministers on 14 April 2010 at the 1082nd meeting of the Ministers' Deputies)

CM/ResCMN(2010)3E / 23 April 2010

Framework Convention for the Protection of National Minorities - Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Azerbaijan (Adopted by the Committee of Ministers on 21 April 2010 at the 1083rd meeting of the Ministers' Deputies)

CM/ResCMN(2010)4E / 23 April 2010

Framework Convention for the Protection of National Minorities - Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Croatia (Adopted by the Committee of Ministers on 21 April 2010 at the 1083rd meeting of the Ministers' Deputies)

CM/ResCMN(2010)5E / 23 April 2010

Framework Convention for the Protection of National Minorities - Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of “the former Yugoslav Republic of Macedonia” (Adopted by the Committee of Ministers on 21 April 2010 at the 1083rd meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Learning Democracy and Human Rights (16.04.2010)

The conference "Learning Democracy and Human Rights: Evaluation 2006-2009 and the way ahead" took place in Strasbourg on 15-16 April. The Conference, which brought together representatives of

the states party to the European Cultural Convention, focused on co-operation in the field of education and democratic citizenship and Human Rights.

Conference in Tbilisi: safeguarding media freedom (16.04.2010)

The conference, which took place on 15-16 April, discussed the safety and protection of journalists, the challenges to freedom of expression and the changes in the media brought by new technologies. File "Media freedom"

Conference on counterfeit medical products: "Medication - No falsification" (16.04.2010)

The conference, which took place on 15-16 April in Basel, aimed to strengthen the fight against counterfeit medical products and similar crimes in Europe and worldwide by encouraging international co-operation. By ensuring the necessary support for the implementation of the future MEDICRIME Convention, the 140 participants paved the way to this landmark convention aimed at protecting public health. File "Pharmaceutical Europe"; Speech by Bernard Marquet [fr]; Speech by Jan Kleijssen; Speech by Susanne Keitel; Speech by Paul Widmer [fr]

United Kingdom: report on minority languages published (22.04.2010)

The Committee of Ministers has made public on 22 April the third report on the situation of minority languages in the United Kingdom. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages. Report; Recommendation adopted by the Committee of Ministers

Meeting of the Ministers' Deputies (23.04.2010)

At their 1083rd meeting on 21 April, the Ministers' Deputies welcomed the presentation of the Secretary General's proposals for priorities for 2011 as well as the progress of the implementation of the reform process. Meeting file

Visit by Micheline Calmy-Rey to Sarajevo (23.04.2010)

The Chair of the Committee of Ministers, Micheline Calmy-Rey, Head of Switzerland's Federal Department of Foreign Affairs, held talks with representatives of the authorities and of political parties in Bosnia and Herzegovina on 22 April. The main purpose of the talks was to identify and to discuss ways of bringing the constitutional and legal framework of Bosnia and Herzegovina into line with its commitments and obligations as a member of the Council of Europe.

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*

Free and fair elections 'the best way' for Azerbaijan to mark ten years in the Council of Europe (14.04.2010)

Mevlüt Çavusoglu, President of PACE, has said that holding free and fair parliamentary elections in November would be "the best way" for Azerbaijan to celebrate its tenth anniversary as a member of the Council of Europe next year. The President, speaking mid-way through a four-day official visit to Azerbaijan (13-16 April), said the aim of his visit was to express support for the continuation of democratic reforms in the country: "Through our monitoring procedure, the Venice Commission's advice and input from other Council of Europe programmes, we are trying to help the authorities create the best possible conditions for these elections." Mr Çavusoglu also stressed the urgency of solving the conflict over Nagorno-Karabakh. "The Assembly has already clearly stated its position on this matter in Resolution 1416, adopted in 2005. We hope to contribute to finding a solution by reconstituting the *ad hoc* Bureau committee on the conflict, where MPs from both Azerbaijan and Armenia can meet, together with other Assembly members, to move forward on this difficult question." The President added that he intended to do his best to avoid "double standards" in the way member states were treated: "We have common standards that apply equally to everyone: we are in favour of democracy and human rights." During his visit, Mr Çavusoglu met the President of the Republic, the Speaker of Parliament, the Minister for Foreign Affairs and representatives of political parties in Parliament, as well as representatives of parties not in Parliament and NGOs.

PACE rapporteur joins Strasbourg Court's call to free Fatullayev (22.04.2010)

Christoph Strässer (Germany, SOC), rapporteur of PACE on political prisoners in Azerbaijan, has welcomed the April 22nd judgment of the European Court of Human Rights, which held that the prison sentence against opposition journalist Eynulla Fatullayev violates, among other things, the freedom of expression and of information protected by Article 10 of the European Convention on Human Rights. "As the Court rightly recalled, this violation must be ended without delay, by releasing Mr Fatullayev. I call on the authorities of Azerbaijan to put an end to the injustice done to this journalist, who has already spent far too much time in prison," said Mr Strässer. He is due to visit Azerbaijan later in 2010 in an effort to help clarify the situation of a number of other alleged political prisoners in the country.

➢ *Themes*

Protection of witnesses of war crimes in the former Yugoslavia: PACE rapporteur to visit Kosovo[1] (13.04.2010)

Jean-Charles Gardetto (Monaco, EPP/CD), rapporteur of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE) on the protection of witnesses as the cornerstone for justice and reconciliation in the Balkans, will make a fact-finding visit to Pristina on 15-16 April. During his visit, he will meet representatives of the judicial system, in particular. Mr Gardetto has already made visits to Zagreb, Belgrade and Sarajevo to investigate this subject.

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* 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.

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

A. Country work

Croatia: Commissioner Hammarberg encourages the adoption of further measures for post war justice and the protection of displaced persons and Roma (12.04.2010)

Croatia appears ready to do its part in resolving the human rights issues which still remain after the war-related atrocities in the nineties, stated Council of Europe Commissioner for Human Rights Thomas Hammarberg when concluding a four-day visit to Croatia. He held discussions with national and local authorities, including with President Ivo Josipovic and Prime Minister Jadranka Kosor. Meetings were also held with representatives of international and non-governmental organisations involved in the process of post-war justice, the protection of the human rights of displaced persons and of the Roma population.

Greece: Commissioner Hammarberg encourages initiatives concerning migrants, minorities and police (13.04.2010)

"I welcome the first steps taken by the Greek government towards the establishment of a fair, accessible and swift refugee protection system. Changes in the field of protecting the rights of migrants, especially asylum seekers, are particularly urgent" said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, as he published on 13 April three letters sent to the Greek Government. Read the reply of the Minister of Justice ; Read the comments of the Ministry for Citizen Protection; Read the reply of the Deputy Minister of Interior

B. Thematic work

"Children coming alone as migrants should not be automatically returned" says Commissioner Hammarberg launching the "Human Rights Comment" (21.04.2010)

"Every day unaccompanied migrant children arrive in Europe, but their needs are not always duly met. Whatever possible difficulties of integration and accommodation they might face here, a humane society should take their problems more seriously and avoid sending them back regardless of the consequences." With these words, Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, published on 21 April an article on the rights of unaccompanied migrant children, the first of a series to be published in the "Commissioner's Human Rights Comment".

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

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

Consultation meeting on possible co-operation with the Public Monitoring Commissions of places of detention in the Russian Federation, Moscow (21.04.2010)

The Russian Federation has not ratified the Optional Protocol to the UN Convention Against Torture (OPCAT) which obliges States Parties to set up a National Preventive Mechanism for the prevention of torture (NPM). Instead, the option has been taken to establish Public Monitoring Commissions (PMCs) throughout the country. The Council of Europe was approached by several PMCs with a request for technical cooperation that would resemble what the NHRS Unit is doing under the European NPM Project (a Joint EU-Council of Europe Project, co-financed by the Council of Europe's Human Rights Trust Fund).

The Ombudsman of the Russian Federation, Vladimir Lukin, and the Council of Europe's NHRS Unit will try to give a positive response to that request, with the technical assistance of the Secretariat of the CPT, as appropriate. On 23 April 2010 they met with representatives of the PMCs and of the Russian Civic Chambers at the Council of Europe's Information Centre in Moscow for a first consultation meeting.

It emerged that a Preparatory Project would be needed in order to design within several months a full-fledged co-operation project with the PMCs that would span the coming years. Both the Preparatory Project and the subsequent full project would be run under the joint responsibility of the Russian Federal Ombudsman and the Council of Europe's NHRS Unit, with the help of a Governing Body in which the major Russian stakeholders would be assembled.

The NHRS Unit and Mr. Lukin are presently preparing the Preparatory Project. One Council of Europe member State has already signalled readiness to consider funding it.

Consultation meeting on the possible setting-up of an ombudsman institution in the Principality of Monaco, Monte Carlo (23.04.2010)

Further to recommendations by the Council of Europe's Parliamentary Assembly (PACE) and the Commissioner for Human Rights to establish an independent national human rights structures in Monaco, Mr. Jean-Charles Gardetto, Chairman of the Foreign Relations Commission of the Principality's National Council (Parliament) and head of the country's delegation to PACE, and the NHRS Unit co-organised a parliamentary hearing on this issue in Monaco on 23 April 2010.

Peter Kostelka (Austrian Ombudsman and Secretary General of the International Ombudsman Institute - IOI), Christian Le Roux (Chief of Staff of the French Ombudsman), Carmen Comas-Mata Mira (Chief of Staff of the 1st Deputy to the Spanish Ombudsman) as well as Schnutz Dürr (Secretariat of the Venice Commission), Dimiter Chalev (NI Unit of the Office of the UN High Commissioner for Human Rights) and Markus Jaeger (NHRS Unit, Council of Europe) presented various options for ombudsman mandates and explained the practical functioning of such institutions to the members of the National Council, their legal advisers and to a representative of the Monegasque Government.